CHAPTER 1

INTRODUCTION

1.1 BACKGROUND

Children are getting abused and exploited to a large extent throughout the world. Under the Indian constitution the special status of children has been recognized. The laws in India are acting as guardian for protecting children. The legal provisions and various policies for protecting children have transformed from the need based to the rights and development based perspective. But, there are very few children who get benefited from this legal provisions and protective measures. There is huge part of children in society who are still struggling to get a healthy life. Millions of children are facing problems in India for their survival.

Children with their birth itself get their human rights. They also get their family and a community, from where they get a capacity to access their rights. But the child when gets abused by his/her own family and community, then the actual rights of children gets de rooted. The worst of it occurs when the child gets neglected and abandoned by his/her own family. The children constitute most part of the population in India. The children were protected and cared the most in ancient India. In those times, there were no evidences showing that, the child is being put to labour or getting exploited.

Ancient India was a golden period for the children, where the children were specifically provided with the facilities to develop them into a good human being. There were four ashrams in ancient India under a Hindu Culture. The word Ashram represents a period of life. They were named as Bramhacharyashram, Grihasthashram, Vanprashthashram and Sanysashram.

The Bramhacharyashram was the purest one; it was the time when the person was given initial training to survive in the society. This was the period which is applicable to the child for her/his personal development. This system
reflects a fact, that, in those times children were brought up with the care and affection. The children were provided with all necessary lessons, which used to reflect in them at their later life. This system used to inculcate the basic principles of living in children i.e. ‘to live and let live’. The result of this, reflected and we got an amazing historical saints with great intellectual skills and many other great people. But unfortunately today the scene is exactly opposite. The children are being assessed on the basis of their financial status, even to get admitted in a school. The children from the poor families do not get access to the schools and education properly. The children because of their family’s financial constraint take an employment at an early age. This is the main reason, due to which there occurs double loss to the child. The first one, which is analyzed by the researcher is the low education offered to a child, which is the worst when in some cases they never get an access to the schools and the second one is the children due to early employment, get exposed to the outer world, where a child gets exploited at the worst. It is to be marked that the children from the well to do family are also becoming the victims of the exploitation. The children in such families are getting exploited by their parents or their guardians on sometimes very petty issues. The parents from the high class society always wants to maintain their status and so for that they pressurize their wards to get good marks in studies and for that sometimes they use physical force too. This makes the child either coward or stubborn. This is the harshest process of treating a child. The parents on pretext of teaching a child beat them, scold them and actually by such terrorizing environment cut the roots of their ward’s development. There are two different scenes in the society where children from high society are getting exploited by their parents for the selfish ends of parents and the children from poor families are getting exploited for the sake of earning money.

The researcher found here that the children who are born in a wealthy family and children who are born in poor family both are the victims of exploitation by their parents. The parental exploitation is the worst form of exploitation, because it creates threat in the mind of child against their parents.
The basic relation between a child and his/her parent is of trust, faith and affection, but due to above mentioned incidences the child gets detached from their parents. Due to the relation of distrust between the parents and the children, the children start concealing facts or other life experiences from their parents, which in turn affect the future of a child. The children develop the habit of concealing facts from their parents and ultimately turn up feeling isolated and neglected.

The thesis is focusing on the crimes against children and juvenile delinquency. The Researcher will clear the inter relation between the crimes committed against the children and the delinquent behaviour of children. The children are very delicate in physical body as well as mentally. They imitate the adult beings in society. The child hence when subjected to cruelty or sees his/her family members are subjecting the other family members to cruelty, then develop a belief that such cruel action are used to correct the wrong doer and some develop a belief that the physical force can compel other person to do the things which we want the other person to execute. This belief of child at an early age becomes the attitude of a child as he/she grows and ultimately the deviation starts and they indulge in commission of crimes to satisfy their desires. The children indulge in sexual activities at an early age due to the effects of social factors. The children, who are the victims of the prostitution at an early age, adopt it as a profession as they grow to satisfy their financial needs. The children who are the victims of sexual abuse either by family members or other third person, develops a feeling of distrust towards society and so on deviates from their normal behaviour. The children who are made labours or who are forced into begging or any other trade or indulge in criminal activities like smuggling, theft, dacoity, they develop with their growth the lure of money and a lavish life.

The word crime means any anti-social behaviour of human being against the society. The crime is multifaceted. The crime is committed by an offender to satisfy his/her urge. The urge here may be financial, sexual or mental. There are different types of crime. The researcher is focusing on the crimes against the
children. The extent of such crimes is increasing. Perpetrators of such crimes are adult as well as children. Sometimes, the family itself is involved in committing crime against the child.

The NCRB Report shows that the crime rate is the highest against the women and children. They were always being given inferior position in society. Irrespective of various protective measures provided by the legal provisions and policies, they are becoming easy victims of abuse. They are easily getting exploited, because of their immature mind and delicate nature. Even the parental abuse is most reported because of the easy access of children to their parents. There are many cases, where the parents, guardians and the care takers are the perpetrators of the crimes. The protection of children is very important in such situations, because the overall development of child depends upon their family and social environment. The researcher is also focusing on juvenile delinquency which is rapidly growing throughout world. This is the most speedily spreading problem in society. The researcher is evolving this area by showing the incidences, where the children are deviating from their behaviour and committing crimes by indulging in criminal activities.

It’s been ages that children are subjected to one or other abuse. The child was neglected at every stage of their development. The history is evident that the children are always being exploited by the adult members of the society. The irony is that the child abuse starts from the birth of a child itself, by the acts like infanticide or feticide. Abandonment and other ill treatments of child by parents are also noted till now. The new develop trend of modern society is the sexual exploitation of a child. The child was never treated so bad in ancient time, but today the children are also looked as an entity for satisfying lust of adult class for their enjoyment. Poverty and illiteracy are also the key factors for the exploitation of a child, where the adult members take the benefit of situation of children and exploit them.
According to the report released in India on the child abuse in 2007-

**CRITICAL CONCERNS**

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<th>Table 1.1</th>
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<td>∑ Most of the population children lives in India</td>
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<td>∑ The number of malnourished children in India is more</td>
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<td>∑ Many children in India are underweight</td>
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<td>∑ The female ratio is declining than male 0-6 yrs.: 927 females per 1000 males.</td>
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<td>∑ The numbers of child labours in the country are in lakhs.</td>
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It is said to commit cruelty on child, if a child is rejected or abandoned by parents. Such children has then no other option but to take up any kind of work to earn their livelihood for survival. The children due to this, fall easy prey to labour related activities in society. Thus get exploited in factories, other industries, household works or any other commercial practices for very meager amount.

The scientific study undertaken by Dr.Peri produces result that the neglect of parents on children results in the growth of cortex region of brain, which makes the child,commits violent activities.

The Juvenile Justice developed in India in middle of 19\textsuperscript{th} century, when the sufferings and cruelty on children started getting attention. People started realizing that there are children who instead of being protected are getting badly exploited. In the way to give protection to children, various legislations were passed. It was felt by the time that the JCWL should not be treated at par with adult offenders.
The measure to separate treatment for children was on the basis of their physical condition and their mental attribute. Before the development advanced in the area of J.J, the JCWL were punished as adults.

By the end of 19th century, the ideas for special needs of children were backed by legislations. Reformatory Schools Act 1876, which was modified later in 1897. This Act was applicable throughout India and dealing with child offenders of less than 15 years of age. The child found guilty was made to detain in Reformatory school for 3 to 7 yrs. Due to the efforts of Indian Jail Committee 1919-20, separate treatment was attributed to the child and youthful offenders.

Due to recommendations of Indian Jail Committee Madras, Bengal and Bombay enacted the Children Act. The object of these Act were to provide custody, trial and punishment for child offenders. This Act was also providing protection to children. In 1960, GOI enacted Children Act for enforcing it in Union Territories. This new Act gave special feature for handling destitute children and delinquent children, through special institutions. This Act accepted the principle of not sending children in ordinary court for trial and in ordinary prisons. Accordingly Juvenile Courts were established. This Act laid down criteria to appoint only those persons as judges who have knowledge of child welfare and child psychology. This Act made it a condition to appoint two social workers to assist the judges. During the proceedings the outsiders except the parties concerned were banned. However after the amendment and the decision of Mansingh Vs. State of Gujarat in 1969, the legal practitioners were allowed to argue the cases in juvenile courts. The children were not to be handcuffed and the sittings of the courts were to be held in camera. The publicity in any form was prohibited. The CWB was meant for dealing with neglected children. The object of this was to separate the neglected ones from delinquents and provide them different treatment and training so to offer them protection and development.

The remand homes/observatory homes were set up, which not only provided physical security, healthy living but also provided chance to observe the
child closely so that he would be offered proper treatment and training to develop him/her personally.

1.2

UNDERSTANDING THE CONCEPT OF CHILD

THE DEFINITION OF CHILD

Art 1 of the UNCRC defines child as a person who is under eighteen years of age.

Art 2 of the ACRWC, a child means a person less than eighteen years of age.

The UNICEF defines a child to be a person who is yet to complete eighteen years of age.

According to the Indian purview, the child is not defined in a uniform legislature.

The child is protected completely from criminal liability, under Sec 82 of IPC.

The principal of ‘Doli Incapax’ is applied in Indian penal code for protecting the child from criminal liability. The child under 7 yrs of age is exempted completely from criminal liability under IPC.

For defining the age limit for putting the children under labour is fixed to be fourteen years and above. This protects the children from any types of hazardous working conditions.

The age for determining majority under the Indian Majority Act1975 is fixed to be 18 years and above for both girl as well as boy.

For the offence of Kidnapping the Minor is defined to be in case of a boy, is a person who is below 16 yrs. of age and for girl below 18 yrs. of age.

The child here for the purpose of criminal liability and for the purpose of protection and care is defined by the J.J (C&P of C) Act 2000 to be below 18 yrs. of age. This age is applicable for deciding whether the child is falling under the JCWL and a CNCP.
The Hon’ble SC, in the Case of Sheela Barse and another Vs. U.O.I, has declared child to be a national asset.

1.3

UNDERSTANDING CHILD ABUSE

Abuse means exploiting. The children are abused by various ways by the perpetrators. The abuse may be physical, mental or sexual. The perpetrators of child abuse may be the parents, the school teachers, caretakers, friends, family members or any other third unknown person. The child abuse is the most ridiculous thing which is occurring in our society. It is the infliction of wrong treatment towards child. The children sometimes are subjected to cruelty by parents for no reasons, or just to do away with their frustration. The word cruelty here literally means in this reference is using physical force, beating the child or scolding the child.

TYPES OF CHILD ABUSE:

Figure 1.1

1) PHYSICAL

The word child abuse has various forms, when the physical injury is inflicted on a child; it is termed as physical abuse. The perpetrators of such form of abuse are the parents, the guardians or the care takers of the child. The physical abuse is inflicted on a child by the people who have easy access to the child. This type of abuse is seen, when the children are subjected to discipline by parents or by teachers or by any other care takers. During the teaching sessions the physical abuse is mostly witnessed. The child is sometimes being subjected to harsh
physical punishments, which actually is a physical abuse. There are many cases seen in schools and tuitions, where the children are badly beaten up by their teachers on pretext of teaching them. The parents too due to their internal clashes in family or due to official or other frustration, beats up their wards to release out their anger. The same happens in schools by teachers. The delicacy and tender age of children is at risk, due to such treatment given to them by their family members and teachers at school. The effect of such physical abuse remains long lasting in the mind of child and sometimes it may also permanently disable a child physically or mentally.

2) MENTAL ABUSE

Mental abuse is done by the parents or the care takers by using the verbal abuse against the child. It is also known as the emotional abuse. It is a psychological maltreatment to a child. Due to this abuse, a child suffers a mental trauma, due to the ill acts of parents or care takers towards a child. Sometimes even a failure to do some acts by parents or caretakers may cause mental trauma to the child. The example of this type of abuse, include the act of threatening or terrorizing a child or using insulting and harsh or filthy language to a child, or giving unnecessary blames to the child. The mental abuse creates long lasting effects on the mind of child. Due to this a child loses faith on his/her parents and a large gap develops between the parent and a child. The child even starts disrespecting their parents. The actual family structure collapse due to such activities by parents and a child feels isolated.

3) SEXUAL ABUSE

It is the most degrading act against the child. It is a taboo on society. The children who are victims of such abuse are too tender aged to even explain what had happened to them. The children who get trapped into such incidences cannot even go and complain or seek protection because of the fear of being defamed. According to the Researcher the sexual abuse of a child means the unwanted, wrongful sexual indulgence with the child. The worst form of sexual
abuse includes incest and sodomy. The incest means when a child is sexually assaulted by the near relatives of a child. The sodomy is the unnatural sexual assault on child. The male children are also victims of such abusive activities by the adult members of the society. There are cases reported where the children are sexually abuse by their own parents or near relatives. In the following case named Duryodhan Chaitu Meshram Vs. State of Maharashtra2009- ALL MR (Cri)-995 the offence of Rape was committed by father on a minor daughter. It was found that the father used to rape the daughter at their residence. The daughter got pregnant due to such illicit relationship. The complaint then was lodged by the daughter along with her mother. The above case is e.g. of incest.

In Sebastian Chevithiyen Vs. State of Kerala2009-ALL SCR-2448,

A two year old child was abducted and raped by a pedophilic person and subsequently murdered. The person was awarded with death sentence which was subsequently substituted by the imprisonment for life.

The above mentioned cases show that how the heinous acts are committed even on the infants and on one’s own daughter. These are the live examples of the sexual assault on children.

4) NEGLECT

This kind of abuse is one in which parents do no pay proper attention for providing basic needs of the child.

**Figure 1.2: TYPESOF NEGLECT**

![Figure showing types of neglect](image)

Neglect is said to be physical, when the child is not provided with the basic food and clothing. Abandonment of child is also said to be a physical abuse.
Emotional neglect is also termed as psychological neglect, where the child is kept in demise. It occurs when the child is not given proper love and affection by the family members of the child. When the child is not provided with proper attention, the child is said to be neglected. This abuse creates a mental trauma on the mind of the child. Examples of it are, when the parents are regularly quarreling in the house, drinking habits of the parents, unnecessary scolding on the child etc.

Educational neglect means when the parents do not provide schooling facilities to the child or not even provide other learning facilities. Education is the basic need of the child for the better future development. When the parents are not concerned of providing this basic need, they are said to neglect the better future development of the child.

**DEFINITION OF CHILD ABUSE**

Child abuse has not been defined in any specific legislature. The researcher gives the general definition of child abuse, as any act which is done, intentionally or unintentionally and involving any kind of maltreatment to the child.

Thus, according to the researcher, the Child abuse includes-

- Any physical or psychological abuse, cruel treatment, sexual misbehaviour and neglect
- Not providing the fundamental needs to the child
- Misbehaviour with the child

**PERPETRATORS IN CHILD ABUSE**

The social factors play very important role in the protection of children. The social community of the children starts from their family. The social community of the child includes the friends, their family, school, neighbours and even any other stranger person. The perpetrators of child abuse are those who have indulged in such abusive activities with children. They may be the parents, relatives, school staff or even a stranger. The perpetrators are the deciding factors for the impact
of the effect on the child. The perpetrators if are the parents or any one from the family, then such abuse even go without reporting to the police. There are many cases where it was seen that the family members sexually abuse the child under the threat and so on the child even do not complain about it. Such act goes without being noticed and the children become vulnerable victims to it. It is the most degradable state, when the child is being abused by the parents or the guardian itself.

**In the Case of Child line India Foundation Vs. Allan Johut Walers 2011 Cr.L.J 2305(SC)**

The perpetrators of the abusive activities were the care takers of the shelter home. The two persons were held liable by the Hon’ble SC, for sexually abusing the children living in the shelter home under section 377 of I.P.C.

It was a shocking report published in the Times of India on 31-07-2006 under the heading ‘Mob storms house off butcher docs’. It was reported that some doctors in Noida/Ghaziabad/New Delhi had been offered money for amputating the limbs of healthy people to make them beggars. It was revealed through a television sting operation. The U.P government has according taken action against those doctors.

There was other news published in the Times of India on 1-09-2006 under the heading ‘Death for the killer sisters’ in this the SC upheld death penalty to the two sisters who had murdered six children from Sholapur and Nashik region.

The above act was very much horrifying because they murdered the children not under any compulsion but just out of their deviated behaviour.

In this way the children are being made victims of various heinous crimes by the adult perpetrators in the society.

In **Sathyavan Kottarakkara Vs. State, AIR 1997 Ker 133 at 137**, it has been observed that, any kind of Exploitation of children if it has a possibility to exert abuse on a child of physical in nature or sexual or mental or any other is an
objectionable act. All possible efforts to be made to save children from such acts of exploitation.

**ESTIMATION OF CHILD ABUSE**

As per the study conducted by the UN Secretary General on Violence, the following is the situation across the world-:

There were millions of boys and girls who were less than 18 years of age have been victims of sexual assault or other forms of sexual abuse.

According to the estimates of International Labour Organisation, the children involved in exploitation by putting them under labour are 218 million in 2004. Among it, children were subjected to forced or bonded labour, prostitution and trafficking.

Asia is remarkably a most populated area, where the problem of child labour and child sexual abuse is growing very high. The children in most populated areas do not get proper nutrition, care and education. There are many reasons due to which the child abuse is growing in such areas- like illiteracy and the poverty are the main reasons. The other reasons are caste system, migration, less opportunities for employment and improper mechanism for legal enforcement.

Child abuse in India is prevalent to a great extent. The sex selection is the worst form of crime committed against the child. Due to this the ration of girls is declining.

According to the report of the NCRB, in 2005 14,975 cases of various crimes were reported. The crimes like dedicating young girls in the mane of gods but actually sexually exploiting them, genital mutilation, child marriage, foeticide, infanticide, exploitation for earning money through the children are most prevalent in most of the regions of India.
LACK OF CHILD PARTICIPATION

The incidences of child abuse are alarmingly increasing because children are mentally and physically weak and so easy to be dominated. They are not asked about their problems or other matters affecting their regular activities of life. The children are not given due consideration in family, in neighbourhood, in school or other social settings. The view of children is always neglected whenever it is expressed by the child. If the child speaks out anything, mostly parents turn deaf ear to it, on the ground of lack of understanding to the child. The children are made to shut their mouth even if they are willing to express anything. This is more imposed In the Case of girl child. The restrictions on the children cut them from the social participation. The incidences of abuse many times go unheard because of this barrel made on the children. The children because of this cut themselves from a social circle. Eventually they don’t even ask help out of fear of their parents.

1.4

THE CHILD AND THE JUVENILE

According to the general view the child, is to be taken as for both gender, who is under 18 yrs. of age. The term juvenile means a boy or girl whose age is under eighteen years. The meaning of both the terms is same but the application of both the terms is different. The word child is used in a general reference, but the word juvenile is used in reference to JCWL, when the person is involved in criminal activity and whose age is under eighteen years. The term juvenile started being using only after the J.J.A 1986 came into force, before it child committing crime were referred as child offenders and not delinquent juveniles. The term further got reformed into the JCWL instead of delinquent juvenile after the amendment of 2000 in the JJA. The principle of Doli Incapax covered under IPC protects the child below seven yrs.from criminal liability. The word Doli Incapax means incapacity to differentiate between the right and the wrong. This principle completely protects the child under the age of seven years from criminal
liability, because the child of such delicate age cannot understand the outcome of its acts. The child does not understand what is wrong and what is correct. The concept of Juvenile evolved in the later stage because in ancient India the child was not punished for any of its delinquent acts. There was a practice of nursing and educating children with love, for those who were found to get involved in offending acts but do not understand the outcome of their acts. There was a practice of punishing child, with very minor punishments, who committed crimes and could understand the consequences of their acts. The minor punishments, most of the time used to get replaced by the admonition. There was a practice of treating a child above 16 years as a friend by parents. But as we are developing, we could see that the children are assuming their parents as enemies, because of the harsh treatment subjected to them. Even today the society is differentiating them and naming them as a ‘Juvenile’.

The term ‘Juvenile’ evolved for the first time in India, in JJ Act 1986. Before this Act, the Reformatory Act, The Children Act did not define juvenile. The JJ Act 1986, has defined juvenile but has given two different definition for a girl juvenile and a boy juvenile. According to this Act, for the application of this Act, the age of boy is fixed to be under 16 yrs.of age and in case of a girl under 18 yrs.of age, on the day of commission of crime. Subsequently The J.J (C & P) of children Act 2006 gave a uniform definition for juvenile. This Act fixed the age to be under eighteen years as on the day, when offence was committed.

The term Minor is also used in different context to the term Juvenile. The term ‘Juvenile’ is used, when a crime is committed by young offenders and the term ‘Minor’ is used to decide the legal capacity of a person.

The term ‘Juvenile’ is further extended with the word ‘Juvenile delinquent’, which means a juvenile who has committed any wrongful act. This term further got reformed and has been modified into a JCWL, which means a juvenile who has violated the legal principles in a society, by way of committing crime.
Example – A boy named X is 15 years of age and commits theft in the house of Y. Here the boy committing theft, will be termed as JCWL and not criminal or offender.

1.5

JUVENILE DELINQUENCY

Children are the future asset of nation and so if provided with good scope to develop they will become a responsible citizen. Children at their early age, if provided with all necessary care, attention and facilities to develop, there will never be a possibility of child to turn delinquent.

The child has to be brought up by nurturing with the social and legal principles of living. The child from the birth till the age of 7 years is completely Doli Incapax. This is the age, when the child just imitates, what they see, because they do not have that much understanding to differentiate between what is good and what is wrong.

For Example – If a child sees their parents begging on a street, they will also imitate it and do the same act.

The above mentioned incidences are visible everyday on street.

Another example to be quoted in this context is, if a child sees his father taking liquor and assaulting his mother on regular intervals. The child will develop hatred towards the father or the child will also imitate the same in future to undermine any one with pressure of physical violence.

The children when deviates from good conduct and get involved in anti-social behavior, they are said to commit a delinquent act. The term ‘Delinquency’ is taken from the latin term ‘Delinquere’. The literal meaning of this term is to leave or abandon. The meaning is thus explained by parting the word in ‘De’ which means away and ‘linquere’ which means to leave. Thus, this term was used strictly to those children whose parents had abandoned or left them alone.
It is a conception in the minds of people that the children who are left away by their parents commit crimes or wrongful acts. The abandoned children are at more risk to be antisocial and commit crimes. After some period of time, the term Juvenile delinquency was taken as any wrongful act or offending act done by the children. Today as per legal point of view, there is no difference between the abandoned child and a child staying with family, when it is to be refereed as JCWL. Both of them are scaled on the same footing, when they commit crime. Today there is a uniform definition for a JCWL after the amendment by the JJ (C&P) of C Act 2000. The definition includes children below the age of 18 years and committed crime.

Juvenile delinquency is a social problem. Today, it is rising to such an extent that it is very difficult to control it. The Indian Government is also adopting new techniques to control the problem of delinquency. It is the opinion of many sociologists that delinquency is not present in a child with his/her birth, but it is developed due to the social and other factors. The children who are brought up with all necessary care and facilities are less towards turning delinquent. But it has been observed in many cases that excessive care and possessiveness can turn the child delinquent.

The children, if given more liberty and money at an earlier age, tend to get involved in the wrongful acts out of fascination to do things. There is an obligation on parents to develop the child with due care and proper attention. When this obligation is not met up to an extent, the children turn to be anti-social. The child is said to be delinquent, when he/she does not satisfy the obligations expected from the society, where the child is living. The act or conduct of the child, which is not desirable socially, is a delinquent act. The unsatisfied desires and urges turn the juveniles delinquent. Juvenile delinquency can also be taken in a sense, when the child tries to act like a grown up adult. Many sociologist and philosopher have given their various concepts of juvenile delinquency. The term juvenile delinquency was first coined by Illionis in 1889, when he passed the first law on juvenile delinquency.
CRIMINAL TO BE MADE RESPONSIBLE AFTER CERTAIN AGE

Age is very important factor to decide the criminal responsibility for the committed crime. The child cannot be made to undergo the treatment as adults in courts. The children found guilty with any offence can never be sentenced to death or put behind bars. There is a special legislature to deal with juveniles if they are committing any offences. They can never be tried under any ordinary laws. There should be separate legal system to deal with the juveniles. Accordingly the Indian Judicial system is following a lenient attitude towards the juveniles. The child has been exempted from the criminal responsibility under Indian Penal Code, if he/she is below 7 years of age. The children in the ages of 12 to 16 years of age, can understand the consequences of the crimes committed by them, but still they are not punished as adults in India. The children have been protected from the criminal liability and not given harsh punishment for any crime committed by them in India.

The Probation of Offenders Act 1958 & the J. J (C&P) of Children Act 2000 protects the children from severe punishments. Children even if held guilty for heinous crimes, are not punished as an adults under Indian justice system.

There were different views given in different judgments which can be seen as follows-

In Bhola Bhagat Vs. State of Bihar (1997) 8 SCC 720, the SC held, that the accused and his co accused be benefited by the social legislation and to be protected as juveniles. It was observed that if an accused pleads his juvenility then it is the duty of the court to hold an inquiry and find out the reports of the accused and confirm his age.

In Rajinder Chandra Vs. State of Chhatisgarh& Anr, AIR 2002 SC 748, the SC held, that whenever there is question before the court to be determined that the accused to be juvenile or not, then the benefit should always be given in the interest of the juvenile. There is no need to apply high technical methods to fit a
person in the definition of juvenile. If the accused is providing evidences for the proof of his juvenility, then at least two evidences to be considered and the benefit of juvenility to be offered to the accused who are at the borderline of the juvenility.

**In the Case of Sanjay Suri & Anr. Vs. Delhi Administration, Delhi & Anr, AIR 1988 SC 414**, it was held by the SC, that it is the duty of the jail authorities to check the certificate of age before admitting the offenders in the jail. This is to be done to save the young offenders from being tried as adults. This was done because in an inquiry it was found that the adult prisoners are sexually assaulting the juveniles inside the prison. Hence through this case, direction was issued to those who are authorized to issue warrants for arresting and putting the persons in prison to confirm the age of a person against whom the warrant is issued.

In **Umesh Chandra Vs. State of Rajasthan, AIR 1982 SC 1057**, the SC held that, the Children Act will be applicable to the accused and given benefit only when the offence is committed and the accused is coming under the definition of child.

In **Arnit Das Vs. State of Bihar, AIR 2000 SC 2244**, it was held that, for determining the age of the juvenile, the day to be considered is the day when he is brought before the competent authority.

And in **Pratap Singh Vs. State of Jharkhand and others, AIR 2005 SC 2731** it was made clear in this case that, for finding the age of juvenile, the day when the offence is committed to be considered. The juvenile when produced before the authority is irrelevant.

The decision as finalized **In the Case of** Pratap Singh is followed even today for deciding on the age of juvenile.

So, the JCWL has a broader meaning and it includes a person who is under 18 yrs. of age.
1.6

CAUSES OF JUVENILE DELINQUENCY

1) Family-

Family is very important factor for the good upbringing of children. If children
have good family, they develop into a good citizen. The home environment of the
child plays very crucial role in molding a child for better future. The behavioural
pattern of the parents with the child and amongst themselves is to be maintained
peaceful and at ease. This is one of the important factors to develop a
psychological progress in child. The child to be provided with love and affection
by his/her parents and the basic facilities to be meted out by the parents. The
home, where the parents use filthy language, use drugs and alcohol, do unfair
dealings in front of child creates a bad impact on the mind of child. The families
where the conducive environment is not provided to a child for development, the
child in such families tend to commit wrongful acts. The families where the
parents use bad language, drinks liquor, fights with each other or get involved in
any unlawful behaviour, creates a bad impact on the minds of the children. The
children imitate the parents and try to do such things. Such family thus, gives a
kick start to children to adopt delinquent behaviour. The quarrelsome
environment at home also creates a negative effect on the mind of child and a
child detaches himself from a good society. The child from such family gets used
to of rude and negligent behaviour of parents and ultimately develops a habit of
giving anger and hatred back to society.

2) Wrong Association

The children get exposed to a social life after a period of time. The child
after certain age move out of his family and gets into contact with people of
different age, gender and of different thinking class. Sutherland has rightly
pointed in his Differential association theory about the adoptability of delinquent
behaviour. Sutherland was an American Criminologist and he has described that,
the Differential Association is the cause of developing criminality. According to this theory, if an association of people, indulging in any unlawful act, the child learns the same and does it. If the child does not get caught up for the same, he repeats it and becomes habitual to it. Criminal tendencies are not inculcated by birth in a child, but there are developed or learnt in an interaction with others. The child, if gets into association of other children who are elder to him, he gets the desire to imitate them. Example: if a friend circle of a child is of people who are habitual smokers, the child will also smoke to prove that he is a fit and identical person for this group. If child gets good association, they really turn up to be a good citizen, but if the association of a child is bad, the child turns delinquent. The delinquent child starts behaving according to the behaviour of his associates. The child adopts the culture and habits, where he spends more and more time. This delinquency may turn ultimately to criminality, when the child attains the mature age. Such delinquent child then becomes a criminal. Sometimes the child in distress approaches some deviant groups and then the child has to stand for them whenever they call him. Such deviant groups take the advantage of such children for illegal activities. These incidences prove to be degeneration of the future of child. If the parents are negligent for keeping the child in discipline, the child gets into delinquency very easily. Associational impact plays important role in the development of child. If parents are negligent towards children, then the children may associate themselves with their favourable company. The children at their tender age fall prey to the unethical and illegal activities very easily and if the parents do not stop them, it hampers the life of child. Such child may develop delinquency and then turns criminal at their mature age.

3) Early abuse-

The children who are abused at their early age get early disappointments and develop feeling of revenge in them. Such children when turns adult repeats these acts on their children or on other children for the sake of revenge. The children who got abused sexually, got an early experience of sex and they may
develop tempt to get it every day. In their crave to get sex, they do undesirable things. To show off smartness and trendy look, the children do unethical and illegal things to get money and to have a lavish life. The cases of kidnapping and rapes by juveniles are reported on daily basis. This is a result of too much avarice for sex, because the young age of child cannot understand the changes and demand of his/her body. The girls, who get abused sexually at an early age, may also choose to get into prostitution. To earn easy money, the girls get lure by the pimps and ruin their future life. Sometimes the child becomes violent to achieve their desired things in life, if he/she does not get it easily.

4) Movies-

The movies and T.V serials are the easy source of learning and adaptability for child. Now days, movies and T.V serials are full of unlawful things and the obscenity. The Children from nuclear family takes advantage of their parent’s work schedule and remains in front of television, watching it for a long hours. The child watches the movies and serials where the hero and villains do the acts in extreme way to achieve their goals. The child imagines themselves as a hero or villain and then sets the same pattern of behaviour in their daily life. The children get influenced by the short cut methods shown in movies to earn money and try to adapt the same in movies. The child also behaves the same with his/her friends or class mates to release anger or to express love as depicted in movies.

Example: Fight with friends or threatens to get the work done, imitate the obscenity with friends etc.

In such a way, in struggle to adapt these shortcuts shown in the film, the child becomes delinquent. Today, the movies and media are dominated by sex oriented and violence related stories. The glamour which is shown in the movies creates a great impact on the tender mind of child. The lifestyle depicted to the villains in movies may create ill effect on child. The child by seeing this develops
a thought that the shortcuts adapted by villains give them richness and all lavish things of life. This makes the child commit crime to satisfy their needs.

5) Failure in School-

School is the next home for child. School is the place where child spends more time after his home. Some children may not like to go to school due to many reasons. The parents without understanding the reasons force them to go to school. The teachers also sometimes use very harsh language and physical force on children, due to which children feel to skip school. The child develops a feeling of cruelty against them. The poor schooling system is making child insecure and unhappy in a school environment. The child due to force by parents, may leave for school but go somewhere else and pass their time. During this time they develop other delinquent behaviors.

The child due to the failure in examination and fear from parents develop a habit of concealing facts from parents and due to which a child suffers many psychological problems. In order to curb the mental disturbance the children leave home and take help of drugs other unlawful things to get over with their mental stress.

6) Poverty-

Poverty is the main cause of juvenile turning delinquent. The children from poor families do not get access to the comforts of life. When the child sees other people with all the comforts of life and better living conditions, they feel disappointed. Due to this, the child develops a desire to get comforts in life and then consequently the child resorts to illegal activities to earn money. The crimes like theft and gambling is the starting outcome of the poverty. To earn easy money, a child adopts such means. This type of behavioural change in the child to be prevented on time or the child may become habitual to get easy earning by indulging in such crimes.
7) Adolescence Instability-

The adolescent behaviour depends upon the sociological, biological and psychological factors. The adolescence is an age when a change takes place in person's body as well as mind. The child develops intolerance against the restrictions in this age. The child becomes more instable as if he is kept in less happy environment. The child then feels such instability that the means of development are not provided to him as per his desires. This instable behaviour ultimately results in the commission of anti-social acts and so the child turns delinquent.

**FACTORS INVOLVED IN AGGRESSIVE YOUTH BEHAVIOUR  Figure 1.3**
AGE VERIFICATION OF RESCUED VICTIMS OF TRAFFICKING

It is very important to confirm the age of rescued victims for the better justice delivery mechanism. Under Indian Laws, the children under age of 18 years are protected and are not sent to jail to subject them to harsh punishments. Such children are kept in various institutions meant for their protection as provided under the J. J. Act for their reformation and rehabilitation.

There are issues pertaining to age of victims of trafficking. The Indian Penal Code has kept the age of consent of girl child to be 16 years of age for sexual intercourse, however if a girl is below 16 years of age and gives consent to the sexual intercourse it amounts to rape under IPC. The Act of procuring a minor girl is made punishable under IPC. The act of importing girls under the age of 21 yrs is made punishable. The act of selling or buying minor girls for prostitution is made punishable.

The brothel owners keep wrong record of the girls. The brothel owners or traffickers enter the age of girls to be 18 years for showing them adults on record while rescuing them. The purpose of this is that, the girls then will be treated as adult offenders and given punishments as adults and sent them in jail. The brothel owners then bring them out of jail custody by bail and put them to the prostitution again. The police officers therefore to be well trained to record the correct age of the victims. Also the doctors to whom the responsibility is given to record the age of the victim should do it without any malpractice. Most of the police records does not note the age of the victim firmly and writes as ‘appears to be 18 -19 years’. The SC on this issue held that, the lower age of the victim to be given preference for awarding benefit of doubt to the victim.

For example: If age bracket of the victim is shown as 17 -19 years of age, then the lower age to be considered for the law enforcement purpose.
1.8

CONSENTING AGE FOR SEXUAL INTERCOURSE

Under Indian laws, minor means a child below the age of 18 yrs. It is presumed that a child is incompetent to take proper decisions and so needs protection. This is the age under which a child needs protection and cannot be treated as an adult. This is provided under the Indian Majority Act, Child Marriage Restraint Act, JJ Act, Indian Contract Act and the Representation of People Act. However, as regards to the consent for the sexual intercourse, the age of girl is made as 16 years and above under IPC.

The age for marriage is made 18 years for girls. The law commission in its Eighty fourth Report had proposed to keep the age of consent in rape cases to be 18 years, however it was not accepted. And so the age of consent of rape is still 16 years in India.

1.9

CHILD WITNESS

The Indian judiciary has held that a child witness is admissible in the court of law, if it is seen that the child is competent to give the facts and has a understanding towards the situation of the case. According to Sec 118 of the Indian Evidence Act 1872, the evidence of child witness can be considered even without oath, if the child is able to understand what he is giving evidence of. The evidence of such witness can be said to be credible according to the circumstances of the case. However the court should take precaution while taking the evidence of child, as to the reliability of the witness and to see that the child is not taught by anyone to give such evidence. The only condition applied to section 118 of the Evidence Act, is that the young child deposing the evidence should understand the statements which he/ she is giving.
The author Dr. Jagdish Kumar Malik LL.M, P.hd, Asst Professor, Department of Law, University of Rajasthan, Jaipur (Rajasthan), in his research paper “Testing a child witness evidentially today”, published in Vol III, Jan-March 2005 part I of Central India Law Quarterly, rightly highlighted the very important aspect of Indian society that it is very difficult to get a competent witness and relevant evidence. The author in this article has presented two views on the child to be witness, with the help of relevant case laws. The author in the conclusion comes to the view that the evidence of a child witness, who understand the nature of the questions and give a rational answer is of a great tensile strength, which cannot be broken down merely on the grounds of infancy, forgetfulness, inconstancies and the like.

The Researcher suggests that, it is necessary to bring the definition of 'child' in consonance to the CRC. The age of child to be made uniform for the application of legal provisions and their protection.

In the above premise, this research seeks to focus on the following objectives,

a) To explore the present legal framework for the protection of JCWL and CNCP under the J.J (C& P) of Children Act 2000

b) To take a stock of progress of Indian states, from an operational perspective, in the matter of rendering justice to juvenile and to bring in to focus the grassroots situation of juvenile justice systems and

c) To locate the present law and practice in the view of rights of the child and various dimensions accruing out of the existing framework for juvenile justice. Broadly it reviews law and investigates a network of governance institutions.
1.10

JUVENILE JUSTICE AND CLAIM OF JUVENILITY-

Crime and treatment of offenders identified three models of JJS on the basis of contemporary approaches to deal with juvenile offenders. The three models are as follows:-

1) The due procedural model

2) The social welfare model

3) The participatory process model

The first model is based upon the concept of legality, the role of law and due process and the professional lawyers making the main decisions.

The second model is based upon the notions of economic and social justice through state planning and welfare, with administrators and professionals from the ‘helping services’ making the main decisions

The resolution of issues with respect to the first two competing models is essential for the proper development of a mechanism to control and protect the juvenile.

The third model resolves the issue, because juvenile justice can more meaningfully takes place at the macro level, with greater participation of citizens in the resolving or contending of conflict at the local level with a minimum intervention of the centralized power structure of the modern state. The third model exist still in the pre-industrialized countries and is also applies to the juvenile and youthful offenders in the developing countries. At present there is hardly any country in which juvenile justice system subscribes entirely to one of these three models. Most JJS have elements of each model to a varying degree. The balance between the three models has been achieved according to the
culture and the stage of development of a country. The JJS in each country is related to its history and culture, to the Criminal Justice System for adults and other social institutions. In this regard my research through doctrine study shall also bring out a fact that currently remains merely rhetoric to hold that there has taken place a change in the approach of law, in which the children are seen as holders of rights. The hypothetical position explains the need of this research to investigate into what is the real change that occurred in the status of the children being holders of rights. Discursively understood this exercise thus engages in exploring the normative structure of law and to analyze the extent to which such provision impacted upon the functional aspect and to secure the justice system to juvenile.

1.11

ANALYSIS OF JUVENILE LAWS IN OTHER COUNTRIES

HISTORY OF JUVENILE LAW

The concern for the separate institutional treatment for juvenile offenders was felt by Pope Clement XI and so he introduced in 1704 an institutional treatment for juvenile offenders. After him Elizabeth Fry and her associates established the separate institution for such offenders.

Due to these early efforts, the Britain Reformatory School Act and Industrial School Act were passed.

The Initiative to establish the special courts for juveniles was taken in 1847 in USA. After the efforts, for the first time in 1899, Chicago is the place where the Juvenile Court was established. Then the Juvenile Court was established in England in 1905. The probation law was passed in USA and then England in 1878 and 1887 respectively. The term ‘Juvenile Justice’ was coined first time by the State of Illinois, USA in 1899. This was done while passing the Juvenile Court
Act. The intention behind passing such Act was to protect the juvenile offenders from being treated with same punishments as of adults.

The term ‘Juvenile’ is taken from Latin word ‘juvenis’, which means Young. The word ‘delinquency’ means, de (away from) and liqueur (to leave).

According to Reckless (1956), the term ‘juvenile delinquency’ means violation of social code due to change in behavioural pattern which is not approved by the society. ‘Juvenile delinquency’ when taken to mean as a technical term other than the descriptive term is giving a legal view towards the dealings with the juvenile. However the general view is taken as an anti social behaviour of children which is disapproved by the society and for which the punishments shall be in the form of corrective measures.

In India, the JJS is based on the British pattern. Separate treatment pattern for the juvenile is made in India following the English pattern. The Apprentice Act, 1850 is the first law passed for the children in India for children in distress, who were given training for trade and industry. Due to protective action for juveniles, they are exempted from the penal law such as IPC.

Then in 1876, The Reformatory School Act was made and amended in 1897. This legislation proved to be the beneficial legislation for the juveniles. Under this Act, Reformatory schools were established by the local government. This Act made a provision to detain the boys for the period of minimum two and maximum seven years, however, such boys, if they are of eighteen years of age, then will not be kept in school. This Act had a provision to give license to the boys who are above fourteen years for working in suitable employment. The Act was applicable to Bombay Presidency for the boys under sixteen years of age and in other places it was applied to the boys who were below 15 years of age.

The Cr.P.C, 1898 had a provision for special treatment of juvenile offenders. The Code had a provision to send juvenile offenders till fifteen years to the
Reformatory schools and for the children till twenty one years to be kept in probation of good conduct.

The Cr.P.C, 1898 provided specialized treatment for juvenile offenders. The Code also envisaged to keep the juvenile offender up to fifteen years of age in Reformatory Schools and provided probation of good conduct till twenty one years of age. After this Indian children Acts passed by the Presidencies and provinces. These laws were having provision to establish a special mechanism for treatment of juveniles.

The Indian Jail committee, 1919-20 gave recommendations for the strong legislature for the realization of the child right and protection. After the independence, the GOI passed Children Act, 1960. The law was in force in all Union Territories, but it was not compulsory for the states to adopt it. Hence the Juvenile Justice System in India was not uniform. This was done away when the JJA 1986 was passed. The law was made applicable throughout the country. Later on due to the changes in the concept and in the view of current JJS, brought out by the Beijing rules and the CRC, The J.J (C & P of C) Act 2000 was passed. Later amended by the Act of 2006.

In the country like U.S.A, which is a developed country, the age of juvenile for determining his capacity to be punished is not uniform. It varies from state to state. In most of the states, the age is fixed to be 18 years for becoming an adult whereas in few states it is 17 years to become an adult and some states have even fixed the age of majority to be 16 years. In many states, if a juvenile is guilty of murder, he is even executed at the age of 16 years. The juvenile can also be tried and punished like adults for the offence committed by them. In U.S.A, many juveniles were executed for their crimes. This execution by capital punishment was held to be unconstitutional by the Supreme Court of U.S.A, for the people, who are below 18 yrs. of age. This decision came in Roper Vs. Simmons in the year 2005.

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In U.K, the Youth Courts are established for trying the children between the ages of 10 to 18 yrs. The youth could also be tried in a court meant for adults, if the offence is more grievous in nature.

In Country like France, the treatment system for punishing child is divided as per the age group of child. In this country a child till 10 yrs. of age, cannot be termed as criminal and even not be charged for the same. Those Children who are between 10 to 13 yrs. of age, if found committing any crime, then they were to be punished only by keeping them in a specialized home or center. However if a child is between the age of 16 to 18 yrs., commits a crime, then he cannot take the defense of his juvenility and the person will be sent to a criminal court.

In India, the definition of child is very clear, that includes a person under the age of 18 years. But when time comes to apply it for a crime committed by child, then the case is not the same. The principle of Doli Incapax, completely exclude child under 7 years of age from liability for crime. Children are being protected from criminal prosecution on the pretext of being very young to understand the consequences of the acts committed by him.

In country like India, it is a need of hour to get reforms done in the laws of juvenile. There is a tremendous increase in the crime rates committed by juvenile. The juveniles are easily escaping punishments, because the laws in India protect them. The recent cases in India, where the juveniles were involved in the commission of rape are ‘Nirbhaya case’ and ‘Shakti mill case’. The Nirbhaya case is the one where the girl was brutalized with an iron rod and the act was done by a juvenile. The Indian judiciary imposed punishment of imprisonment for 3 years to the accused juvenile asper the laws available in India. Actually according to the researcher, the juvenility should not be decided on the basis of the age or body of the juvenile, but it is to be judged on the basis of the state of the mind of juvenile.
1.12

NEED AND IMPORTANCE OF THIS STUDY

The Researcher concludes that the criminal mind of juveniles should not be ignored, and only on the basis of age factor they should not be judged. The delinquent juveniles to be made to undergo rigorous punishments with reformative methods, in order to improve their future conduct. The Bentham Utilitarian Theory sets an example for treating such offenders. The ultimate effect of abused child turns into delinquent behaviour in some or other form, hence the factors which are responsible for abuse to take place needs attention. The social aura of a child needs to be purified to develop them physically as well as mentally.

To some extent with the passage of time the situation has changed and the miseries of children have reduced with certain protective laws for children. The reason why the laws are not implemented properly is due to the social conditions prevailing in society. The children are made to work against their will as a labours or in any other hazardous conditions. The cases of infanticide have reduced to a large extent, but still many cases have been reported of the unmarried mothers abandoning their unwanted babies in fields or dustbins. There are much news appearing in the newspapers and media which are talking about the rapes on minor girls and the incidences of inhuman and degradable attitude towards the young boys. However still we should hope and give efforts to ameliorate the conditions of children. The society is becoming aware about the child rights and need to safeguard those rights.

The children have been given a special status by the constitution of India to be dealt with affirmative action. Children have right of protection from abusive activities and maltreatment. The CRC, states that the child be given dignity even in learning environments and while administering the discipline to the child. The child is to be given protection from any physical violence and humiliation.
This research study will evaluate the extent of this problem and its effects in transforming children in delinquency.

The situation faced in the area of crimes against children and delinquent behaviour of children is analyzed through the facts below:

1. The child abuse incidents are increasing at an alarming rate.
2. The juveniles are indulging in violent and brutal acts.
3. The number of drug-related crimes and rapes committed by juveniles is growing.
4. The process of globalization and migration of more people in urban areas have made the rate of criminal cases at rise and the people of different cultures under one roof is making the situation more intolerable.
5. The perpetrators of crimes against children are observed in the family, school and at the close contacts to the child.
6. The disintegration of families, poverty, and the death of parents in wars or other social cause or from HIV/AIDS has made the children orphans, which ultimately is making the children become independent and look forward to survive without their parents.
7. The unfortunate situations in the lives of child in most of the cases have made the child delinquent.

1.12.1

STATEMENT OF THE PROBLEM

The study primarily aims to look into the co-relation between the child abuse and juvenile delinquency under the legal facet in India and to look into its effects in society. Thus, the problem selected for the study has to be stated as

“A Socio Legal Research on Child Abuse and Juvenile Delinquency with its effects in India”.

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1.12.2 SIGNIFICANCE OF THE PROBLEM:

The prime object of this research topic, is to provide the probable information on this abusive activities and the mode of their operation and to detect the early juvenile delinquents and the mode of their rehabilitation for the betterment of the future of the country.

This research will improve the public understanding towards the needs an delicacy of children in realization of their rights and their achievements in the society which is an utilization for the development of the country.

This Research will aware people about the types of abuses prevailing in a society against child and its effects which is giving rise to juvenile delinquency. It will also aware people regarding the role of judiciary in protecting them.

This Research will make people realize that children are very important asset of the country and so they have to be protected and it is the responsibility of the Government to make available the required resources for their overall development.

1.12.3 RELEVANCE OF THE PROBLEM

It has been seen that juvenile delinquency is a big problem in India and throughout world. There can be no denial to the fact that today’s delinquent child if not properly taken care of, will be tomorrow’s criminal. Delinquency amongst children can be controlled before they become serious threat to the society. The statistics provided by various agencies from time to time show an upward trend in the incidents of crime by the juveniles. There is a need to have a thorough study of various facts and causes leading to delinquencies, disorderly conduct, vagrancy and conflict of a child with law and also the solution to the problem including proper protection and rehabilitation of the delinquent child. No doubt juvenile delinquency is a big problem in India and various laws passed by the parliament from time to time are fulfilling the objectives to a considerable extent,
yet lot of work is required to be done to make an effective and a justice oriented system for juveniles in India.

1.12.4 RESEARCH OBJECTIVES

The major objectives of the present research study are:

1. To find out the age group of children who are the victims of abuse and what kind of abuse they suffer from the abusers.
2. The Researcher seeks to analyze the several aspects of child abuse and exploitation.
3. To understand and analyze the Psychological, social, and economical benefits accrued by the children and to explore the merits of the empowerment of children.
4. To examine the factors responsible for the abusive activities on children in India.
5. To identify the specific action required from the governmental authorities and judiciary to implement the existing legislatures and mitigate the misery of children and affirmative action for protecting them.
6. To find out whether the various Child Acts sufficient to tackle the problem of juvenile delinquency in India.
7. To analyze whether the law executing agencies properly executing the law in favour of the juvenile delinquents.
8. To find out whether the role the Supreme Court has succeeded to make the real objectives of the various Acts in reforming the juvenile delinquent in India.
9. To find out whether the society is hub for the production of juvenile delinquent in India.

10. To find out whether the reformatory & rehabilitation institutions provided by the GOI are sufficient to reform criminal mind of the juvenile delinquent in India.

In the present research study, an attempt has been made to examine and answer all the above expected questions. The various issues of this multifaceted problem have been examined thoroughly in the light of statutory provisions and judicial decisions.

1.12.5 SCOPE OF THE RESEARCH WORK

1. It summarizes the key elements of juvenile justice and relevant aspects of welfare programs in our country.

2. It finds the main causes of child abuse and juvenile delinquency.

3. It finds the relationship between juvenile delinquency and child abuse.

4. It finds the principles on which juvenile justice legislations are needed and the ways in which juvenile justice issues are currently conceptualized by governments.

5. It identifies the present legislations on the problem of juvenile delinquency and highlights the recent amendments in criminal laws in India.

6. The Study highlights the recent judgments of the Apex court and other HC’s in the country to get view of the judiciary in relation to the juvenile delinquency and child abuse.

7. The Research work also analyses the various committee reports and Human right commission reports on the problem.

1.12.6 HYPOTHESIS OF THE RESEARCH

The components of the formulation of the hypothesis are as follows:
1. The Phenomenon of Child abuse and exploitation is common due to the social and economic condition of the people and existing gender differences, which gives rise to the phenomena of superior and inferior in the society and so the discrimination arises which results in developing delinquent attitude of juvenile.

2. It is observed in the social system that, the greatest concern for the child care and protection is the delinquency. The delinquency is rising because of the neglect and less family support of the juveniles.

3. The abusers who are in the habits of exploiting the rights of others are more likely to be the illiterate people and unemployed people and those who follow the orthodox traditions.

4. The Children in need in our country are not given the required attention, hence even today there are instances recorded of the abuse of child and exploitation of their basic human rights. The legislations and Conventions on this issue have not yet been implemented properly to settle their grievances.

1.12.7 EXPECTED OUTCOME OF THE RESEARCH

Researcher finds out the following expected outcomes from the proposed research study-

∑ Factors responsible for the occurrence of abusive activities in society.
∑ Strength and weakness of the effectiveness of the existing legal system in preventing child abuse in India.
∑ Origin and causes of delinquent behaviour in children.
∑ Effectiveness of the available juvenile legal framework in preventing delinquent behaviour of juvenile.
∑ The loopholes in governance of the preventive measures
∑ The role of judiciary in directing the implementation of the available laws and giving guidelines for the betterment of society.
To know the investigative mechanism in juvenile crimes and the role of governmental bodies in investigation of the delinquent acts of the juvenile.

To find out the suggestion based result of findings of the research study.

1.12.8 CHAPTERISATION

The whole research study has been divided into two parts i.e., Part one and Part two.

PART – ONE

The part one has been divided into the following core chapters with the critical evaluation of each of the chapter in detail.

CHAPTER – 1

INTRODUCTION

In this Chapter, an attempt has been made to give the background of the problem with its magnitude in India. The concept has been introduced and the problem is highlighted in it. In fact it is an introductory in nature and encompass of research study. The concept of juvenile justice system in India has been explained thoroughly. The emphasis of study, the evolution of the concept of juvenile justice has been mentioned. This chapter will give the brief outline on the selected statement of the research problem, rationale behind the child abuse and juvenile delinquency control laws, objective of the study, relevance of the problem, limitations, hypothesis and brief outline of the core chapters.
CHAPTER – 2

REVIEW OF RELATED LITERATURE

This chapter is presented with the review of literature on the subject of the research study with critical analysis and evaluation. The judicial attitude on the child abuse and juvenile justice system is also reviewed under this chapter.

CHAPTER – 3

RESEARCH METHODOLOGY

This chapter attempts to give an outlook on adopted methodologies involved in the research study.

CHAPTER - 4

CRIMES AGAINST CHILDREN AND LAWS TO COMBAT IT

This chapter provides detailed information on child abuse and juvenile delinquency with the help of the definitions and its types, causes and preventive strategy. This chapter attempts to give a conceptual aspect of child abuse and juvenile delinquency with a glimpse on related international conventions for children and legal control mechanism on child abuse and juvenile delinquency

CHAPTER - 5

JUVENILE DELINQUENCY AND JUVENILE JUSTICE SYSTEM

This chapter attempts to give a historical development of the JJS in India. It also gives a critical review on its effectiveness and loopholes where it is not implemented properly. This chapter also gives the judicial attitude towards the child abuse and juvenile delinquency in India.
CHAPTER – 6

SUMMARY OF FINDINGS, SUGGESTIONS AND CONCLUSION

This chapter provides the important findings after analysis and critical evaluation of core components of the research study and related aspect of part of the discussion. Also presents the suggestions and finally draws the conclusion based on the study. The suggestions are very important as to develop the new notion towards the problem.

PART TWO

This part has been divided into the following core headings.

A) REFERENCES

The reference part shows the citation of information sources referred while preparation of the core chapters of the research study.

∑ SELECTED BIBLIOGRAPHY
Includes the list of printed resources utilized for the research work.

∑ SELECTED WEBLIOGRAPHY
Shows the addresses of the internet sources used for the research work.
The following flow chart exhibits the core chapters of the research study.

Flowchart 1.1 Chapters of the Research Topic

- **PART ONE**
  - 1. INTRODUCTION
  - 2. REVIEW OF RELATED LITERATURE
  - 3. RESEARCH METHODOLOGY
  - 4. CRIMES AGAINST CHILDREN AND LAWS TO COMBAT IT
  - 5. JUVENILE DELINQUENCY AND THE JUVENILE JUSTICE SYSTEM
  - 6. SUMMARY OF FINDINGS, CONCLUSION AND SUGGESTIONS.

- **PART TWO**
  - REFERENCES
  - - BIBLIOGRAPHY
  - - WEBLIOGRAPHY