CHAPTER - 4

CRIMES AGAINST CHILDREN AND LAWS TO COMBAT IT

Children are the most delicate and pure gift of God. Where the children are being subjected to sufferings, there can never be a true love in this world. Everyone has been endowed with the right to get justice. The justice for children is to be ensured by adults. The children being of tender age cannot protect them, and hence the responsibility lies on the adults to protect the children, who were never protected in our country. They were victimized by one or other abuse. The Indian History has witnessed the brutal and cruel acts against children. The abuse of children starts from their birth itself in the form of infanticide and even before birth in the way of feticide. The practice of infanticide i.e. killing new born children was prevalent in ancient India. This practice was widely spreading for killing female infants. The female child was taken as an unwanted child in society. Abandonment was also prevalent as one type of abuse. It is an ill treatment of a child. Children are being sexually exploited to a large extent in our country. The adults are exploiting children for pleasing themselves sexually, without even considering the trauma the child will suffer. Poverty and illiteracy are the main causes behind the abusive activities on children. The study conducted in India on child abuse in 2007 shows the heavy decline in females to male ratio. The study also shows the heavy number of child labours in our country. The crimes against children are committed due to the presence of coercion in the nature of crimes. The notion of coercion is very clear. It is an act or practice of imposing force or power on another. The use of physical coercion is done to create threat to the person or on the property of another. The definition given by Hyke of coercion is as to use of force, to control the other person, in order to avoid greater evil.

For Hyke, coercion includes the use of aggressive force or physical violence.
Coercion means using force on other person in an involuntary manner. It involves the actual infliction of physical pain, injury or other mental harm in order to create threat to the other person.

Torture is one of the most extreme forms of coercion. The abusive activities on children are the result of the coercion on them to go through the violence inflicted on them.

Raising children is one of the most difficult and demanding responsibility on the parents or the guardian of the child. The persons who have a responsibility towards children should be given training for the same. Some adults suffer from the drawbacks in life or due to stress; they cannot give good upbringing to their children. The result of it is the infliction of violence on the child. Some parents extremely neglect their children physically as well as mentally. Such behaviour of parents is very disappointing towards their child.

There are various ways by which a child is abused, like molestation that is touching private parts of child or fondling child, sexual abuse, child pornography, exploitation of children, rape, incest etc. Besides this a child is mentally abused by the conflicts between the parents, divorced parents etc. Children of divorced parents suffer from psychological and emotional problems from their childhood. Such incidences in the life of children bring irreparable loss to them and it affects the growth of the child. There are many cases where the children are brought up with unhappy parents staying together. In such cases the child is deprived from the love and affection which he deserved from the family.

In some cases, the right to early childhood development is abused even before the birth of the child. The fetus in the womb if assailed by drugs or other modes of exposure, gives drastic effects on the child physically as well mentally. Physical and mental violence often results in premature death and hence is major abuse of the right to life, which has been guaranteed by the constitution of India.
4.1

SOME OF THE GIVEN DEFINITIONS OF CHILD -

Child is defined to be a human being who has not completed Eighteen years of age. This is a General definition of Child. This is accepted in our country. Child is not defined under the constitution of India. Even General clauses Act 1897 does not define it. The word child cannot be said to be identical to the word minor. In India, 18 years is kept as an age of majority as per the Indian Majority Act, 1875. There is no clear mention about the adolescent stage of the child in any Indian laws.

There are some provisions which are present in some statues in India, which gives definition of child for interpretation purpose. In factories Act 1948, child means a person below 15 years of age.

The constitution of India provides prohibition against child labour under Article 24. The provision prohibits employment of child below the age of 14 years. This is given in The Child labour (Prohibition and Regulation) Act 1986 and this prohibition is only applicable to hazardous employment.

The international human rights legislation, which famously known as U.N.C.R.C (1989), gives rights of children. According to this child means all human beings below 18 years of age.

Even if age of child for purpose of putting in labour is fixed to be above 14 yrs., but it is limited only to hazardous work. That means child who is under 14 yrs. of age can work in non-hazardous workplace. This shows that, In India there is no express prohibition against child Labour.

The IPC gives the age limit for criminal responsibility on the basis of principle of Doli Incapax. The children below the age of 7 years are protected from criminal liability. The offences like kidnapping, abduction are protecting children below the age of 16 years in case of boys and below the age of 18 years
in case of girls. The age of juvenile is fixed to be under 18 years of age under the J.J (C & P) of Children Act, 2000. The child under D.V. Act 2005 means a person under the age of 18.

The D.V Act is for the protection of child in matrimonial disputes, so the child means even adopted, step or foster child. The child means a person below the age of 18 years under the D.V Act.

The child, according to POCSO Act 2012 is any person below the age of 18 yrs. age. This act provides protection to child from sexual offences.

In the above context, the researcher suggests that, it is very important to settle and fix the age of child. The age of child to be taken as per the international convention.

4.2

CRIME AGAINST CHILDREN

The Crimes against Children are diversified in nature as well in enormity. The social system, family, poverty, crave for sex, craze for male child and superstitious beliefs are some of the causes for crimes against children. There are several laws to deal against criminality of children. Crime against children is taken as abuse and exploitation of children. The study of the problem of crimes against children is very important part of society to be given special attention; however it is been neglected a lot. The apparent reason of this may be due to the less reporting of the offences. The offences against children go unreported within the four walls of the house or within their known people. The crimes committed against children like rape, prostitution, child labour does great violation of rights of children. The human rights is not new concept in India, since we are signatory to many Human Right Conventions. Human rights to be made available to everyone. Every individual has a human right even against the state. There should be a proper machinery to enforce these human rights; mere existences of
these rights are of no use. This chapter is focusing on the crimes against children and laws to protect children from such crimes. Child sexual abuse is a crime with no name. It is said so, because the victims in many cases are too young to fight for their rights. The culprit in many cases is the family members or close friends of the child. The disappointing thing seeing through the research is that the parents of the child do not realize that their child is being abused. It is found that the sexually abused children are prone to a variety of psychological and behavioural disturbances, caused by the trauma of the abuse, which includes bedwetting, nightmares etc.

The research is targeting the crimes faced by the children at schools, homes, society etc., without any apparent legal protection.

4.2.1

CHILD ABUSE – CONCEPT AND MEANING

It is important to take a brief view on definition of child abuse. Child abuse is generally defined as an act of ill treatment offered to a child. Generally speaking the child is the most delicate gift of god, who has to be nurtured with love and care. The child abuse is indeed a taboo on society. The child is becoming victim of abusive activities not only by strangers but also by the near and dear relatives of the child. The protection of children is at stake in society as well as in family where the children are to be brought up. The reason behind increase in the rate of commission of such activities is the poverty, frustration, illiteracy, mass and media, revenge lack of self-control. Child abuse is the harsh ill treatment offered to the child which renders a child an insecure life. Any activities which takes away child’s security, safety and does not provide scope for child’s development is termed as abusive activities.

The child abuse can be better understood by its different forms. Physical abuse, mental as well as psychological abuse, sexual abuses are some of the patent forms of child abuse. Neglect is also taken as a form of child abuse. As per the definition given by the centers for disease control and prevention, which
is in US, child abuse is an act or series of acts which are committed ommitted by parents of a child, that cause harm or threat of harm to a child. Most abusive activities take place in the social environment too. The worst form of child abuse is child sexual abuse and in which the worst is Incest. The Indian laws are recognizing this type of abuse of children and giving measures to combat it.

The laws like the immoral traffic (prevention) Act, the J.J Act, the child marriage Act, are meant to control child sexual abuse in India.

It is very important to understand the reasons of CSA. It is found that the situations like marriage; trafficking, social gatherings, and child employment are the most of the areas where the child is abused. The reason behind begetting the children married at early age is to protect them from CSA. The cases of CSA are prominently seen in slum areas and places were the conducive and proper care system for children is lacking.

In some families who are economically backward, they put their daughters at an early age in the prostitution and live on her earnings. The places where young children are used as maids or servants; they are easily sexually abused by their employers. To worsen the situation is when the children are sexually abused by their parents or near relatives. Such type of abuse is called as incest, which hampers the psychological condition of child. Incest leaves a long lasting scar on the child and the view of child towards family and relationship changes from affection oriented to the revenge and hatred oriented. The study conducted by child Rights and you (CRY) revealed the fact, that children who go missing every year are found to be sold, kidnapping or lured to get better life. These children are forced into sex trade every year. The report revealed that approximately 2 million children of the age of 5 to 12 years are into commercial sex trade. The 40 % of the total population of children are in commercial sex trade. Such children are found in metro cities like Mumbai, Kolkata, Delhi, Chennai etc. Most of these are illiterate children. This makes clear that the vulnerability and poverty are the main causes which make the child the victim of sexual abuse. The other causes includes their tender age, lack of understanding,
lack of proper schooling, improper care and protection by families. The above situations are apparent for the sexual abuse of children. The recent case is an example of child sexual abuse, where Alan waters and Duncan Grant were sentenced to 6 yrs. imprisonment. They were convicted for sexually abusing boys of tender age at their shelter care system in Mumbai.

It is a need of hour to resolve the issue of CSA by stringent legislation. The other form of child abuse is Neglect. Neglect specifically means as parental neglect. Children suffer a lot of mental trauma and deprivation when the parents do not provide proper care and affection to them. There is a new trend of nuclear family in society. Nuclear family is a curse to society. Where the parents are working and do not provide proper affections to children. Neglect can be formed as negligence or carelessness towards children.

Neglect deprives children their right of safety and healthy development. Child neglect is said to occur wherein the responsible adult does not provide the basic needs of children. The needs of children include physical as well as mental development. Nowadays, children are being abused by their parents every now and then. Children when get beaten up by their parents it amounts to physical abuse. Even a slightest torture to children amounts to abuse. Children when getting mentally tortured by their parents or any other person, it amounts mental or emotional abuse. Children are very much victim of abusive activities in society. The tender age of children and less understanding towards the situation amounts the children to fall as a victim of abusive activities. Gender abuse has been recognized as the most prevalent abuse in families.

The researcher gives the detail explanation of the types of abuse suffered by the children-

**AN OVERVIEW OF THE WIDELY APPLIED DEFINITIONS OF DIFFERENT FORMS OF CHILD ABUSE:**
It is important to get brief definitions of different forms of abuse so that to get a deeper view on the child abuse. It is necessary to get to understand different terminologies on child abuse. The forms of child abuse are defined as below: **Abuse, neglect, exploitation and violence against children**. It is pertinent to understand them in detail and it is important to understand which legislative measures and policies will be applicable to the children. Following are some of the definitions of child abuse.

**Child Abuse** is such an ill treatment which apprehends to cause injury to the child and the safety of the child is at risk due to such abusive act. Child abuse also hampers the mental development of child. It violates dignity of child. It is executed in different forms as physical, sexual, psychological or emotional. As per the definition given by the CDCP, child maltreatment includes an act or chain of acts committed or omitted by parents or other guardian that gives harm or threat of harm to the child. The child abuse in the form of incest is occurring to a large extent and is the most reported than others.

**Figure 4.1**

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  CHILD ABUSE
    └─ PHYSICAL
    └─ SEXUAL
    └─ EMOTIONAL
    └─ NEGLECT
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- **Physical Abuse** is executed by using violent physical force to cause actual physical injury, like hitting, burning, mutilation, or other physical torture. In physical abuse a physical aggression is executed by an adult on child. Physical abuse involves the acts like kicking, striking, slapping, burning or other bodily harm to a child. This form of abuse is hampering physical health of
child. The transmission of toxins through a mother to a child is also considered as physical abuse.

- **Emotional or psychological abuse** is an act by which humiliating and degrading treatment is offered to a child. The examples of it are calling bad names or using bad language to the child, humiliating child or criticizing a child or keeping a child in isolation. The incidence of shouting or rudely answering a child, or comparing a child with siblings or other children affects the child.

- **Sexual Abuse** is the worst form of abuse because it destroys the delicacy of children. This is a kind of sexual violence which includes incest, rape, child pornography, indecent touching or exposure, showing pornographic material to children etc. According to the WHO, CSA is such a forceful act which is executed on child without the consent of the child since the children are unable to give informed consent for such act. It is violates the law as well the social norms of society.

### 4.2.2 CHILD SEXUAL ABUSE IN INDIA

The CSA in India is addressed by much legislation to protect children. The Immoral Trafficking Prevention Act is protecting the children from being exploited in commercial sex activities. Section 26 of the JJA is punishing an act of exploiting children for employment of hazardous nature. The Prohibition of Child Marriage Act is punishing an act of executing the marriage of girls and boys below stipulated age. Apart from this, there is a commission working for the child right protection. The noteworthy legislation in this area has come in force in the year 2012 in the form of POCSO. This is for protecting children from the immoral and abusive activities. The situations like family environment, school, marriage, employments may give chance to commit the offence of sexual abuse on children. It is very important to understand the circumstances under which the
children are being sexually abused. According to some reports on child abuse, it was found when interacted with people in slums in urban areas that they are executing the marriage of their children at early age. They do so to protect them from sexual abuse. For them if a girl attains puberty, then she is sexually available and hence if they are married as soon as attaining puberty, they are protected from being sexually abused. Smt. M.P.Chandrika, Lecturer, S.C.Nandimath Law College, Bagalkot, in her paper “Child Sexual Abuse Versus the Protection of children from Sexual offences Bill, 2010” which is published in Law Profile, Vol 2, issue 7, July 2011, speaks of how sexual abuse of children is a burning problem in India and stress on the situation which is aided by the absence of effective legislation and the silence of the victims. The author speaks about variety of sexual offences in child abuse such as sexual assault, sexual exploitation and sexual grooming. The author also speaks about the effects of CSA and its preventive measures.

It was surprising to see the situation which is among the Naths of Bihar. There prostitution is meant for their family survival. If a family does not have daughter, they purchase her from other state and make them work as a prostitute. On her earnings, her family survives. Some children who are forced by their parents to take up the work to earn for them, get easily sexually abused at the hands of their employer. Children working as labours in hotels or doing household work are more suffered by such abusive incidences. Besides it the children on the basis of caste and class lines are also abused sexually.

\[\Sigma \text{INCEST}\]

Family member of the children also abused them for the means to satisfy their lust. The sexual abuse of children by family members is called as incest.

Incestuous abuse is not newly recognized form of abuse in India. A study executed by RAHI in 1997 on well to do class of women, among the women who get abused at early age, 71% were abused by their relatives or a near and dear ones.
‘Incest’ is sexual relation within the degrees of prohibited relationship or of consanguinity and such is forbidden by law. Example- brother and sister, Father and daughter, mother and son and so on. The children easily fall prey to incestuous activities.

In an Encyclopedia of Laws of the child in India, by S.P.Shaw, published in Alia Law Agency in its first edition of 2000, the author points out the view of L.Schultz, which was given in a research paper named ‘The Child Sex Victim: Social, psychological and legal perspective’, that incest is not the assault that causes trauma but the parent’s behaviour upon discovery with a child.

There was recent case where a three year old girl was being sexually abused by their parents, Suja and French diplomat Pascal Mazurier. The truth about this came out when their daughter started talking clearly.

There was a case of Sneha and Ganesh, which was even shared on Amir Khan’s ‘Satyamev Jayate’. In the Case of Sneha, she was being sexually abused by her tutor since she was 6 year of age. This continued for more than 6years, in the 22 members’ joint family house. Her tutor sexually abused her. He used to touch her private parts from under the table. Sneha could not tell this to any one, and the result was she started failing in examination. Due to this, her mother used to beat her up. This abuse started increasing day by day. Sneha complained of vaginal irritation, but no one pay attention to it. She used to feel so isolated, and used to get afraid even to be friend with others. Sneha felt that her mother failed in protecting her. After counseling she felt, that her mother should not be blamed. She is now fine, and has made many friends and also working with a good company.

Another incidence is of Ganesh, who got sexually abused by his uncle for more than 10 years.
The study conducted in 2006 among 2,211 school going children in Chennai shows the CSA rate is 42%. The boys are more sexually abused than girls. Boy’s rate of abuse is 48% and of girls are 38%.

In Abdul wahid Bahadur Ali Shaikh Vs. State of Maharashtra, 1993 Cri.L.J 977, the father was charged with having committed a sexual assault on his eight year old daughter. The Bombay High Court, in this case awarded 10 yrs. imprisonment, instead of life imprisonment which was awarded by the trial judge.

In the Case of M.G. Kakkad Vs. Naval Dubey 1992 AIR SCW 1480, the SC, convicted the accused who had raped a minor girl and had also committed a similar sexual assault on his niece and other girls in locality. The accused was awarded sentence of 7 years of RI and fine of rupees 25000.

The judges have observed in this case, that the cases of sexual assault on girl children are not reported and so they are increasing day by day. The judges observed the reason behind it as children are not aware of the act of rape and so are not able to resist the acts. The judges expressed that the offenders of such acts to be punished mercilessly.
Among this Chhattisgarh has topped with 107 cases of incestuous rape.

In 2004, the cases have reached to 505, in 2005 it was the highest 750, in 2006, 431 cases reported, in 2007 it was 405, in 2008 there were 309 cases reported, in 2009 it was 404 cases reported, in 2010 it was the second lowest that is 288 cases were reported and the lowest reported case is 267 in 2011.

The CSA is rampant in every house in India and even in schools and day care institutes. Sometimes in incest cases, the mother even is aware about the abuser being her husband has to keep quiet. Since mother is dependent on the father of the victim she has to keep quiet. However there are some brave women who cost their family life for the sake of protecting their child from abuse.

The report of CRY indicates that there are thousands of children go missing every year. According to the report millions of children are forced into sex trade.
The report revealed a number of children forced into commercial sex. The children between the age group of 15 to 18 years are into the commercial sex. Out of total children, 40% are into this and 80% of them are found in metro cities like Mumbai, Delhi, Chennai, Kolkata, and Bangalore. 71% of these children are illiterate.

Thus, it is analyzed from these reports that the deprivations from needs and vulnerable situations are forcing the children to get into the trap of sexual exploitation. It is found out that the grounds of sexual abuse can be the poverty, gender, caste, lack of schooling, lack of parental support. The above grounds create a situation for the sexual abuse of child. It is contended by some psychologists that child violators are not mentally stable. That why it is an essential part to understand the reason, how the children are becoming easy targets for sexual exploitation.

There were duo named Alan Waters and Duncan Grant who used to sexually abuse young children kept under their Anchorage Shelter in Mumbai. They were punished for their act with 6 years imprisonment. This is an act which draws our attention towards the shelter homes where children are kept for safe custody and the perpetrators are pretending to be their protectors.

Criminologists have identified the possible causes of child sexual abuse are the pedophilic activities of the people, incest and pornographic activities. These are the main causes for which children are becoming victims. Sexual abuse of children has, today become a common event; however still there are not sufficient laws to curb it. The courts too are aware about the weak legislature on child sexual abuse and hence by judicial activism give directions whenever necessary. The abused children are not in a position to express what had happened to them, due to lack of understanding what had happened to them. The International Centre for missing and exploited children (ICMEC) took a review of the child pornographic laws in the year 2010 in 187 countries. It came out that 93 countries have no laws on pornography. Out of remaining 94
countries do not criminalize the possession of pornographic material regardless of their intent to distribute.

Smt. M.P.Chandrika, Lecturer, S.C.Nandimath Law College, Bagalkot, in her paper “Child Sexual Abuse Versus the Protection of children from Sexual offences Bill, 2010” which is published in Law Profile, in Vol 2, issue 7, July 2011, speaks of how sexual abuse of children is a burning problem in India and stress on the situation which is aided by the absence of effective legislation and the silence of the victims. The author speaks about variety of sexual offences in child abuse such as sexual assault, sexual exploitation and sexual grooming. The author also speaks about the effects of Child sexual abuse and its preventive measures.

CSA is outlawed throughout the world. It has severe punishments, including life imprisonment, capital punishments in some jurisdictions. The statutory rape is when the adult indulges in sexual intercourse with a child. The CSA even if outlawed, there are still many incidences which are not taken in its purview. It is concluded thus, that since in India there is no specific definition on child abuse, the definition is inferred from the plethora of the judgments of the judiciary and the provisions of the different laws under Indian criminal system.

In India, there is no separate provision for incest under IPC; however the definition of rape covers it.

Σ Neglect

It is an act of carelessness or negligence to comply with the duties toward the child. Neglect is said to be committed when there is no proper and secure environment provided to the child. Even not providing education to the child or not giving medical facilities to the child amounts to neglect. The child should be given proper clothing, food and emotional support, failing to it may say to commit neglect.
4.2.3

There is difference between Child exploitation and child abuse

The child exploitation means using children for giving benefit or advantage to someone else or for the profit of others. The Child is being offered very cruel and dangerous treatment under exploitation. The activities of child exploitation deprive the child his/her early childhood as well as physical and mental development. The children under exploitation never get access to education. It is the worst form of ill-treatment offered to the child. There are two main forms of child exploitation that are recognized:

∑ Sexual exploitation: In this the children are used by sexually exploiting them to earn money. The children are made to work in commercial sex industries for prostitution or pornography to give benefit to the owner who had kept them for this business. The offence of trafficking, prostitution, pornography is flourishing because of this kind of exploitation of children.

∑ Economic exploitation: In this the children are not sexually exploited but are exploited by other means to earn money. The children are used in other work activities for the monetary benefit of others. This not only includes child labour, but the use of children in domestic work, use of children as beggars, use of children in criminal activities and use of children in hazardous works. The children are used to earn money for someone else. The delicate age and innocent nature of children are exploited here for the monetary benefit.

4.2.4

Overview of crimes against children

On a basis of above the crime against children are as follows:-

1) Feticide :-

Feticide is immoral offences against children. An act of killing a fetus is called as feticide. A fetus is a fertilized living entity. A fetus when being abused
on unjustifiable grounds, it is regarded as most cruel act. Feticide is regarded as crime since the Vedic period. In 1803, Lord Ellen borough Act was passed to criminalize the abortion.

**In the Case of Rex Vs. Boume (1983) 3 ALL ER 615**, it was held that the prosecution need to prove that the abortion was performed with malafide intention of taking life of the child and not to save the life of mother.

The Author Prof(Dr.) K.C.Jena, Prof and Dean, P.G.Dept of law, sambalpur University, Burla(Odisha), speaks in his research paper “Female feticides and infanticide in India: The emerging issues” which is published in Law profile, vol 3, issue 2, Feb 2012, about the discriminatory practices against the female child. The author stressed on the point that in Indian society, female feticides has emerged as a burning social problem during the last few years. The author has made mention of the census of 1991, 2001 and 2011, indicating a grim demographic picture of declining female to male ratios.

The situation in India is criminalizing an act of abortion. The Indian penal code, expressly penalize the act of miscarriage. The provisions are covered U/s 312 to 318 of IPC.

The Act passed in the year 1971 i.e. the Medical termination of pregnancy act makes such abortions stricter. The PNDT Act is passed in 1994 to make the prenatal diagnosis punishable. Here a woman if causes miscarriage by her own will is also punishable. According to the Report of the Census of India, 2011, the child sex ratio has dropped down to a great extent. The preference of boys is seen through it. The females are lesser in number as compared to boys. This is not a good indication for the future of the country. The pregnant women sometimes by their own will undergo pre-natal sex determination and abort the girl child and sometimes they are forced to do so by their family members.
THE MAIN CAUSES OF FEMALE FETICIDE-

∑ In India, male child was always given a preference over girl child.
∑ The traditions like paying huge dowry at the time of marriage of a girl and a thought in the mind of parents that a girl child will not be with them for a life, deviates parents from moral duty and the act like feticide are committed.
∑ There is a conception in society that if a son is born the family gets good status in a society.
∑ The reasons like illiteracy, poverty and a burden to grow a girl child and get her married expensively are responsible for the act of feticide of girl child.

The act of sex determination is punishable in India, but still people find out ways and get it done from the countries where it is not punishable. The impact of this is very bad on the sex ratio of India.

The Pre-natal sex determination is an act of cruelty. It is an unethical murder of the child when in the womb of the mother. There is a trend in society to get the child aborted in the womb itself, on the cause of being unwanted. Sometimes the reason to abort may be the failure of contraception of male child. The termination of pregnancy is not only a crime against child but against humanity.

The IPC severely punishes the miscarriage which is executed without the consent of women with Life Imprisonment, or with imprisonment which may extends to 10 yrs. and fine.

2) Child Exposure or abandonment:-

In India, the problem of street children is increasing day by day. There are many cases where the children are abandoned by their parents. Abandonment and exposure of children is generally executed by the mothers, who deliver illegitimate children. There are many occasions when the new born are found abandoned or murdered in the dustbins or sewage systems. This is done to conceal the birth of child born out of illicit relationship by the unmarried girls or by
the women who are not in marital relationship. Such acts are highly evil and immoral and against the society. There are laws to penalize such acts. The IPC makes such an act as offence and gives punishment under section 317 and 318. However such acts cannot be curbed only by punishments but through improving the attitude of the people towards it.

In the Case of H.B. Singh Arsi Vs. State of Bihar (1991) 1 Crimes 535 (Pat), the court directed to take the good care of neglected juveniles by providing them food and other health care services. The neglected juvenile means a juvenile as per defined U/S 2 (1) of the J. J Act 2000. This is an effort of government, authorizes to give protection to the abandoned children.

In this case Sunilkumar Vs. State 1983 Cr. L.J. 94(Ker), the court directed that the intention of establishing the children home is to receive the neglected children and provide them accommodation and maintain their educational and other needs. The children home is a place where such neglected children get a chance to develop in a better person. If a juvenile court is directing a juvenile to be kept in children home then it is for the betterment of a juvenile.

3) Child Abduction:-

It is an act of kidnapping of a child. The child is abducted for criminal purpose. The abduction of child is caused for sexual abuse of child or for murdering a child as for extortion purpose.

Sometimes a child is being abducted by those who don’t have child with the intention of keeping a child as their own. The ingredients of this offences includes the act of taking away of minor, from the lawful custody of guardian, and the consent of guardian is not taken for the same. In this case, the consent of minor is immaterial.

The children are being abducted for the purpose of putting them under the trade of begging on roads. Begging as a profession is dangerous to infants. The professional beggars kidnap the children and engage them in begging. The
money which the children get in begging is taken by these professional beggars who had kidnapped them. Sometimes the children are even mutilated, blinded and physically impaired to use them as beggars and to get sympathy of the people for them.

According to a news article published on 31.7.2006 in Times of India on p 1., the caption was ‘Mob storm house off butcher doc’, Under this it was found that the doctors from Noida, Ghaziabad, New Delhi used to offer price to people and amputate their limbs for making them beggars. The matter was revealed through a television sting operation. This is an evidence of how the children are maimed for begging. This is an example of economic exploitation of children.

The children are also kidnapped out of superstitious demands to give them in offerings. The following report shows the incidence of murdering of mass children by two sisters.

According to a news report published on 1.09.2006 in Times of India, under the caption 'Death for killer sisters', in which a horrific news came out in which the two sisters used to kidnap children and used to murder them. They used to do it in Maharashtra in Sholapur and Nashik District.

The report of CRY indicates that there are thousands of children go missing every year. According to the report millions of children are forced into sex trade. The report revealed huge number of children forced into commercial sex. The children between the ages of 15 to 18 year are into the commercial sex. Out of total children, 40 % are in flesh trade and 80% of them are found in metro cities likes Mumbai, Delhi, Chennai, Kolkata, and Bangalore. 71% of these children are illiterate.

The children are also kidnapped for forcing them into the child prostitution and for using them in pornographic materials. The act of kidnapping is made punishable U/s 366 of IPC. U/S 24 of the J.J (C &P) of Children Act 2000 punishes the act of employing or using children for begging. This is a cognizable offence.
Child sacrifice is one of the offences which is committed by abducting and stealing a child from their parent’s custody. The infants are the most abusive victims in this case. The infants are often stolen for sacrificing them to deities. This is done on the basis of superstitious faith, on the perception that by doing this goddess will become happy and give the accused good returns.

4) Child marriage:-

Child marriage was considered as a pure act in India. The Indian Culture has a tradition of Kanyadan, where a father gifts his daughter to her husband, before she attains Rajaswala i.e menstruation. There was a general belief that if a girl has attained menstruation, then she is not fit to be given in Kanyadan. The child marriage was being practice because girls used to be felt as burden on parents. It was believed that, rather being sexually exploited by someone else, girls to be sent to their husband’s place, where they will be safe from sexual violence from other people. There was a conception that if a girl is married, then she is not available for sex outside. Hence the child marriage was prevalent for the safety of girls.

Child marriage is a taboo to the Indian society. There were two types of child marriage which were followed in Indian society. The first one is marriage of a girl child with fully grown adult men and second is marriage of two children. The act of child marriage were having many reasons in Indian culture like for preserving the sanctity of girl child and protecting her at early age. The act of child marriage was criticized by many social reformers. The child marriage was banned by the child marriage restraint act, 1929.

In India, many states have passed their own laws to prevent child marriage. The states like Gujarat, Rajasthan, Bihar, A.P, Maharashtra and H.P are the states, which has their own laws. These laws make the registration of marriage compulsory. So, that prevents a minor to get into marital relation.

The report of UNICEF in 2009 on the children, found that 47% of the Indian girls got married prior of completing 18 yrs. of age. Child marriage is, violating the human right of child. When the child is getting married, before not wholly developed. Consummation at an early age affects the
tender physical body of a girl child. Such may give future gynecological problems to the girl.

The punishments for child marriage are not strict. The Government created a ‘NPAC’ 2005 to achieve a target to eliminate child marriage by 2010. However we have crossed 2010, but the issue is still lingering on.

The point to be noted in the area of child marriage is that it is not only prevalent in rural areas but it is persistent in cities as well.

5) **Child pornography:**

The dictionary meaning of pornography is obscene material, art or photography. The child pornography means using children in such obscene material.

It is an act of depicting sexually involved images of child.

This is an act, where a child is being abused and such abusive activities are recorded, which takes form of child pornography.

In these activities the children who are pre pubescent and post pubescent both are involved.

Child pornography is termed as an organized crime.

It is formed so, because it has its sources and rings for trading the images and materials produced through child pornography.

There many countries which do not criminalize the act of child pornography. In India section 292 of IPC punishes the possession of obscene material.

6) **Prostitution of children:**

It is such a form child abuse, where the children are exploited for commercial purpose. The children are gracefully pushed into the flush trade and with torture forced to become prostitutes.

In India, prostitution is a crime. There is a new trend of child sex tourism where people travel to different countries to avoid the laws of their countries and involve children in prostitution.
The prostitution of children has a multidirectional chain, which includes abduction, sale of children and then child grooming and ultimately putting children in prostitution.

The child prostitution is itself a curse to society, because initially a child may be lured into prostitution or may be forced to adapt the prostitution, but later a child when becomes adult get used to of it and makes it a habit for earning money. Prostitution is one of thereasons of a children becoming delinquent. Under Indian Constitution Article 23 is prohibiting immoral trafficking. There are other provision in IPC and other laws which prohibit prostitution in India. The main cause of children being used into prostitution is due to their poor family condition and vulnerability.

The report brought very horrific result which was published in 2005, on woman and child trafficking in India, around 50 thousand children were missing and only 11,008 could be traced, other remained missing. It was found that India is at the top in providing the girls for the prostitution in other countries.

In the Case of Prerana Vs. The State of Maharashtra & Ors. 2002-ALL MR (Cri)-2400, the Court has laid down guidelines in case of a girls below 18 year who are found to be involved in prostitution and brought before the court. The directions of the court are worth for the welfare of juveniles, who are forced in to such activities. The court directed that, in such cases, the age of the juvenile to be found out and if it is found that the juvenile is below the age of 18 years then immediately to be transferred before the JJB or CWC.

The release of such juvenile is conditional, that is only after the completion of the inquiry by the probation officer. Also while releasing the juvenile the condition to be fulfilled, that is the parent or guardian to be fit person to take custody of the juvenile and it is to be determined by the CWC. If they are unfit, then the juvenile is to be sent for the rehabilitation. No person except the parent or guardian has a right to represent the juvenile before the CWC. The advocates are also not entertained here for representing juveniles.
Many adults under the perfect of giving shelter to the children, abuse them and sale them to the pimp for the prostitution.

**In the Case of Vishal Jeet Vs U.O.I, AIR 1997 SC 699**, while giving on a reaction to the PIL filed, the SC issued appropriate directions to the state Governments and all Union Territories to eradicate the evil of child prostitution and to develop schemes and programmes for child victims.

7) **Child Labour:**

Child labour explicit the fact that putting children on labour. Child labour has been prohibited by Article 24 of Indian Constitution. Child labour is actually an employment of children at regular or even hazardous conditions. The condition of children in India is very poor. The rights of children are least realized in India.

Art 21A of the Indian Constitution mandates the educational right of children. The primary education is free for children between 6 to 14 yrs but majority of people are negligent towards providing basic education to their children.

The children are seen working in factories, agriculture, domestic works, hotels as waiters, shops, and the worst is in prostitution. Children are also seen on streets, selling different articles.

Children are also used as beggars on street. The main reason, children are put under labour is their poor condition of family.

There are many international instruments which are realizing the right of protection of children. They find child labour is an exploitative act towards children.

It has been observed by most of the international and national organs that the family poverty is the main cause of the child labour. In a research paper, Basu and Van (1998) argued that the main cause of the child labour is the poverty of the parents. On this they recommended that the ban on child labour is need of an hour but at the same time the wages for the adults should me increased so that they can satisfy their family demands. This will also lower the level of putting children under labour by the parents. If the family needs are being
completed, then there will be no need of sending children out for work and earn money.

The situation in India is very worst. The research of 1997, revealed a case of silk weaving industry in kanchipuram district. In this industry many children were used as labours.

It was found that the children were bonded labours as well. There was a biggest ever raid took place in eastern part of New Delhi, where the children were rescued. The children were used their as labours. This raid took place in 2005, by an Indian NGO activist Junned Khan and the Labour department and NGO Pratham. The author Dr. Geeta Shrivastava in her research paper “Child labor”, published in Vol XIII, Jan-Mar 2000 Part I published in Central India Law Quarterly has rightly highlighted on the empowerment of children by quoting a sentence said by Abraham Lincon that “If you want to improve the nation improve the child”. The author highlights on the practice of child labour which is very ancient one. In India more than 20 million children are working for their livelihood. Many children are exploited by unscrupulous gangsters and are made to work or forced to take up criminal activities such as pick pocketing, smuggling, pimming and prostitution. The author has referred constitutional, legislative and judicial aspects for the welfare and protection of children. The finally concludes with her recommendations that the government of Indian must be vigilant enough for the enforcement of the various enactments and laws pertaining to the child labour. The government must ensure such measures to rehabilitate such children and provide them proper education and other facilities for their development.

In the Case of M.C. Mehta Vs. State of Tamil Nadu, (1999) 6 SCC 591, the SC gave direction to abolish Child labour and issued appropriate guidelines to the Government of India to make programs to effect the compulsory education of children and to develop activities to maintain health, nutrition, etc of the child labours.
The children are used for collecting the empty mineral water bottles which 
are thrown on the railway compartment and then their employers are refilling it 
and resupplying it to the ordinary water suppliers through these children. While 
doing so the children are exposed to the dangers on the railway tracks. This the 
most degrading act of the future of the children, as the children are exploited 
mercilessly for a dangerous trade and then are also given training to cheat the 
consumers.

8) Sexual Assault-

In India, a child or minor is taken as a person who has not completed 18 
years of age. According to law of land, such person 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, JJA, Indian Contract Act and the 
Representation of People Act. However, as regards to the consent for the sexual 
intercourse the age of a girl is made 16 to 18 years as given under Section 375 
of IPC. The age for marriage is made 18 years for girls.

In the Case of M.G. Kakkad Vs. Naval Dubey 1992 AIR SCW 1480, the 
SC, convicted the accused who had raped a minor girl and had also committed a 
similar sexual assault on his niece and other girls in locality. The accused was 
awarded sentence of 7 yrs.of RI and fine of Rs. 25000.

The judges have observed in this case, that incidences of sexual assaults 
on girl children are not reported and so they are increasing day by day. The 
judge observed the reason behind it as children are not aware of the act of rape 
and so are not able to resist the act. The judge expressed that the offenders of 
such acts to be punished mercilessly.

In the case Duryodhan Chaitu Meshram Vs. State of Maharashtra 2009-
ALL MR (Cri)-995 the offence of Rape was committed by father on a minor 
daughter. This act was not a story of one day but the father used to do it on a
regular basis with the minor girl. This was recorded as a very serious crime by
the court. The complaint was filed by the victim and her mother. The girl became
pregnant and when the abortion was executed the samples of fetus was taken to
match with the DNA of the father. It was found that the accused is a biological
father of that aborted fetus. The father was held guilty of offence of rape.

**In the Case of Sebastian Chevithiyan Vs. State of Kerala 2009-ALL
SCR-2448**, a two year old child was taken away and raped and murdered by the
accused. The accused was found to be pedophilic and convicted and sentenced
for such similar case on many occasions. The Court sentenced the accused to
the death penalty which subsequently was substituted for imprisonment till rest of
his life.

The **2012 Delhi gang rape** case is a heinous act committed against a
physiotherapist who was travelling with her friend in a bus on 16 December 2012.
The name of a girl was Jyoti Singh Pandey who became victim of rape and
heinous assault on her. There were 6 people who were present in the private bus
and all of them raped her and beat her friend. All the accused were arrested and
convicted for the rape, and murder of the girl. Among them one accused was the
juvenile, who was also convicted and sentenced to three years imprisonment in
the reform institution. One accused died in the Tihar jail and other four were
sentenced to death penalty by hanging.

**In the Case of Munna Vs. State of U.P. (1982) 1 SCC 545**, this case is
reflecting the dangerous situation in which children are given jail custody and the
sexual abuse of children in jails. Due to a newspaper report and subsequently
writ petitions filed on this issue made Allahabad High Court to make an inquiry in
this issue. The allegation was of lodging more than 100 children in Kanpur
Central jail and of sexually exploiting them. Even the under trial juveniles were
kept in Kanpur Tihar Jail. The SC observed in this case that it is the duty of the
magistrate to be very careful while sending the people in jail custody. If a juvenile
is appearing in front of them, they must send them to the observation home and
children homes. The child is a future of country and in no way they were to be exploited, but to be offered protection.

In **Sandeep Kumar Vs. State 119 (2005)**, this case, the bail was rejected by the Juvenile Justice Board to a juvenile who had been booked for the offence of rape. The accused had committed rape on a 6years old girl. The juvenile then filed a petition in Court of Sessions. The Court of Sessionstoo rejected the bail to juvenile. The HC was agreed with the decision of the Additional Session Judge and the Juvenile Justice Board.

Dedicating girls to deties and thereby sexual exploitation is very much in practice in Maharashtra. The girls under the orthodox beliefs are also prevalent in south India. Some parents give their daughters to temples to serve as devdasi, to serve the gods. This system has an end of sexual abuse on such girls by those who manage the temples. These girls serve in temple physically and get exploited sexually. This is the worst form of practice in the name of religion. It is worse than the prostitution as the girls are used as slave for satisfying the sexual lust of people.

It is hence concluded from the judicial decisions that attitudes of judiciary as well as the legal provisions are lenient towards the juvenile offenders. And the adult offenders are punished very strictly for the sexual offences on children.

4.3

**ANALYSIS OF REPORTS OF NCRB AND NHRC ON CHILD ABUSE**

The abusive activities against children have increased by 3.8% in 2005 in comparison to 2004. M.P was reported highest in rape cases in the year 2005. In cities, Delhi is on top for the crimes against children. The report of NCRB in 2013 shows that over all crimes, crimes against children have been increased by 52.5%.
The most under reported crimes against children was incest, is at highest peak and it is being reported widely. The number of reported cases of incest have increased from 346 cases to 489 during 2012-13. That is by 43%. According to the data released by Government during the year 2012-13, the numbers of victims have increased and to worsen the situation it is shocking to see that all victims are between 14-18 yrs of age. Maharashtra is the state, where highest numbers of incest are reported from 2012-13. The second state where more cases were reported is Kerala. The number of rape cases, reported in 2012 was 150 and in 2013, the figure increased to 263. According to report, Ahmadabad reported to be the highest number of cases of child abandonment. In Gujarat the crimes like feticide and child marriage has reduced, where as in north eastern region, still the cases of child marriage are being reported as 12 cases in 2013. Appropriate action was taken against them.

The following data shows the extent of crimes in various facets committed in India. The NCRB Report of 2007 is giving an extensive data on the crimes committed by the juveniles. The keen observation of the data reveals that the children are committing crimes more for monetary benefits. The incidents of theft are reported more in number. The children are indulging in the criminal activities, out of need or to take revenge of something. It is concluded thus from the above figures that the children are more towards committing the economic crimes and crimes against physical body.

According to the crime head wise distribution during 2013, the cases of kidnapping and abduction are being accruing to a large extent in India. It has been found out that, there are several laws but it is not being implemented properly.

The example in reference to the current research problem can be taken from a fact that according to the J.J act, every police station should have a special juvenile police unit but it is not followed anywhere in India.
To monitor crime against children, the central monitoring commission is established but this commission has not met even once since the amendment in 2000.

According to survey conducted by MWCD. It revealed that more than 53% of children in India are subjected to sexual abuse and most cases go unprotected. This survey had covered 13 states in India. It was found that 50% of the abusers are well known to the child. It was found that A.P, Bihar and Delhi are the states, where the cases of sexual abuse are most reported. The victims of sexual abuse are both Girls and Boys. There was no law for protecting children from sexual offences.

Children were treated like adults but in 2012 Protection of children against sexual offence Act (POCSO) was passed.

4.4

HISTORICAL DEVELOPMENT OF LEGAL ASPECT FOR CHILDREN-

The Researcher in order to explore the legal framework in India on its totality has made a exploration into the constitutional provisions in relation to children as well as reviewed the statutes under Indian laws on child related crimes and for their development. The Researcher therefore is relying on the major criminal procedural laws like Cr.P.C 1973, I.E.A 1872 and IPC 1860 having direct bearing on JCWLand CNCP. The Researcher is relying on the special laws enacted on the children for their protection and development, like CMRA 1929, C.L (P&R) Act 1986, ITA1956, Narcotic Drugs and Psychotropic Substance Act 1985, PNDT Act, 1994, J.J (C&P) of Children Act 2006.

The Constitutional Impact on Child Legislation

The law of land in the form of Constitution of India came into effect from 26th January, 1950 in India. It has given special status to the women and children in part III of it, in the form of fundamental rights. The children are also protected for
future in the form of Directive Principles of State Policy. The Indian Constitution is based on the principle of equality and protection. The children are protected by the affirmative action of the Government. The Constitution, even though based on the principle of equality, is by protective discrimination giving special status to the children. The Constitution guarantees the child a secured childhood free from exploitation and injustice. The Constitution in the form of fundamental duties, casting a duty to the parents to protect their child and give children opportunity for development. A review of Indian Constitution reveals that it has made ample provisions to give scope to the state to make laws and schemes for the child protection and development. And since it is a protective discrimination, it will not be discrimination on other citizens of India. Under Constitution, the term juvenile is nowhere used. It means the constitution of India does not discriminate the child from the juvenile. For the law of land both the terms are same. The DPSP through the Article 39(e & f), mandates the state to take efforts to protect the youth and childhood from exploitation. It directs to protect the tender age of child and states to give opportunity to children for their development. The provisions of the constitution of India which are children oriented are listed below:

∑ Art15: It is an anti-discrimination right given to the citizens of India. It protects the citizens from any form of discrimination on the basis of religion, race, sex or place of birth throughout the territory of India.

∑ Clause 3 of this takes an affirmative action and allows state to make special provisions for women and children.

This is a protective discrimination for the children.

∑ Art 20(1): It is stating that the person should not be punished with greater punishments except those which are in force, when the crime was committed.

This is for the protection of juvenile offenders; As the Government through various laws on them has taken a lenient approach towards them that has to comply as it is. Hence they have to be treated as children and not inflicted with the punishments of adults.
Art 21:
This is very important right for the better survival in the society. It is known as Right to life.

Art 21 A: This right is realized after the 86th Amendment Act of 2002, before it, this right was implied in the Right to life. This right makes the compulsory and free education for the children between the ages of 6 to 14 years

The author Dr. C. P. Gupta, LL.M, DLL, DCL, PH.D, Guest faculty University Law College and Guest Faculty department of Law, University of Rajasthan, stated in his research paper “Children’s right to education: Legal framework”, with the help of major international tradition, that taking education is a right. The Author traces a vision to the historical background about the traditional Indian Knowledge system. According to the author people are still not aware about their educational rights. This has been made a F.R. after 86th amendment Act of 2002.

Art 23(1): This provision prohibits the immoral trafficking.

Art 24: This Provision protects the children from being child labour in hazardous employment.

Below are the directive principles for the betterment of the children:

Art 39: This provision directs the state to protect the tender age of the children from being abused.

Art 45: It directs the state to give care and education to children during the early age of their life i.e. before the age of 6 yrs.

Art 47: It directs the State to raise the level of nutrition and to improve the public health. It should be the primary duty of the state to protect the children.

In this way the Constitution of India has laid down a broad framework for satisfying the needs of children and protecting them from exploitation. The
The constitution of India gives opportunity to children to develop and protect them from exploitation. The constitutional guarantees are prescriptive in nature. In the modern laws, the constitution is the base for framing all the legislatures. The constitution is the custodian of the rights of people. The Acts which are repealed in the view of the constitution are for giving new modernized laws. The children Act is repealed to give a uniform legislation for children.

4.5

LEGAL ATTITUDE TOWARDS CHILD ABUSE AND JUVENILE DELINQUENCY IN INDIA

The crimes against children are growing at alarming rate, in this view the SC, In the Case of Sakshi Vs. U.O.I and others, has observed that the 156th report of the Law Commission is not dealing with the problem of sexual abuse of children and so it is a request to the Law Commission to check the recommendations of amendment of IPC. Since the problem of child sexual abuse is spreading throughout society, it is necessary to request Law Commission to suggest proper measures.

As far as legal protection from offences is concerned, the first ever uniform legislation concerning juvenile justice in India was enacted in the year 1986. Prior to the enactment of this uniform legislation for the entire country, most of the states in India had special legislation by the name of Reformatory Schools Act and Children’s Act. These were governing the delinquent behavior of juveniles and reforming them. The Probation of Offenders Act, 1958 had provision to leave a person who is above 16 yrs. of age and under 21 yrs. of age on probation, even if he is convicted of offence. The first offenders and offenders, who had committed less severe offences, could be released on probation. The court had to explain the probation order to the accused in the language which he understands, to give effect to the order. Actually, probation is an alternative to the punishment. The offender under probation, if fails to comply the order, then he was liable to undergo the sentence awarded for his offence. The Reformatory
Schools Act 1896 made provision for establishment of the reformatory schools for male delinquent children who are below 15 yrs. of age and sentenced for an offence punishable with Life Imprisonment. The Children’s Act mostly made provision for establishment of special schools for giving care related facilities, education and rehabilitation of children.

In the view of unequal treatment meted out to children under different state legislations, the supreme court of India in Sheela Barse Vs. Union of India, AIR 1986 SC 1773 observed that instead of different state having different law there should be uniform legislation on the subject. Accordingly the first ever uniform legislation for child offenders was enacted by the Parliament of India, under the title of JJA 1986 which came into operation in 1987. This act has termed child offenders as juvenile delinquent. However, due to several deficiencies inherited in it the Act of 1986 was replaced in the year 2000 by the Parliament of India.

4.5.1

Various legal provisions under IPC and other laws to combat crimes against children

The various provisions and laws which are enacted for children are for the protection of children and are executing the directions enshrined under the constitution of India. The very recent law which was enacted for the protection of children from sexual offences is the POCSO 2012.

The laws concerning Child abuse and other related crimes on children are discussed in detail as follows:

The cases in which the children are victimised and abused can be categorised under two broad sections:

A) Crimes committed against Children which are punishable under Indian Penal Code (IPC).
B) Crimes committed against Children which are punishable under Special and Local Laws (SLL).

Specific Sections/Acts under above two categories are as follows:

A) Crimes against children punishable under the Indian Penal Code (IPC) are:
   a) Murder (Sec 302 IPC)
   b) Feticides (Crime against a fetus) Sec 315 & 316 IPC.
   c) Infanticides (Crime against new born child) (0 to 1 year) Sec 315 IPC.
   d) Abetment to Suicide (abetment by other persons for commitment of suicide by children) Sec 305 IPC.
   e) Exposure & Abandonment (Crime against children by parents or others to expose or to leave them with the intention of abandonment): Sec 317 IPC.
   f) Kidnapping & Abduction
      i) Kidnapping for exporting (Sec 360 IPC).
      ii) Kidnapping from lawful guardianship (Sec 361 IPC).
      iii) Kidnapping for ransom (Sec 364A of IPC).
      iv) Punishment for Kidnapping. (Sec 363 IPC).
      v) Kidnapping for begging (Sec 363-A IPC).
      vi) Kidnapping to compel for marriage (Sec 366 IPC).
      vii) Kidnapping for slavery etc. (Sec 367 IPC).
      viii) Kidnapping for stealing from its person (under 10 years of age only) (Sec 369 IPC).
   g) Procuration of minor girls (for inducement to force or seduce to illicit intercourse): (Sec 366-A IPC.)
   h) Selling of girls for prostitution (Sec 372 IPC).
   i) Buying of girls for prostitution (Sec 373 IPC).
   j) Rape (Sec. 376 IPC)
   k) Unnatural Offences (Sec. 377 IPC)
**Punishment for Feticide**

**Sec 312 to 317 of IPC** deal with offences of causing miscarriages, injuries to unborn children, Exposure and Abandonment of infants for concealing their birth.

**Sec 312** of IPC punishes the act of causing miscarriage with sentence extending to 3 yrs. of imprisonment or fine or both. And if it is a miscarriage of a quick born child, then punishment is 7 yrs. imprisonment and fine. If a woman is herself causing miscarriage, and then she is also made punishable under same punishment.

**Sec 313**- When a miscarriage is committed without the consent of the woman, then the punishment is of Life Imprisonment or either description of imprisonment for a term extending 10 years and fine.

**Sec 315 and 316 of IPC** has punishment for Feticide and infanticide.

**Sec 315** has made punishable an act of preventing the birth of the child or causing the child die after the birth. The act if it is not performed in good faith then is made punishable with either of the imprisonment which may extend to 10 years or fine or both.

**The PNDT Act 1994** is passed to prohibit the sex selection before or after the conception, and regulating the techniques of pre-natal diagnostics for detecting the genetic abnormalities or other related disorders. This Act is prohibiting the use of such techniques for sex determination, which leads to female feticide and other incidents related thereto.

This Act has been amended in 2003 to make the provisions more effective as to protect the dignity of women.

The important provisions of this Act are discussed below-

∑ Pre-natal diagnostic techniques- Section 2(j) of the Act include pre-natal procedures and diagnostic tests under the techniques.
It means ultrasonography or other test carried to detect any genetic or metabolic disorders on pregnant women.

∑ Regulation of Genetic counseling centers, genetic laboratories and genetic clinics- It is regulated under section 2(k) of the Act to prohibit the sex selection. The Act under Sec 3-A prohibits the sale of ultrasound machines to the person, laboratories not registered under the Act.

∑ Written Consent- Sec 5(1) (a), (b) and (c) makes a provision that a written consent of pregnant woman is must giving her the information about the side and after effects of pre-natal diagnostic procedure on her. The women to be communicated the procedure in the language she understands and a copy of the written consent to be given to her.

∑ Prohibition of sex determination- Sec 6(a) of the Act prohibits the sex determination by any Pre-natal diagnostic techniques is prohibited in any registered center.

**Offences and Penalties-**

1) Advertisement relating of pre-natal conception and pre-natal determination of sex or sex selection is prohibited under Sec 22(i) and (ii) of the Act. If anyone violates this, then is punishable with imprisonment which may extend to three years and fine which may extend to ten thousand rupees.

2) Sec 23(1) gives punishment for the contravention of any of the provisions of this Act, by either the medical officer or his employee, is made punishable with imprisonment which may extend to three years and with fine which may extend to ten thousand. The subsequent offence is made punishable with imprisonment which may extend to five years and fine which may extend to fifty thousand rupees.

All offences under this Act are cognizable, non-bailable and non-compoundable as per section Sec 27 of the Act.
Punishment for exposure and abandonment-

Sec 317 of IPC punishes the exposure and abandonment of child below the age of 12 years by parents or caretaker, with either of the imprisonment which may extend to seven years or fine or both.

Sec 318 punishes the acts of secretly burying or otherwise disposing of the dead body of the child, which the child has died before or after the birth and trying to conceal the birth of the child, with imprisonment of either description which may extend to two years or fine or both.

Sec 23 of the J.J(C &P) of Children Act 2000 also punishes the act of cruelty on juvenile or child. The cruelty under this section includes the act of abandonment, assault, neglect, exposure which may cause a juvenile or child unnecessary physical or mental injury. The punishment may extend to six months imprisonment or fine or with both.

This offence is made cognizable under section 2(k) of the J.J (C& P) of Children Act 2000.

Sec 25 of the J.J(C &P) of Children Act 2000 punishes the act of giving intoxicating liquor in any public place or any narcotic drug or psychotropic substance without the direction of medical practitioner. The punishment is imprisonment which may extend to three years and fine.

This is a cognizable offence.

Sec 26 of the J.J(C &P) of Children Act 2000 punishes the act of exploiting the juvenile for the purpose of hazardous employment or keeping the juvenile under bondage. The punishment is imprisonment which may extend to three years and fine.

This offence is cognizable.
Punishment for Kidnapping for begging-

Sec 24 of the J.J (C&P) of Children Act 2000, punishes the act of employing or using juvenile for begging. The punishment is imprisonment which may extend to three years and fine. This is a cognizable offence.

Sec 363-A (1) of IPC punishes the act of kidnapping of minor for the purpose of begging with imprisonment of either description for a term which may extend to 10 years and fine.

Sec 363-A(2) punishes the act of maiming of minor for using the minor for begging with imprisonment for life and fine.

Under IPC for the application of this offence and punishment minor means a boy under 16 yrs. of age and girl under 18 years of age.

Punishment for buying and selling of children-

Children are bought and sold from one part of the country to another for the purpose immoral activities like prostitution or other sex crimes.

Female children are the worst victims of trafficking. The traffickers target the girls of poor families, since they often fall prey to it. Trafficking of children mostly from Bangladesh to Arab states for the purpose of camel race is a much known fact. In this children are tied on the back of camel, so that the camel can run fast by getting afraid of the shouts of the children. Many a times children falls from the camel and get crushed under the camel running in a race.

Sec 366-A, punishes an act of inducement of minor girls for the purpose of subjecting such minor girls to have illicit intercourse with other person, with imprisonment either description which may extend to 10 yrs. and fine.

Sec 366-B, punishes an act of importation of girls from foreign country including the state of Jammu and Kashmir, who are under the age of twenty one years, with intent to subject her to have illicit sexual intercourse with other person, with imprisonment either description which may extent to ten years and fine.
Sec 372 punishes an act of selling of minors for the purpose of prostitution, with imprisonment of either description which may extend to ten years and fine.

Sec 373 punishes buying of minor for the purpose of prostitution, with imprisonment of either description which may extend to ten years and fine.

Many of the cases are seen, in which parents sell their children to overcome their poverty. The children are sold in very less amount to prevent them from starvation and poverty. This is still heard but it is decreasing because of literacy and social change.

Punishment for Child labour-

Art 24 of the Constitution of India prohibits the child labour. Accordingly in 1986 an Act was passed to prohibit the child labour in the name ‘C. L (P& R) Act 1986. According to this Act, the ‘Child’ means a person who has not completed fourteen years of age.

The Act prohibits all sorts of employment of children in certain occupations and processes as given in part A of the schedule. However employment of child is not prohibited in any workshop if it is carried by the parents of the child or by his school or on the recognition of the Government.

The number of hours of employment of children is fixed to be not exceeding six hours in a day including the rest intervals. The child should not be retained till late hours at work place.

The Act punishes the employment of child contravening the provisions of this Act, with imprisonment which may extent to one year or fine which shall not be less than ten thousand but which may extend to twenty thousand. And if the offence is repeated then the punishment is of imprisonment of not less than six months but which may extend to two years.
The Children (Pledging of Labour) Act, 1923, declares that any agreement to pledge the labour of child is void. Under this Act, child means a person under the age of 15 years of age.

Punishment for Sexual Assault-

Rape is a heinous act against the dignity of human being and it is most brutal when it is committed against the children. The worst form of rape is incest, that is when the near and dear, the protectors of the children abuse them. Sodomy that too forced sodomy is the offence which is worse than the rape. This is often committed against male children.

It was observed in the Case of Sushil Kumar Pati Vs. State of W.B, 1993 (2) Crimes 800(Cal), that, the question of consent is immaterial when the girl is of tender age. In this case a girl was collecting cow dung cakes on lonely field and was chased by the accused and raped. The girl was of 12 years of age and so the question of consent is immaterial in this case.

It is observed through the list of judgments that, the minors who have committed rape are given lenient punishments.

In the Case of Kakoo Vs. State of H.P, AIR 1976 SC 1991, a 13 year old boy committed rape on 2 year old girl. The court observed that if a person at this age is send in the prison, ten he will for sure turn criminal by the association of other prisoners. The approach to be humanitarian while awarding sentence to child offenders. The child of this age does not understand what is correct and wrong, and so his sentence was reduced to one year of rigorous imprisonment and fine of rupees 2000.

In the Case of Lekh Ram Vs. State,1992(3) Crimes 869(ALL), the Appellant was minor on the date of incident and the High Court did not find fir to send the child in jail. The conviction was maintained but the sentence imposed on him was quashed.
In the Case of Chabilia Vs. State of Rajasthan, 1991(1) Crimes 413(Raj), In this case the lesser punishment was given to the accused, since he was minor at the time of commission of the offence.

This is attitude of the judiciary towards the minors if they commit rape.

However if it is committed by adult on a child, then stringent punishments are awarded to the adult offenders. The cases are as follows-

In the Case of State of Assam Vs. Bishnu Prasad Sinha (2006) 3 Crimes 320(Gau), the victim appeared to be a young girl of 8 years and did not provoked the incident. The girl was brutally raped and then murders and put into a septic tank while she was alive. The motive was of killing the girl to conceal the act of the accused. It was held that the case is the rarest of rare case and only death penalty will meet the ends of justice.

The punishment for rape is given under section 376 of IPC, for an act of male to have sexual intercourse with a female under the age of sixteen years of age with or without her consent. The punishment is imprisonment of either description which shall not be less than seven years but may extend to life or a term of imprisonment for ten years and fine.

Sec 377 of IPC, punishes unnatural offences. The male children are often victims of such offence. The punishment is imprisonment for life or with imprisonment of either description which may extend to ten years and fine.

The following are the Punishments under IPC, which were given for the offence of sexual abuse of child before the Protection of Children of sexual Offence Act 2012 came into force.

Sec 375--Rape

Sec 354-- Outraging the modesty of a woman

Sec 377-- Unnatural offences
Sec 511-- Attempt

However, the IPC could not effectively protect the child due to following reasons:

∑ Sec 375 is only protecting the females and males are not covered as victims. The sexual acts on male children are reported every day and so they too need protection and such acts should be punished with the same punishment.
∑ Sec 354 does not give a legal definition of modesty. This is made as compoundable offence and has very less punishment. This section does not protect the male child.
∑ Sec 377 of IPC does not define the term unnatural offences. It is applicable on everyone. It has a limited application on carnal sexual intercourse. It has not punished child sexual abuse.

In Abdul Wahid Bahadur Ali Shaikh Vs. State of Maharashtra, 1993 Cri. L.J 977, the father was charged with having committed a sexual assault on his eight year old daughter. The Bombay High Court, in this case awarded 10 yrs imprisonment, instead of life imprisonment which was awarded by the trial judge.

**BENEFICIAL AND PROTECTIVE PROVISIONS UNDER INDIAN PENAL CODE AND CRIMINAL PROCEDURE CODE**

a) Indian Penal Code: Sec.82 - Act of a child under 7 years of age. (Doli Incapax) and Sec 83.

Sec 82 protects children from criminal liability. It gives immunity to a child below 7 years completely from criminal liability on the basis of incapability to understand.

Sec.83 of the Act, protect the child above seven years and under twelve years of age on the ground of immature understanding. The children in between this age lines are protected from criminal liability if they do not understand the consequences of the act committed by them.
b) Code of Criminal procedure, 1973:

1) Sec 27 of the Cr.P.C gives the jurisdiction in the Case of juveniles. According to this if a person is accused of any offence not punishable with death or imprisonment for life and is under the age of 16 yrs, may be tried by the court of CJM or by Court specially empowered under the Children Act 1960 or any other law for the time being in force for children.

In the Case of Raghubir Vs. State of Haryana (1981) 4 SCC, 210, it was held that the Haryana Children Act, 1974 was to prevail over S.27 of the code and even a child accused of an offence punishable with death or life imprisonment could not be tried by ordinary criminal courts.

2) Sec 360 - Under this Section a person may be ordered to be released on probation of good conduct or after admonition. The person to avail of this provision must be a first offender and less than 21 years of age and the offence should not be punishable with death or imprisonment of life.

The Author Ms. Neelu Mehra, Assistant Professor, Guru Govind Singh Indraprastha University, New Delhi, in her Research paper “Probation as a mean to reform the offenders: A comparative study of probation provisions under the Probation of Offenders Act and the Criminal Procedure code.”, published in Vol 3, Issue 11, Nov 2012, Law profile, a monthly legal journal, has emphasized particularly the line given by Mahatma Gandhi ‘Hate crime not the criminal’. The author in this article explains the development of probation laws in India. The Author here makes the comparative study between the Probation of Offenders act 1958 and the Code of Criminal procedure 1973. The author also explains the mutual difference and applicability of both the statutes. The author concludes that the view that section 360 and section 361 would not be operative in the presence of the act is not in consonance with the intention of the legislature.
B) Crime against children punishable under ‘Special and Local Laws’ are:

a) Immoral Traffic Prevention Act, 1956 (where minors are abused in prostitution).


a) IMMORAL TRAFFIC PREVENTION ACT, 1956
(Where minors are abused in prostitution)

According to SC, as stated in the Case of Vishal Jeet Vs. Union of India, 1990(3) SCC 318, that the prostitution is an evil to the society and destroys the moral values. The evil effects of the prostitution is destroying the society and threatening the community. Therefore there is an urgent need to wipe it out through proper measures.

This Act is amended in the year 1986, before it the Act was named as SITA. This Act aimed to curb and abolish the flesh trade taking place through traffic and protect its victims. This Act has defined the terminologies related to the Act in the definition clause. According to this Act the Protection homes are established, where a person in need of care and protection are kept. These homes are not shelter homes or correction homes. The State Government prescribes the manner of establishing the Protection homes.

This is a special Act for the protection of children from the forced prostitution.

Sec 3 of the Act is punishing for running of brothel.

Sec 4 is punishing a person living on the earnings of prostitution.

According to this section if a person above eighteen years of age, with full knowledge lives on the earnings of the prostitution, shall be made punishable. For the purpose of this section, living on the earnings of the prostitute means a person staying with her or habitually accompanying her or working as tout or pimp for her or aiding or abetting her in the prostitution.
Sec 5 punishes the procurement for prostitution. This section also punishes the act of inducement for the purpose of prostitution.

Sec 6 punishes the act of detaining a person for the purpose of prostitution.

Sec 7 prohibits the prostitution in public area within a distance of 200 meters from any public place like religious worship, hostel, college, hospital and like nature of public concern.

Sec 8 of the Act prohibits soliciting of persons for the purpose of prostitution.

Sec 9 of the Act deals with custodial seduction and prescribes punishment for it. It is presumed to be a grave offence. The persons who are in charge of custody or authority of the person is made to undergo the punishment on finding guilty.

Sec 14 of the Act makes the offence under this Act cognizable.

The Court through various judgments has directed to establish advisory committee. This is to remove child prostitution and to give suggestive measures for the same. This will also direct the rehabilitation of young victims.

After the direction of the court, a committee was established whose chairman was Shri. V.C. Mahajan. This committee travelled throughout the country and suggested a program to eradicate child prostitution by protecting and rehabilitating them.

The Committee has noted that the problem of prostitution is a global problem today. The committee found the problem mainly in large cities. This problem is found to be occurring in some rural areas very frequently. It is found that in every area around 12% to 15% of the prostitutes are doing the prostitution for earning their livelihood. Some were found to be working by their own and some were working under the pressure.

There are some women in society who get exploited by a social sanctions under the name of customs like devdasis, jogans etc.

The number of red light areas is increased in recent times. The brothel based prostitution is decreasing and the decentralization of the prostitution is increasing.
In the Case of Gaurav Jain Vs. U.O.I and others, wherein PIL was filed before the SC, asking for suggestions for rehabilitation of children of prostitutes and also to prohibit child prostitution. The SC set up an Advisory Committee to give suggestions on the issue. It was found out in this case, that the children of prostitutes and the victims of prostitution to be rescued and rehabilitated. This responsibility to be taken by the department of woman and child development. The juvenile homes to be used for short stay of victims of prostitution.

b) CHILD MARRIAGE RESTRAINT (AMENDMENT) ACT, 1978

This Act was passed to punish the acts of child marriages which were widely spreading throughout country. The object of this is to prevent marriage of underage children.

Section 3 of this Act, gives punishment to an adult male who is above 18 years of age and below 21 years of age and marrying a girl child, with imprisonment which may extent to fifteen days or with fine which may extend to Rs. 10000/- or with both.

Section 4 of the Act gives punishment to male adult above twenty- one years of age and marrying a child with simple imprisonment which may extend to three months and fine.

Section 5 gives Punishment for solemnizing a child marriage i.e performing, conducting or directing any child marriage.

Section 6 of the Act gives punishment for parent or guardian concerned in a child marriage, with simple imprisonment which may extend to three months and fine, provided that no woman shall be punishable with imprisonment.

Section 7 of the Act, makes the offences under this Act to be cognizable.
The Act then emerged as **The Prohibition of Child Marriage Act 2006**, when the recommendations of NHRC and NCW were given effect and so the old Act got repealed and re-enacted in the form of new Act. The Prohibition of Child Marriage Act 2006 is a reaction of GOI to the W.P 212/2003 filed before S.C. This Act is prohibiting the child marriages, rather than restraining it. The new Act, declares child marriage voidable at the option of parties of marriage, who are children at the time of marriage. According to this Act, the guardian of the minor husband has to pay maintenance to the minor girl till her re-marriage. All offences under this Act are made Cognizable and Non bailable.

Under this Act, the courts can issue injunctions to prohibit solemnization of such marriages.

To curb child marriage, the state of Haryana, introduced the scheme of **Apni Beti, Apna Dhan in 1994**. It means the daughters are the wealth of us. According to this scheme, the government gives monetary benefit for not executing child marriages and delaying the marriage of young girls. In this government gives 25000/- rupees bond in the name of girl to the parents, after the girl attains the age of 18 years and not married.

c) **CHILD LABOUR (PREVENTION & REGULATION) ACT, 1986.**

**Social and beneficial legislation** – This Act is a Social legislation to protect the interest of children, who because of their social conditions are forced to take up the work at early age.

This Act is passed to prohibit the use of children in hazardous work conditions and to regulate the conditions of work of children in other employments.

**Sec 3** of this Act is prohibiting the employment of children in certain occupations.
According the SC has issued directions to the state government regarding the fulfillment of this Act.

The number of hours of employment of children is fixed to be not exceeding six hours in a day including the rest intervals. The child should not be retaining till late hours at work place.

The Act punishes the employment of child contravening the provisions of this Act, with imprisonment which may extent to one year or fine which shall not be less than ten thousand but which may extend to twenty thousand. And if the offence is repeated then the punishment is of imprisonment of not less than six months but which may extend to two years.

The author Dr. Geeta Shrivastava in her research paper “Child labor”, published in Vol XIII, Jan-Mar 2000 Part I published in Central India Law Quarterly has rightly highlighted on the empowerment of children by quoting a sentence said by Abraham Lincon that “If you want to improve the nation improve the child”. The author highlights on the practice of child labour which is very ancient one. In India more than 20 million children are working for their livelihood. Many children are exploited by unscrupulous gangsters and are made to work or forced to take up criminal activities such as pick pocketing, smuggling, pimping and prostitution. The author has referred constitutional, legislative and judicial aspects for the welfare and protection of children. The finally concludes with her recommendations that the government of Indian must be vigilant enough for the enforcement of the various enactments and laws pertaining to the child labour. The government must ensure such measures to rehabilitate such children and provide them proper education and other facilities in regard to their protection and their development.

d) CRIMINAL LAW (AMENDMENT) ACT 2013

This came into force on 2\textsuperscript{nd} April 2013.
This Act is passed to provide amendments of Indian Penal Code, Indian Evidence Act and Code of Criminal Procedure on laws related to sexual offences.

The following are the main features-

(1) It gave severe punishment for rapists and habitual offenders; it included stalking, voyeurism, disrobing and acid attacks in the sphere of stringent punishments.

(2) The consenting age for sex is fixed to 18 years.

(3) The minimum punishment prescribed under this Act is 20 years and if a victim dies or goes in permanent vegetative state, then it can be extended up to life imprisonment or death by hanging. Habitual offenders get death penalty under the new law.

(4) The Act punishes the offenders for Acid Attacks with minimum punishment of 10 years which may extend to life imprisonment.

(5) This Act punishes the hospital authorities if they do not give treatment to the rape victims with 1 year of imprisonment. The hospital weather private or public should give treatment to the rape victims immediately and free of cost.

(6) If a public servant, police officer or armed force personnel or management or hospital staff commits rape, then the punishment is of minimum 7 years which may extends to life imprisonment.

(7) This law is seeking to amend the Indian Evidence Act to allow rape victim to video graph the proceedings.

**The Act brought changes in the following manner**-

The Act prescribed punishment for Acid attack, as a fine to be just and reasonable to meet the medical expenses for the treatment of the victims.
The punishment of Sexual harassment has been reduced from five years imprisonment to three years imprisonment.
The sexual abuse offence has been removed from the purview of gender neutral offence, because only man can commit such offence on women.
This Act removed the offence of voyeurism from the purview of gender neutral offence.
The offence of Stalking is removed from the purview of gender neutral offence. The definition of Stalking is elaborated. Section 354 D is inserted in IPC for stalking. The punishment given is imprisonment of up to three years imprisonment for the first offence and fine and for subsequent conviction imprisonment up to five years and with fine.
Under the trafficking of person, prostitution has been removed.

e) THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT 2012

This Act came into force on the 14th of November 2012. According to this Act, a child means, any person under the age of 18 years and has a protection from offences of sexual assault, sexual harassment and pornography. Under this Act stringent punishment has been provided as per the gravity of the offence.

Features of this Act-

(1) This Act is gender-neutral and has listed objectionable behaviour either by touching or by without touch in the ambit of sexual offences.

(2) The Act gives child friendly approach for trial of children and establishes special court to complete trial in a year.

(3) The evidences of children to be recorder in 3 days for the speedy disposal of trial.

(4) The attempt to commit an offence is taken under the ambit of punishment.

(5) Trafficking for sexual offences is made punishable under this Act.

(6) Burden of proof is on the accused.
(7) The identity of the child victim is not disclosed and media is kept out of it.

(8) The Act has made compulsory reporting of child sexual offences. The best thing of this Act is, it has provided punishment for a person who gives false information with the intention to defame any person.

After the issuance of circular under section 21 of Protection of Children from Sexual Offences Act, 2012, on 22nd February 2013 by a School education Department, It is now mandatory on teachers and school management to report cases of child sexual abuse to local police or a juvenile police, failing of which has to meet a punishment of 6 month imprisonment or fine or both.

4.6

DEFECTS IN THE LEGAL SYSTEM:

When the child abuse activities are noticed, the implementation of the law is giving justice to the victims. The crime detection process is very difficult in India. Sexually abused children do not get the support from the family and the society to come out of the trauma. The rape laws should be gender neutral. The definition of rape is not exhaustive. The definition of rape as given under IPC should include other acts which outrage the modesty of women.

There are many legislations which are providing protection to children against labour, but still millions of children in India are exploited as labours. Children are used as domestic labours, which is a crime without legal protection. In such crimes, the police officers are helpless, because the child labour prohibition Act does not include the domestic servants.
4.7

INTERNATIONAL EFFORTS ON CHILD PROTECTION

Children rights were realized very late even at International level. Children were used as labours in the factories in England for long hours even at the age of 8 years.

There were many occasion, when the children used to get rolled into the machines while on duty in the factory, due to heavy working hours. This incidence was reported by Andrew Kakbadse in his paper, “Children in England”, which was published in the administrate for child welfare, 1979.

The child rights movement began in mid- nineteenth century in England by publication of 2 Articles in 1852 and 1892 by Slagvolk and Kate Kligging about the Rights of children.

After this the working condition of children, stated ameliorating, in factories of England. The first effort at International Scenario was taken by a NGO named “Save the Children International Union.” This organization has five point declaration on the rights of the child.

Geneva declaration took this five point declaration in 1924. This was expanded in 1948 by the General Assembly of U.N.in 1959 a new declaration was adopted on child welfare and protection. Finally in the year 1989, it was decided, to give a convention on the Rights of child to realize the needs of children.

During last 50 years, it was realized at serious International level to make an approach toward the protection of children. It was needed to give special attention towards children to expeditiously remedy their problems.

The following are the International documents which came forth for the protection of children.

The above Conventions and Declaration has the following important provisions for Juvenile.

1) All children of and out of wedlock are entitled to the same social status and shall be given special care and help for their better development.
2) Even a child has a Right to Life.
3) No child to given punishment of death.
4) The Juveniles shall not be subjected to harsh procedure of court but rather they should be trialed in such a way to promote their rehabilitation.

The other International Instruments for the children are listed with brief explanation as follows:

1) The World Summit for children, 1990

The world summit for children was taken as follow up to the convention of child. It was scheduled at U.N. headquarters. In this many people from different countries came to resolve issues affecting children.

The important goals adopted in this summit are as follows:

- Reducing the death rate of child and improving nutrition of children.
- Increase the immunity mechanism of children.
- Reducing Maternal Mortality rate.
- Getting Universal Ratification on the convention of the Right of Child

The Plan of Action was given in three parts which firstly introduced the agenda, secondly elaborated the specific action for child development and thirdly gave a scheme of its overall monitoring.
The World summit stressed on the need of actions for improving the condition of children and protecting them.

2) International Labor Origination (ILO)
The ILO is an agency of the U.N. for handling issues related to labors. It has its headquarter at Geneva, Switzerland. The ILO gave the INDU (India – US child labour project, which started in 2004 and concluded in 2009.

It targeted districts like M.P, Maharashtra, Utter Pardesh and Delhi. The aim of this project was to remove child labour in the mentioned states. This Project not only eliminated child laborer but prevented the children from again joining into it. It established Transitional Education centers for giving education to children. The Primary health care for children was also provided. They started a scheme under which a child was given stipend of 100/- a month on minimum attendance of 80%. This Project gave vocational training to children to enable them to develop their skills and held them to earn in future. This Project helped the families of children who worked as laborer, by giving them employment opportunities.

3) The International Legislation against human trafficking was ratified by 135 countries.

4) UNICEF.
The object of UNICEF is to protect the rights of children, and improve their health for better development of child. UNICEF is assisting many countries for planning strategies to improve conditions of children.

NATIONAL SCHEMES:

1) The National Policy for children:
The NPC was adopted in 1974, with an object to develop children due to this policy, free and compulsory education for children below 14 years of age was promoted. The other important measure promoted by this was to improve level of nutrition for children as well as mothers. It gave emphasis mere to skill
developing activities. Promotion of weaker section was an agenda of this policy. This policy detected as well as prevented the cases of child exploitation.

2) Central Social Welfare Board:
This Board was established in 1953. This Board came up with an objective to enhance welfare programs for weaker section of society. This is the 1st post Independent organization which came up with welfare activities for women and children.

They are giving financial assistance to the N.G.O’s and guiding them to execute welfare activities. Currently more than 8,000 N.G.O’s are receiving financial aid and guidance from the Board. The Programs like giving help to destitute provide education by Board.

3) Child Line:
Child Line is a 24 hour available national emergency helpline for distressed children it gives rehabilitation to the distressed children T.I.S.S has taken initiative through a project and started Child Line in 1996 in Mumbai. After 2 years of this, Union Government replicates this survive all over India. The Toll Free number of Child Line is 1098 which can be called by anyone for the children.

4) An Integrated Program for street children
This program is an initiative by the ministry of women and child development for street children and homeless children. This program provides for the development of children who are homeless and without family. This Program helps N.G.O’s who are working for street children by helping them financially.

5) Integrated program for Juvenile Justice
This is an initiative by the ministry of social justice and improvement to help children in conflict with law through N.G.O’s.
This program has some important features which includes training police and judicial officers to deal with juvenile in conflict with law to sensitize them towards such children.

6) Shishu Greh Scheme
This scheme is promoting adoptions within the country. This scheme is ensuring to give caret other abandoned and destitute children.

7) National commission for protection of Child Right
It was set up in 2007 under the protection of Child Rights Act, 2005. The commission has to observe whether the laws, policies given by the Indian Government are according to the constitution of India or not. The commission has a right based approach toward children.

8) Integrated child Development Services
It is meant for giving early childhood care and development to the children. It started in Indian 1975. The main objectives of it are to improve the health and nutritional level of children below 6years.

9) National Health Policy 2002
This is the second policy on health; the first policy came in 1983. This has given directions to concentrate on the health education of children. It also directed to execute regular health checkup of children. The main intention of this policy was to prevent the communicable diseases and to provide immunization to the children against all major diseases.

10) National Policy on child education 1986
This is the second policy on education which is given by the Government of India. The first one was given in 1968 and this new policy is revising the old one.
This policy is giving importance to the primary education. This policy also gave importance to early childhood care. The Sarva shiksha Abhiyan is the result of this policy, which was spread throughout the country.

11) National Policy on Child Labour 1986

It is making progressive efforts on the de-rooting of the problem of child labour. It is also taking efforts to develop the children by providing them their education and health related needs.

4.8

The Criminal justice in India- an Overview.

The object of the Criminal Justice system is to create the system of social control having deterrent effect for mitigation the crime rates in society. The criminal justice system punishes the violators of the crimes. The criminal justice system for adults and juvenile is not same. The criminal justice system is reformative oriented for the juveniles. The criminal justice system is executing the rehabilitation of the juvenile for giving them a good future. The accused persons are also getting fair trials in the criminal justice system in India.

India is famous from ancient time for its glorious culture. The system of laws or ‘Dharma’ was traditional in character but it the judiciary was active in interpretation of laws and so on giving laws s per the needs of society. The system of common law was developed due to the judgments from the court system.

The “Criminal justice” is applicable for the various steps involved in proving any crime committed by the accused. It is like investigation to gather evidences, arrest of the accused, trials, putting defense, pronouncing judgment by the court and after the crime is proved, and finally execution of the available
punishments. This system includes the law enforcement agencies like police, advocates, judges, and the correction system.

They are directly involved in the apprehension till the treatment of the offender. It is the public services system in India. The criminal justice system is one of the major public services in a country. Under this system the law enforcement agencies work together to give an effectual justice delivery system. These agencies work together for a common agenda like:

- To detect and prevent the crimes.
- To provide support to the victims and witnesses
- To Punish and rehabilitate the law violators.

The Indian criminal justice system is on the footings of British system. The status of judiciary is independent and the interference of the other organs is not possible. The bar and judiciary are also working independent. There is a practice of not giving proper pay and other requisites to the judiciary and very few able persons goes on higher ranks in judiciary. The system of judiciary to be impartial and just for proper implementation of laws. There are three main parts of the criminal judicial system-

1) Legislative, which makes law
2) Adjudication, who implements laws and resolves disputes between people
3) Correction, who executes the punishments on the offenders and rehabilitates them

The above three systems are based on rule of law and they works together to maintain peace and equality in society. The police is the foremost who comes into contact with the offenders. The police then start investigation in the case and execute arrest of the people. The work of courts then starts with the advocates and judges. The judges after hearing the parties, gives decision and dispose of the case. The prosecutor has a duty to bring about the evidence against the accused. The defence attorney has a responsibility to prove the prosecutor wrong. The final determination is done by the judges.
After this the role of correction system starts. The correction system is very important part of the criminal justice system in India. The accused if found guilty is sent in the correctional system. The prisons are meant to keep offenders as a punishment. The juveniles are kept in the correctional institutes. There are theories of punishments applied to the correctional system. The retribution theory, the deterrent theory, the preventive theory and the reformation theory are playing key role in the criminal justice system.