

## **CHAPTER – V**

### **CONCLUSION AND SUGGESTIONS**

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The purpose of this research is not only to scrutinize the law relating to the Sexual offences but also to identify the characteristics of sexual violence as a social problem. Because the purpose of laws is to prescribe the standard of behavior of the people and to regulate their conduct in a civilized society; faithful implementation of the laws is the essence under the rule of law for good governance. In the absence of faithful implementation of the laws by efficient machinery, the laws remain mere rhetoric and a dead letter.

#### **5.1 CONCLUSION**

Every single individual grows up with innocence, being a human everyone is born equal but when it comes to the female sex then the sociological structure of the society views its differently not only in India but all over the world. Therefore under the social structure and norms every women that's grows up cherishing her dreams of life with physical purity or chastity and to have a happy and prosperous family life. And the same is not changed till today, though sexual ethics have changed in the society. The evident of our being in this world, is result of the presence of women, as she is the only, who is blessed by the divine to give birth. Though, she requires the male partner in the process but even then she is the only one, which makes our presence successful. That's why she is called the "mother" of mankind. Her value and dignity is preserved at the highest pedestal. Thus this world owes to the women.

When we talk about the human development the role and achievements of men are mostly on count whereas the role and achievements of women don't get enough importance. Since from the early times many fall victim to gender selective violence, as a result of which they do not receive the same amount of food and medical attention as their brothers, fathers and husbands. Rather they have been abused mentally and sexually and are the victims of 'honour killings' and to acid attacks. An estimated 5,000 women are burnt every year for materialistic needs like dowry and a number of women are killed within their own walls through domestic violence. Millions are trafficked and sold like cattle rape and sexual exploitation are

the other horrible physical and mental trauma to them. The reason for such gross discrimination is embedded in the dichotomous patriarchal view of the society that the good woman is a woman who lives under the protection of her male partner, ensconced in her home, and does not go out after dark or visit unsafe places; even streets and public parks and who deviates from this norm is bad and assumed to be sexually available because of being unprotected. By this logic, the woman who gets sexually assaulted is automatically proven to be bad or immoral. And where a married woman gets raped or sexually assaulted it results in the breakup of home and the family as the raped wife is sure to be divorced by her husband. But the rapes within marriage are categorized differently because in such cases the position of women is that that she is her husband sexual property.

Practically all victims of sexual violence who after the assault saw law enforcement agencies as their protector or helping hand and with this belief whenever they lodge a complaint with them they meet with condemnatory attitude which is also shared by the judiciary, the police interrogation and court trial amount to a second and a “public rape” in an emotional sense, which traumatizes the victim all over again and serves as a strong deterrent for rape victims in their pursuit of justice. The strong male bias of the police and the judiciary makes it very difficult to prove that it is a case of rape.

Earlier in case of rape, the emphasis is solely on penis penetration because vaginal purity is highly valued; and penetration of hurtful objects does not amount sexual assault. The 84<sup>th</sup> report of the Law Commission scrutinize the entire concept of “rape and its allied offences” along with question of substantive and procedural laws. The Commission recommended camera trial in the light of the fact that an open Court is the essential ingredient of fair trial and also recommended an amendment in Section 372 Cr.PC on the basis of the Law Commission’s recommendations in order to prevent social victimization of the victim of sexual offence, publishing or making known the identity of a rape victim became an offence under Section 228-A IPC. Prior to 2013, the Indian Penal Code defined rape as sexual intercourse by a man with a woman without her consent. There were five other circumstances where sexual intercourse amounted to rape, such as, when consent was obtained through deception or threat. Most cases fell within – sexual intercourse without consent. “Sexual intercourse” was not defined by IPC; only penetration was sufficient to constitute

“sexual intercourse”. The Courts interpreted “sexual intercourse” as penile - vaginal penetration and ruled that ejaculation is not required for an intercourse to be rape. And any other penetrative act, such as oral sex, digital penetration, or penetration by objects was excluded definition of rape. But the “Nirbhya Case” of December 2012, which crosses all the levels of sexual brutality; Left a question mark before the law makers that should an act of penetration that is not penile - vaginal be classified as rape? To find out the answer Justice Verma committee was formed which suggested a new approach. The committee noted that every woman was entitled to her bodily integrity and to sexual autonomy. Sexual autonomy implies that a woman has a choice to decide with whom to engage in a sexual act, when to engage in such act and the nature of the sexual act that she wants to engage in. Since rape violates such sexual autonomy and the bodily integrity of a woman, it should be criminalized. Consequently, the penetration of a woman’s vagina, urethra, anus or mouth by a penis and penetration of the vagina, urethra or anus by finger(s), object(s), body part(s), is considered “rape” Acts of cunnilingus and fellatio are also covered within the definition. Since non-penetrative acts such as groping are also a violation of a woman’s bodily integrity and sexual autonomy. Noting this, the Verma Committee had recommended that non-penetrative acts be termed as “sexual assault” and provided lesser punishment than penetrative acts, which would be punished as rape. The recommendation is however not accepted and the legislature has retained the offence of “outraging the modesty of a woman”, under which all non-penetrative sexual acts continue to be prosecuted.

Till 2003, a defense through cross examination of the victim of to show that she is of “immoral character” was permitted under Indian Evidence Act and the Medical evidence leading to the intrusive “two-finger test” was also sought on this issue, the “test” would indicate whether a woman had had intercourse earlier or not. Though the cross-examination of a victim to establish her “immoral character” was repealed in 2003, but other provisions were remained as such which permitted past sexual history to be invoked in a rape trial. All these were repealed by the Amendment Act of 2013, Section 114 (A) was also inserted in Evidence Act, 1872, which reads as:-

“114 - A. Presumption as to absence of consent in certain prosecutions for rape – In a prosecution for rape under clause (a) or clause (b) or clause (c) or

clause (d) or clause (e) or clause (g) of Sub-section (2) of Section 376 of the Indian Penal Code (45 of 1860), where sexual intercourse by the accused is proved and the question is whether it was without the consent of the woman alleged to have been raped and she states in her evidence before the Court that she did not consent, the Court shall presume that she did not consent”.

Sexual violence results in physical and psychological harm and suffering. Though sexual violence mainly affects women and girls, boys are also subject to it. Adult men may also be subject to sexual violence, especially in police custody or prisons not only adult men sexual minorities, especially the transgender community is also subjected to it. Sexual violence occurs in forms and its perpetrators range from strangers to state agencies, state agencies to intimate partners; most perpetrators are the persons usually known to the survivor. Such sexual offences took place within a variety of settings, including the home, the workplace, schools and the community. In many cases, it begins in childhood or adolescence. Another variation of the sexual exploitation of women is forced prostitution. The increase in the organized crime of kidnap, rape & sale of young girls testifies to the increasing co - modification of women as well as the vulnerability of girls in their daily lives. India also suffers from the phenomena of temple prostitution in some rural areas where a girl is dedicated to the service of a deity (Devdasi), only to be sexually abused and sold to brothels in large cities by organized gangs. Sexual violence, in addition to being a violation of human rights, is an important public health issue as it has several direct and indirect health consequences. The Criminal Law Amendment Act, 2013, provides that both private and public health professionals are obligated to provide treatment to the victim of sexual offences and denial of the same is punishable under Section 166-B IPC with imprisonment for a term which may extend to one year or with fine or with both. Health professionals are required to respond comprehensively to the needs of survivors.

There are various reasons why the existing legal structures do not provide adequate protection to women. In order for victims of sexual violence to be legally protected, they must report to the police and must prove that they were forced. Resistance is taken as evidence that the crime under consideration was committed without the victim's consent. In consequence, reporting and providing evidence of resistance are

crucial for the protection of victimized women. The onus of proof is on the victim rather than on the accused (as is the case in other types of crime); the accused tends to be given the benefit of the doubt on the principle that a man is innocent until proven guilty; and the rate of conviction is low in rape cases partly because the civil rights of the accused are protected. On prosecution side most of time it has been seen that best legal talent is not availed of for placing its case before the court. On the other hand the accused is represented by highly competent lawyer of his choice. Thus, an equally competent lawyer is not there to represent the prosecution. The complete burden of proof is on the prosecution that makes it necessary that the prosecution should be represented by a competent lawyer. Also the lack of co-ordination between the investigating agencies and the prosecution is another big problem. This makes it worse. Offences against human body are largely depends upon the testimony of witnesses. Witnesses come to the court, take oath and turn hostile. Inordinate delay and frequent adjournments of cases provides a greater opportunity to accuse to influence the witnesses to his side by threats, or inducements. Protection of witness is still under threat as there is no law dealing with the same. Witnesses are harassed and the basic amenities like shelter, seating, drinking water, toilets etc. are not provided. No TA/DA for him. A witness is often paid much less than what he spends and nobody bothers about it. The cases are adjourned again and again making the witnesses to come to court several times leaving aside all his work. Witnesses who are treated in this manner become an easy prey to the machinations of the accused and his family.

Under the Constitutional Scheme Article 14 provides that, the State shall not deny any person equality of law or the equal protection of laws, within the territory of India. As per Article 15 (1), the State shall not discriminate against any citizen on the ground of sex, religion, race, caste, place of birth. As per this provision, no citizen shall be discriminated on the ground of male or female, however, Sub-article 3 enables the State from making any special provision for women and children and therefore, denial of any right to women on part with their counter part is against Article 15 but if there is any benefit or concession in their favor, that won't be against equality. On the same notion Article 16 provides that in respect of public employment, rights of women shall be protected on par with male members. In respect of life and personal liberty no

person shall be deprived, except according to the procedure established by law, as guaranteed by Article 21. Trafficking in human beings and force labor is prohibited by Article 23. As per Article 51 (A) (e), it shall be the duty of every citizen of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women. Article 51 (A) (e) emphasize that it is the duty of every citizen of India to renounce the practices of derogatory to the dignity of women. Thus, the Constitutional mandate has been provided to men and women alike and the safeguard is also given to foreigner in the territory of India. But despite of the Constitutional mandate the most crucial and terrible aspect of sexual attacks on women is the fact that the assault seems to be directed against the female community as a whole, and not against individual women or against a women of a sexually active age. The view of women as sex-objects is so strong that a female of any age is liable to be subjected to sexual assault. The mass media coverage and newspaper reporting, of cases of violence against women has increased over the last few years. This raises the vexed question as to whether this reflects a general rise in the incidence of crimes against women, or a greater public awareness, and consequently, a greater media interest. At the same time, it still remains true that, of the total cases of violence against women, only a fraction is reported to the police, and again, only a small proportion of these cases receive media publicity, usually depending upon their sensational character.

The National Crime Records Bureau figures on crimes against women in 2015 stated that 35,000 incidents of rape had occurred in the past three years. The NCRB's 2014 report said 93 rapes were committed in the country each day. While most of these cases don't find place in the pages or websites of media organizations, the ones that do get reported sometimes do not get covered properly. Today internet has also played a growing role in sex crimes. Cyber stalking - threatening behavior or unwanted advances using the Internet or other high-tech communication - is a well documented problem. Mobile phone, surveillance, and computer technologies provide new ways to harass or intimidate victims. Photos or video taken during a sexual assault can be shared easily which creates further trauma for victims. Potential perpetrators increasingly use chat rooms and instant messaging to seek victims, whether adults or

youth. The crimes against women suggest that Sexual violence committed by men is to a large extent rooted in ideologies of male sexual entitlement. These belief systems grant women extremely few legitimate options to refuse sexual advances. Many men thus simply ignored the fact that their sexual advances might be rejected or that a woman has the right to make an autonomous decision about participating in sex. In many cultures women, as well as men, regard marriage as entailing the obligation on women to be sexually available virtually without limit. The desire of sexual lust against girls and young women today incorporates some elements that are generally prevalent and others that are quite culturally specific. Of all the different kinds of sexual abuse, sexual violence inside the family appears to have the most damaging effect on the victim, and incest seems to be the most difficult experience to survive mentally. Therefore, one should have to understand personally that woman is the companion of man, gifted with equal mental capacities. She has the right to participate in the minutest details in the activities of man, and she has an equal right of freedom and liberty with him. She is entitled to have her own sphere of activity as man is in his. This ought to be the natural condition of things and not as a result only of learning to read and write. If true empowerment of women is to be achieved, it is necessary that law, as well as public policy, must be capable of engaging substantially with women's rights, opportunities, acquisition of skills, the ability to generate self-confidence and insist on total equality in relationships, both with society and the State. Also it is the primary and inescapable responsibility of the State to protect the right to life, liberty, equality and dignity of all of those who constitute it. It is also the responsibility of the State to ensure that such rights are not violated either through overt acts, or through abetment or negligence.

## **5.2 CRITICAL APPRAISAL**

Though, It is an admitted fact that women not only in India but all over the world have suffered in various aspects of life and physical health, mental, well - being, bodily integrity and safety, social relations, political empowerment, education and knowledge, domestic work and non-market care, paid work and other projects, shelter and environment, mobility, leisure activities, time autonomy, respect, religion, self-esteem/self-autonomy. All this left us with a question mark that why it is so? When she is a companion of man, gifted with equal mental capacities by the divine; She is

the only one, blessed by the divine to makes our presence successful. According to my analysis and understanding there are two major reasons which are responsible for the rise of crime against women and both override each other:

1. **Psychological Factor:** Societal cultures are the reflection of followed customs and customs are formed by own individual perception, by the leader of the society or community. Thus, there is a trend, custom or we can say culture all over the world which recognize supremacy of man over a women. Not only this - this thought has been rooted systematically in the brain of women in their early age, the age when she enjoys same mental and physical capacity as that of a boy. Earlier there was no technology like T.V. and Radio. Thus the work of brainwash is done by the parents and relatives. In modern era it is done with the help of technology and cinema played a big role in the line. Once, Mahatma Gandhi wrote that one can learn much faster, if the things became visual even a dumb can understand the meaning and concept through visualization.

Now, the other admitted fact is that no one is born with a book in his hand or with perfection. Every one whether it is a boy, a girl or a third genders all born equal. No one knows good or bad, right or wrong at the birth. Slowly when one starts growing up, he starts encountering the things happening around him. First of all around his own family and then around the outer world; this put him in to process of mental development. I don't find a single book or an academic syllabus in my carrier during by schooling and thereafter in college. Which teaches how to discriminate, how to insult a person, how to tease other, how to rape or outrage the modesty of a women. I can bet that no educational institution all over the world teaches how to rape and outrage the modesty of a woman. Then how in today's scenario an infant who is just about 8 to 14 years of age commit such an act, who taught him? Each and every single person will answer that we don't, then who Family, Society or Cinema, of course Cinema, where the story beings with a rape scene and ends with the murder in revenge or another rape. Even in the era of modern Cinema though women is portrayed as smart, intelligent, independent working equal to man in status and so on but in core of the story somewhere, somehow she got molested by villains and



then the hero comes to rescue her thereafter she fall in love with the hero and then they have some intimate bold love making scenes and so on. Here the writer of the story portrays his Psychology with the help of director, producer actor and actresses and this is accessible to the public at large in the form of entertainment. Once, Dr. Rajendra Prasad noted that whatever the Constitution may or may not provide the welfare of the country will depend upon the way in which the country is administered. That will depend upon the men who administer it. If the people who are elected, are capable and men of character and integrity, they would be able to make the best even of a defective Constitution; If they are lacking in these, the Constitution cannot help the country. But in a country like India the top officials and the members of the parliament and state legislatures who has taken pledge to respect and protect every single individual from any sort of inhuman behavior seems to be trapped in the orthodox beliefs. There statements after the incident of rape is reported reinforce their syco of gender bias. According to them “Women maintain a family’s honor not men, if she cannot keep her honor, it is solely her fault.” Asha Mirje, a Nationalist Congress Party Leader in Western Maharashtra and a member of state women commission in 2014 claimed in an Interview that “Rapes take place also because of a woman’s clothes, her behavior and her presence at inappropriate places”, she also commented on the case of photojournalist who was gang-raped in Mumbai, that, “Why did the victim go to such an isolated spot at 6 p.m.?” Shri Anisur Rahman of Communist Party of India (Marxist) – West Bengal is of the views that if someone is raped then just provide her the compensation; he claimed that – “We have told the chief minister in the assembly that the government will pay money to compensate rape victims. What is your fee? If you are raped, what will be your fee?” Shri Om Prakash Chautala, INLD, Haryana: is of the view that “We should learn from the past... specially in Mughal era, people used to marry their girls to save them from Mughal atrocities and currently a similar situation is arising in the state. I think that’s the reason khap has taken such a decision and I support it”. The Trinamool Congress legislator, Chiranjeet aka Dipak Chakraborty, had said that eve - teasing had been in practice for a long time and one of the

key reasons for this was – “short dresses and short skirts worn by women. This in turn instigates young men”.

Though the world is progressing, police state now has become the welfare state. But all the advancement and progress is useless unless and until we learn to respect the integrity and dignity of one and another. There is a need of brainwash and there is need to understand that – one cannot exist without the other, both are equal in all manner. If one cannot accept such a shame to him and how the other can. Only wearing a “Being Human t-shirt will not make you a human in true sense for that purpose one have to learn to love and respect”.

2. **Lack of strong political or legislative will:** The other big reason - this is so because since the concept of welfare state is emerged there seems to be a flood of legislative enactments to protect the integrity and dignity of the women. There is always a political agenda during elections to protect women from sexual and other form of violence and crime. But even after having dozens of legislative enactments. Still the situation is same. Though the judiciary is working as a game changer to protect the integrity and dignity of women through its interpretational skills; But it is also suffering from administrative defects, such as, poor investigation, frequent adjournments, witness getting hostile or witness not interested to appear in Courts due to life threat, misinterpretation of laws, fabricated evidences, and delay in delivering sentences. Even where the sentence is delivered on time non-execution of the same by the concerned authorities make it useless. In *Prem Chand v. State of Haryana*<sup>1</sup>, the Supreme Court reduced the minimum sentence of 10 years for rape to five years on account of the “conduct” of the raped girl. The raped girl was a woman of easy virtue. This decision caused a stir, an agitation; and a movement by women’s organizations led to gross criticism of the Supreme Court and resulted in the filing of a review petition. The review petition was dismissed; however, the Supreme Court clarified its position as follows:

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<sup>1</sup> 1989 SCC (Cri) 418.

“We have neither characterised the victim, Suman Rani, as a woman of questionable character and easy virtue nor made any reference to her character or reputation in any part of our judgment but used the expression ‘conduct’ in the lexicographical meaning for the limited purpose of showing as to how Suman Rani had behaved or conducted herself in not telling anyone for about 5 days about the sexual assault perpetrated on her. [In the end Supreme Court observed:] we would like to express that this Court is second to none in upholding the decency and dignity of womanhood and we have not expressed any view in our judgment that character, reputation or status of a raped victim is a relevant factor for consideration by the Court, while awarding the sentence to a rapist”.

In *Pradeep Kumar v. Union Admi, Chandigarh*<sup>2</sup>, it was laid down that to bring the offence of rape into the category of gang rape, it is necessary to prove the following:

1. that more than one person had acted in concert with the common intention to commit rape on the victims;
2. that more than one accused had acted in concert in;
3. commission of the crime of rape with a pre-arranged plan;
4. Prior meeting of mind, and with the element of participation in action. It may also be a plan formed suddenly at the time of commission of the offence, which is reflected by the element of participation in action; and that in furtherance of such common intention, one or more persons of the group actually committed the offence of rape on the victim or victims.”

In *State of U.P. v. Kaushailya*<sup>3</sup>, Section 20 of the Immoral Traffic (Prevention) Act, 1956 was again challenged as violating Article 14 of the Constitution. The Supreme Court, in adopting the reasonable classification approach, held that the difference between a prostitute and non-prostitute was a reasonable classification. Further, the Supreme Court ruled that there were real differences between a prostitute, who does not demand, in public interest, any restrictions on her movement, and prostitute,

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<sup>2</sup> (2007) 1 SCC (Cri) 41.

<sup>3</sup> AIR 1964 SC 416.

whose action demand restrictions. The Supreme Court has further held thus: there are obvious differences between a prostitutes, who is a public nuisance and one who is not. A prostitute who carries on her trade on the sly or in the unfrequented part of the town may not [be] so dangerous to public health or morals as a prostitute who lives in a busy locality. Though both sell their bodies, the latter is far more dangerous to the public, particularly to the younger generation during the emotional stage of their life. Their freedom of uncontrolled movement in a crowded locality...not only helps to demoralize the public morals, but, what is worse, to spread diseases not only affecting the present generation, but also the future ones. [The Court proceeded to hold:] As the imposition of restrictions is done through a judicial process on the basis of a clearly disclosed policy, the said restrictions are clearly reasonable

Recently, the Courts have shown the lenient approach towards one of the rapist of “Nirbhya” as he was minor during the commission of offence. The above views of Supreme Court are only a reflection of what the person in authority thinks and how it proceeds with the same. Just delivering the sentence is not the solution. Since after the independence a number of legislative enactments have been formed with a view to protect the women from every kind of violence that can affect her dignity. But still there is suffering in form of rape or the other. Even after server punishment including death penalty have been given in number of cases. The works performed by the legislature in forms of enactments do not provide a onetime solution, what it does? It just provides the definition of various crimes like Rape, sexual assault, domestic violence, prostitution etc.; thereafter prescribe the procedure to be adopted by the authorities and the minimum and maximum punishment for the same. And whenever anything happen new or anew crime took place it again formulates view with a new enactment with new definitions or amends the existing one. But fails as they do not provide a permanent solution, Why? Because there is lack of belief and there is a doubt upon self credibility because at one part everybody is equal before the law including legislator being the citizens of this country under the authority of the Constitution. And if the crime is committed by the legislator or the person in authority or by their near and dear ones they should be punished, May be because of such a reason we don't have a permanent solution for such crimes against women, besides of having a long list of welfare enactment. Article 51 (A) (e) of the Constitution of India

emphasize that it is the duty of every citizen of India to renounce the practices of derogatory to the dignity of women. Is casting of such duty of a paper will reduce the suffering, will it bring moral and tradition values among the public, will public follow the same. May be - maybe not. Then what is the solution? This is still not answerable.

As per Article 14 of the Constitution, the State shall not deny any person equality of law or the equal protection of laws, within the territory of India. As per Article 15 (1), the State shall not discriminate against any citizen on the ground of sex, religion, race, caste, place of birth. Article 14 of the constitution cast a mandatory obligation it is much wider than the concept of duty, upon the State only (the Government, Parliament, State Legislatures, Local and Other authorities with in the territory of India); it is the responsibility of the state to ensure equality before the law, and further State shall not discriminate. No responsibility or no mandate have been provided for the general public living within the territory of India to protect the integrity and dignity of one and the other, to avoid inhuman treatment etc. only Article 51 (A) (e) speaks about the duty which may or may not be mandatory or adopted by the public and is much narrower as that of absolute liability.

### **5.3 SUGGESTIONS / RECOMMENDATIONS**

Having discussed the reasons for high prevalence of sexual offences, their consequences, and challenges in prosecuting such offences and the laws. It is a matter of great concern that despite the introduction of amendments in 2013 in the criminal law by which the definition of Rape and other forms of sexual violence has been broaden along with the stiffer punishment for culprits, sexual offences are still on the rise. Some got reported and some not. Thus, on the basis of research and conclusion drawn thereupon here are some suggestions which may be helpful to curb this social evil:

1. It is suggested that rather than having different laws for different situations, especially in case of laws for the protection of women and children from sexual violence, There should be a single complete Code “The Human Code” which covers all sorts of sexual offences and violence and prescribe such punishment that be inherently of the nature and acts as a major deterrent for commission of such crimes.

2. After family, School is the 1<sup>st</sup> temple where an individual nourishes his character. Sexual education is indeed important, but it must be accompanied by an effort towards building a strong character. This can be done through moral and spiritual education along with gender education. Thus, it is important to educate children's the value of being a human. Therefore, it is suggested that Gender respect and human value among children necessarily should be a part of academic curriculums.
3. Adolescents who are between the age of twelve to twenty years, suddenly become aware of the tremendous changes that are taking place in their sex organs and hence seek various avenues, to get answers to his or her sexual interest. Female student who are adolescents are often given little direct information about how to protect themselves from sexual abuse. This is so, because of our sexual norms which appear as natural to us as the air we breathe, because we have internalized in ourselves since infancy. These norms are part of our cultural, besides the variety of factors that shape how we feel and behave sexually. Thus, providing sexual education in school and colleges is not sufficient, it is therefore suggested that there is urgent necessity of making a direct communication between parents and the children with regard to the subject of sexuality and natural needs.
4. It is suggest that mandatory self defense training from the 1<sup>st</sup> to 12<sup>th</sup> class be a part of academic syllabus in every school, whether private or public, this can be a part of their academic qualifications. Also, female student must be made aware of their rights so that it establishes or instills confidence in them to report sexual harassment. Therefore, Skill training needs to be given to female students to help them to be able to be assertive in saying "No" to sexual abuse get away from an abusive situation or the assistant and be able to report any form of sexual abuse on her for immediate action in school. For this there should be a Complaint mechanism or a complaint committee in every school whether public or private. It is particularly important to establish at school and college level because there the offender is mainly the teacher who is having the authority over the students.

5. It is suggested that the Central Board of Film Certification need to be amend further in relation the screening of obscenity and the derogatory portrait of women such as a prostitute, call girl etc. There can be more limitation upon bold and intimate scenes as of now. In short there should not be a concept of “A” Certificate for films.
6. In modern era, controlling the predatory use of the Internet is difficult. Laws governing its use, where they exist, are often vague or difficult to enforce. Therefore it is suggest that it is important to encourage people to report online incidents as well as it is also important to provide information and resources to help youth and adults protect themselves online.
7. It is strongly recommended that the concept of minority and maturity of accused or the offender in case of rape and sexual assault is to be ignored. Because he who can commit such a crime like rape and sexually assault, can no longer be considered a minor neither nor he remains immature. In today’s era, where things progress much faster than expected, where a child of about 3 or 4 years of age participate in reality shows and play with the electronic gadgets, determining his level of maturity on the basis of his age is not relevant. And thus the Juvenile Laws need to be scrutinized carefully.
8. Some time upon the benefit of doubt person charged with commission of sexual offence avails bail from the court and thereafter tries to influence the complainant and witness. Therefore, it is suggest that Courts have to take this on serious note that bail should not be granted, at any cost to the offender or to the accomplish, charged with commission of sexual offence. Also there is a need to amend criminal law in this regard. Though the offence is categories as Non Bailable. Bail should not be granted at any cost until the final adjudication of the case.
9. No doubt, if the existing laws, if faithfully and efficiently implemented by law enforcement agencies, then they are sufficient to maintain law and order and to protect the safety and dignity of the people, particularly women, and to punish any offenders who commit any crime. This is not to say that the necessary improvements in the law, keeping in mind modern times, should not

be enacted at the earliest. Several sections of the public are severely critical of the police being frequently subjected to unhealthy pressures and influences from political, executive or other extraneous sources, and police performance consequently falling off the standards required by truth, law and justice. In *State of U.P. v. Chhoteyal*<sup>4</sup>, the Supreme Court observed as under: -

“We are constrained to observe that criminal justice system is not working in our country as it should. The police reforms have not taken place despite directions of this Court in the case of *Prakash Singh & Ors. v. Union of India & Ors.*<sup>5</sup> We do not intend to say anything more in this regard since matter is being dealt with separately by a 3 - Judge Bench. The investigators hardly have professional orientation; they do not have modern tools. On many occasions impartial investigation suffers because of political interference. The criminal trials are protracted because of non-appearance of official witnesses on time and the non-availability of the facilities for recording evidence by video conferencing. The public prosecutors have their limitations”.

As one of the seven directives, in the above noted case the Court ordered all State Governments and Union Territories to establish Police Complaints Authorities (PCAs) at the state and district levels, with immediate effect. The intention behind setting up police complaints authorities was to ensure that a local mechanism specialized in handling a wide ambit of complaints against the police, including the most serious, was readily available to the public at large. The long-term goal was to create a change in policing culture by drawing attention to and ensuring accountability for police abuses. The Court envisioned that state-level Authorities would look into complaints against officers of the rank of Superintendent of Police and above and look into only allegations of “serious misconduct” which includes but is not limited to death, grievous hurt, and rape in custody. At the district level, authorities would inquire into complaints against police officers of and up to the rank of Deputy Superintendent of Police.

However, six years have lapsed since the Supreme Court provided seven directives for structural reform of the police and directed all states to begin reforming their

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<sup>4</sup> (2011) 2 SCC 550.

<sup>5</sup> 2006) 8 SCC 1.



police. But, till today, only six states - Assam, Goa, Haryana, Kerala, Tripura and Uttarakhand and five union territories - Chandigarh, Dadra & Nagar Haveli, Daman & Diu, Andaman & Nicobar, and Delhi - have Authorities which are actually operational at the ground level. Kerala is the only state which has Authorities functioning at both the state and district levels. And the data provided by the National Crime Records Bureau states that Out of 34,651 total rape cases registered in the country, 95 cases were registered as custodial rapes during the year 2015. Highest number of custodial rape cases were reported in Uttar Pradesh (91 cases consisting of 4 cases of gang rape and 87 cases of other custodial rapes) followed by Uttarakhand (2 cases of custodial rape other than gang rape), one case each in Andhra Pradesh and West Bengal of custodial rape other than gang rape were also registered in 2015.

Therefore, it is suggest that the police reforms that are recommended and directed for the autonomy and better quality of the police force must be implemented for the preservation of the rule of law.

1. Some time in some cases of sexual assault / violence it is not the lust or sexual desire or need of sexual favor but is the desire for power and control, and an array of mental problems. Deviations and problems in sexual life may determine the type of violent forms of acts. What is bringing implied is the Perpetrator's behavior or acts is motivated by both sexual and nonsexual components; such as family enmity and feeling of revenge etc.
2. Moreover, it will become more dangerous where the offender records the victim during the incident, through a camera. Therefore, it is suggest that there is a need of further amendment to penalize such activities. In short the individual who records the video must be punished as being a human he is under an obligation to protect the other individual.
3. We have adopted the reformatory theory of punishment but till today nothing has been done in the area of psychological counseling of the accused. Therefore it is suggest that law need to be amended in this regard too.
4. It has been seen and observed by the courts and investigating agencies that many a times during the investigation and trial of the offence, material

witnesses to the incident are getting hostile due to number of reasons such as family pressure, political influence, threats to life by offenders and his family, witness harassment during investigation and unworthy questions. Therefore, it is strongly recommended and suggested that greater value should be given for the protection of witness to the crime.

5. Another problem that is prevailing in our system is that – that victims and investigating agencies has to face a long delay during medical examinations of both victim as well as the accused as they all have to go through general pattern of medical examination in hospitals. Therefore it is suggested that a specialized medical team along with special medical cell in hospitals must be constructed so that there is no delay.
6. Our statutes prescribes simple and rigorous mode of punishment for the convicted it is suggested that mode of penalty can be amended in order to make the punishment more deterrent. I would like to comment here that I suggested so because when the victim of such grave crimes not get a second chance to come out from the baric trump of offence and ravishment of mind and body, then why the convict should get a second chance to reform.
7. Recently we all heard and it was everywhere in the headlines of media that the gurus and chief of various ashrams and Deras throughout the nation are found to be guilty of offences like sexual harassment and rape. Therefore, it is strongly recommended/Suggested that there must be some limitation and restriction on Asharm system in the country as they mislead and misinterpret the religious text and beliefs of the general public. It suggested that visiting hours and places in ashrams for women be regularized by a legal enactment.