CHAPTER 7
CONCLUSION AND SUGGESTIONS

The right of private defence is a natural and an inalienable right of every human being which cannot be abrogated by the law of society. There can be nothing more degrading to the human spirit than to run away in the face of peril and the society is not there to make its members coward. Though, primarily it is the duty of the state to protect the interests of its citizens, yet it is not possible for the state to provide this to all the persons at all times and in all cases. Therefore, when immediate aid is not forthcoming from the state, the individual has a right based upon natural instincts to protect himself and his property against unlawful aggression.

The law of private defence embodied in the Indian Penal Code is based upon the English law, but has been adopted with slight changes suited to the requirements of the Indian society. The right of private defence cannot be claimed merely because an unlawful or wrongful act has been done. That act should be an offence but also an offence as specified by Section 97 of the code. The right of private defence can be exercised not only when any of the specified offences is being committed but also when an attempt is made to commit the same or reasonable apprehension of the same is there.

No society can afford to provide an unqualified right of private defence. The right of private defence has come to stay through legislative and judicial process. The denial of unqualified right of private defence does not however, necessarily mean denial of the right where there is reasonable apprehension of danger to the person or property and an access to state help may not be easily available. This right is also available not only to the parties concerned but even to third person. The right of private defence to property is not only
available to the true owner of property but it is also available to the trespasser who is in settled possession of the property.

The discussion of the concept of self-defence has sought to establish that the terms “self-defence” and “private defence” have been used interchangeably to connote the same meaning. While Western criminal jurisprudence adopted the term “self-defence,” whereas, Indian Penal Code Uses the Phrase “Private defence”. However, the expression “self-defence” is somewhat deceptive and does not connote the entire scope of this expression. Literally speaking the expression “self-defence” suggests that it is confined to defence of self-only. However, a survey of decided cases reveals that the defence is available not only against self of one’s person or property but even to the person and property of others. In our opinion the expression “Private defence” seems to be a suitable expression as it covers defence of (i) oneself, (ii) one’s property (iii) other person and (iv) the property of others.

We now pass on to the historical evolution of right of private defece. Looking into retrospect, the ancient age in Western countries was the period of absolute liability and as such killing in se defendendo was considered to be a crime.

Gradually with the advancement of society the brunt of absolute liability was reduced and killing in self-defence became excusable. Consequently the concept of pardon emerged in such cases during the medieval era. Subsequently the pardon theory gave place to a more reasonable approach to the theory of self-defence. The act of defendant bacame immune from any liability, as it was thought to be justifiable. However, in India the criminal jurisprudence which was a part of religion in ancient period permitted homicide in order to avert danger to life. This was in contrast to the theory of absolute liability developed in western criminal jurisprudence in ancient period. The ancient Indian law of self-defence was wider than the modern concept of self-defence. During the middle age, the Islamic

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jurisprudence gave a somewhat restricted right to the defendant to kill a person in self-defense in so far as it was justifiable only in cases of imminent danger and there was no other way out. The notion of restricted self-defense was infused by the Britishers in the Indian Penal Code.

The theory of private defense partakes not only the individualistic thinking but it also assumes a social character and therefore forms part of social justice. The question of availability of right of private defence is important not only from the point of view of the individual but it also lends support to the broader aims of social justice. Unquestionably, it is an individual’s share in the maintenance of law and order and the prevention of crime in the society. The foundations of the right of private defence are, therefore, firmly grounded on individualistic as well as socialistic theories.

With the development of the concept of welfare state and mixed economy in India after independence, the State assumed multifarious functions in addition to the maintenance of law and order. The protecting arms of the state may not reach every individual at all times because of the limited means of the state and the vast scattered population of the country. Thus, the social base of the right of private defence is more significant.

The right of self-defense not only affords protection to the person and property of the individual but also discharges a social function. Although self-defense has been primarily viewed for a very long time as an individualistic right to protect oneself yet nowadays the social function of self-defense cannot be overlooked. Besides, defending the personal interest of the defendant, self-defense is regarded as the actualization of the legal interest in promotion of general peace. Thus, by combining individual self-protection and preservation of law and order, the concept of self-defense has undergone an expansive as well as a restrictive development, expansive in the sense that from the social point of view, the right of self-defense is not necessarily limited to the attacked person but also extends to the protection of third persons in the form of assistance; restrictive in the sense that self-defense is
not an absolute right that may be exercised at any cost but only in a manner by
which its social function is not perverted.

The social function is at the root of two very important limitations on
self-defence: (i) the defender’s duty of stepping aside (retreat), if he can
thereby evade the attack without losing face, and (ii) the prohibition of the
plea of self-defence, if the need for it was self-provoked. Self-defence also
becomes a case of justification by reason of superior interest. However, it
does not mean that self-defence requires the preservation of an interest which
is more valuable than that harmed by the defence. Moreover, as it has been
stated earlier, self-defence has both individual and a social function. Since
the defendant is not only defending his own interest but also preserving public
peace, this social interest must also be put on the defender’s scale. Therefore,
self-defence will not be justified, if after taking the interests of social peace
into account, the defended value falls short of the harm caused to the
aggressor.

The Supreme Court of India has been repeatedly asserting in cases like
Vidhya Singh² and Mohammad Khan³ that the right of self-defence is a very
valuable institution. It has a social purpose. It should not be construed
narrowly. The law does not require a law-abiding citizen to behave like a
coward when confronted with an imminent aggression. There is nothing more
degrading to the human spirit than to run away in face of danger. The right of
self-defence is thus designed to serve a social purpose and deserves to be
fostered within the prescribed limits.

The general rule is that the right of private defence is not available
against unoffending and armless persons. But in exceptional circumstance, the
right may arise even against such person. This appears to be a sound
proposition as the basis of right of private defence is the reasonable
apprehension, which may arise in cases of unequal matches whether the
assailant is armed with a weapon or not. It is suggested that this principle

should be extended through judicial interpretation. Besides, with due respect to the current thinking about striking of the first blow and falling down on the ground of the victim (who has not died) that there should be no apprehension in the mind of the accused that the danger to this life still continues, it is respectfully submitted that this thinking is full of danger to the life of the accused and is impracticable. It is far away from the actual working of life. A hurt beast or serpentine is more dangerous and revengeful than the ordinary beast or serpentine. On the same principle, if the victim intended to cause the death of the accused and the accused struck a blow and the victim fell down, the reasonable apprehension of death or grievous hurt from the victim to the accused does not come to an end.

The Law Commission in its 42nd report examined the Fifth clause of Section 100 of the Indian Penal Code, which extends the right to causing of death of assailant, if he makes assault with the intention of abducting, keeping in view the decision of the Supreme Court in Vishwanath’s case. After this historical decision, abduction simpliciter could also extend the right to cause death in self-defence. The rule laid down in Ram Saiya’s case that only serious offence type of abduction (under Section 364, 365, 366 of the Indian Penal Code) could authorize causing of death was no more a good law. The Law Commission examined the law relating to the assault. It observed that the assault with intent to abduct may in some cases be punishable only under Section 352 of the Indian Penal Code and for such a simple offence, there was no justification to kill the assailant. The Commission had, therefore, recommended that the fifth clause of Section 100 of the Indian Penal Code should be limited to cases where abduction is punishable under the code, i.e., where assault is to abduct with any of the intents specified in Sections 364 to 369 of the Indian Penal Code. In pursuance of the recommendations of the Law Commission, clause 35 of the Indian Penal Code (Amendment) Bill, 1972 proposed to amend clause (d) of present Section 100 of the Indian Penal Code by providing the following new clause:

4  1960 CrLJ 154 (SC).
5  ILR 1948 All. 165.
“Section 100 (d) an assault with the Intention of abduction where the Abduction is an offence.”

This proposal would justify the exercise of right of private defence causing death. This proposal tried to set at rest the controversy arising out of new interpretation given to clause (d) of Section 100 the Indian Penal Code by the Supreme Court in Vishwanath’s Case. However, the aforesaid Indian Penal Code (Amendment) Bill of 1972 has lapsed and it could not become law. The need of the hour is to re-introduce the said bill and the law should accordingly be amended.

Further the Joint Committee on Criminal Law (Amendment) Bill, 1980 recommended that the offence of molestation be included in rape under Section 100 of the Indian Penal Code and observed that in the recent past there has been an increase in the molestation, harassment etc. of women and the culprits, despite the existence of the Criminal Law escape punishment. The Committee felt that outraging the modesty of a woman is a most cruel offence and needs to be dealt with severely. However, in this context it may be pointed out that the offence of molestation will give rise to right of private defence when it amount to an assault.

The quantum of force used by the defendant against the assailant should be in proportion to the amount of force used by the aggressor. However, the factual assessment of the proportionate force to be used by the defendant is not always possible. Moreover, the legislature has not laid down the guide lines to judge whether the harm caused in particular case is proportionate or not. The judgement of proportionate harm has been entirely left to the judiciary. The standard of judgement has varied from case to case and it is difficult to conclude whether the harm caused was really the proportionate harm. It is, therefore, suggested that the components of “proportionate harm” such as due care and caution, standard of reasonable conduct etc. should be spelled out. These factors, it is hoped, would certainly help to find out whether the harm in a particular case was proportionate to the danger apprehended. Subjective elements such as education, age, social status should
also be considered for providing the components of the concept of “proportionate harm”.

The Supreme Court⁶ has been asserting time and again that in moments of excitement or disturbed mental equilibrium it is difficult to expect parties facing grave aggression to coolly weigh as if in golden scales and calmly determine with a composed mind as to what precise kind and severity of blow would be legally sufficient for effectively meeting the aggression.

Coming to retreat rule we find that there is no uniform practice in regard to the application of retreat rule in various legal systems of the world. Two lines of thought have grown up on the issue. One view advocates the human rights approach, which supports the maximum protection for every human life. It provides that a person assailed must, if possible, should avoid the use of violence specially deadly force against his assailant. This approach conforms with the philosophy of Human Rights Commission that no life shall be deprived of protection unless absolutely necessary for a lawful purpose. This view is also supported by the State interest in the minimization of violence and would result in a general duty to avoid the use of force where non-violent means of self-protection are reasonably open to the person attacked. The second view supports stand fast approach, which favours the liberty of a law-abiding citizen to stand his ground, when confronted with an unlawful aggression. The person attacked is entitled to stand fast and to repel force by force until that is no longer necessary for self-protection. This view appears to favour the law-abiding citizens’ feelings of honour and self-respect at the expense of the criminal’s right to life or physical security. It is submitted that the Human Rights approach and the Stand Fast approach conveniently be termed as “Retention theory” and “Rejection theory” respectively. The former favours the retention of retreat rule while the latter rejects the observance of the rule before acting in self-defence.

In our view the human rights approach may serve the purpose in a better way than stand fast approach because it (i) advocates the protection of human life, which is gift of God; (ii) aims at greater protection for every life; (iii) minimises violence, and (iv) suppresses private warfare.

The theory of settled possession propounded by the Supreme Court of India\(^7\) provides better status to the trespasser than that of the true and lawful owner. In other words, it gives more rights to the trespasser than the legal occupant of the premises. In view of existing socio-economic conditions in the country, it does not conform to the expectations of law-abiding citizens, because the said doctrine curtails the rights of true owner. On the other hand, it encourages the anti-social elements who forcibly dispossess the lawful occupants of property. In fact, the state-machinery is also reluctant to extend the needful cooperation to the owners for the protection of their property.

Anti social elements muscle men and police is not keen to help the property owners, they become in the settled possession in due course of time. By virtue of this new rule, the legal owners become deprived of their legitimate rights in property and if they knock the doors of judiciary, it takes very long time to settle the dispute. Sometimes, it happens that the litigants die but the court fails to decide the case. This is the state of affairs in the courts. If it is taken for granted that the dispute is settled in favour of the true owner, it is very difficult to eject the trespasser and restore the possession with the help of administration, which is not sincere in discharging its duty. Besides, the litigation procedure is very expensive in India and masses are still poor and as such they seldom choose going to the court. Take the other side of the case. If the true owner who has been dispossessed by such anti-social elements, collects a few men and goes to the site for restoration of his rights in the property and attempts to dispossess the trespasser who is in the possession, with the help of or others, law is not to protect him but adversely it favours the trespasser who has right to use force in right of private defence,

and protect his possession. If the owner’s party uses force in dispossessing the trespasser, they would be liable in the eye of law and may be punished accordingly.

As a result of this, it is very difficult to agree with the proposition propounded by the highest court of land. It is evident from the above discussion that a full bench of the Supreme Court be constituted when a like case comes before it, and review it earlier decisions in view of socio-political conditions prevailing in the country.

The right conferred by the Indian Penal Code is a limited right and the benefits of it can only be taken when the circumstances fully justify the exercise of it. The act of public servants has been made immune against the right of private defence on the assumption that these are strictly according to law. So long as a public servant acts legally in the exercise of his official powers, there is no right of private defence against him, for the simple reason that his act is not an offence. If his acts are wholly illegal, he is in the same position as any private individual and is not entitled to any special protection. But the Penal Code has extended protection even to those acts of public servants which are not strictly justifiable and yet are not wholly authorized provided the required conditions are satisfied: (1) that the act does not cause reasonable apprehension of death or grievous hurt; (2) that the act is done in good faith and under colour of his office; (3) that the irregularity does not transgress the limit of being “strictly” justifiable by law”; and (4) that it is known at the time that the act is being done by public servant as such or under his authority.

There is no right of private defence against the acts of public servants if they act within the limits of law but erroneously and in good faith. The protection which is granted to public servants is also available to those acting under their authority.

The words “though that act may not be strictly justifiable” have been interpreted uniformly by the High Courts as covering only irregular and not
wholly illegal acts of public servants. This unanimous judicial view has produced certain awkward situations and has also placed the public servants in a dangerous position while executing the orders of the courts. The judicial interpretation has given the right of private defence against the acts of public servants though done in good faith while executing the orders or judgements of a court of justice where the court of justice was having no jurisdiction to issue such orders or judgments. Such acts under Section 78 of the Indian Penal Code are not offences and public servants are immune from prosecution for such acts. Though complete immunity from prosecution has been guaranteed under Section 78 of the Indian Penal Code, yet public servants can be forcibly ejected or injured under the shield of right of private defence under Section 99 of the Penal Code by the person against whom the public servant attempts to execute the judgement or order of the court. About the susceptibility of the public servant on this ground, the law commission has observed:

“A study of the case law under the first paragraph of Section 99 shows how, in a large number of instances, public servants acting in execution of the court’s order have been badly injured, and the courts have acquitted their assailants on the sole ground that the court’s order was without jurisdiction. Whether an order of a court is within its jurisdiction or outside its jurisdiction, is extremely difficult to decide, and, in many instances, there can be no final view in this matter until the dispute is taken up to the highest court. But a subordinate public servant executing that order should not be put in jeopardy of bodily injury so long as his action is in good faith. Public policy also requires that such protection should be given to facilitate the prompt execution of the court’s order. The orders of a court ought to be implicitly obeyed. We, therefore, recommend the insertion of a new provision in Section 99 so as to make the immunity from prosecution conferred by Section 78 co-extensive with the deprivation of the right of private defence against such action in the first paragraph of Section 99”.8

They have proposed a change in the language of Section 99 of the Penal Code supported by convincing arguments. If the public servant does not obey the orders of the court, he will be liable for disobedience on contempt even if the orders are without jurisdiction, and if he acts according to the orders of the court, he may be badly injured in the exercise of the right of private defence. Similar views have been expressed by the commission regarding the acts of persons acting under the direction of public servants where the private persons do acts under the orders or judgment of the court of justice, though that court may not be having the jurisdiction to issue such orders or judgement.

Whenever the right of private defence, causes or is likely to cause damage to the person or property of another person it must be restricted, and recourse to public authorities must be insisted on. But there is no need to resort to public authorities even though there is a time to have their protection if in the mean time one will incur irreparable loss. Where protection of public authorities can be sought without any material loss, one must have recourse to the protection of public authorities before exercising the right of private defence. The apprehension which justifies a recourse to the authorities ought generally to be based on some information of a definite kind, as to the time and place of danger actually threatened because individual is not required to carry idle gossips to the police. Mere presence of public authorities at the scene of occurrence of the offence is not sufficient to deprive a person of the right of private defence unless effective help is forthcoming from public authorities. The possessor does not lose his right of turning the trespasser out merely because he has informed the authorities before taking any action.

There is a great controversy whether the restriction, namely, there is no right of private defence in cases in which there is time to have recourse to the protection of public authorities, on the exercise of the right of private defence should be retained or removed or modified. A sufficient number of citizens of India consider the restriction enumerated in paragraph 3 of Section 99 of the Penal Code to be necessary as there is already much disrespect for law and

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order and the deletion of this restriction will encourage the people to commit more crimes and consequently result in more lawlessness. An equal number of citizens hold the view on the other side. They are not in favour of any such restriction on the exercise of the right of private defence as has been mentioned in para 3 of Section 99 of the Penal Code because of the present experience of uncertainty of getting timely and effective protection of the public authorities when called upon. The restriction, therefore, tends to deprive of the right of private defence itself and defeat the very purpose of Section 99 of the Penal Code. Quite a few of the citizens are in favour of some modification in the said paragraph, without indicating clearly the change to be brought about. One suggestion being that the second para of Section 105 and para 3 of Section 99 of the Penal Code should be combined together. The other suggestion is that the condition of having recourse to the protection of public authorities should only apply when information regarding the impending assault is received sufficient time earlier than the actual attack. Law commission recommended that paragraph 3 of Section 99 of the IPC should be deleted.

However, 14th Law Commission, expressed its reservation about deletion of the para 3 of Section 99 of the Penal Code suggested by the 5th Law Commission. It strongly recommended for retention of the restriction.

This paragraph could be replaced by a new paragraph as follows:

“There is no right of private defence in cases in which the assistance of Public authorities has been provided”.

If this paragraph 3 of Section 99 of the Penal Code is deleted, people will start settling their disputes out of courts and cause harm to the others in

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10 Ibid.
11 Ibid.
12 Ibid.
the exercise of the right of private defence even if the public authorities are present on the scene and are offering effective help.

The necessary corollary to the doctrine of the right of private defence is that the force used in defence of person or property should be necessarily proportionate to the danger to be averted or the danger reasonably apprehended and must not go beyond the legal purpose for which the force is being used. It seems to be impossible to put down any hard and fast rule regarding the quantum of force to be used in every case. It has to be determined according to circumstances of each case. But a person attacked is not required to modulate his defence step by step, according to the assault, rather he has a right to secure his victory so long as the contest is continuing even though he may have to use force more than strictly necessary for the purpose of defence. Unnecessary harm should not be inflicted, even if the right of private defence extends to the causing of death. No offence is committed, if the right of private defence is not exceeded. Where the right of private defence is exceeded and more harm is caused than required for averting the danger, what otherwise would have been murder would be reduced to culpable homicide, if the requirements of exception II to Section 300 of the Penal Code are satisfied.

Where house-breaking is committed after sunset and before sunrise, the offence committed is house-breaking by night. The right of private defence of property extends to the causing of death of the offender not only when the house is actually broken into at night but also when an attempt is made to break into the house by night. Because law never intended that the right of private defence should be exercised only after the thief has actually effected his entry into the house. Therefore, the property may be defended by force when the thief is inside the house as well as by preventing his entry into it. But mere house breaking by daytime is not sufficient to cause the death of the house-breaker unless the house breaking by daytime amounts to robbery or an attempt to commit robbery.
The Law Commission\textsuperscript{15} has rightly proposed to omit house breaking by night from Section 103 of the Penal Code as all aggravated forms of criminal trespass will be dealt within clause 4 of Section 103 of the Penal Code, where house trespass is proposed to be replaced by criminal trespass. House-breaking by night will cease to be a separate offence. The difficulty of distinguishing between lurking house trespass not mentioned in Section 103 of the Penal Code and house-breaking by night will be overcome.

Mischief by fire being extraordinarily dangerous requires to be stopped immediately by the most summary and effective means. In consonance with the development of science, the law Commission has proposed to add more offences in clause 3 of Section 103 of the Penal Code which are equally dangerous such as: (i) mischief by explosive substance; (ii) mischief by fire or explosive substance committed on any vehicles; and (iii) places of worship should also be placed along with dwellings in Section 103(3).

The right of private defence commences with the commencement of reasonable apprehension of danger to the person or property. It cannot be claimed against any belief which a reasonable man would not entertain. Superstitious fears which a man is having do not give rise to any right of private defence. The reasonable apprehension of danger should neither be judged with the detached objectivity in a court room nor can it be determined from the point of view of a cool-by-stander but from the peculiar circumstances under which the accused was placed before committing the offence claimed to be done in the exercise of the right of private defence. The apprehension of danger should be reasonable and of such gravity as would justify the particular species of defence applied. An attempt to commit an offence may give rise to an apprehension of danger of this type. But mere preparation or threat to commit an offence which being something less than an attempt to commit the offence is not sufficient to give rise to such an apprehension of danger. The apprehension should be real and reasonable and

\textsuperscript{15} Law commission of India, The Indian Penal Code, 42\textsuperscript{nd} Report, 1971.
not mistaken and ill founded. The moment the apprehension of danger is over there exists no right of private defence.

The first paragraph of Section 105 of the Penal Code is silent about an attempt of threat to commit the offence which words are enumerated in Section 102 of the Penal Code which deals with the commencement and continuance of the right of private defence of body. The law commission considered the suggestion to add the words “the apprehension of danger may arise from an attempt or threat to commit the offence” in Section 105 of the Penal Code but rejected the suggestion as the absence of these words are not creating and difficulty.\footnote{16}

The lawful exercise of the right of private defence of property against theft continues (a) till the offender has effected his retreat with the property; or (b) the assistance of public authorities is obtained; or (c) the property has been recovered. The expression “till the offender has effected his retreat with the property” is very indefinite and vague. Even the authors of the original draft of the Penal Code were not sure of the meaning of this phrase. They suggested that the privilege of the clause should operate till the offender is taken and be delivered to an office of justice. The courts have occasionally found it necessary to point out that they are not easy of application. The Law Commission in their report have considered this phrase and wanted to make slight verbal change. This could not be done because of the fact that the commission could not find a better form of words to express the idea.

In Gottipulla Venkata Siva Subraiaanyam v. State of A.P.,\footnote{17} wherein the Court held that the accused may be given the benefit of right of private defence, even though he pleaded alibi. The court added that if on proper appraisal of the evidence and other relevant material on record, the court is convinced that the accused might have acted in self-defence, he may, undoubtedly be given the benefit of it, in spite of his pleading \textit{alibi}.

\footnote{16}{Law commission of India, The Indian Penal Code, 42\textsuperscript{nd} report, 1971, p.107.}
\footnote{17}{AIR 1970 SC 1079.}
It is difficult to support decisions of the Supreme Court that the plea of private defence can be granted even if the accused has not taken such a plea or he has takes an inconsistent plea like the plea of alibi. He should not be granted a free licence to tell lies.

If the accused has to say that he was not present on the scene of occurrence and even then if there is an indication that he used force in the exercise of his right of private defence, then its advantage is given to him. But, in our opinion, this situation does lead to injustice. By giving full opportunity of defence to the accused does not means that he should also be given opportunity to tell a lie. By the defences which are concocted to-day whether by self or by the advice of eminent advocates, the onus of prosecution increases with the result most of the criminals are acquitted. Due to these inappropriate acquittals crimes are increasing day by day and instead of taking shelter of courts, people are adopting the course of revenge, hence violence is increasing in all the aspects. In this connection we should not follow England because the values prevailing in our country are quite different from those of England. In our view, the law should clearly provide for that the courts would take into consideration only that defence which has been taken by the accused and the accused should not have the occasion for parallel inconsistent defences.

A bill was introduced in the Rajya Sabha on December 11, 1972, known as The Indian Penal Code (Amendment) Bill, 1972, which had been referred to a Joint Committee of the Houses of Parliament under the Chairmanship of Shri Ram Sahai. The bill by its clauses 34, 37, 38 and 39 is substituted Sections 99, 103, 104 and 105 of the Indian Penal Code respectively. As the language of these clauses stands, it is clear that the recommendations of the Law Commission (whose report was published in June, 1971) regarding Sections 99, 104 and 105 of the Penal Code have been accepted without any reservations. The bill made no change in Section 97 of the Penal Code as had been proposed by the Commission. But the bill accepted the proposal of Law commission regarding Section 103 of the Penal Code has made slight changes
therein which run as clause (d) of that Section: “(d) mischief to property used or intended to be used for the purposes of Government or a local authority or a corporation owned or controlled by the Government, where such mischief is committed by intentional destruction of, or damage to, the property and is likely to result in general danger, loss of human life or other grave offences.” This has been necessitated by the rapid increase in recent years in the number of cases involving damage or destruction of public property resulting in huge loss to the society.

Last but not the least right of private defence occupies a unique place in the penal law of India. The relevant provisions of such law are contained in Sections 96 to 106 of the Indian Penal Code. However, these Sections do not discuss the law logically.

In order to facilitate the grasp of the subject on right of private defence, it is necessary that a regrouping of the Sections be made on logical basis i.e., Sections 96, 97, 98 and 106 which deal with the right of private defence in a general way, may be dealt with at one place, followed by Sections 102, 100 and 101 which provides for commencement and continuance of the right of defence of person and the extent of harm that may be inflicted in the exercise of such right then Section 105, 103, 104 which deal with commencement and continuance of the right of private defence of property and the extent of the harm that may be inflicted in the exercise of such right. The excessive exercise of this right should be added after these Sections and lastly Section 99 which lays down the restrictions on the right of defence of person as well as of property be placed.

It is submitted that it is high time to review the entire legislation and judicial pronouncements with respect to right of private defence. It is hoped that the suggestions outlined above would go a long way in widening the concept of right of private defence in Indian Social perspective.