The preface of this Ph.D. thesis titled “Socio-Legal Study of Sexual Minorities with Reference to Indian Criminal Justice System in Human Rights Perspective” discusses about the whole research study and relating bearable and unbearable facts and circumstances. The Ph.D. thesis is an outcome of continuous efforts of researcher, his supervisor, research respondents and relating organizations. Having the multiple complexities with the subject of homosexuality, the problem starts with exploration of research respondents i.e. sexual minorities and goes with new challenges like criticism/ of researcher including questioning about sexual orientation as well as the discussion gender identity. on one pretext to another. Before actually taking the subject, the discussion starts questioning and criticism together. It goes like this. Is your sexual orientation normal. Are you belonging to this community (sexual minority community)?, Are you gay (more specific)?, It is not the subject you should take for research study.

This whole research, starting from selection of subject till writing of this thesis, is including these questions and criticisms. The researcher decided to take action on this subject and finalised the synopsis for conducting research on the same despite having such questions and criticisms. After initial pilot study, it was understood that there is need to come across with different disciplines for better understanding the theoretical as well as practical problems and related concepts. The study from different disciplines like biology, psychology, sociology, medical sciences, anthropology, science, law and human rights has been included in this Ph.D. thesis. Without entering in the field study, it was not easy to understand the actual problems available with sexual minorities. Hence, the empirical method was followed for collection of data. In collecting data under empirical methodology, questionnaire (directly and through e-mail) method, participant observation and qualitative approach were used.

There were hurdles in getting responses from research respondents because of having privacy and confidentiality issues yet the participant observation has been a suitable method to use in researching on this subject. After completing research within theoretical and empirical engagement with sexual minorities persons, it was the time to write Ph.D. thesis. Hence, with all ups and downs, this Ph.D. thesis introduces
the study of sexual minorities in socio-legal aspect. This Ph.D. thesis has been divided in seven chapters. For writing this Ph.D. thesis, one most important thing was always to remember in mind, that there is requirement of having relational and co-relational approach as this subject has not been much explored. The writing of Ph.D. thesis is based on general understanding and a relationship with specific incidental subject in hand. For fulfilling this task, the human rights perspective is used as an ‘Umbrella Perspective’. Before starting of this research study, the researcher was not known with any sexual minority person but after completing research and till writing of this Ph.D. thesis, no. of sexual minority persons, activists, academicians, professionals organizations and events are credited in the known list of researcher.

The socio-legal aspect of study minorities was a difficult task particularly reflects on the issues relating to sec. 377 IPC. This further includes the jurisprudential relation in deciding what has to be forwarded in terms of sec. 377 IPC. Unlike the concept of heterosexuality, the homosexuality with reference to Indian criminal justice system covers various general theoretical understanding, related terms, sexual minorities, human rights, legal framework and concludes with personal experiences, social legal observations and conclusion in the form of new theories, phrase and new conceptualization. This Ph.D. thesis is written out of real experiences and gives a best understanding for providing solution. The concrete suggestions in this regard would be a path breaking tool further.

The study starts with the brief framework of whole research study. Including with a brief background, statement of problem, objectives of research, aim of research, hypotheses of research, methodology of research, field area of research, need of research, scope of research, limitation of research, significance of research, difficulties in research, paper presentation relating to research and finally a framework of all chapters’ scheme in this Ph.D. thesis.

The study moves with the theoretical understanding of sexual minorities within different perspective whether biological, psychological, medical, socio-cultural, anthropological, scientific, law and human rights. This includes the meaning, definitions and conceptual understanding of sexual minorities. Books and personal meetings with sexual minorities paved the way in this regard. For this social media has also been very helpful for the researcher.

The study discusses about the framework of movement relating to sexual minorities’ rights in historical, contemporary and present context. It also includes all
the NGOs, working groups, places and events visited during the study as a part and parcel of this movement in Delhi particularly. These things were helpful in getting information and collection of data.

Further, this Ph.D. thesis provides the understanding of larger domain of for human rights giving effect to the sexual minorities as specifically co-related with these. The international human rights law framework with some specific points relating to sexual minorities is discussed. Keeping in new, the natural law and rights, it includes human rights provisions, jurisprudential debate relating to law and morality, role of United Nations and its authorities, and various case laws decided by regional courts. The legal status of homosexuality at international level is a universal phenomenon mentioned here.

The legal aspect covers Indian legal framework and sexual minorities that includes provisions relating to Constitutional law, statutory law particularly Sec. 377 IPC, judgments of High Courts and Indian Supreme Court like Naz Foundation and Others v. Govt. of NCT Delhi (De-criminalization of Sec. 377 IPC), Suresh Kumar Khosal and ors. v. Naz Foundation and ors (Re-criminalization of Sec. 377 IPC) Review Petition against the Suresh Kumar Khosal case (Upholding Suresh Kumar Khosal judgment), Curative Petition (presently pending with a reference to Constitutional bench of five judges) in this case, judgement in National Legal Service Authority v. Union of India (recognizing transgender as ‘third gender’) and recently a fresh petition in the name of Navtej Singh Johar & Ors. v. Union of India. It includes different views of persons after these judgments, rules of interpretation, various reports of Law Commission, NHRC case followed by some changes in different institutional rules.

On the basis of empirical study conducted in field, this Ph.D. thesis includes data of HIV/AIDS, NCRB, data of National Crime Record Bureau (NCRB) experiences attached with sexual minorities, the major findings and observations through participant observation. This is all written in social and legal context. Except this, the data from responses on questionnaire and other sources, analyses of data through survey monkey website are included. It interpretation of data followed by testing of hypotheses of research which were found proved after the study.

Finally, an outcome of research study is provided and included in conclusion. This includes the conclusion keeping in view the theoretical and empirical major
findings and observations. It is new conceptualization and making of a theory. The conclusion keeps in mind the objectives of research for which the research questions raised earlier Q.1. How to understand the concept of homosexuality? Q.2. What is the understanding of nature? Q.3. What types of sexual acts qualify as against the order of nature? Q.4. How the legal enforcement of morality can be understood? Q.5. What is the central debate relating to sexual minorities’ rights? Q.6. Is the meaning of Sec. 377 confined only to anal, oral or other types of sex except penile-vagina sex? Q.7. Is the criminal prosecution under Sec. 377 of the IPC, 1860 confined to certain sexual acts or homosexuality in general? Q.8. How the society was adversely affected by decriminalization of Sec. 377? Q.9. Whether any case under Sec. 377 with reference to same-sex consensual partners was filed during research? Q.10. How the sexual minorities were affected with de-criminalization and re-criminalization under Sec. 377 of IPC? Q.11. How the homosexuality is related with HIV/AIDS disease? Q.12. What is the social and legal reaction towards homosexuality? Q. 13. What is relationship between sexual minorities’ rights and human rights? Q. 14. How can we better understand the concepts of homosexuality, Sec. 377 IPC, same-sex friendship, same-sex relationship, same-sex marriage? are answered. The whole research does not make any undue advantage to anyone but includes the original findings and observations available in socio-legal context. The conclusion is followed by concrete suggestions on the basis of research study, findings observations and conclusion. In last, it includes a proposed model of legislative bill for sexual minorities.