CHAPTER - 1
INTRODUCTION

“Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly.”

~ Martin Luther King Jr.

1.1 General

With the involvement of women, the struggle for Independence turned into a mass movement where women fought hand in hand with men and only with their combined efforts; finally we attained the cherished goal of independence. On the eve of independence, in his famous speech Tryst with Destiny, our first Prime Minister referred our country as our ‘motherland’ and showed us the dreams of a bright future he said “a moment comes, which comes but rarely in history, when we step out from the old to the new, when an age ends, and when the soul of a nation, long suppressed, finds utterance.” With these rosy pictures of equality and freedom in their mind women of India celebrated the day of liberty or independence. The decades bracketing the turn of century have witnessed intense and unprecedented political contestations of culture, particularly in relation to women. Then our founding mothers and fathers constituted a solemn document in the form of constitution which emphasise the importance of equality for women and provided various rights to women, to secure equality in every field, which further add colours of hope to the already provided dreamy image of a shining future.

Our ancient literature including Vedas recognize and emphasize the importance of role of women in building of any civilization saying that Women, teacher in the form of mother, but patient, emotionally mature and full brain thinker to nurture the

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1 Martin Luther King Jr., “Letter from Birmingham Jail”, 16 April 1963, USA
3 Kavita Punjabi & Paromita Chakravarti (eds.), Women Contesting Culture—Changing Frames of Gender Politics in India xv (16 Southern Avenue, Kolkata, 2012)
society into constant learning and understanding. In Rig Veda hymns women, a significant creation of God, the creator of human race has been considered to be a source of enlightenment and hope for future. She is the epitome of truthfulness, noble virtues, selflessness, enlightenment and worthy actions. She can destroy the strongest obstacles of hatred, violence, evil and ignorance with her shining light. Vedas equate feminine power with Usha – The Dawn or Sunrise, Just as dawn brings light in our lives and purity in thoughts, woman, in form of mother, brings light in any newborn’s life. In fact there is a mother in every woman showcased by her care, tenderness, affection, patience and selflessness.

Mahatama Gandhi also says that “woman is incarnation of Ahimsa. Ahimsa means infinite love, which again means infinite capacity for sufferings. And who but women the mother of man shows this capacity in the largest measures- let her translate that love to the whole humanity and she will occupy her proud position by the side of man.” Woman is more fitted than man to make exploration and take bolder action in non violence. There is no occasion for women to consider themselves subordinate or inferior to men. Woman is the companion of man, gifted with equal mental capacity. If by strength is meant moral power, then woman is immeasurably man’s superior. If nonviolence is the law of our being, the future is with women.

After this so called independence and liberty, in their own country women got a secondary status in every field. In the name of security she was devoid of the most precious human virtue i.e. freedom. Their rosy dream of so called liberty seems faded/shattered. She was particularly kept out of the decision making bodies and their male counterparts kept this power deliberately with them. The situation of women continuously become bad from worse. Again ray of hope come in the form of first and only women Prime minister till now, the so called ‘Iron Lady’ Indira Gandhi who in her brilliant speech ‘The True Liberation of Women’ emphasised on the need of equal status for women in every field. “She talks about equity and fairness to women as they

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5 Ibid
6 Ibid
would do the same job as a man and do not get paid the same. She talks about the recognition women should get for the things they do. She talks about how women should be treated like men and have the choice to work or to stay at home. Throughout her speech, she attacks men for their alleged domination over and discrimination against women and focuses on language and the use of gender-specific pronouns. Art. 1 of The International Convention on the Elimination of All Forms of Discrimination Against Women contains the following definition of discrimination against women:

Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Then come 73rd and 74th amendment to pacify them. At the same time 73rd and 74th Amendment of our Constitution may have inserted the provisions regarding the participatory role of the of women in the Panchayati Raj Institutions at the grassroots level, but the ground reality whereby they are being governed by their counterpart is not hidden to anyone in the present society.

Law commission of India from time to time provided various reports on women issues like 42nd, 84th, 156th, 172nd, 227th and 242nd reports, some of them have been incorporated in various amendments, with not much better consequence. This ‘democratisation’ of oppressions can be seen in retrospect as an attempt to push grand theory to its limits. Oppressions tended to be increasingly regarded as relative, with

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11. The Constitution (Seventy-Third Amendment) Act, 1992. Through this amendment women have been provided 33% reservation in panchayati raj institutions.
12. The Constitution (Seventy-fourth Amendment) Act, 1992. Through this amendment women have been provided 33% reservation in Municipalities.
attached identities that ended to be elevated above criticism.

As per the data issued by the National Crime Records Bureau, Ministry of Home Affairs, Government of India in the name of SNAPSHOTs – 2013, incidences of crime against women have increased from 2,44,2709 in 2012 to 3,09,546 in 2013. The proportion of IPC crimes committed against women under total IPC crimes has increased during last 5 years from 9.2% in the year 2009 to 11.2% during the year 2013. Madhya Pradesh has reported the highest number of rape cases (4,335), assault on women with intent to outrage her modesty (8,252 cases) and West Bengal has reported highest number of importation of girls from foreign country (9 cases) accounting for 12.9%, 11.7% and 29.0% respectively of total such cases reported in the country.

Ironically, in the country where crime against women has increased at the highest rate which announced or put India at the 4th position in the list of most dangerous country to be a women, the highest power positions in various fields including politics are occupied by women. Indira Priyadarshini Gandhi was the Prime Minister of the Republic of India, the highest post of power for three consecutive terms from 1966 to 1977 and for a fourth term from 1980 until her assassination in 1984, a total of fifteen years, a significantly long term. Also her daughter in law Mrs. Sonia Gandhi held power position also present government has many prominent female figures including Sushma Swaraj, Sumitra Mahajan etc., here we have to distinguish that in a country where we have 614,397,079 (614.4 million) women these few women are not depicting the whole picture rather they are exceptions to rule and few exceptions can’t change the rule. As Gail Omvedt makes the point that Indian women have benefited from the democratizing aspects of the National movement, but it is primarily upper-class women who have been able to consolidate these gains. We still have

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17 Heidi Safia Mirza (ed.), *Black British Feminism: A Reader* 75 (Routledge, New York, 1997).
negligible representation of women in our highest rule making body i.e. parliament. In our last popular lok sabha we have Women have a poor 11% representation in India's Lok Sabha and 10.6% in the Rajya Sabha, making India 108th among 188 countries covered in the annual analysis on statistics of women members of parliament (MPs) conducted by the Inter-Parliamentary Union (IPU). Furthermore Representation of Indian Women in Indian Legislature is marginal and is not according to their population. The present 16th Lok Sabha of Parliament has 11.3% (61 in total, though highest ever) MPs as women. For more inclusion of women in policy-making bodies the only light seems to be seen at the end of this dark black tunnel is the Bill of 33% reservation for women in Lok Sabha, which is to be discussed in the Parliament.

1.2 Review of Literature

Flavia Agnes, A Law and Gender Inequality: The Politics of Women's Rights in India., Oxford University Press, 1999, tried to explore the strategies for safeguarding women's rights in a country like India, which has a typical social, cultural and political background inclusive of analysis of the current trends of the debate on the Uniform Civil Code.

Madhu Kishwar, Off the Beaten Track: Rethinking Gender Justice for Indian Women, OUP, New Delhi, 1999 attempts to grapple with one of the most serious challenges to women in India: Why is it that inspite of all the high profile attention on women's issues many remain unresolved? Most of the work thus far has resulted only through symbolic actions such as passing of laws, which very often are inappropriate and not implemented. In most cases where laws are misused it contributes to increasing the vulnerability of women's lives, 'ism-driven' politics and orthodox feminist thinking are also talked about.

Nivedita Menon (eds.), Gender and Politics in India, Oxford University Press, Delhi, 1999, debates on various issues like environment and gender, the impact of technological change on women work force, interpreting constitutional guarantee of ‘right’ to equality with gender perspective; different women's movement and the challenges encountered; and sexuality and gender. Also the concept of ‘Eco-feminism,’ structural adjustment and its impact on women, has been discussed. Further provided is the suggestion regarding ‘reconceptualization’ of equality in view

Available at: http://timesofindia.indiatimes.com/india/Women-have-only-11-representation-in-Indias-parliament/articleshow/26384347.cms (Visited on March 12, 2013)
of women's subordination. Alongside the contemporary theory of ‘gender’ in the perspective of present socio-cultural change in Indian society has been highlighted.

Uma Chakraborty, *Gendering caste through a feminist lens*, Popular Prakashan, New Delhi 2003, examines the crucial linkages between caste and gender and un masks the mystique of consensus in the workings of the caste system to reveal the underlying violence and coercion that perpetuate a severely hierarchical and unequal society and discussed the range of patriarchal practices within the larger framework of sexuality, labour and access to material resources, and also focuses on the centrality of endogamous marriages that maintain the system in a so called brahmanical patriarchy.

Giri Mohini V., *Kanya: Exploitation of Little Angels*, Gyan Publishing House, New Delhi, 1999, deals with issues like prevention of child prostitution, to rescue and rehabilitation, awareness and social mobilisation, health care, housing and civic amenities, economic empowerment, legal reform, law enforcement trafficking and other human rights issues. Also the relevant national and international legal provisions including the 1949 Convention on the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others (Trafficking Convention) and CEDAW for the protection of the girl child from prostitution have been discussed.

Kavita Punjabi & Paromita Chakravarti (eds.), *Women Contesting Culture—Changing Frames of Gender Politics in India* (16 Southern Avenue, Kolkata, highlights the dialectical nature of culture as a site of women oppression as well as of feminist resistance and transformation. The editor has focussed on both material and symbolic dimensions of cultural politics and its changing significance in relation to gender, community, class, caste, borders, sexuality and disability.

Sita Anantha Raman, *Women in India – A Social and Cultural History, Volume 2* xi (ABC-CLIO, California, 2009) very precisely revealed why ideas of gender rights were not static across eras or regions and also reflect on various ways in which women in a non-western culture have developed and expressed their own feminist agenda.

Heidi Safia Mirza (ed.), *Black British Feminism: A Reader* 75 (Routledge, New York, 1997)

This is an outstanding collection of classic key texts new black feminist scholarship. Tracing the crucial developments and debates of the last twenty years, this volume is
the first to be entirely dedicated to the writings of the black women.

Rani Dhavan Shankardass, Of Women ‘Inside’: prison Voices from India 1 (Routledge, New Delhi, 2012) tried to bridge the gap by addressing comparatively aspect of criminology- the loss of human rights and gender based discrimination faced by women even within closed spaces and in particular highlighted the penology based on case studies of women prisoners.

Gail Omvedt, Violence against Women: New Movements and New Theories in India, Kali for Women, New Delhi 1997 (Third Impression) (42 pages - 192 words) discusses some recent Indian feminist theorising of violence by activist leaders closely involved in movements of women as peasants, forest dwellers and members of the lower castes along with the emerging theories of violence in India, while focusing on Sharad Patil's theory, a combination of Marxism and Phule- Ambedkarism, where violence against women is understood as a reflection of the relations of production of a class-caste society; Sharad Joshi's theory influenced by radical feminism, where violence is central to the process of capital accumulation and women's power is the central force of liberation; and eco-feminist, Vandana Shiva's theory, influenced by Gandhian thought where violence seen as inherent in western cultures' and women as protectors of nature and the traditional community and also provides an insightful critique of each of the theories.

Indira Jaising, " Gender Justice and The Supreme Court" in Supreme but not Infallible: Essays in Honour of the Supreme Court of India, B.N. Kirpal, Ashok H. Desai, Gopal Subramaniam, Rajeev Dhavan and Raju Ramachandran (eds.) OUP, New Delhi 2000 (pages 29, words 199). draws attention to the composition of the judiciary and its starkly unrepresentative character, the essay addresses the problem of formal equality and the evolution of equality jurisprudence in the Indian Supreme Court where sameness and similarity form the criteria for classification, also the essay points to emerging issues concerning validity of personal laws, women's representation etc. Mishra, Sweta, Women and 73 rd Constitutional Amendment Act: A Critical Appraisal, Social Action, Vol.44, 16-30, (1997) discusses the marginal position occupied by the Indian woman in the society and also in the political process due to socio-economic constraints. It outlines the evolution of the Panchayati Raj Institutions (PRIs) against this backdrop and a brief account of the position of women in the PRIs before the 73rd Constitutional Amendment Act, further it examines the
probable role of women and the probability whether women will be able to exercise political power through this system, what hurdles are there on their way, and finally how they can overcome these? Shashi. S. Narayana, “Gender equality through reservation in decision-making Bodies,” 147, Social Action, 1998, discusses the need for political empowerment of women through reservation in its decision making bodies like parliament, and state legislature in the same line as at ‘Panchayat’ (village) level in India. The current economic and socio-political maladies along with increasing violence against women and children are attributed to the failure of male oriented polity. Representation of women in higher bodies of political authority has been considered a prerequisite for the success of democracy at the grass-root level. However the need for accountability and sense of commitment on the part of the elected women representatives is stressed, which requires a higher degree of awareness among women. Kishwar Madhu, Where Daughters are Unwanted, Manushi, no-86, Jan-Feb, 1995, pg-15-22 emphasises the magnitude of the problem of sex determination tests (SDT) in India which has resulted in sex selective abortions of thousands of female foetuses, despite of stringent provisions, due to lack of proper implementation, law has failed to curb the problem. There are many advocates of SDT, and they believe it will help control the population growth. Scarcity of women does not imply that their life will get better- it is a myth and solution lies in making families realise the value of their daughters, otherwise these SDT will never end. Rehana Sikri, Women and Sexual Exploitation: Harassment at Work, Kanishka Publishers, New Delhi, 1999, took cognisance of the increasing number of women in the total workforce of countries of the world and the consequent emerging patterns of social interaction views the work place as a new domain of conflict in the 'running battle of the sexes'. These survey results are analyzed for a further interpretation of the components of sexual harassment and male-female relationship in the workplace. Working women's search for identity is also addressed in the context of the traditional pattern of gender and sexual exploitation. The book brings out the distinctive and alarming aspects of gender confrontation and its sociological significance. Madhu Kishwar, Sex Harassment and Slander as weapons of subjugation, Manushi, no.62, Jan-Feb-92, pg-2-15 focuses on the more insidious and routine forms of sexual harassment women have to deal with when they step into the world to earn a livelihood or take part in social, political and educational activities, for this university students and teachers from middle class have been the subject matter. Real life
experiences have been recounted which show how men use aggressive sexual encounters to maintain dominance and control and how and why women are forced to suffer such behaviour, also suggestions have been to bring a meaningful change in women's currently powerless and vulnerable position.

*Exploitation of Domestic Women Workers: Case Studies from Karnataka, Kerala and Tamilnadu*, Social Action, Vol.43, April-June 1993, p.p. 235-24, focuses on the problems of women in the unorganised domestic sectors in the states of Karnataka, Kerala and Tamilnadu. It portrays the exploitation of domestic women workers and emphasizes that the structure of the family affects exploitation directly as well as indirectly while stay with the employer results in direct exploitation, also suggestions that economic support and skill training to the women of the non-familial structure, may enable them to be independent and self reliant.

Martha Alter Chen (ed.), *Widows in India: Social Neglect and Public Action*, Sage Publications, New Delhi, 1998. Discusses the status and condition of widows as a marginalised group of Indian society, she explore the ideological construction of widowhood in India including patriarchal constructs, the practice of levirate and property rights under customary and modern statutory law. Also a framework for analysis of widowhood in India, which includes concepts such as Patrilocality, Patrilineal Inheritance, Remarriage Practices, Employment Restrictions, Maintenance and Social Isolation has been provided. B. Ramaswamy, *Women and Law 9* (Isha Books, B-69, New DDA Market, Delhi, 2013) discusses the legal instruments dealing with women in India and abroad with Special focus on declaration on the elimination of violence against women; optional protocol to the convention against women on the elimination of all forms of discrimination against women; UN initiatives regarding women rights; fourth world conference on women; Beijing declaration and Beijing platform for action. Vinod Kumar Diwan, *Laws relating to offences against women*, Hyderabad Law House, Delhi, 4th edn., 2013 deals with various offences relating to women under different chapters, and have tried to explain the legal complexities touching various aspects and angles of the subject with the help of number of case laws. Also an in depth study and analysis of case laws has been done.

1.3 Meaning

According to United Nations, violence against women can be defined as:
“Any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in private or public life”\(^\text{23}\).

Thirteen years later, the language is reiterated in the Preamble of G.A. res 61/143, 19 December 2006, that states:

“Recognising that violence against women is rooted in historically unequal power relations between men and women and that all forms of violence against women seriously violate and impair or nullify the enjoyment by women of all human rights and fundamental freedoms and constitute a major impediment to the ability of women to make use of their capabilities”.

Gender-based violence encompasses a multitude of patriarchal sanctioned conduct, directed at persons because of their gender. It particularly resonates as a code phrase for violence inflicted, against women and girls, precisely because they are females. As women in patriarchal societies we are familiar with limitations, constraints, and small, confining spaces. We live in confining spaces—both physical ones—the *char divari*—and ideological ones—appropriate jobs, notions of family honour, chastity\(^\text{24}\).

The semantic meaning of ‘crime against women’ is direct or indirect physical or mental cruelty to women. According to an estimate there are more than thirty forms of violence against women from womb to tomb. Women rights differ from broader notion of human rights, these are entitlements and freedoms claimed for women and girls of all ages in many societies\(^\text{25}\).

### 1.4 SCOPE OF STUDY

The present research focuses upon the recent disturbing trends in crime against women in India. Though technological advancements is considered a boon to society, but for women, in particular, this advancement has proved to be having a disastrous side effects. Crimes against women in every walk of life are on a rise. The purpose of the research is to study the various types of crime against women, their causes or reasons along with the type of punishment given under our penal laws. It aims to trace out the law passed by Government of India for the protection of women and children. The research aims to identify the role of judiciary in India in evolving new vistas of

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\(^{24}\) Nivedita Menon, *Gender and Politics in India* 475, (Oxford University Press, YMCA Library Building, Jai Singh Road, New Delhi 110001, 2nd edn., 1999)

jurisprudence regarding the imminent peril to the security and safety of women in our country. The research work endeavours to espouse the misery of women in our present society. The research work aims at identifying the measures and tools to address the problem.

1.5 OBJECTIVES OF STUDY

The present study seeks to achieve the following objectives:

1. To trace the historical perspective of crime against women in ancient societies.
2. To find out the status of women in olden times.
3. To study the various kinds of crime against women in India and punishment thereof.
4. To examine the recent disturbing trends in crime against women
5. To find out the various reasons for crime against women in our country
6. To examine various statutes passed by the parliament for protection of women
7. To analyze judicial response regarding crime against women
8. To throw light upon various new trends in respect of crime against women.
9. To suggest remedial measures for prevention and control of crime against women in India

1.6 RATIONALE OF THE STUDY: VALIDITY AND RELEVANCE

With spread of education and awareness, women step out of the four walls of house and entered and proved her potential in almost every precinct of life, which were earlier exclusive male domains in our patriarchal society. Seeing the spate of cases regarding women issues in India, a need to devise an effective mechanism to deal with the cases on an urgent basis was felt. Since we live in a progressive society which keeps on changing day by day rapidly, the conditions of women also undergoes a change in new society with new emerging crimes. In other words, changes in society have their impact on various matters of daily routine life of society. In India the crimes against women keeps on increasing with alarming rate. Hence the present study is an attempt to throw some light on the various emerging crimes against women with their causes and suggest some crucial suggestions, which may be of utmost importance for the stakeholders.
1.7 PLAN OF THE STUDY

To keep the present study in a feasible manner the researcher has divided research into seven chapters.

Chapter-I is about the research design which highlights the objectives of research and research methodology. The chapter also includes the plan of study, review the relevant literature comprising of few important books, articles, websites etc.

Chapter-II has been devoted to depict the status of women in India. In ancient India, women occupied a very important position, in fact a superior position to, men. It is a culture whose only words for strength and power are feminine - "Shakti" means "power" and "strength." All male power comes from the feminine. Literary evidence suggests that kings and towns were destroyed because a single woman was wronged by the state. For example, Valmiki's Ramayana teaches us that Ravana and his entire clan was wiped out because he abducted Sita. Veda Vyasa's Mahabharatha teaches us that all the Kauravas were killed because they humiliated Draupadi in public. Elango Adigal's Sillapathigaram teaches us Madurai, the capital of the Pandyas was burnt because Pandyan Nedunchezhiyan mistakenly killed her husband on theft charges.

This chapter includes the status of women in India in historical perspective, her status and position in that society. Further this chapter envisages how the condition of women deteriorated through ages and was at its lowest ebb during medieval times and where women stand today. It further incorporate that despite being provided equal status by constitution and remarkable work by women in various fields she is yet to get her dues.

Chapter-III highlights the types and causes crime against women:. The semantic meaning of ‘crime against women’ is direct or indirect physical or mental cruelty to women. Various kinds of violence against women are eve-teasing, molestation, bigamy, fraudulent marriage, adultery, abduction and kidnapping, rape, harassment of women at working place, wife beating, dowry death, female child abuse and abuse of elderly female etc. Crime against women is rising at an alarming rate. In modern world where we talk of a civilised society, women liberty and empowerment, every day the pace of crime against women is rapidly increasing. According to one estimate there are more than thirty specific forms of violence against women from womb to tomb. These are reported frequently in media and newspapers.
The present chapter focuses on various types of crimes against women. For easy understanding I have divided this chapter basically into five major headings and then various sub headings which are a) Sexual Crimes Against Women b) Crime Against Life, Liberty and Health of Women c) Crime Against Sensitivity and Modesty of Women d) Matrimonial Crimes Against Women e) Domestic Violence against women.

Chapter-IV covers the various Crimes against Women with Recent Disturbing Trends. Recently there has been spate of criminal cases against women in India. various crime has taken an aggravated form and new types has come to arena with the advancement of technology and changing social scenario in which women are coming out of four walls of houses to work in public as well as private sector.

Chapter-V has been devised to cover Crime against Women: Socio - Legal measures, and Social Perception. The Constitution of India provides for special treatment of women, guarantees equality and prohibits discrimination. The government of India has been strengthening various laws focused on women and children. This has been more visible since the Beijing CEDAW Conference. The recent years have been witness to some landmark interpretations and directives related to Violence against Women. Despite the constitutional mandate of equal legal status for men and women, the same is yet to be realized. The dejure laws have not been translated into defacto situation for various reasons such as illiteracy, social practices, prejudices, cultural norms based on patriarchal values, poor representation of women in policy-making, poverty, regional disparity in development, lack of access and opportunity to information and resources, etc. The ground situation more or less remains the same.

The present chapter focuses on the various types of laws and policies which have been formed by government from time to time to alleviate the crime against women. Also the chapter focuses on the social perception regarding crime against women and how it in turn help in increasing of such crimes.

Chapter-VI titled ‘Setting the Tone by Indian Judiciary through Various Path Breaking Judicial Pronouncements.’ Judiciary in India has always played a laudable role in eradicating social evils, and to bring social justice to masses. Supreme Court of India has devised various ways like epistolary jurisdiction, relaxing locus standi
criteria, allowing public interest litigation (PIL) and has played pro-active role to bring justice to every doorstep. Through various cases several guidelines has been provided by the Apex Court to eradicate social evils and specially to curb crimes against women. Some recent judgements of apex court with some strict guidelines with a view to minimize crime against women. This chapter specifically provides various steps taken, guidelines given by judiciary to bring crime against women under control.

Chapter-VII of the work covered the Conclusion and Suggestions. Crime and violence against women are on a rise unabated in one form or another, inspite of various laws and legislations to curb it. The main cause for it lies in the very roots of our upbringing of our children. From the very beginning male child is taught that he is superior than his female counterpart, and this superiority feeling grows with him and when in future he has to compete with female counterparts he look down upon them but when they prove superior to him, the feeling of revenge is vent out in various forms, or often anger is released on female as they are considered as physically weak and under their right and control by male. So, before anything else this mentality is required to be changed. First of all we will have to acknowledge that women also humans as male are, only after we can bring change to the existing situation. The researcher in this chapter tries to bring various suggestions which can be of utmost important for the stakeholders.