CHAPTER-VII
CONCLUSION AND SUGGESTIONS

Crime is a product of society, social conditions and a product of situations. No one is born criminal. “Every saint has a past and every sinner has a future,” goes a popular saying. Hindu Jurisprudence contemplates penance and meditation for criminal to have both prayaschita and reformation. Every individual including criminal has got a divine spark and what is required on our part is to kindle and rekindle it to enable the society to redeem and, to reclaim him and to restore and rehabilitate him in society as a useful and productive human being. Purpose of punishment in criminal cases is both punitive and reformatory. The purpose is that the person found guilty of committing offence is made to realize his fault and is deterred from repeating such acts in future. The reformatory aspect is meant to enable the person concerned to relent and repent for his action and make himself acceptable to the society as a useful social being.¹ Modern trend of punishment leans more in favour of a humanizing treatment and rehabilitation of the convict. Thus the whole emphasis in criminal justice system has been concerned with the criminal and social reaction to crime. Victim, the most important agent of criminal justice has by and large been ignored by the system. It is only in the middle of twentieth century that criminal justice has started responding to victims of crime and concept of victimology gained rightful place in the working of penal system. Even now much is to be done in this respect but a beginning has been made and hopefully victim of crime will get must deserved justice in the future.

In this context the focus of this study was on restoration of the victims of crime and not only of the offenders, as restorative justice is a process through which remorseful offenders accept responsibility for their misconduct to those injured and to the community that in response allows the reintegration of the offender into the community. The emphasis is on restoration: restoration of the offender in terms of his or her self-respect, restoration of the relationship between offender and victims, as well as restoration of both offenders and victims, with in the community. Through its

¹ Karamjit Singh V. State AIR 2000 SC 3457
various techniques like victim-offender mediation, community participation, family group conferencing, victim assistance programmes etc, and most importantly the restitution which includes monetary compensation for the victims of crime, the movement of restorative justice is getting popular day by day. Our judiciary has also realized that the need of hour is to listen to the victims and provide restorative justice to them, as rightly pointed out by honorable Apex Court in State of Gujarat v. Hon’ble High Court of Gujarat. “One area which is totally overlooked is the plight of the victims. It is a recent trend in sentencing policy to listen to the wailing victims. Rehabilitation of the prisoner need not be by closing eyes towards the suffering victims of offence.” It was further stated that a glimpse at the field of victimology reveals two types of victims viz direct and indirect. Direct are those who are alive and suffering as a result of the harm inflicted by the offender and second type comprises of indirect victims who are dependants of direct victims who undergo suffering due to deprivation of their bread winner or valuables. Restorative and reparative theories have developed from aforesaid thinking.

Restorative and reparative theories are not theories of punishment. Sentences should move from punishment of offender towards restitution and reparation aimed at restoring the harm done. Restorative theories are victim centered. In some versions they encompass the notion of reparation to the community for effects of crime, which include less resort to custody, community based sanctions requiring offenders to work in order to compensate victims, support and counseling for offenders to reintegrate them into community. Such theories therefore tend to act on a behavioural premise is that compensation for victims should be recognized as more important than notions of just punishment on behalf of the state. Court recognized that legal systems based on restorative rationale are rare. It further stated that there is increasing tendency to insert victim oriented measures such as compensation orders into sentencing systems structured to impose punishment”.


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2 AIR 1998 SC 3164
3 (1981) 2 SCC 493 at p.504
4 AIR 1983 SC 1086
5 AIR 1993 SC 1960
6 2002 (2) Criminal Court Cases 141 (Delhi)

Supreme Court urged that subordinate judiciary should also use the existing provisions under procedural laws specially section 357 of Criminal Procedure Code liberally. Of late now subordinate judiciary has also been awakened and now even High Courts are following the directions of Supreme Court in this regard. This is really an appreciable change in the approach of subordinate judiciary in this regard which has been discussed in detail in the previous chapters. Section 357-A of Criminal Procedure Code speaks for Victim Compensation Scheme. In Re: Justice to Victims of Crime Court on its Own Motion v. Union of India, State of Punjab, Haryana and U.T. Chandigarh, Punjab and Haryana High Court has observed that no State has framed Victim Compensation Policy till date and gives directions to the State of Punjab, Haryana and U.T. Chandigarh to formulate Victim Compensation Policy. Court further observed that it is appropriate to draw the attention of all concerned to the need to remedy a serious flaw in the administration of criminal justice, namely failure of justice to victims, particularly when crime goes unpunished. Law has to keep pace with the changing needs of the society in the light of national and international developments. Article 21 of the Constitution guarantees ‘right to life’, which includes protection of life and liberty of all members of the society.

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7 (2005) 3 Criminal Court Cases 522 (S.C.)
8 (1995) 1 SCC 14
9 (1996) 1 SCC 490
10 (1996) 1 SCC 490
11 AIR 1997 SC 3011
12 AIR 1978 SC 1527
13 AIR 1988 SC 2127
14 AIR 1988 SC 3164 Para 49
15 2005 SCC (Cri) 1420
16 Inserted by the Criminal Procedure Code (Amendment) Act, 2008
17 CWP 6319 of 2008, still pending in Punjab and Haryana High Court, next date of hearing is 2nd May 2011

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Vigilantism as a phenomenon is on a rise in our society. This is dangerous and can pose serious threat to the rule of law and peace in society. However, the desire for retribution leading to the victims taking ‘law in their own hands’ can be effectively checked only where the victims perceive that the criminal justice system will assure them justice and protection. Referring to the need to check ‘vigilantism’ by the victims of crime, frustrated by the feeling that they will not get justice in the system, it was observed by this court that this cannot be allowed in a civilized society government by ‘Rule of Law’, whatever be the notion of the accused. If this is allowed, no person accused of a crime may have an opportunity to prove his innocence before the Court and the system of punishment on proof of guilt, in a fair trial, will become meaningless and will lead to anarchy. It is only the ‘Rule of law’ that can strike the right balance between the degree of retribution and the harm caused or crime committed. Where individuals take the retribution decision in their own hands, it could trigger a desire for further retribution in all those sanctioned excessively or wrongfully, which could lead to a vicious circle that can easily spiral out of control. The result would be dangerous blood feuds. Such vigilantism’ is also a reflection of legitimacy of the State as a whole. Only when individuals respect the criminal justice system and its legitimacy, will they continue to obey the law themselves.

The courts cannot withhold benefit reasonable doubt on the ground that acquittal will have adverse reaction in society or amongst members of the society who believe the accused to be guilty. Requirement of proof beyond reasonable doubt is a requirement of human right to ensure that an innocent person is not punished. However, the courts cannot remain oblivious to the dangers of unmerited acquittals either, which may result in a breakdown of justice system and lead to cynical disregard of law. Thus there may be cases where the crime goes unpunished. How a victim is to be given justice in such situations is the question for consideration.

Various reasons have been identified for the situation where the guilty goes unpunished. In absence of proof beyond reasonable doubt, the Court has no option but

\[\text{References:}\]
to acquit a person. Responsibility of collecting evidence to prove guilty beyond reasonable doubt is on the investigation agency. The prosecuting agency is to present the said evidence before the Court in accordance with law. However unfortunately, our criminal justice delivery system bears a big question mark. There are several lacunae in the investigation process, which seriously hamper the prosecution process, leading to insufficiency of material to prosecute effectively. Only 30 to 35 per cent of all criminal cases end in conviction, while 90 to 95 per cent of matters involving heinous offences end in acquittal. And then there are the other serious handicaps such as long delay in disposal of criminal trial which contribute to the frustration in mind of the victims.

This is bound to create a feeling of insecurity in the mind of sufferers of crime as well as kith and kin of those whose life itself is lost in the crime. The kith and kin of the deceased are also victims of the crime. They have no means of solace if the criminal is not apprehended or punished.

The situation being unsatisfactory in this regard, various steps have been suggested by experts, which include improvement in quality and integrity of the personnel dealing with investigation and prosecution, making use of advances in technology and providing adequate infrastructure.

May be, inspite of best efforts, the State fails in apprehending and punishing the guilty but that does not prevent the state from taking such steps as may reassure and protect the victims of crime. Should justice to the victims have to wait to get justice till such time that the handicaps in the system which result in large scale acquittals of guilty, are removed? It can be a long and seemingly endless wait. The need to address cry of victims of crime, for whom the Constitution in its Preamble holds out a guarantee for justice is paramount. How can the tear of the victim be wiped off when the system itself is helpless to punish the guilty for want of collection of evidence or for want of creating an environment in which witnesses can fearless present the truth before the Court? Justice to the victim has to be ensured irrespective of whether of not the criminal is punished.

20 See observations in the speech delivered by Hon’ble Mr. justice S.B Sinha at JTRI, Lucknow on 18th September, 2004 on ‘Judiciary and Training’, (2004(7) SCC (J) 39, at page 43) quoted in CWP 6319 of 2008, still pending in Punjab and Haryana High Court, next date of hearing is 2nd May 2011.
The victims have right to get justice to remedy the harm suffered as a result of crime. This right is different from and independent of the right to retribution, responsibility of which has been assumed by the state in a society governed by Rule of law. But if the State fails in discharging this responsibility, the State must still provide a mechanism to ensure that the victim’s right to be compensated for his injury is not ignored or defeated.

Right of access to justice under Article 39-A and principle of fair trial mandate right to legal aid to the victim of the crime. It also mandate protection to witnesses, counseling and medical aid to the victims of the bereaved family and in appropriate cases, rehabilitation measures including monetary compensation. It is a paradox that victim of a road accident gets compensation under no fault theory, but the victim of crime does not get any compensation, expert in some cases where the accused is held guilty, which does not happen in a large percentage of cases.

Though a provision has been made for compensation to victims under section 357 Criminal Procedure Code, there are several inherent limitations. The said provision can be invoked only upon conviction, that too at the discretion of the judge and subject to financial capacity to pay by the accused. The long time taken in disposal of the criminal case is another handicap for bringing justice to the victims who need immediate relief, and cannot wait for conviction, which could take decades. The grant of compensation under the said provision depends upon financial capacity of the accused to compensate, for which the evidence is rarely collected. Further, victims are often unable to make a representation before the Court for want of legal aid or otherwise. This is perhaps why even on conviction this provision is rarely pressed into service by the Courts. Rate of conviction being quite low, inter-alia, for competence of investigation, apathy of witnesses or strict standard of proof required to ensure that innocent is not punished, the said provision is hardly adequate to address to need of victims. This Section has already been discussed in detail in chapter IV of the research work.

Further, our procedural criminal laws have been significantly amended. In Criminal Procedure Code a new Chapter XXIA has been added which deals with plea-bargaining and talks about mutually satisfactory disposition, payment of

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21 Sections 265A-265L of the Criminal Procedure Code, 1973
compensation to the victim. Hence it brings victim and accused on the same negotiating table for the first time in the history of Indian Criminal law. It is certainly a welcome step. Section 320 of the Criminal Procedure Code which deals with compounding of offences was recently amended which gives more bargaining powers to the victims to compound the offence and get compensation. Recently the Supreme Court of India compounded the offence of rape and awarded compensation of Rs.50,000 to the victim because the offence was committed 29 years ago. The Motor Vehicle Act, 1988 which is a social welfare legislation under which the compensation is provided by way of award to the people who sustain bodily injuries or get killed in the vehicular accident. Those who sustain injuries or whose kith and kin are killed, necessarily to be provided such relief in short span of time and the procedural technicalities can’t be allowed to defeat the just purpose of the Act, under which such compensation is to be paid to such claimants.

Under this Act victims of accidents are those who sustain bodily injuries causing either permanent or temporarily disability and the legal representatives of the deceased who dies as a result of it. Section 140, 161 and 166 of the Motor Vehicle Act, 1988 entitle a victim of motor accident to prefer a claim for compensation before a duly constituted Motor Accident Claims Tribunal. This Act also incorporated the principle of ‘no fault liability’ which is a laudable piece of social legislation.

Similarly the Protection of Women from Domestic Violence Act, 2005 has been passed which talks about monetary relief, compensation order, protection order, and residence order for the women. National Human Rights Commission, National Commission for Women are leaving no stone unturned to provide compensation to the victims of crime along with making provisions for restoration and rehabilitation of the victims. Recently ‘Scheme for Relief and Rehabilitation of Victims of Rape, 2005’ has been enacted by National Commission for Women. Law Commission of India is also playing a significant role in examining the existing laws and suggesting the needed amendments especially in case of victims of crime. Malimath Committee has

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22 By the Code of Criminal Procedure (Amendment) Act, 2008
24 24th Feb.2011, The Indian Express News Paper
25 Oriental Insurance Co. V. Mrs. Zarifa, AIR 1995 J&K81 at p.84

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suggested reforms in criminal justice system favouring victims of crime namely victim participation and recognition of rights of victims.

However, by taking a look at the progress done and milestones achieved by European countries in the field of restorative justice, India lags behind. Looking from that angle it can be concluded that in India concept of restorative justice is still at its initial stage. We have a long way to go. A lot of work is needed to be done to come near to them. Countries like U.S.A., U.K., France, Netherlands, Hungry, Canada, Australia, Switzerland etc. have made compensation schemes. France has a system of ‘partie civile’. U.S.A. has established International Institute of Restorative Justice Practices wholly devoted to this cause. For the last decade International Institute of Restorative Justice Practices which grew out of Real Justice Paradigm has been developing a comprehensive framework for practice and theory that expands the restorative paradigm beyond criminal justice means it is involving academia and other professions also. International Institute of Restorative Justice Practices is working very successfully through its seminars, conferences, training, teaching thereby it is serving the victims of crime and ultimately humanity. India has yet to reach firstly to restorative justice and then to restorative justice practices.

India is not even implementing UN Declaration, 1985 properly which talks about constructive compensation claims in expeditious manner. Various UN Congresses particularly 11th UN Congress talked about the concept of restorative justice and member states recognized the importance of giving special attention to the need to protect witnesses and victims of crime. ICC has also incorporated the provisions regarding participation of victims in trial, their protection and rehabilitation. Council of Europe and European Union also has called for state compensation for victims of violent crimes, but barring one or two exceptions nothing substantial has been done in this regard by our country.

Hence lot of work is needed to be done to give crime victim its well deserved place in society and to ensure his effective restoration and rehabilitation. For this purpose there are following suggestions:-
1) Amendment in Section 357 of Criminal Procedure Code:- Section 357 should be amended. An explanation should be inserted in it for the purpose of recording reasons for not awarding compensation, as it was suggested by Law Commission in its 42nd Report. At the time of sentencing the accused gives compensation i.e. rupees 25,000/- in case of bodily injury not resulting in death, rupees, 1 lakh in case of death should be awarded, as suggested by Law Commission in its 152nd report. Parliament has not given effect to these recommendations of the Law Commission. Periodically the amount of compensation should be revised.

2) Grant of Compensation by Lower Courts:- Lower courts should also use the power to grant compensation under Section 357 of Criminal Procedure Code. Supreme Court has urged again and again that power to grant compensation is not ancillary but in addition to the other sentence.26 As the Law Commission of India in its 42nd Report admitted that our courts not particularly liberal in utilizing the provisions such as section 357. They do not exercise their statutory powers under this section as freely and liberally as could be desired.

Apex Court also failed to see any reasons for the courts in not awarding compensation even when the accused is in a position to pay it to the entitled persons. It also asserted that social justice demands that heavy fine be imposed in lieu of reduction of sentence to compensate a victim of crime.

It is evident that fragmented legal framework providing for compensation by an offender to his victims for loss suffered or injury caused by commission of offence is inadequate but it is very sad that no heed has been paid to these suggestions by our Parliament. During my personal meetings with the judicial officers at the level of Magistracy, it was disclosed that liberal use of section 357 of Criminal Procedure Code and award of compensation under this section is talked with suspicion by the higher courts including Sessions Judges. So it is their sense of insecurity and fear which prevents them from using section 357 liberally. To prevent this fear psychosis in the Magistracy there is need for close interaction with the higher judiciary specially with regard to section 357 and section 357A so that Magistracy uses these sections as desired by the legislature and the Supreme Court.


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3) **Amendment in Section 360 Criminal Procedure Code:** Section 360 of Criminal Procedure Code which deals with order to release the accused on probation of good conduct or after admonition is silent on the issue of compensation. Like Section 5 of Probation of Offenders Act, 1958. Here also there should be provision that the court can require offenders to pay compensation and costs. Special reasons be recorded for not awarding compensation in cases where the person is released on probation either under section 360 of Criminal Procedure Code or under section 5 of Probation of Offenders Act, 1958.

4) **Amendment in Section 361 Criminal Procedure Code:** In Section 361 of Criminal Procedure Code, there can be a provision that special reasons are to be recorded in case compensation is not awarded under Section 357, along with clause (a), (b), i.e., a clause (c) can be inserted for the benefit of victims of crime.

5) **Amount of Compensation:** Amount of compensation under Section 358 i.e. for persons groundlessly arrested is very less. Earlier it was just rupees hundred though now it has been increased to rupees thousand by Criminal Procedure Code (Amendment) Act, 2005 but still the amount is very less from the point of view of the suffering of the innocent victim. The limit of compensation of Rs. 1000 should be removed.

   Amount of compensation should be increased in Section 237 which deals with cases instituted under S.199 (2) i.e. of prosecution of high dignitaries. Under S.237 (4) there is a provision of providing compensation if accusation is without reasonable cause. The court subject to its satisfaction and after recording reasons may order the compensation of the amount not exceeding 1000 rupees. It is suggested here that the limit of compensation should be removed. Let the Court decide itself depending upon the facts and circumstances of the case. So that there can be deterrent effect on the persons making frivolous complaints. Exemplary fine should be imposed keeping in view interest of society.

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27 S.361 (a) Where the court could have given benefits of probation to the accused under S.360 or S.5 of the Probation of Offenders Act, 1958 but has not done so or S.361 (b) A youthful offender has not been given benefits of Juvenile Justice (Care and Protection of Children) Act, 2000 or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders.

28 President, Vice President of India, Governor of the State or the Administrator of U.T.
6) **Reforms in Police Machinery:** It has been found that most of the problems which the victims faced are because of efficiency, incompetency and widespread corruption in the police organization. Half the problems of victims will be solved if this organization is efficient and competent. Another important suggestion is the reforms in the Police machinery; old Police Act of 1861 has become redundant in the present scenario. Misuse and abuse of police has reduced it to the status of a mere tool in the hands of unscrupulous masters and in the process it has caused serious violations of the rights of the people as rightly observed by Hon’ble Apex Court in Parkash Singh and others v. Union of India and others.29

Police training should be re-oriented, to bring in a change in the mindset and attitude of people personnel in regard to investigations, so that they will recognize and respect human rights, and adopt thorough and scientific investigation methods.

Hence there is an immediate need to redefine the scope and functions of police, to sensitize police towards victims and provide its accountability to the law of the land, and implement the core recommendations of the National Police Commission to protect the victims of crime from police atrocities. Investigators often do not know how to gather the facts so they can be used in court, including in cases of crimes of sexual violence and on dealing with traumatized persons. Investigating police should be separated from the law and order police. The recruitment standard of investigating police should be different. Minimum law graduate should be made eligible for investigating police officer. Training of these officers should have the emphasis to sensitize them to the social problems and values of individual life and liberty. These officers should be specially trained to handle the cases in which victims are women or children. Periodical in service training be provided to update them in this respect. The number of female personnel for investigation of offences against women and children should be increased.

7) **Victim Participation:** Criminal Procedure Code assigns a limited role to a victim of crime to participate in the criminal justice system. A crime victim by virtue of section 190 of the Code may directly approach the magistrate concerned with his complaint without going to the police for redress. Thereafter a crime victim does not

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29 (2006) 8 SCC 1, 2006 (9) SCALE 444
have any significant role to play in the criminal process. Unless investigating officer considers it necessary the crime victim has no significant role to play in investigation. The Criminal Procedure Code in no way requires magistrate to hear the victim/complainant/informant. Even during prosecution a crime victim does not have much say in the proceedings. Existing law pre-supposes that the prosecutor appointed by the State is a proper authority to plead on behalf of the accused on bail. The Code allows public prosecutor to withdraw the case from prosecution at any time before judgment is pronounced. A victim has no role to play here too. Where the case is withdrawn, the victim should be adequately compensated as a mandatory requirement from withdrawal from prosecution.

It is suggested that this drawback should be taken into account by the legislature. Even International Criminal Court provides for victim participation, reparation, rehabilitation, protection to victims and witnesses. Guidance can be taken from ICC statute for making necessary reforms.

8) Right to Seek State Assistance:- In 1996, National Law School of India University, Bangalore (NLSIU) prepared a draft bill ‘The Victim (criminal injuries) Right to Assistance Bill,1996 ( hereinafter referred as NLSIU Bill.) endeavors to offer a comparatively better comprehensive compensatory scheme for a crime victim, who has a direct consequence of crime, has suffered death or injury by conferring on him (and or his dependent), irrespective of acquittal and/or conviction of the offender by a competent court, the right to receive compensation from the competent ‘Authority’ designed under the bill. It provides for the creation of ‘Crime Assistance Fund’ at the National, State and District Levels, by Central Government, State Governments concerned, donations and sums received by the Authority, National or state under orders of the court to make the payment to victims of criminal injuries. It contemplates three tier authorities to render assistance to crime victims and their dependents.

31 Section 321 of the Criminal Procedure Code,1973. Proviso to Section 24 inserted by Criminal Procedure Code(Amendment) Act,2008 gives victim a right to appoint counsel on his behalf. However even now counsel appointed by the victim is to assist the public prosecutor.
32 See Victim Protection under Statute of ICC Chapter III p.43
a) National Crime Victims’ Assistance Authority  
b) State Crime Victims’ Assistance Authority and  
c) District Crime Victims’ Assistance Authority

Bill authorizes central government to designate under the Legal Services Authority Act, 1987 as the National Authority. Similarly a state Government under the Bill is authorized to designate the State Legal Services Authority as the District Authority. NLSIU Bill *inter-alia* suggests insertion of sub-section (3-A) in section 357 Criminal Procedure Code. It reads “ (3-A) Where an order for compensation has been made under section the court may direct the whole or any part of compensation to be paid to any Crime Victim Assistance Authority established under the victims (Criminal Injuries) Right to Assistance Act, 1996.”  

Since fourteen years has been passed, legislature has not taken steps to implement this except section 357A which is inserted by Criminal Procedure Code (Amendment) Act, 2008 but no State has implemented the scheme under this section.

It is suggested that guidance can be taken from this Bill while framing a comprehensive legislation for providing benefit to victims of crime.

9) **Restorative Justice:** In India Restorative Justice Practices are in initial stages at present. In order to implement the concept of Restorative Justice in its real sense following steps may be considered:

a) **Awareness:** There is need of awareness regarding Restorative Justice. For this purpose print and electronic media can help, seminars, interactions can be held to educate the people about restorative justice and plight of victims of crime. Research projects can be conducted at university level so that more and more people can join this movement. Social workers, NGO’s can play a vital role in this regard. Restorative Justice can be included as a subject in curriculum. The concept should be reproduced in local language so that common people can understand the same.

b) **Special Training to Judicial Officers, Law Teachers:** Specialized training should be provided to Judicial officers, lawyers, prosecutors and law teachers to sensitize them towards the need of victims of crime.

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c) **Participation At International Level:** India’s presence is strongly missing at International Conferences, seminars regarding restorative justice which is unfortunate. Government should look into this matter. Firstly if there is participation at International level then only we can think of this movement of restorative justice gaining ground at National level. Western countries are far ahead but still we can make a humble beginning. It is better to be late than never.

10) **Implementation of the Techniques of Restorative Justice:** Techniques of Restorative Justice like Victim-Offender Mediation, Family group conferencing, Community participation, Victim Assistance programmes should be initiated by the government. People who are well trained in these techniques can solve the problems of victim in a better way and it will be best suited to provide compensation to the victims of crime as victim and offender both will participate in solving the issue and there will also be community participation. So together it is a collective effort of all as the Family Group Conferencing allows victims, offenders and their respective family members and friends to come together to expose how everyone has been affected by an offence and when possible to decide how to repair the harm and meet their own needs. In education circles and groups provide opportunities for students to share their feelings, build relationships and solve problems and when there is wrongdoing to play an active role in addressing the wrong and making things right. For these purpose students, teachers can be encouraged to participate in such meetings, for it is a collective approach and needs co-operation of all. For the fundamental hypothesis which is the base of Restorative Justice Practices is that people are happier, more co-operative and productive and more likely to make positive changes in behaviour when authorities do things with them rather than to them or for them expands the restorative justice. It is this object that one has to achieve and strive for i.e. from Restorative Justice to Restorative Justice Practices.

11) **Compensation at the Earliest:** Of the present system of courts, order of payment of compensation to the victim by accused requires order of conviction and sentence as a pre-condition. The victim is needed to be compensated at the earliest, since it is the obligation of the state to protect the individual interests, State should be made to pay immediate compensation to the victim without the burden of any additional civil suit to be filed by the victim. Later on if the accused is convicted the
compensation awarded to the victim may be recovered fully or partly from the convict
as per his/her capacity.

12) **Speedy Disposal**: There should be speedy disposal of cases. In our system, justice is always just one hearing away. So it comes very late and for some it never comes because when it comes they are no more. As rightly said:-

> “So slow is Justice in its ways,
> Beset by more than customary clogs.
> Going to law in these expensive days,
> Is much the same as going to dogs.”

**Willock**

During my personal visits to the Courts it was found that cases assigned to Magistrates ranged between 2000-6000 while the ideal standard is 600 hundred cases per Magistrate. Supreme Court in 2003 had given a direction to all States to increase the strength of Magistracy to 50 Magistrates for 1 million population while at present it is about 10-12 Magistrates per 1 million population in Punjab and Haryana. No states have taken any effective steps to respond to the clarion call given by Supreme Court in this regard. Even in the High Courts also there is large number of vacant positions at a time. Even in Punjab and Haryana High Court against the sanctioned strength of 68 Judges at present 42 Judges are there.

Witnesses, policemen, parties have to wait only to take adjournment till next date. Lots of money, precious time is wasted. No one thinks about this. Every time one or the other necessary party is missing or not well etc. etc. so next date. Sometimes lawyers also use this tact to cause delay to harass the other party that is why no one likes to be a witness in a case. The Commonwealth Human Rights Initiative, New Delhi, analyzed 150 cases in Delhi’s Tis Hazari Courts. In trial that experienced undue delay by the Law Commission’s standards, it found that 68% of the hearings were ineffective, i.e. either no proceedings were conducted or the purpose of hearings was not served. Of the three major causes of delay, witness absence accounted for 19% of the hearing officer’s absence accounted for 15%. Almost 10% of the hearings were ineffective because of absence of

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36 Till date i.e 29th March 2011
accused. The Law Commission pointed out that quite often the police deliberately refrain from producing all material witnesses on the same day with the object of clearing lacunae in prosecution evidence one defence’s case is revealed through cross examination. Many a times reason for the absence of the accused from court proceedings, resulting in adjournment of the case is poor manpower planning because there is no police escort to take a prisoner from juridical custody to the court and vice-versa.

Supreme Court has consistently maintained that the right to speedy trial is part of guarantee of the fundamental right to life and personal liberty. The law Commission of India in its Report on Delays and Arrears in Trial Courts recommended that a criminal case should be disposed off with in six months, stressed the need to raise the ratio of judges to the population from 10.5 per one million people to 50 per one million. However even after almost two decades, there has been little progress in this front.

The lack of judges is not the sole reason for delays. It is the antiquated procedures, inefficient processes and most significantly, the apathy and lack of accountability of those who make up the criminal justice system which rather multiplies the woes of the unfortunate who comes in contact with it.

13) Effective Implementation: In fact the problem lies in implementation. There is no lack of proposals, Committees, Commissions, Judgments, Guidelines, Draft Bills, Suggestions, Examples. Bureaucratic indifference and lack of accountability, sincerity of those charged with operationalising these judgments has ensured that our jails continue to be filled up by prisoners whose cases have dragged on much beyond the permissible limits of a just system.

Holistic reforms entails that the police, the prosecution, the prisons department and indeed the judiciary, introspect and review their own processes before seeping changes from outside to rectify ills in the system, caused by their own malfunctioning.

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37 ‘Criminal Justice Reforms’ Article by Mandeep Tiwana, published in The Tribune 8 July, 2006
38 1978
39 Quoted in ‘ Criminal Justice Reforms’ Article by Mandeep Tiwana published in The Tribune 8 July, 2006
40 ibid
Additionally, those responsible for nourishing the system the executive and the legislature need to fulfill their part as justice delayed is justice denied.

14) **Active Participation of All:** "It must be ensured that legal instruments maximize the benefits for our people and nation"41 Active participation of all stakeholders such as political leaders, civil services, the judiciary, the media, societal transformers and citizens is required to implement the existing provisions in favour of victims of crime besides enacting new provisions.

15) **e-Judiciary:** "We should assess the potential of e-judiciary. Computerization of the Supreme Court, High Courts and Subordinate Courts is essential for the development of e-judiciary system. From the time of registration to the judgment, the entire processing must take place electronically. This will enable easy research, retrieval, grouping, information, processing and disposal of cases in a transparent manner and enable quicker disposal of cases. At any time the complainant should be able to find out the status of the case, which court, what subject will be dealt with by the court during a particular hearing so that the litigant is fully prepared for the case. The judges can also see the progress of the case. The number of adjournment sought, whether the grounds are trivial or serious and so on. In certain courts e-judiciary system has already started functioning; it has to be extended to all the courts in the country up to district level."42 The Government has approved connecting all the 15,000 courts from District Courts to the Supreme Court – through a wide area network. This is a very important step and it should be completed through a mission mode and time-based operation.

16) **Two Work Shifts:** Judiciary needs to manage its current resources of men, money and material in a better way with less time and effort. Two work shifts should be introduced – morning and evening. To cope with the emergent situation of meeting the requirement of two shifts, the retired judicial officers and retired subordinate staff can be engaged as a temporary measure. Pro-tem presiding and prosecuting officers along with skilled staff should be recruited. “In U.S. over 90% cases are settled in the lawyers’ chambers by direct negotiation. Pro-tem judges, prosecutors, employees

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41 Dr. A.P.J. Abdul Kalam, 'The Hon’ble President of India: Scope of Judiciary: Towards speedy dispensation of Justice.' Published in The Tribune 19 November, 2006 p.12
42 ibid
keep the door of justice open in case regular staff are on leave. The judiciary helps itself in mobilizing its own finances.")43

For speedy and accountable justice the bare needs to propose changes in the law to the authorities now instead of protesting afterwards.

According to Mr. Santokh Singh Sahi 44 the state governments and High Courts should prepare lists of competent advocates to work on contract as judges and prosecutors as and when required. Para-legal schools are needed to train court and allied staff for quick disposal. Bail bond agencies should furnish attested bail/surety bonds. Probation officers should assist the court in sentencing and its execution. The victim should be heard for proper punishment and compensation. Rehabilitation centers will allow convicts avoid jail by doing community service and pay for attending classes for future good behaviour. India can also be benefited by adopting the system of Judicial Administrative Commission.

17) Hostile Witnesses:- - Another problem is the menace of hostile witnesses which is making mockery of our criminal justice system. Jessica Lal murder case, and Best Bakery Case in the recent past are glaring examples of this menace. In almost all cases involving influential people having political or bureaucratic backup, witnesses normally resile. Thus defeating the very purpose of justice. All the witnesses in Jessica Lal murder case, turned hostile and accused acquitted. Every one including Judge knew that murder was committed and who was the murderer in Jessica case but because of high profile dignitary involved in the case no one dared to come forward and speak the truth. The Judge had to acquit the accused. Trial continued for several years. What a mockery of our system! It was only after media coverage and public outrage that re-trial was ordered and ultimately accused Manu Sharma was convicted. Had media not covered it, the accused would have been roaming freely.

The same happened in Best Bakery Case,45 star witness Zahira Sheikh turned hostile; many times she changed her statements, all witnesses turned hostile leading to acquittal of the accused. With the efforts of National Human Rights Commission re-

43 'Quickening the pace of justice’ Article by Santokh Singh Sahi published in The Tribune January 21, 2006
44 Administrator of Indo-American Law Centre California, U.S.A.
45 Zahira Abdullah Sheikh V. State of Gujarat 2006 Cri.LJ 1694 (popularly known as Best Bakery case)
trial of this case was ordered. Zahira was sentenced to undergo simple imprisonment for one year and to pay cost of rupees 50,000.00 for the contempt of Supreme Court by making false statements.

During while interaction with Magistracy it was found that very cumbersome procedure is provided in criminal justice system to prosecute the hostile witnesses as the complaint has to be made as per section 195 of Criminal Procedure Code by the Magistrate before whom the false evidence is given. To avoid unnecessary embracement to which the witnesses are subjected during Examination-in-Chief and Cross Examination, the Magistrate prefers not to initiate proceeding under section 193 of Indian Penal Code against hostile witnesses. There is a need for making it more easier procedure by making necessary changes in the Criminal Procedure code. The following changes may be considered that:-

a) Evidence by Magistrate on affidavit be taken as sufficient.

b) Magistrate should not be made to appear as a witness.

c) Summary procedure should be provided by making it day to day proceedings in such cases.

d) Punishment in such cases should be enhanced in order to make a deterrent for the witnesses to resile.

18) Witness Protection Laws:- It is therefore suggested that witness protection laws should be enacted so that no one can be pressurized to make false statements. Severe punishment and heavy fine should be imposed for hostile witnesses as Supreme Court has set an example in Best Bakery case. Modern state is welfare state and it is the duty of the State to remove poverty, illiteracy, unemployment so that citizens are not forced to do unlawful activities for the sake of money. Witness plays an important role in a trial. If there is no witness how we can think of conviction of the criminals and ultimately victims of crime won’t be able to get justice. In November 2002, the Nation Institute of Criminology and Forensic Science and the Central Bureau of Investigation organized a two day seminar jointly. During the seminar there was a general consensus that many witnesses turn hostile and retract their statement as they are influenced, intimidated or pressurized, resulting in failure of many cases in the court. In his valedictory address, Mr. Justice Arjit, Pasayar,
Judge, Supreme Court of India, remarked, “Unfortunately we do not have a witness protection system which results in failure of several cases in the courts. The participants of the seminar were of the view that there should be a proper law to protect the witnesses and the law in this regard should be structured on the pattern of similar laws that exist in many developed countries. Hence this aspect should be taken into account by the legislature.

19) **Compensation as a Form of Punishment under Section 53 of the Indian Penal Code:** — Compensation or reparation to the victims of crime, be included as a form of punishment under section 53 of Indian Penal Code 1860, in addition to the existing provision under the criminal procedure code 1973, so that victims of crime could get due justice.

20) **Compensation to Victims of Sexual Assault**: As suggested by the Supreme Court in Delhi Domestic Working Women’s Forum,”46 Criminal Injuries Compensation Board be constituted for the award of compensation for victims of sexual assault, whether or not a conviction has taken place. A comprehensive scheme should be provided for the purpose in consultation with the All India National Women Commission and various All India Woman Organizations. The budget allocation for the welfare of rape victims has been slashed by nearly 85% from the previous financial year. A comparison of budget estimates over the year shows that the allocation for the relief and rehabilitation of rape victims has fallen from Rs.53.30 crore in the 2009-10 Union Budget to Rs. 36.2 crore in 2010-11 to a mere Rs.7.5 crore in the 2011-12 budget outlays.47

21) **A Comprehensive Scheme for Compensation to the Victims of Crime:** While Human Rights Organizations and NGOs vociferously plead for the rights of the accused and the courts generally adopt soft attitude towards criminals,48 no one pleads for the rights and privileges of the victims and show sympathy and concern for the plight of the innocent sufferers of violence. It is high time that a comprehensive law termed as “Victims of Crime Act”, structured on the basic principles of justice for victims of crime and abuse of power, enumerated by the Seventh United Nation crime

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47 http://articles.timesofindia.indiatimes.com  
congress and approved by the UN General Assembly, is enacted in India. This alone will ensure adequate amelioration of victims of crimes.

The National Commission to Review the Working of the Constitution (2000) has pointed out that the case for a viable, social justice-oriented and effective scheme for compensation to victims is now widely felt and the government at the union level and the state level are well advised under the directive principles as well as under international human right obligations to legislate on the subject for an effective scheme of compensation for victims of crime without further delay.

22) **Rape Crisis Centres:** Many survivors of rape feel that the criminal justice system does not meet their needs; the woman often feels as victimized by the police and court processes as she does by the initial act of violence. Sometimes women are even blamed for their own attacks. In response to the plight of these women the first Rape Crisis Centre (RCC) was opened in 1976 in London, and there are now many such centres in Britain. Female survivors of rape or other assaults can attend rape crisis centres. These centres operate by means of telephone ‘hotline’ or drop-in centres. They allow woman to make their own decisions about, e.g., reporting to the police or visiting a psychiatrist or other health professional. The centres offer emotional support as well as legal and medical information. Such type of Rape Crisis Centres should be established by the Indian government to help the victims of rape. In number of cases Supreme Court directed to give protection and assistance to the victims of rape. In Landmark judgment of the apex court in this regard is Delhi Domestic Working Women’s Forum v. Union of India and Ors, in which Supreme Court, highlighted the ordeals of victims of rape and defects in the present criminal law system vis-à-vis victims of rape and outlined a set of broad parameters to assist them. One of them is that the complainants of sexual assault cases should be provided with legal representation. It is important to have someone who is well acquainted with the criminal justice system. The role of the victim’s advocate would not only be to explain to the victim the nature of the proceedings to prepare her for the case and to assist her in the police station and in the court, but to provide her with guidance as to how she might obtain help of a different nature from other agencies, for example, counseling through medical assistance. It is important to secure continuity of

assistance by ensuring that the same person who looked after the complainant’s interests in the police station, represents her till the end of the case. 50

23) **Assistance to Victims and Witnesses:** The system should provide for protection of victims and witnesses being harassed by perpetrators. In addition, prosecutors may establish “vertical prosecution units,” to maintain caseloads of one type of victimisation from the initial filing of charge sheets through disposition. This relatively new approach to administering justice would streamline the criminal justice system, for the victims.

24) **Information about Individual Case Status:** The prosecutor-based victim assistance programmes could provide a number of services. The most important of these are appropriate notification programmes regarding the status of the case and the delays that often occur in the progress of a criminal prosecution. Although prosecutors are not the “victim’s counsels,” they have opportunities to keep victims informed and involved, to provide appropriate accommodations in the pre-trial and court settings, and to follow-up with information and referral, as needed. These opportunities should include, but are not limited to:

- Providing notification of case status at key stages of the criminal justice system.
- Sponsoring witness alert programs to place witnesses on “stand-by” to come to court appearances, thus saving victims time and money.
- Coordinating witness appearances, i.e. scheduling witnesses, providing witness expenses and accommodations for out-of-town witnesses, as well as assistance with transportation.
- Providing educational and accompaniment programmes to familiarise victims with the courtroom.
- Providing a waiting area for victims and witnesses and their families in the courthouse that is separate by sight and sound from the offender. These areas must be “child-friendly,” safe and secure.
- Offering assistance to victims in completing victim compensation applications.

50 The Supreme Court also re-asserted these parameters in Bodhisattwa Gautam v. Miss Subhra Chakraborty AIR 1996 SC 922.
• Coordinating the inclusion of victim impact information, i.e. written statements, allocution, and oral or written statements, into court proceedings.

25) **Facilitating Victim Participation:** Ordinarily the limited resources and overwhelming workload motivate the prosecutors to dispose of cases early through various methods. Such a tendency often comes into direct conflict with the needs and desires of the individual victims. The law should provide for consultation with victims at this stage for their psychological satisfaction.

26) **Education about the Needs and Rights of Victims:** Victim sensitivity training should be provided to all criminal and juvenile justice professionals, as part of mandatory orientation and continuing educational programmes. Such training should include, but not be limited to:

• The scope of crime and victimisation.

• The trauma of victimisation, with an emphasis on responses that are unique to different types of victims.

• Victims’ rights accorded by constitutional, statutory and policy mandates.

• The short-term and long-term needs of victims (physical, financial and psychological) with a focus on importance of appropriate referrals for follow-on assistance.

• Awareness about cultural diversity and sensitivity.

• “Cross training” is essential to improve the delivery of services to victims within the criminal justice system. Just as service providers want criminal justice system officials to be knowledgeable and consistent in their enforcement of victims’ rights, likewise the criminal justice system officials want victim advocates to understand the scope and processes of the criminal justice system.

27) **Role of the Judiciary:** Judges can provide essential protections to victims. e.g. when a case involves a child, to make the courtroom less intimidating to him the judge can pass appropriate orders like victim could testify through close circuit television or the defence counsel should lower himself to the child’s eye level and should keep his voice low. In case of child victims cross examination should be through questions handed over by the defence to the judge. Judge can also expedite
trials so as not to further victimise the crime victim due to additional delays during an already difficult process specially in cases of sexual abuse of children. Judge can deny such motion by the defence which is clearly aimed at offending the victims. It is important that while assessing appropriate sentences the judge should include information regarding the impact of the crime on the victim. Such information should be furnished through the prosecutor-based victim assistance programme, the probation officer, or another official source, and could be referred to as a Victim Impact Statement. It is often the only comprehensive assessment of the injuries caused by the offender available to the judge; it is crucial that this information be conveyed to the sentencing court.

28) Allied Professionals:- In addition to the core criminal justice system professionals discussed above, various allied professionals have a significant impact on the criminal justice system response to needs and expectations of the victims specially women and child victims. These include, but are not limited to:

- **Medical personnel:** Doctors, nurses and other hospital personnel provide tremendous assistance to victims of crime against women and children. In addition to police officers, medical personnel, are commonly the first ones to come into contact with crime victims who have experienced some form of injury. In their roles, they are uniquely suited to make careful documentation of the condition of the victim and objectively report these findings.

The immediate and appropriate treatment of the victim is paramount however, appropriate documentation in the course of treatment, also provides useful information for prosecutors and victims in forwarding legal actions against the perpetrators. Of particular importance is the use of appropriate evidentiary collection kits to gather information in sexual assault cases for later evidentiary use at trial. This needs to be done sensitively, but competently, so that the trauma of the rape examination is minimised and evidence is accurately collected. Two finger test, in case of medical examination of rape victim is no longer admissible in court which is a welcome step.
• Mental Health Service Providers: Mental health professionals are often involved in providing testimony at trial regarding the impact of crime on victims. In addition to treating victims, mental health professionals are expert in the evaluation of the effect of trauma on victims. They are useful specially in cases of sexual abuse of women. The courts heavily rely upon these allied professionals to make determinations regarding the damages and injuries incurred by the victims. Thus their opinions and services have important ramifications for the investigation and referral by law enforcement, the handling of cases in prosecutor’s office, and sentences handed down by judges.

• Child Protection Professionals: Child protection officials have a significant role in cases involving child abuse and neglect. It is important that the child protection official cooperate in developing the best investigation report possible for presentation at trial. As almost all victims of crime may require some medical, mental health or other social services intervention, the coordination of these efforts within and complimentary to the criminal justice system is crucial to providing the most victim-centered, victim-oriented criminal justice system response possible.

29) Rights of the Victim:- Like accused the victim should be given certain rights. Following rights should be given to the victims of crime.

a) Participation in Criminal Justice Proceedings: The victim should have the locus standi to attend the trial, sentencing, probation and/or the parole proceedings and a right to submit the oral or written statements at stages such as:

• Hearings on bail or pre-trial release of the offender
• Composition of offences
• Post-trial relief or release hearings
• Probation hearings
• Commutation or pardon hearings.
b) **Notification of the Stages in the Criminal Process**: This may not only include notification to the victim of scheduled criminal proceedings and their outcomes, but also advance notice of proceedings where the victim has the right to attend and/or make a statement, as well as when hearings have been cancelled and rescheduled. The right to be notified is a crucial right, because without it victims cannot adequately pursue their other rights.

c) **Notification of other Legal Remedies**: Victims may also have the right to be informed of the option to sue the offender for money damages and to collect witness fees. In the event of threats, bribes, or other attempts to persuade or intimidate witnesses into testifying untruthfully, to forget, or not to be available, victim should have the right to report it immediately to the police.

d) **Notification of Employer and Creditors**: At the request of the victims or the witnesses, the Public Prosecutor should inform their employers that their cooperation in the investigation and prosecution of the case may necessitate transitory absence from work. At their request, he can also contact their creditors to seek their consideration if the victims are unable, temporarily, to continue payments as a result of the crime.

e) **Confidentiality of Records**: Unlike many other criminal cases, police and court records are not public record if they involve a juvenile or if the case deals with sexual assault or rape. These records are usually only available to the counsels and parties to the case.

f) **Speedy Trial**: Usually, this Constitutional right is used as a tactic by defence counsels to rush the prosecution to court before they have all their ducks in a proverbial row. But it’s a double-edged weapon and victim too has a right to a speedy trial.

g) **Return of the Victim’s Property**: The victim has a right to prompt return of his personal property seized from the offender, including photos, clothing, recordings, letters etc. The victims should also have the right to the offenders’ profits from the sale of the story of the crime.
h) **Victim Impact Statement (VIS):** One of the most significant rights of crime victims is the right to submit VIS that includes crucial information about the short and long-term psychological, financial, physical and emotional effects of a crime on victims. Impact statement provides victim with a voice that should be heard by court, as well as probation, parole and correction officials. VIS also often improves victims’ overall opinions of the justice system. In research conducted in USA by Mothers Against Drunk Driving, two-thirds (66%) of victims who were given the opportunity to present written VIS were “satisfied” with the criminal justice system. For those victims who were not allowed to submit VIS, three out of four (75%) were “dissatisfied” with the criminal justice system as a whole.

30) In the present increasing crime scenario, law may be amended, as in all woman atrocity cases, where it is well proved “Onus of proof should lie on accused to proved himself as innocent” In the present changing situation, our Hon’ble Apex Court recently observed that “any exaggerated devotion to benefit of doubt is dis-service to society”.

31) In the present welfare oriented government programmes like “Jawahar Yojana” and prime ministers’ Rozgar Yojana”, victim woman be given priority for rehabilitation. The management of working women hostel, girls hostel and hostel girls of SC/ST are not proper. There is rampant corruption and even news come out with allegation that some managing superintendent of hostel are indulging these girls in prostitution. Government should tackle the situation with iron hands. In the increasing crime scenario, our government, judiciary and voluntary organizations should work hand in hand with sincerity and dedication to control women victimization in our society. Above all a change in social attitude and out look toward women is of utmost importance, which can minimise these offences to a large extent.

Multidisciplinary efforts of all entities that comprise the criminal justice system are mandatory to ensure a seamless delivery of rights and services to victims of crime specially the women and child victims. With the efforts of literati and submission of some reports like report of the Law Commission and report of the Malimath Committee, the victim protection compulsions have attained considerable
attention. But these suggestions demand major changes in the system as well as the psyche. On the same lines, the prerequisite for the success and effectiveness of such innovative programmes is the widest possible publicity by media.

Nothing can be achieved by making policies only unless each individual accepts its responsibility towards society and co-operates with the government in implementation. If the existing provisions providing benefit to the victims of crime are implemented effectively, more than half of their problems will be over.

Hence providing crime victim its due place in criminal justice system, recognizing his/her interests, restores him/her in society is the need of the hour. For - “If we take the justice out of the criminal justice system we leave behind a system that serves only the criminals.”

Some of the suggestions given may involve financial liabilities on the part of the State and States may not be in a position to sponsor all programmes at one go. It is therefore further submitted that the suggestions can be implemented in phased manner and a liberal central assistance be provided to make these programmes successful.

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CASE STUDY

1. **Name and address of the victim.**
   Nirmala (Name Changed in view of Judgment of the Hon’ble Supreme Court passed in case State of Punjab Vs Gurmeet Singh, AIR 1996, SC, 1393.)
   Address:- d/o Sh. Kuleshwar Paswan, r/o Kisan Basti, Ward No.-1, Nilokheri, Karnal.

2. **Offence committed against her.**
   Offence of kidnapping, abducting and rape under sections 363, 366 & 376 (2) (g) of IPC.

3. **Facts in brief.**
   On 3-5-2002 at about 7:00 pm, when I was at in my home and my parents were away for cutting wheat crops. There was a dust storm. Accused Surja, Surat Lal, Shiv Dutt Sharma and Lull Chand came to my hut. Suraj had a knife with him. All the four accused took me forcibly to the hut of Surat Lal. Accused Surja asked Surat Lal, Lull Chand and Shiv Dutt Sharma to remain outside the hut. Accused Suraj committed sexual intercourse with me after closing the door. Thereafter, other accused also committed rape upon me one by one and kept me to different places till 9-9-2002. On 9-9-2002 accused Suraj Bhan was arrested and I was rescued at Panipat from his custody.

4. **Was any FIR got registered, if yes, what were the particulars of FIR.**

5. **Who lodged the FIR?**
   My mother lodged the FIR.

6. **What was the age of the victim at the time of commission of offence.**
   15 years at the time of commission of offence.

7. **Educational qualification of victim.**
   Nil
8. Whether the Victim is married / unmarried?
   Unmarried

9. If married, do you have children?
   NA

10. What is the impact of crime on your children?
    NA

11. Whether living with your parents or in your in-law’s family?
    Living with parents at the time of commission of offence.

12. Whether your family is nuclear or joint family?
    My family is nuclear family.

13. Are you living in rural or urban area?
    I am living in urban area.

14. Do you have independent source of income. If, no, who supports you?
    My father supports me.

15. How you commute to the court and how much time it take to reach the court?
    I used to travel by bus and it took around 45 minutes to reach Karnal from my place of residence.

16. What was the attitude of the investigating authorities towards the victim?
    The investigating authority was not co-operative and supportive. The investigating officer had helped the accused by presenting challan against accused Suraj Bhan only, whereas the allegations were against the other accused also for committing gang rape.

17. What was the attitude of the family members / community.
    My family members had given me moral support and accompanied me during trial at courts. However, the community used to look towards me as hatred person who is fighting against system unnecessarily and I had to face taunts usually in courts.

18. What was the attitude of the defence counsel.
    Defence counsel’s attitude was totally in favour of accused and tried to tarnish my image in court during evidence.
19. **What was the attitude of the court towards the victim?**
The attitude of the court was supporting and soft towards me.

20. **Do you find the Criminal Justice System co-operative / helpful? If, no why?**
The Criminal Justice System is co-operative but requires some modifications from the point of view of victim. The judges conducting trial in the cases of offence against women should be a female, so that the victim can not feel humiliated in the court room.

21. **What are the weak points which must be addressed for improvements?**
The judges conducting trial in the cases of offence against women should be a female, so that the victim can not feel humiliated in the court room. Further the trial must actually be conducted in camera.

22. **Were you satisfied with the manner in which trial proceedings conducted?**
Not fully satisfied, except that the attitude of the court was supporting and soft towards me, but the other part was humiliating and disgusting. The Id. court had not convicted the other accused who were also involved in this offence.

23. **Were you given all the details of trial in Vernacular language?**
Yes.

24. **Did you ever at any stage contemplated quitting or compromising with the offender. If, yes, why?**
Due to tiring and long trial and humiliating questions inside the court room, I was fad up with the system of trial against the accused.

25. **Were the accused ever offered money for withdrawing the case?**
No.

26. **Was there any pressure from community / family / accused to withdraw the case.**
No

27. **What was the duration of trial and final judgment?**
It took around one year after the presentation of challan against the accused to conclude the trial despite the fact that the trial was conducted by a Fast Track Court.
28. **Are you satisfied with the punishment given to the accused in your case?**
   No. The court had wrongly acquitted the other accused. Moreover, the sentence of SurajBhan is also on the lower side as the accused had totally ruined my future life.

29. **If the accused convicted, did he/ she appealed against conviction?**
   Yes, the accused had filed appeal against conviction in the Hon’ble High Court.

30. **If the accused acquitted, what was the reaction of victim?**
   NA

31. **What is your approach towards compensation to the victim and other protective measures?**
   I do not know about any such policy. However, if the govt or court would have given me some compensation, then it would be really helpful for me.

32. **What are the suggestions for improving the system?**
   The victims should be given some compensation. During trial also the victim should be given transport expenses to visit court.
CASE STUDY

1. Name and address of the victim.
   Sunita (Name Changed in view of Judgment of the Hon’ble Supreme Court passed in case State of Punjab Vs Gurmeet Singh, AIR 1996, SC, 1393)
   Address:- d/o Omparkash r/o Village Sismor, PS Sadar, Kaithal.

2. Offence committed against her.
   Offence of attempt to commit rape under sections 376 & 511 IPC.

3. Facts in brief.
   On 1-3-05 at about 5:00 pm, when prosecutrix aged about 13 years, had gone to the house of her friend Angrejo to ask for Rs. 4/- which she had lent to her, accused Sardara aged about 60 years, who is father of Angrejo, took her inside one of the rooms on the pretext of returning the said amount and molested there and tried to commit rape upon her. The prosecutrix started weeping. At that time two sisters of the prosecutrix reached the house of the accused and they rescued her from the accused.

4. Was any FIR got registered, if yes, what were the particulars of FIR.
   FIR No.-92, Dated 2-3-2005, u/s 376 r/w 511 IPC, PS Sadar, Kaithal.

5. Who lodged the FIR?
   My father lodged the FIR.

6. What was the age of the victim at the time of commission of offence.
   13 years at the time of commission of offence.

7. Educational qualification of victim.
   Studying in 6th standard at the time of commission of offence and thereafter studied upto 10th class.

8. Whether the Victim is married / unmarried?
   Unmarried

9. If married, do you have children?
   NA
10. What is the impact of crime on your children?
NA

11. Whether living with your parents or in your in-law’s family?
   Living with parents at the time of commission of offence.

12. Whether your family is nuclear or joint family?
   My family is joint family.

13. Are you living in rural or urban area?
   I am living in rural area.

14. Do you have independent source of income. If, no, who supports you?
   My father supports me.

15. How you commute to the court and how much time it take to reach the court?
   I used to travel by bus and it took around 30 minutes to reach Kaithal Distt. Court from my place of residence.

16. What was the attitude of the investigating authorities towards the victim?
   The investigating authority was not co-operative and supportive.
   The investigating officer had helped the accused.

17. What was the attitude of the family members / community.
   My family members had given me moral support and accompanied me during trial at courts. Community members and neighbors also supported me.

18. What was the attitude of the defence counsel.
   Defence counsel’s attitude was totally in favour of accused and tried to tarnish my image in court during evidence.

19. What was the attitude of the court towards the victim?
   The attitude of the court was supporting and soft towards me.

20. Do you find the Criminal Justice System co-operative / helpful? If, no why?
   The Criminal Justice System is co-operative but requires some modifications from the point of view of victim. The complainant or victim’s statement should be recorded by the police at their residence without any harassment.
The victim should be examined in isolated court room, so that the victim can not feel humiliated in the court room.

21. What are the weak points which must be addressed for improvements?
The child victims should be given homely atmosphere while deposing in court. The child victims should also be provided psychological and trauma support facilities. The judges conducting trial in the cases of offence against women should be a female, so that the victim can not feel humiliated in the court room. Further the trial must actually be conducted in camera.

22. Were you satisfied with the manner in which trial proceedings conducted?
Not fully satisfied, except that the attitude of the court was supporting and soft towards me, but the other part was humiliating and disgusting.

23. Were you given all the details of trial in Vernacular language?
Yes.

24. Did you ever at any stage contemplated quitting or compromising with the offender. If, yes, why?
Due to tiring and long trial and humiliating questions inside the court room, I was fad up with the system of trial against the accused.

25. Were the accused ever offered money for withdrawing the case?
No.

26. Was there any pressure from community / family / accused to withdraw the case.
No.

27. What was the duration of trial and final judgment?
It took around one year four months after the presentation of challan against the accused to conclude the trial.

28. Are you satisfied with the punishment given to the accused in your case?
No. The punishment awarded is on the lower side as the accused had totally ruined my future life.

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29. If the accused convicted, did he/she appealed against conviction?
Yes, the accused had filed appeal against conviction in the Hon’ble High Court.

30. If the accused acquitted, what was the reaction of victim?
NA

31. What is your approach towards compensation to the victim and other protective measures?
I don’t need any compensation, however, still if the govt or court would have given me some compensation, then it would be really a support to the victims like me.

32. What are the suggestions for improving the system?
The complainant or victim’s statement should be recorded by the police at victim’s residence without any harassment.
1. **Name and address of the victim.**
Divya Yadav (Name Changed in view of Judgment of the Hon’ble Supreme Court passed in case State of Punjab Vs Gurmeet Singh, AIR 1996, SC, 1393
Address:- d/o Kailash Yadav, r/o #375, Gali No-6, Muslim Mohalla, Karol Bagh, Delhi.

2. **Offence committed against her.**
Offence of rape under sections 376 IPC.

3. **Facts in brief.**
The prosecutrix aged about 43 years, was residing and running her parlour business in Gurgaon. On 05-07-2007, the accused Rajender Singh s/o Sh. Lal Singh, r/o Village Joniawas, PS Farrukhnagar, Distt. Gurgaon had visited her house and committed rape upon her by offering her intoxicated Pepsi drink when she was all alone in her house.

4. **Was any FIR got registered, if yes, what were the particulars of FIR.**
FIR No.-106, Dated 05-07-2007, u/s 452, 376 IPC, PS-Farrukhnagar, Gurgaon.

5. **Who lodged the FIR?**
Victim herself lodged the FIR.

6. **What was the age of the victim at the time of commission of offence.**
43 years at the time of commission of offence.

7. **Educational qualification of victim.**
Studied upto 10th class.

8. **Whether the Victim is married / unmarried?**
Married

9. **If married, do you have children?**
No

10. **What is the impact of crime on your children?**
NA

11. **Whether living with your parents or in your in-law’s family?**
Living alone as my husband had expired long back.
12. Whether your family is nuclear or joint family?
   My family is nuclear family.

13. Are you living in rural or urban area?
   I am living in urban area.

14. Do you have independent source of income. If, no, who supports you?
   I am running a beauty parlour.

15. How you commute to the court and how much time it take to reach the court?
   I used to travel by bus and it took around 1 ½ hour to reach Gurgaon Distt. Court from my place of residence.

16. What was the attitude of the investigating authorities towards the victim?
   The investigating authority was not co-operative and supportive.
   The investigating officer had helped the accused.

17. What was the attitude of the family members / community.
   There is no family member in my family to support me. Community members and neighbors, however, supported me.

18. What was the attitude of the defence counsel.
   Defence counsel’s attitude was totally in favour of accused and tried to tarnish my image in court during evidence.

19. What was the attitude of the court towards the victim?
   The attitude of the court was totally negative towards me. The ld. Trial Court has even threatened me of dire consequences if I do not make statement in court despite my inability to depose due to my health problem, as I am suffering from Breast Cancer and I am unable to stand for a long time in court due to weakness.

20. Do you find the Criminal Justice System co-operative / helpful? If, no why?
   The Criminal Justice System is not victim friendly. The complainant or victim’s statement should be recorded without any harassment.

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The victim should be examined through video conferencing.

21. **What are the weak points which must be addressed for improvements?**

The victim should be given an opportunity as per her choice for deposing in court. The victim should also be provided medical facilities and other facilities like separate sitting arrangements and proper police protection from the accused in case the accused threatens the victim. The judges conducting trial in the cases of offence against women should be a female, so that the victim feels comfortable in the court room. Further the trial must actually be conducted in camera.

22. **Were you satisfied with the manner in which trial proceedings conducted?**

Not satisfied, the court proceedings were humiliating and disgusting.

23. **Were you given all the details of trial in Vernacular language?**

Yes.

24. **Did you ever at any stage contemplated quitting or compromising with the offender. If, yes, why?**

No.

25. **Were the accused ever offered money for withdrawing the case?**

No.

26. **Was there any pressure from community / family / accused to withdraw the case.**

No

27. **What was the duration of trial and final judgment?**

Trial is not complete even after passing of two years after the presentation of challan against the accused.

28. **Are you satisfied with the punishment given to the accused in your case?**

Trial is still going on.

29. **If the accused convicted, did he/ she appealed against conviction?**

NA.

30. **If the accused acquitted, what was the reaction of victim?**

NA
31. **What is your approach towards compensation to the victim and other protective measures?**

Compensation must be given to the victims of crime, specially to women victims. As in my case, there is nobody to support me in my family. My parlour business is also affected because of going to court on each and every date. Even my health problems are not allowing me for continuing such a tiring schedule. There is no financial support to me from the side of the govt. However, the state is providing best facilities to the accused out of State’s exchequer.

32. **What are the suggestions for improving the system?**

The complainant or victim’s statement should be recorded by the police at victim’s residence without any harassment.
CASE STUDY

1. **Name and address of the victim.**
   
   Ajit Kaur d/o Sh. Randhir Singh r/o Village Binjhole, Distt. Panipat

2. **Offence committed against her.**
   
   Offence of Cruelty and offence of Bigamy under sections 498A and section 494 of IPC.

3. **Facts in brief.**
   
   I (complainant) was married with Sh. Harender Nain s/o Sh. Hari Singh, r/o 203, Housing Board Colony, Narwana, Jind since 12-11-1997. My parents had spend huge money, which was beyond their capacity, on my marriage. The accused were not satisfied with the dowry given in marriage, hence, soon after the marriage, the accused persons started harassing and beating me for bringing less dowry. No child was born out of this wedlock, hence, the accused also used to call me a barren lady. On 02-01-2005, the accused persons gave me a severe beating and turned me out of their house. On 10-03-2005, my husband Harender Nain married another lady namely Jaswinder Kaur, without taking divorce from me. On 4-12-2005, when I went to their house to take back my dowry article, these persons again gave me beatings and refused to hand over the dowry articles to me. Hence, I preferred the FIR.

4. **Was any FIR got registered, if yes, what were the particulars of FIR.**
   
   FIR No.-186, Dated 5-12-2005, u/s 323, 342, 494 & 506 r/w 34 IPC, PS-City, Narwana.


5. **Who lodged the FIR?**
   
   Victim herself lodged the FIR.

6. **What was the age of the victim at the time of commission of offence.**
   
   33 years at the time of commission of offence.
7. **Educational qualification of victim.**
   Studied upto Post-Graduation.

8. **Whether the Victim is married / unmarried?**
   Married

9. **If married, do you have children?**
   No.

10. **What is the impact of crime on your children?**
    NA

11. **Whether living with your parents or in your in-law’s family?**
    Living with parents.

12. **Whether your family is nuclear or joint family?**
    My family is joint family.

13. **Are you living in rural or urban area?**
    I am living in rural area.

14. **Do you have independent source of income. If, no, who supports you?**
    I am dependent upon my father.

15. **How you commute to the court and how much time it take to reach the Court?**
    I used to travel by bus and it took around 30 minutes to reach Court from my place of residence.

16. **What was the attitude of the investigating authorities towards the victim?**
    The investigating authority was not co-operative and supportive.
    The investigating officer had helped the accused.

17. **What was the attitude of the family members / community.**
    My family members had supported me. However, the Community members and neighbors taunted me for not having children.

18. **What was the attitude of the defence counsel.**
    Defence counsel’s attitude was totally in favour of accused.
19. **What was the attitude of the court towards the victim?**

The attitude of the court was neutral. The Id. Trial Court is taking too much time to complete the trial. The trial is going on for the last 5 years and has not reached upto it’s conclusive end till date.

20. **Do you find the Criminal Justice System co-operative / helpful? If, no why?**

The Criminal Justice System is not victim friendly. The delay in disposal of the case is equivalent to harassing the person who knocks the door of the Court for redressal of her grievances.

21. **What are the weak points which must be addressed for improvements?**

The courts are overburdened and it causes delay in disposal of cases. To my mind, the courts should use latest technology to examine the witness and for appearance of the complainant, this would save the precious time of the courts as well as the litigating parties.

22. **Were you satisfied with the manner in which trial proceedings conducted?**

Not satisfied, the court proceedings were too slow.

23. **Were you given all the details of trial in Vernacular language?**

Yes.

24. **Did you ever at any stage contemplated quitting or compromising with the offender. If, yes, why?**

No.

25. **Were the accused ever offered money for withdrawing the case?**

No.

26. **Was there any pressure from community / family / accused to withdraw the case.**

No.

27. **What was the duration of trial and final judgment?**

Trial is not complete even after passing of five years after the presentation of challan against the accused.
28. Are you satisfied with the punishment given to the accused in your case?
   Trial is still going on.

29. If the accused convicted, did he/she appealed against conviction?
   NA.

30. If the accused acquitted, what was the reaction of victim?
   NA.

31. What is your approach towards compensation to the victim and other protective measures?
   Compensation must be given to the victims of crime, specially to women victims. As in my case I am dependent on my father who is an old man. Interim maintenance should be of such amount to meet the needs of the victim. There is no financial support to me from the side of the govt. Government should provide free transport facilities to the victims.

32. What are the suggestions for improving the system?
   Number of Judges should be increased.
CASE STUDY

1. **Name and address of the victim.**

2. **Offence committed against her.**
   Offence of Cruelty and Dowry Death u/s 498A, 304B, 34 of IPC.

3. **Facts in brief.**
   That the sister of the complainant - Jasbir Singh, namely Poonam (deceased) was married with Sh. Ashok Kumar s/o Sh. Mange Ram, r/o H. No.- 2137/4, Rajeev Nagar, Gurgaon on 07-03-2005 by spending money beyond their capacity and by giving a lot of dowry articles in the marriage. Soon after the marriage the accused persons started harassing and beating the complainant’s sister for bringing less dowry. Complaint was made by complainant’s sister to him and his mother when she visited to her parental house. Complainant’s family sent her sister back to her matrimonial home after persuing her to adjust in her matrimonial home. On 31-05-2006, at about 8 or 8.30 am, the accused persons called complainant at his residence on the telephone at his residence and informed that the dowry articles are being sent back. After about 30 to 40 minutes, father-in-law of Poonam (deceased) informed through telephone that Poonam (deceased) has hanged herself on ceiling fan and committed suicide. The complainant reached the matrimonial home of Poonam (deceased) and found that her sister has committed suicide by hanging herself on the ‘koonda’ of ceiling fan because of harassment by her in laws for bringing less dowry.

4. **Was any FIR got registered, if yes, what were the particulars of FIR.**

5. **Who lodged the FIR?**
   Brother of Poonam (deceased) lodged the FIR.

6. **What was the age of the victim at the time of commission of offence.**
   25 years at the time of commission of offence.
7. Educational qualification of victim.
   M.A., B.Ed.

8. Whether the Victim is married / unmarried?
   Married

9. If married, do you have children?
   No.

10. What is the impact of crime on your children?
    NA

11. Whether living with your parents or in your in-law’s family?
    At the time of death victim was living with her in-laws family.

12. Whether your family is nuclear or joint family?
    Victim was living in joint family at the time of her death.

13. Are you living in rural or urban area?
    Victim was living in urban area at the time of her death.

14. Do you have independent source of income. If, no, who supports you?
    Victim was teaching in a coaching centre before her death.

15. How you commute to the court and how much time it take to reach the Court?
    Complainant used to travel by bus and it took around one and half hour to reach Court from his place of residence.

16. What was the attitude of the investigating authorities towards the victim?
    The investigating authority was not co-operative and supportive. the investigating officer did not have even time to listen to the complainant.

17. What was the attitude of the family members / community.
    The family members and community members had supported the complainant.

18. What was the attitude of the defence counsel.
    Defence counsel’s attitude was totally in favour of accused.

19. What was the attitude of the court towards the victim?
    The trial court did not grant bail to the accused persons. But the High Court granted bail to the father-in-law and mother-in-law.
20. Do you find the Criminal Justice System co-operative / helpful? If, no why?
The Criminal Justice System is not victim friendly. Because of defective investigation the accused persons escaped from the clutches of law.

21. What are the weak points which must be addressed for improvements?
The role of the investigating agency is many fold. There should be a separate wing for investigating the crime in police department. Strict action must be taken against the investigating officer for defective investigation.

22. Were you satisfied with the manner in which trial proceedings conducted?
Not satisfied, courts are over burdened, no time to dispose of the cases in a speedy manner.

23. Were you given all the details of trial in Vernacular language?
Yes.

24. Did you ever at any stage contemplated quitting or compromising with the offender. If, yes, why?
No.

25. Were the accused ever offered money for withdrawing the case?
No.

26. Was there any pressure from community / family / accused to withdraw the case.
No

27. What was the duration of trial and final judgment?
Trial was completed after four years after filing of challan by the police.

28. Are you satisfied with the punishment given to the accused in your case?
Not satisfied, trial court acquitted the accused persons except husband of the deceased.

29. If the accused convicted, did he/ she appealed against conviction?
Yes.
30. If the accused acquitted, what was the reaction of victim?
Complainant totally disappointed by the judgment of the court.

31. What is your approach towards compensation to the victim and other protective measures?
Death of a person can’t be compensated by giving money to the heirs of the deceased. State must provide protection to the women.

32. What are the suggestions for improving the system?
Investigation should be conducted by an independent authority other than police. Investigation authority must be such which is out of reach of the accused persons. Cases which involve the women and children should be disposed off on priority basis.
CASE STUDY

1. Name and address of the victim.

2. Offence committed against her.
   Offence of Rape and Outraging the Modesty of a Woman u/s 376, 354 of IPC.

3. Facts in brief.
   Victim on 21.9.2003 at about 9:00a.m. went to the fields of Nathu Singh, Sarpanch which was taken on lease by her husband and ‘chari’ crop was sown in it. When she was cutting the crop, accused Sukhdev Singh caught hold of her from backside and threw her on the ground. He tore her shirt and broke the string of her salwar and he forcibly committed rape upon her against her wishes and consent. Victim resisted and sustained some injuries on both her arms and back. She raised alarm and her husband who was cutting maize crop in a nearby field came there. On seeing him, the accused ran away. Later on some other persons also came to the spot. She narrated the entire incident to her husband and both of them went to the police post, Barwala Distt. Panchkula to lodge a FIR.

4. Was any FIR got registered, if yes, what were the particulars of FIR.

5. Who lodged the FIR?
   Victim along with her husband lodged the FIR.

6. What was the age of the victim at the time of commission of offence.
   40 years at the time of commission of offence.

7. Educational qualification of victim.
   Illiterate
8. Whether the Victim is married / unmarried?
   Married

9. If married, do you have children?
   Yes, having three children.

10. What is the impact of crime on your children?
    Children felt ashamed and did not talk to anybody in the village.

11. Whether living with your parents or in your in-law’s family?
    At the time of commission of offence victim was living with her in-laws family.

12. Whether your family is nuclear or joint family?
    Victim was living in nuclear family at the time of commission of offence.

13. Are you living in rural or urban area?
    Victim was living in rural area at the time of commission of offence.

14. Do you have independent source of income. If, no, who supports you?
    No, my husband supports me.

15. How you commute to the court and how much time it take to reach the Court?
    Complainant used to travel by bus and it took around one hour to reach Court from his place of residence.

16. What was the attitude of the investigating authorities towards the victim?
    The investigating authority was not co-operative and supportive. The victim was medico-legally examined on the next day. Victim did not report to the higher authorities regarding non action on her complaint because she had been called by the police for a week regularly to the police station. The investigating officer did not investigate the case properly. Later on FIR was cancelled. Then victim filed a complaint in the court.

17. What was the attitude of the family members / community.
    The family members had supported the victim. However, the Community members and neighbors had taunted the victim for registering a FIR against a fellow villager.
18. What was the attitude of the defence counsel.
Defence counsel’s attitude was totally in favour of accused.

19. What was the attitude of the court towards the victim?
The trial court acquitted the accused on charges of offence of rape but convicted him for outraging the modesty of a woman.

20. Do you find the Criminal Justice System co-operative / helpful? If, no why?
The Criminal Justice System is not victim friendly. Because of defective investigation the accused person was punished for minor offence.

21. What are the weak points which must be addressed for improvements?
Victim does not give any answer of this question.

22. Were you satisfied with the manner in which trial proceedings conducted?
Not satisfied.

23. Were you given all the details of trial in Vernacular language?
Yes.

24. Did you ever at any stage contemplated quitting or compromising with the offender. If, yes, why?
No.

25. Were the accused ever offered money for withdrawing the case?
No.

26. Was there any pressure from community / family / accused to withdraw the case.
People of my village put pressure on me to withdraw the case against a co-villager.

27. What was the duration of trial and final judgment?
Cancellation report was submitted on 3.11.2003 before the Illaqa Magistrate, which was accepted on 7.2.2004. Later on victim filed a complaint in the court. The court after going through the preliminary evidence on record as well as perusing the case file held that a prima facie case was made out against
the accused for which he was summoned under sections 376 and 354 IPC on 31.10.2006. Case was decided on 24.7.2008. And court convicted the accused under section 354 IPC, sentenced him 2 years rigorous imprisonment.

28. Are you satisfied with the punishment given to the accused in your case?
   Not satisfied, accused was convicted for minor offence.

29. If the accused convicted, did he/she appealed against conviction?
   Accused appealed against conviction.

30. If the accused acquitted, what was the reaction of victim?
   NA

31. What is your approach towards compensation to the victim and other protective measures?
   Compensation must be given to the victims of crime, specially to women victims. I am a poor lady and was harassed for 5 years for getting justice and accused was fined only 200 rupees. I did not get any thing from the State Government.

32. What are the suggestions for improving the system?
   Compensation should be given to the victims.
CASE STUDY

1. Name and address of the victim.
   Geeta Devi d/o Sh. Ishwer Singh.
   Address:- Village Nissing, Distt. Karnal.

2. Offence committed against her.
   Offence of demand of dowry & criminal intimidation u/s 498-A, 304-B r/w 34 IPC.

3. Facts in brief.
   The victim, Geeta Devi, was married with Surinder Singh on 27-06-2004. Her father had spent about two lacs in marriage and had given sufficient dowry. She was maltreated from the first day of her married life for bringing less dowry. After about three-four months of the marriage, she was thrown out of her matrimonial house after severe beating and harassment on account of demand of dowry. The in-laws of Geeta Devi were demanding Rs. 50,000/- in the name of purchase of plot at Karnal. The father of Geeta Devi handed over Rs. 20,000/- and requested the in-laws of Geeta Devi to keep his daughter nicely and not to harass her. But the accused started demanding Golden Rings for her mother-in-law and father-in-law and more money for construction of the house. The parents of the victim again requested the accused not to harass their daughter and managed Rs. 10,000/- for giving her in-laws and paid the same to them. On 16-05-2005 at about 7/7.30 am the father of the victim had a telephonic discussion with the victim and then also the victim was apprehending danger to her life and requested that she should be taken away from the matrimonial house. The father of the victim assured her of coming soon and taking her back to the parental home. At about 8.30 am on the same day, accused Surinder Singh intimated that Geeta Devi is not well and is in serious condition. The parents of victim along with other family members immediately reached to the matrimonial house of Geeta Devi and found their daughter lying dead in the varanda. They enquired and found that Geeta Devi had consumed poison i.e. Alminium Phospite (celphos) due to the harassment caused to her by her in-laws.
4. Was any FIR got registered, if yes, what were the particulars of FIR.

5. Who lodged the FIR?
   Victim’s Father i.e. Ishwer Singh lodged the FIR.

6. What was the age of the victim at the time of commission of offence.
   20 years at the time of her death.

7. Educational qualification of victim.
   Studied up to 8th class.

8. Whether the Victim is married / unmarried?
   Married

9. If married, do you have children?
   No

10. What is the impact of crime on your children?
    NA

11. Whether living with your parents or in your in-law’s family?
    Victim was living with her in-laws family at the time of her death.

12. Whether your family is nuclear or joint family?
    My family is joint family.

13. Are you living in rural or urban area?
    I am living in rural area.

14. Do you have independent source of income. If, no, who supports you?
    Victim was dependent on her husband.

15. How you [Victim,s father (Complainant)] commute to the court and how much time it take to reach the court ?
    I used to travel by bus and it took around 1 hour to reach court from my place of residence.

16. What was the attitude of the investigating authorities towards the victim/complainant?
The investigating authority was not co-operative and supportive. The investigating officer was rude and treated us like beggers.

17. What was the attitude of the family members / community.
Community members and neighbors supported me.

18. What was the attitude of the defence counsel.
Defence counsel’s attitude was totally in favour of accused and tried to save the accused persons from punishment.

19. What was the attitude of the court towards the victim?
Court took the serious note of the dowry death.

20. Do you find the Criminal Justice System co-operative / helpful? If, no why?
The Criminal Justice System is totally accused oriented. The complainant or victim’s has no say in the proceedings, totally dependent upon the mercy of police and public prosecutor.

21. What are the weak points which must be addressed for improvements?
Death punishment should be given in case of dowry death.

22. Were you satisfied with the manner in which trial proceedings conducted?
Not satisfied, endless waiting for the conclusion of the trial and in the end, court gave less punishment to the accused persons.

23. Were you given all the details of trial in Vernacular language?
Yes.

24. Did you ever at any stage contemplated quitting or compromising with the offender. If, yes, why?
No.

25. Were the accused ever offered money for withdrawing the case?
No.

26. Was there any pressure from community / family / accused to withdraw the case.
No.

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27. What was the duration of trial and final judgment?
Trial was concluded within a period of two years after the presentation of challan against the accused.

28. Are you satisfied with the punishment given to the accused in your case?
Not satisfied with the punishment given to the accused persons.

29. If the accused convicted, did he/she appealed against conviction?
Yes.

30. If the accused acquitted, what was the reaction of victim?
NA

31. What is your approach towards compensation to the victim and other protective measures?
Compensation should be given to the victims and their dependents. Transport facilities, proper sitting arrangement for the victims and other witnesses should be provided in the court room.

32. What are the suggestions for improving the system?
Make the system victim friendly.
CASE STUDY

1. Name and address of the victim.
Address:- r/o Servant Quarter of Kamla Nehru Park, Gurgaon.

2. Offence committed against her.
Offence of rape u/s 376 IPC.

3. Facts in brief.
The victim, Kajol, aged 3 years, playing in garden outside their room in Kamla Nehru Park, when the accused namely Harkesh s/o Sh. Mool Chand, r/o Village Sangel, PS Nuh, Distt. Mewat, forcibly took her inside the room. The victim started crying and her sister namely Sajini rushed to her father, who was irrigating the plants in that park and informed him. He immediately rushed to the said room and found the accused raping his prosecutrix daughter at that time. The blood was oozing out from the vagina of his daughter. The accused was apprehended at the spot itself and the police was called by dialing phone no.-100 and thereafter, accused was handed over to the police.

4. Was any FIR got registered, if yes, what were the particulars of FIR.
FIR No.-197, Dated 14-04-2010, u/s 376 IPC, PS-Gurgaon City, Distt. Gurgaon.

5. Who lodged the FIR?
Victim’s Father i.e. Bahdur s/o Sh. Bablu lodged the FIR.

6. What was the age of the victim at the time of commission of offence.
3 years at the time of commission of offence.

7. Educational qualification of victim.
Not studying.

8. Whether the Victim is married / unmarried?
Unmarried
9. If married, do you have children?
N.A.
10. What is the impact of crime on your children?
N.A.
11. Whether living with your parents or in your in-law’s family?
Victim is living with her parents.
12. Whether your family is nuclear or joint family?
Victim’s family is a nuclear family.
13. Are you living in rural or urban area?
Victim is living in an urban area.
14. Do you have independent source of income. If, no, who supports you?
NA
15. How you commute to the court and how much time it take to reach the court?
Victim used to travel by auto riksha and it took around 40 minutes to reach Gurgaon Distt. Court from the victim’s place of residence.
16. What was the attitude of the investigating authorities towards the victim?
The investigating authority was co-operative and supportive.
17. What was the attitude of the family members / community.
Community members and neighbors showed their sympathy and supported the family of the victim.
18. What was the attitude of the defence counsel.
Victim was not examined as a witness because of her tender age. Defence counsel contended that non-examination of the victim is fatal to the prosecution.
19. What was the attitude of the court towards the victim?
Attitude of court is supportive and soft towards the victim.
20. Do you find the Criminal Justice System co-operative / helpful? If, no why?
Victim’s father answered this question in affirmative. Police was reached at the spot of incidence On receipt of a telephonic message from the control....
room, IO with two constables reached the Kamla Nehru Park and apprehended the accused on the spot, recorded the statement of victim’s father and send the victim for medical examination, getting the place of occurrence photographed and performing other acts of investigation at the spot he had taken the accused to the police station and put him behind the bars. Court has awarded the accused imprisonment for life. Hence the Criminal Justice System is cooperative, helpful and supportive.

21. What are the weak points which must be addressed for improvements?
   Victim’s father did not give any answer to this question

22. Were you satisfied with the manner in which trial proceedings conducted?
   Victim’s father is satisfied with the court proceedings.

23. Were you given all the details of trial in Vernacular language?
   Yes.

24. Did you ever at any stage contemplated quitting or compromising with the offender. If, yes, why?
   No.

25. Were the accused ever offered money for withdrawing the case?
   No.

26. Was there any pressure from community / family / accused to withdraw the case.
   No

27. What was the duration of trial and final Judgment?
   Trial was completed within six months after the presentation of challan against the accused.

28. Are you satisfied with the punishment given to the accused in your case?
   Yes

29. If the accused convicted, did he/ she appealed against conviction?
   Yes
30. If the accused acquitted, what was the reaction of victim?
   NA

31. What is your approach towards compensation to the victim and other protective measures?
   Compensation should be given to the victims of crime.

32. What are the suggestions for improving the system?
   Child victim should not be called in the court complex for evidence.
CASE STUDY

1. **Name and address of the victim.**

Ashu Rajpal @ Diksha d/o Sh. Ram Kishore Rajpal, w/o Sh. Anukul, r/o C-5037/30, Rajendra Park, Gurgaon

2. **Offence committed against her.**

Offence of demand of dowry and criminal intimidation u/s 498-A, 323 and 506 IPC.

3. **Facts in brief.**

The marriage of the complainant was solemnized with Sh. Anukul s/o Sh. Mohan Lal, r/o H. No.-63, Viewers Colony, Near Shiv Mandir, Panipat on 20-08-2000. Her parents had spend Rs. 5 Lacs approx. in her marriage and all the dowry articles were given. From this marriage a male child ‘Mayur’ and a female child ‘Ishika’ was born. The in-laws of the complainant were not happy with dowry given in her marriage. She was harassed and humiliated on numerous occasions. On 10-02-2003, the mother in law i.e. Nanki Devi and her husband Anukul had mixed the poison in the food of the complainant but she was saved due to timely medical help by neighbors. The accused persons felt sorry in Hospital and assured to mend their ways, hence, the case was not registered in police. However, the accused gradually came to their previous behavior and on 4-9-2005, the mother-in-law and brother-in-law of the complainant beat the complainant and her husband left the complainant to her parental house. After waiting for three and half month, on 7-12-2005, when father of the complainant went to her in-laws family to request them to keep the complainant with them. There the in-laws of the complainant humiliated the father of the complainant but due to the intervention of the neighbours, the complainant was allowed to live with her husband. Thereafter, the in-laws of the complainant started demanding money. On 27-08-2009, again the in-laws of the complainant beat the complainant. She was admitted to the Civil Hospital, Gurgaon due to merciless beating by the accused persons. However, the police in collusion, did not take any action against the accused persons on any complaint of the complainant. The complainant had also filed complaint
before the Protection Officer, Gurgaon under the Protection of Women from Domestic Violence Act, 2005.

4. **Was any FIR got registered, if yes, what were the particulars of FIR.**

5. **Who lodged the FIR?**
   - Victim lodged the FIR.

6. **What was the age of the victim at the time of commission of offence.**
   - Victim was 20 years at the time of marriage and cruelty starts after some time of marriage.

7. **Educational qualification of victim.**
   - Studied up to Graduation level.

8. **Whether the Victim is married / unmarried?**
   - Married

9. **If married, do you have children?**
   - Yes, having two children.

10. **What is the impact of crime on your children?**
    - Victim’s in-laws forcefully took the children from her and they are living without their mother in their tender age when they required the company of both parents.

11. **Whether living with your parents or in your in-law’s family?**
    - I am living with her parents.

12. **Whether your family is nuclear or joint family?**
    - My family is joint family.

13. **Are you living in rural or urban area?**
    - I am living in urban area.

14. **Do you have independent source of income. If, no, who supports you?**
    - I am dependent on my husband.

15. **How you commute to the court and how much time it take to reach the court?**
    - I used to travel by bus and it took around 1 hour to reach court from my place of residence.
16. What was the attitude of the investigating authorities towards the victim/complainant?

The investigating authority was not co-operative and supportive.

17. What was the attitude of the family members/community?

Community members and neighbors have supported me.

18. What was the attitude of the defense counsel?

Defense counsel’s attitude was totally in favor of the accused.

19. What was the attitude of the court towards the victim?

Victim filed an application under section 12 of the Protection of Women from Domestic Violence Act, 2005 and court was in favor of the victim and satisfied that domestic violence has been committed by the respondents and granted the victim interim relief.

20. Do you find the Criminal Justice System co-operative/helpful? If, no why?

The Criminal Justice System is accused oriented. But the Protection of Women from Domestic Violence Act, 2005 is helpful and protective towards the women victims of domestic violence.

21. What are the weak points which must be addressed for improvements?

The Criminal Justice System should give more protections to the victims of crime than accused persons.

22. Were you satisfied with the manner in which trial proceedings conducted?

I am a little bit satisfied but proceedings are still going on.

23. Were you given all the details of trial in Vernacular language?

Yes.

24. Did you ever at any stage contemplated quitting or compromising with the offender? If, yes, why?

No.

25. Were the accused ever offered money for withdrawing the case?

No.
26. Was there any pressure from community / family / accused to withdraw the case.
   No

27. What was the duration of trial and final judgment?
   Proceedings are still going on.

28. Are you satisfied with the punishment given to the accused in your case?
   NA

29. If the accused convicted, did he/she appealed against conviction?
   NA

30. If the accused acquitted, what was the reaction of victim?
   NA

31. What is your approach towards compensation to the victim and other protective measures?
   Compensation should be given to the victims.

32. What are the suggestions for improving the system?
   Victims should give right of participation in the proceedings.