Conclusion
and
Suggestions
Chapter- 10

Conclusion & Suggestions

The basic subjects of this thesis are Immorality, Crime, Weaker Section and Role of Human Rights Commission.

In Immorality conclude that all evils which are not moral are immoral. Immorality cannot be defined alone; it is always defined with morality and moral principles. So it is clear that Immorality is always defined with morality not alone.

There is no Statutory definition of morality and immorality.

The word illegal has been defined in Section 43 of the IPC and not word legal and therefore what is legal is known by test of illegality i.e. anything which does not come within definition of illegal can be said to be legal.

By analogy the same test can be applied to immorality. The different provisions of law which talk of what is morality or what acts are moral but not of what is immorality or what acts are immoral. Hence anything or any act which does not come within morality or moral acts can be said to be immoral or immoral acts.

In same way immorality is also not defined in any laws but it can be described with morality as well as moral principles.

The word immoral is applicable to everything which is yet not to be treated as crimes and torts are not protected in laws. So immorality is evil, where person is bound to do moral activity then contrary to this duty became immoral.

Crimes are those contrary to the criminal law and on other hand the acts and omissions & which are punishable by law are crime.

Weaker sections are those groups who are discriminated, dominated and hated by strong section of the society and live their life inferior to them.
Main categories of weaker sections are as:-

<table>
<thead>
<tr>
<th>Weakness</th>
<th>Category</th>
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<tr>
<td>Weaker by age</td>
<td>Old persons, Children</td>
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<tr>
<td>Weaker by sex</td>
<td>Women and Eunuch</td>
</tr>
<tr>
<td>Weaker by Caste</td>
<td>ST/SC &amp; OBC</td>
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<tr>
<td>Economically Weaker</td>
<td>Poor, Beggars</td>
</tr>
<tr>
<td>Mentally Weak</td>
<td>Unsound mind, lunatic</td>
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Crimes and immoralities with weaker sections are common. Maximum crimes are against them only, rarely with others. All the crimes which are defined in IPC and other laws are easily committed with them due to their weakness. They are dominated and discriminated so easily and become the victims of any crime.

Committing the crimes against weaker sections by strong sections comfortably, by using their powers which either gain by their castes, economically or strong by age and as a man.

All laws including Constitution provided the provision for them at large but the condition of them is as it is. Some provisions are got succeeded like untouchability & slavery have been abolished. Sati Pratha has been abolished too. They are in realistic manner getting succeeded. But their crimes against weaker section are struggling for their removal. If we talk about the offences which are defined in IPC are difficult to remove but may reduce.

Today crimes against weaker sections are increasing instead of decreasing. Several laws are framed and related with crimes but the condition became worst.

All crimes are immoral but all immoralities are not crimes. Remaining immoralities are struggling for law to regulate them.

Tort clearly defines that breach of legal right and duties are tort but moral right and duties are not covered in this subject.
So the remaining immoralities which are not included in crime as well as not in torts have no law to regulate it.

In our country there is no law for the immoralities like humiliation, degrading behaviour and of course for telling lies so they wear cloth of immorality only and secured by laws.

Immoralities and crimes against weaker section differ from section to section. Rape, abortion, molestation, dowry, sati, etc. are occurred with women only while child labour, kidnapping with children only.

Weaker by castes are facing different immoralities than other weaker section.

In all the crimes are punishable by law or at least a person who belongs to weaker section can be tried in court, laws are the doors to go to court for the remedies. But immoralities which have no place in crimes as well as in torts are still as it is. They having no laws, no doors to knocking for justice from courts so the condition in the matters of immoralities have become worst.

Human rights are placed above all laws; laws are bounded in territorial boundary of country but Human Right beyond the law covered whole world. Human Right is basic right which is held by only human being by birth. Universal declaration of Human Right, 1948 defines 30 Human Rights for Human. Human Rights are global rights: they are spread in whole world. A Human Right of a person is always with him even he moved country to country on the other hand laws are territorial and belong to one nation only.

Constitution has secured the fundamental rights for the citizen of India which are described in chapter III and Articles 14 to 32. Some Articles like Article 21 is also for non citizen. All Fundamental Rights are not Human Rights. Some Directive Principles of State Policies are also included in Human Right. So for inclusion of all Human Rights Indian Government framed the law on Human Rights known as The Protection of Human Right Act, 1993, which is enshrined under Article 51 of the Constitution.
The procedure for establishment of National Human Right Commission and State Human Right Commission provides under this Act. The Main function of this National Human Right Commission and State Human Right Commission is to protect and secure the Human Rights of the person. Human Rights are those rights which are defined in universal declaration of Human Rights, 1948. Human Rights courts are also framed under this Act which are having the power of Session court.

Securing and protecting the Human Rights of weaker sections of our country through National Human Right Commission, State Human Right Commission and Human Right courts. They exercise their power on suo moto and are on of the side of aggrieved person. After the establishment of this Act, National Human Right Commission and State Human Right Commission from 1992 to till now help in many cases. With the efforts of National Human Right Commission and State Human Right Commission weaker sections of the society are still struggling for their dignity and rights.

**Main observations of this thesis are as:-**

The Independent India witnessed many forces of social change particularly towards women. Realizing the sufferings and hardships of women, the Government of India passed many legislations to remove the injustice done to women. These legislations paved the way for the upliftment and progress of women. Constitution of India guaranteed the equality of sex and special favour to women (Article of 14, 15, 16, of our Constitution). Besides the Constitutional guarantee, the Government also passed much social legislation for the welfare of women.

Constitution provides various provisions for the weaker sections of the society and laws are also enacted for the same. Criminal and Civil Laws also have provided the provision for such categories. Major laws which are enacted for weaker sections of the society are as follows:
Laws framed for weaker by castes are as:-

The Protection of Civil Rights Act, 1955
The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

So many laws for women & children are enacted and law's for Parents and Senior Citizens are.

- Dowry Act, 1961
- The Commission of Sati (Prevention) Act, 1987
- The Immoral Traffic (Prevention) Act, 1986
- Pre-Natal Diagnostic Act, 1994
- Domestic Violence Act, 2005
- The Maternity Benefit Act, 1961
- The National Commission for Women Act 1990
- The Prohibition of child Marriage Act, 2006
- Equal Remuneration Act, 1976
- Labour Acts
- The Juvenile Justice (Care and Protection of Children) Act, 2000
- The Commission for Protection of Child Rights Act 2005
- The Maintenance and welfare of Parents and Senior Citizen Act, 2007

Families and Labour laws are also provided provision for women and children or old person such as;

- Hindu Marriage Act 1955
- The Hindu Adoptions and Maintenance Act, 1956
- The Hindu Succession Act, 1956
- Hindu Minority and Guardianship Act, 1956
- The Muslin Women (Protection of Rights on Divorce), Act, 1986
- The Indian Christian Marriage Act, 1872
- Parsi Marriage and Divorce Act, 1936
- The Indian succession Act, 1925
Women’s Associations: A number of Women’s Association in India and Tamil Nadu in particular are working for the cause of empowering women. The most popular associations are the Women Indian Association, All Indian Women’s Conference, and National Council for Women in India, Democratic Women’s Association and Pennurimai Iyakkam. Apart from this the non governmental voluntary organisations like Lions Club and Rotary Club and Inner Wheel Club are also working hard for the empowerment of women.

Human Rights law is enacted for securing and protection of Human Rights.

The Protection of Human Right Act, 1993

In 1995 women from all over the world gathered at Beijing the Capital of China with the message “Women’s Rights are Human Rights” and Human Rights are Women’s Rights”

Immoralities with women such as:-

- Inequalities among the family as well as in the society.
- Sexual relationship with other than own wife
- Restriction on self decision in family
- Restriction on freedom in family
- Sexual Harassment of working women

Immoralities with children such as:-

- Burden of studies
- Engage them in work instead of education
- Discrimination among the female and male child
- Comparison among the children

**Immoralities with other weaker sections such as:-**

- Humiliation
- Discrimination
- Degrading behaviour

Inhuman behaviour remains without laws. So such Immoralities are in realistic manner need to be legalised.

The main immorality is that the sexual relationships with woman other than his own wife, or a kept mistress or rakhel who is not wife of any person. There is no provision for such Act in our laws so it may be treated as immorality only.

In Sakshi Dev Sharma V/s Kanchan Prabha Devi AIR 1991 SC 816, Hon’ble Supreme Court held that Saptpadi is necessary in Hindu Rite of any Hindu Marriage. In present case appellant convicted for second marriage under section 494 of IPC by Trial Court. Appellant filed appeal before Supreme Court and it was allowed. Supreme Court held that there is no proof of necessary Rite like Saptpadi in second marriage which has only orally said that appellant lives as a husband wife with Namita Ghosh and the judgment of the Trial Court reversed.

It clearly shows that this kind of behaviour is not treated as crime but it can be considered as an immorality Live-in relationship is a relation where the man can live with any women without marriage she is either married or unmarried

Immorality is shown in every relation, in India the concept of live-in is new but is the most immoral one.

The proposal of Maharastra Government for amendment in definition of wife will increase the practice of immorality. It is not at all to be permitted
to be legalized the live-in relationship because it will lead to downfall of society.

During research one more subject has come to be known is a weakest of the weaker section.

Weakest of the weaker sections are those person who already belong to any of the category of weaker section and followed by other weaker sections too.

For example; Women and children or old persons who already belong to weaker sections such as weaker by sex, weaker by age respectively and followed at the same time by weaker by castes, economically weaker and mentally weaker so they become weakest of the weaker section.

With respect to the basic subject of our thesis special reference to women and children who also belong to the category of weakest of weaker section.

As they belong to the double categories the weaker of the weakest sections are living their lives more miserable than their groups and they need comparatively more protection as well.

Now the observations of this thesis are related with the following subjects;

- Immorality
- Crimes
- Weaker Sections
- Women and Children
- Weakest of the Weaker Sections
- Human Rights Commission

The role of Human Rights Commission is comprehensive one, but their effectiveness is not as much effective.

Justice Gulab Gupta explains Human Rights Commission’s autonomy and independence through his Article Human Rights Commissions and their effectiveness;
The Act secures appointment of persons of known status, proven ability and long experience by a committee consisting of persons equally high in status and ability. Once members, including chairperson, are appointed, they work in accordance with the provisions of the Act and not under any one by his or her sweet will. The procedure for their removal is almost the same as in relation to a judge of the Supreme Court. The Commission's finances are subject to audit by the Comptroller and Auditor General of India and hence there is financial autonomy also. The commission is authorised to develop its own procedure UIS 10 (2) of the Act which indicates its working independence also. Because of these provisions the Supreme Court in *Paramjit Kaur's Case AIR 1999 SC 340*) held it to be an expert investigative body. It is thus possible to hold that these Commissions are, in terms of law, autonomous and independent.

But in actual practice, the autonomy and independence of these Commissions is a myth, for the following reasons viz.

(i) Administrative control of the Commission through an IAS Secretary General or the Secretary working with Central or the State Government.

(ii) Investigation in relation to complaints of human rights violations being done by police officials working under the control of an IPS Officer belonging to the cadre;

(iii) Posting of staff required for efficient performance of Commissions' work to be done by the central Government UIS 11(2) in relation to National Commission and U/S 27 (2) in relation to State Commission;

(iv) Exclusive privilege of the Central and the State Governments to fix quantum of financial grant to be given to the Commission, there being no Statutory guideline given in the Act for the purpose;
(v) Controlling financial expenditures of the Commission by extra judicial means; and

(vi) Ignoring reports and recommendations of the Commission by not tabling the same in the parliament or the State legislature.

Aforesaid article of Gulab Gupta clears those powers of NHRC provided by PHRA, 1993 are not much sufficient then how can commission perform well. After study of the above Acts conclude that crimes are covered in various laws and penalised to criminal but the immoralities which are defined in this thesis or which are not covered in are not punishable by laws. Laws are yet not framed for them. So it is keen to frame to laws for such immoralities.

Can these some immoralities which are not crimes as well as not torts be punishable by law or may law be framed for it? Same as to crimes.

But here question is raised that “Do laws play their role in crime truly?” Laws which are already framed really sufficient for weaker section?

If law in unable to justify their role then it is also immoral. All laws are decorating the shelf of Almirah only having no use. Weaker are weaker. There is no real enforcement of the laws which are related to such section. Laws not only to be made but to be executed too. In our country laws are not executed for weaker section in reality but it the slave of strong section in many matters such as white collars crimes are the best example for the same.

In many cases in our country master took advantage of the weaker such as their servant made them guilt on his place for some financial help. Many such cases are silent and such persons also fear to explain this immorality.

Laws are many times not helping the weaker section. The present laws are not sufficient to check the crime against weaker section. Various mode of a justice are available but benefits are unavailable various modes like writ petition, Public Interest Litigation etc. but their decision are directory in nature so not much effective.
Suggestions

1. The immoralities which need to be treated as punishable crime and it should be punishable by law. Laws are not only framed for it, but executed too.

2. Where the laws are tried to achieve the comprehensive area in the field of crime then also should be tried to execute as well in right manner.

3. Weaker sections are also the part of our society so to frame the Act for the strong section for the respect of the weaker section. Same as to Civil Right Protection Act for other matter also.

4. Women and Children are really sensible part of the society. They are Succeeded to attract laws towards them also. But the strict execution for this laws is must to Human Rights Commission through their investigation with suo motu is required here in realistic manner.

5. Power given to the Human Right Commission for their execution for their investigation. In our country there are many ways for Justices like writ petition, public Interest Litigations etc. Where the Human Right Commission power, autonomy and independence are only myth, they need power to give decision and help to weaker section. They depend on governments for their decision.

6. The procedure of the court should be made easy for weaker section as Well as for Human Rights Commission.

7. Direction relating to the weaker section should be mandatory not directory.

8. There should be a separate investigatory team to investigate the crimes and immoralities against the weaker section.

9. There should be a separate law for the Eunuchs and their category is also requires judicial activation.
10. The present law should be strictly applicable and implemented.

11. Government should promote the Social Institution, Non Government Organisation and Paralegal Services for weaker sections. Government should provide the sufficient funds for the welfare of the weaker section and also constituted the committee to watch the creativity of such institution investigation.

12. There should be amendment and a clear cut provision for punishment for keeping Rakhel in laws where it is suitable.

13. State should use their power as provided in Article 15(3) of the Constitution in the case of children where they are suffering through over burden of studies and their bags and the provisions should be made for it.

14. Government should provide the better livelihood to beggars and encourage them to do work instead of begging and also make provision for the rehabilitation through employment.

15. Parliament should frame a Code of Conduct for all the citizens of the country to remaining immoralities through which senior citizen, women, children, eunuchs and other weaker section of the society can live their life respectfully.

16. Telling lie should be strictly punishable in provisions of law.

17. A lot of load is there on the existing divisions of National Human Rights Commission therefore they are unable to perform well. New divisions are required for better performance of such commissions.

18. State should strive to reduce or even abolish the Live-in relationship and make clear-cut provision to provide appropriate justice for suffering women.