



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN



WHITE BLACK
LEGAL.

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal

– The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK
LEGAL

EDITORIAL **TEAM**

Raju Narayana Swamy (IAS) Indian Administrative Service **officer**



Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru

and a professional diploma in Public Procurement from the World Bank.

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB , LLM degrees from Banaras Hindu University & Phd from university of Kota.He has succesfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.



Senior Editor

Dr. Neha Mishra



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; Ph.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St.Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.



Dr. Rinu Saraswat

Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



Subhrajit Chanda

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US



WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

GLOBALIZATION: ITS IMPACT ON CRIMINAL JUSTICE SYSTEM VIS-À-VIS VICTIMS OF RAPE IN INDIA

AUTHORED BY – CHANDINI CHOWDARY R.

Designation – Ph.D. Research Scholar

Institution – Dr. B.R. Ambedkar College Of Law, Andhra University, Visakhapatnam

I. INTRODUCTION

“Today we see enormous changes being brought about by science. The whole context of life is changing. As a matter of fact, looking back at the last half century with which I have been more or less connected – and some of you also – we see that enormous changes have been brought about chiefly by science and technology. This pace of change is growing and I have no doubt that another fifty years or even twenty five years hence, you will see even greater changes – not merely in space research, but something affecting human life. In order to participate in this movement, you have to build yourself up in the scientific and technological spheres”¹.

Law keeps changing with the change in the society and hence law is always considered to be dynamic in nature and not static. Law is the very foundation which binds the society and the judiciary, as one of the machineries plays a very vital role in interpretation of the law for the purpose of a greater good to the society². The implementation of science and technology in the process of investigating and detecting crime as well as for the purpose of administering the justice is not a concept which is new to India³. Despite this, many individuals in the society are still not aware of the fact that science and technology plays a very prominent role for the purpose of identifying crime and also criminals. The region of its operation is very vast and extensive.

Crime has been deep rooted in the human society since time immemorial. The need for law and different kinds of regulations has been felt when crime has become imbibed in the human society. With the growth and also the development of the society, the ingredients and the very nature of the crime had also undergone a lot of changes. Globalization can be regarded as a

¹5, JAWAHARLAL NEHRU’S SELECTED SPEECHES 145 (3rd ed., Publications Division, New Delhi, 1996).

²This is a philosophy propounded by Jeremy Bentham and John Stuart Mill.

³28 B.B. NANDA & R.K. TIWARI, FORENSIC SCIENCE IN INDIA : A VISION FOR THE TWENTY FIRST CENTURY 172 (Select Publication, New Delhi, 2001).

major factor which played a dominant role in bringing about these changes.

1.1 Globalization and Crime

The term “Globalization” is not new. It was first introduced in the year 1904 in French and later in the year 1930 it appeared in English. It has been interconnected with important areas of change such as in language, market, culture, economics and traditions. Different people perceive globalization in different manner. Say, for example, for some individuals it might mean the exchange of language, people, ideas and products around the world. Others might see it as the domination by the multinational corporations, also popularly known as MNCs and the annihilation of the cultural uniqueness.

From political level, the process of liberalization and deregulation has resulted in a very clear impoverishment of the state and a general supposition is that all the states should become democratic and that they should also be able to secure proficient governance over their individuals. At an economical level, globalization is seen to be associated with a trend for the purpose of increasing the liberalization of the economy. This is clearly reflected in the area of free trade as well as financial markets which have been deregulated.

The transnational corporations have been making use of the profit making motive in order to guide their industries towards developing nations in a pursuit to search for the cheap female labour.⁴ These corporations prefer female labour against male labour because they consider women as someone who would be readily willing to obey the demands of the production for any price and they are also considered as docile workers. In case of developing countries, certain forms of work, like assembly of the garments are quite often regarded as one of the extensions of household chores performed by the female. Therefore, it can be clearly seen that influences on the culture in case of developing countries plays a huge role in bringing about an impact on the stratification of the employment. In the social fabric of these societies a spontaneous change has been created due to higher demand for rendering employment opportunities to women.

Many researchers in fields such as sociology, economics, and anthropology among others have

⁴Nazreen Bacchus, *The Effect of Globalization on Women in Developing Nations* (Nov. 12, 2019,10:30AM),<http://www.aucegypt.edu/src/globalization/Documents/effect%20of%20glob%20on%20women.pdf>.

obtained an empirical data to establish the effects of globalization on the position of women and the state of affairs of the families especially in these developing countries. It was observed that there has been a very prominent increase in violence against the women more importantly after globalization. According to a study, structural adaptation policies resulted in the unemployment of large proportion of men which has in turn led to an increase in their frustration levels, a fear of insecurity due to loss of job and tension due to which the women had to bear the social cost⁵. Not just this, crime records have also indicated a steep increase in rape, torture, molestation, dowry deaths and sexual harassments⁶. Criminals have also started adapting to new techniques and procedures for the purpose of committing the crimes.

1.2 Globalization and Criminal Justice System

Thus, to be on par with this, the judiciary also sought the help of various methods and advancements in the science. For example, the recent outcry by the public following the heinous gang rape of a young woman in national capital of India was a turning point in a country which is considered to be the largest democracy in the world⁷. It triggered a huge and a widespread support from the public as well as the political sector for the purpose of strengthening the law so as to punish the sexual offenders. Following this, the legislators have come up with amendments in the existing laws in such a way that it would deter the individuals from committing such heinous offences⁸. They have also brought tremendous changes in the criminal justice system in sexual assault cases such as rape so that it would not violate the rights of the accused and at the same time it would also uphold the dignity of the victim who is been examined. For this, the courts have mainly relied upon various developments in forensic science which are taking place across the world.

The field of forensic science is also changing very rapidly due to the advancements in technology and also the methods. Digital forensics, a latest development in the field of forensic science encompasses the investigation as well as the recovery of the material constituted in digital devices more often in relation to crimes related to computers⁹. Even over here, it is

⁵9 Kumkum Sangari, *Violent Acts : Cultures, Structures and Retraditionalisation*, WOMEN OF INDIA : COLONIAL AND POST-COLONIAL PERIODS, 181 (Bharati Ray ed., Centre For Studies In Civilization, New Delhi, 2005).

⁶*Ibid.*

⁷State v. Ram Singh & Ors., AIR 2014 SC 1649.

⁸Amendments were brought about in the Indian Penal Code, 1860, Indian Evidence Act, 1872 and the Code of Criminal Procedure, 1973 through the Criminal Law (Amendment) Act, 2013 which came into force as a result of the Nirbhaya Case also popularly known as the Delhi Gang Rape Case.

⁹B. Carrier, *Defining digital forensic examination and analysis tools*, 23 (Digital Research Workshop II, 2001).

globalization which can be considered to have played a key factor. Globalization has brought about much advancement in the forensic science. The use of High Performance Liquid Chromatography, 3D Computer Imaging, DNA tests, Mass Spectrometry and other advanced technologies both in case of digital and medical evidences have been resorted to by the scientists in the recent times for the purpose of reconstructing the offence. The contemporary forensic science has the ability to differentiate between organic materials and trace elements down to the level of only a few hundred molecules¹⁰.

Forensic scientists are required to adhere to various meticulous procedures as well as standards so as to make it obvious that their end result is valid and can also be relied upon withstanding scrutiny in the community as well as in the courts. The modern forensics has the ability to unravel hidden offences, help in conviction of the guilty and also to acquit the innocent. It also plays an important role in identifying the victims of an offence, tragedy or mishap by providing an assurance, inference and plaintive support for the survivor's of the bereaved. For example, in cases of sexual violence¹¹ such as rape¹² and other such forms of violence, forensic scientists

¹⁰New Frontiers in Forensic Science, (Nov. 14, 2019, 03:40 PM), <https://www2.le.ac.uk/offices/press/features/features-2017/new-frontiers-in-forensic-science>.

¹¹Any sexual act, attempt to obtain a sexual act, or other act directed against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting. It includes rape, defined as the physically forced or otherwise coerced penetration of the vulva or anus with a penis, other body part or object. (Nov. 14, 2019, 07:20 PM), <http://www.who.int/mediacentre/factsheets/fs239/en/>.

¹²A man is said to commit "rape" if he,--

- (a)penetrates his penis, to any extent, into the vagina, mouth urethra or anus of a woman or makes her to do so with him or any other person; or
- (b)inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so, with him or any other person; or
- (c)manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or
- (d)applies his mouth to the vagina, anus or urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions:--

First- Against her will;

Secondly- Without her consent;

Thirdly- With her consent when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt;

Fourthly- With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes to be lawfully married;

Fifthly- With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that action to which she gives consent;

Sixthly- With or without her consent, when she is under eighteen years of age;

Seventhly- When she is unable to communicate consent.

Explanation1 - For the purposes of this section, "vagina" shall also include labia majora.

Explanation 2 - Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act;

Provided that, a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception1 - A Medical procedure or intervention shall not constitute rape.

play a very crucial role in presenting their interpersonal as well as scientific skills while carrying out the investigations. Forensic evidences such as DNA and other forms of evidence is found to be put to use frequently while dealing with the prosecution of cases related to sexual assault. But at the same time, it becomes very important for the investigators to comprehend the ambit of the motivations behind their behavior, to build a strong affinity with the victims and also to conduct productive tests and interviews.

In India, it took so many decades for the purpose of shifting the lynchpin of forensic examination in cases of sexual violence from the mere collection of evidence model to that of rendering all inclusive care and treatment to the victims. This change had been possible only due to globalization. The trend in this paramount shifting pattern in both medical and electronic evidence with respect to the sexual violence cases amounts to an interesting study.

II. CHANGES IN PRE TRIAL STAGE

The pre trial stage involves the procedures that are undertaken after the FIR gets lodged and before the case enters the court room for trial. The procedures which occur during this period are registering an FIR, medical examination of the victim and the accused, arresting the accused as well as the statements which are made to the Magistrate by various persons as per Sec.164 of Criminal Procedure Code, 1973¹³.

Exception 2 - Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.

¹³Recording of confessions and statements :

(1)Any Metropolitan Magistrate or Judicial Magistrate may, whether or not he has jurisdiction in the case, record any confession or statement made to him in the course of an investigation under this Chapter or under any other law for the time being in force, or at any time afterwards before the commencement of the inquiry or trial: Provided that no confession shall be recorded by a police officer on whom any power of a Magistrate has been conferred under any law for the time being in force.

(2)The Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that, if he does so, it may be used as evidence against him; and the Magistrate shall not record any such confession unless, upon questioning the person making it, he has reason to believe that it is being made voluntarily.

(3)If at any time before the confession is recorded, the person appearing before the Magistrate states that he is not willing to make the confession, the Magistrate shall not authorize the detention of such person in police custody.

(4)Any such confession shall be recorded in the manner provided in section 281 for recording the examination of an accused person and shall be signed by the person making the confession; and the Magistrate shall make a memorandum at the foot of such record to the following effect:-" I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(5)Any statement (other than a confession) made under sub- section (1) shall be recorded in such manner hereinafter provided for the recording of evidence as is, in the opinion of the Magistrate, best fitted to the circumstances of the case; and the Magistrate shall have power to administer oath to the person whose statement is so recorded.

2.1 Medical Evidence

In rape cases, one of the most important factors in establishing the liability of the offender is the medical examination of the victim and the accused. The medical examination of the victim in rape cases is a very sensitive issue and therefore, the age and the consent of the victim plays a very important role. The liability of the accused can be established after performing relevant tests and supporting the same through certain medical documents signed by the doctor who is examining the victim and the accused in presence of a police officer.

A lot of changes which has been triggered by globalization have come up especially in the method of performing medical examination of the victim.

2.1.1 Pre-Globalization Era

Initially, the medical examination of the rape victims involved the examination by “two finger test” for the purpose of noting down hymen’s distensibility. This test involves insertion of a finger by the doctor into the vagina of the rape victim so as to check the vaginal tolerance level and also to determine if she is habituated to sexual intercourse¹⁴. However, of late the credibility of such tests has been questioned by people across the world. Many countries such as Turkey banned this procedure. Due to globalization, this ban has triggered medical authorities and also the opponents of two finger test in raising a question on the usefulness of such a test in India because the absence of hymen and vaginal laxity can also be caused by various factors and such a test is believed to be only based on subjective observation¹⁵.

Thus, this has led to Supreme Court placing a ban on two finger test stating that such a test on rape victim would violate her right to privacy and also directed the government to provide better alternative medical treatment procedures to make a confirmation on sexual assault¹⁶.

(6)The Magistrate recording a confession or statement under this section shall forward it to the Magistrate by whom the case is to be inquired into or tried.

¹⁴McNeil & G. Donald, *Rape: Rights Group Calls Test to Determine Sexual Activity a Second Assault in India*, New York Times, September 13, 2001, at <http://www.nytimes.com/2010/09/14/health/14glob.html>.

¹⁵*Dignity on Trial: India's Need Sound Standards for Conducting and Interpreting Forensic Examinations of Rape Survivors*, Human Rights Watch, September 6, 2010, at <http://www.hrw.org/sites/default/files/reports/india0910webwcover.pdf>.

¹⁶*No two-finger test for rape: SC*, The Hindu, May 19, 2013, at <http://www.thehindu.com/news/national/No-two-finger-test-for-rape-SC/article12141055.ece>.

2.1.2 Post Globalization Era

Thus, after the ban and in accordance with the protocols laid down by the World Health Organization from time to time on the medical examination of the rape victims, the two finger test has been replaced by a sexual assault evidence collection (SAFE) kit also commonly called as rape investigation kit. The Department of Health Research along with the Medical Council of India as well as along with the advice of few experts have laid down certain guidelines making it mandatory for all the public and private health care centres to have this kit. It also directed the health centres to carry out the examination without the presence of any other person other than the victim and the doctor preferably a female gynecologist. But if in case the gynecologist is a male, then he should perform the examination in presence of a female assistant. These guidelines also lays down an extensive care which is capable of addressing issues such as physical injuries, HIV, STDs, Hepatitis B, etc. The doctors through these guidelines were also directed not to use the word “rape” in the medical examination report as it is a legal term and not a medical term.

Before sending it to the forensic science lab, the names of the samples, the preservatives used and the purpose for the analysis in forensic labs had to be printed on the examination form as per the new guidelines that were laid down. Not only this, a provision for DNA analysis has also been provided. Previously, the examination of the rape victims has been done only after an FIR has been lodged. But now the doctors have been directed to perform the examination and provide the necessary care if in case the victim approaches the hospital first.

Now, it is also mandatory for the forensic department to lay down the reasons for every conclusion which they drew. An informed consent should also be obtained from the victim and if in case the victim is below 12 years the consent should have been obtained from the parents and the police authorities should also be informed of the same immediately. The medical authorities should also clearly explain what the examination consists of and the procedures involved in the examination for the victims before obtaining such consent in a language and manner the victim understands.

This kit in India is largely influenced and also finds similarities with the rape kit developed by Louis R. Vitullo who first developed the kit during late 1970s for the

purpose of providing a uniform pattern and protocol for the collection of evidence after sexual assault¹⁷. This kit was for many years called as vitullo kit¹⁸ before it was referred to as rape kit¹⁹ in countries across the world such as Afghanistan, United States, United Kingdom and now in the recent years even in India.

Thus, it can be said that perhaps without globalization such a test wouldn't have been availed by countries across the world and especially a developing country like India which could make use of this test in protecting the rights of the victim while performing the medical examination.

2.2 Electronic Evidence

Another interesting change which can be witnessed in this stage after globalization is the admissibility of the electronic or digital evidence in the court of law.

2.2.1 Pre Globalization Era

Prior to globalization, there was no concept of electronic evidence being used in the court of law as a proof for deciding the cases. With the advent of information and communication technology, the admissibility of digital evidence has been considered to be important by the courts.

2.2.2 Post Globalization Era

The technological revolution has made everyone tech savvy and people are using and misusing this technology for various purposes. For example, a woman who is raped is also prone to their videos being circulated on different social networking sites. Thus, considering the technological revolutions, legislatures have come up with amendments to the existing laws. The Information Technology Act, 2000 which is a result of the resolution of the UN General Assembly on 30th January 1997 and its subsequent amendment was based on the United Nations Commission on International Trade Law. This further led to the amendment of the Indian Evidence Act, 1872.

In a recent rape case, a whatsapp chat was relied upon by the judge to sentence three

¹⁷Jessica Ravitz, *The Story Behind the First Rape Kit*, CNN, November 21, 2015, at <http://edition.cnn.com/2015/11/20/health/rape-kit-history/index.html>.

¹⁸ALLAN D. PASS, ET. AL., *FORENSIC SCIENCE*, 887 (Salem Press, 2009).

¹⁹*Forensic Science Glossary*, (Nov. 15, 2019, 07:05 AM), <http://forensicsciencecentral.co.uk>.

former students of O.P. Jindal Global University situated in Sonapat for gang raping and also blackmailing a student studying management and who was apparently their junior²⁰.

Thus, a tremendous change can be seen in the way globalization brought about a change in the admissibility of evidence too.

III. CHANGES IN TRIAL STAGE

After the pre trial stage, the case will then enter the court wherein the legal aspect in case of trial in rape cases starts from the trial court in which the evidence is recorded, witnesses are presented and arguments are placed before the court for the purpose of determining the facts and also to establish whether the offence of rape really took place or not. It is at this level major changes have been brought about by the Criminal Law (Amendment) Act, 2013 which was in turn largely based on the trial procedures of various countries such as United Kingdom, U.S.A, etc. Thus, with global connection an exchange of legal principles and ideas for the benefit of the society can be seen.

3.1 Pre Globalization Era

Prior to the Criminal Law (Amendment) Act, 2013, the trial proceedings used to occur in an open court complex where all the other proceedings also take place and the victim, her companions, witnesses, accused (if in case he is on bail), his associates, the defence counsel and the public prosecutor all await for their case to be called for. This on many occasions caused an unwanted influence on the mind of the victim whenever she faced the accused and the public as a whole.

3.2 Post Globalization Era

The Criminal Law (Amendment) Act, 2013, brought about many changes in the Criminal Procedure Code. The amendments directed magistrate to record the information provided by a woman who has been temporarily or permanently, mentally or physically disabled in presence of a woman police officer or woman officer at the residence of such person or at any other convenient place for the person and this has to be done with the help of an interpreter or an

²⁰Bhadra Singh, *Whatsapp chats land three law students of Conepat univ in prison for rape*, HINDUSTAN TIMES, June 6, 2017, at <http://www.hindustantimes.com/india-news/whatsapp-chats-land-three-law-students-of-sonapat-varsity-in-prison-for-rape/story-ZyQBR1vqjoBoReQT2coMJ.html>.

educator²¹ (a practice in existence in London since a very long time). Senior citizens as well as mentally or physically disabled persons need not attend the police station if in case they are witnesses. They have been given the privilege to be examined at their own residence by the police officer.

If in case the victim is below the age of 18 years, then the duty lies on the court to take all relevant and appropriate measures so as to ensure that such a victim is not threatened by the accused and that at the same time the right of the accused in case of cross examination is also been safeguarded²².

It is also mandatory that all the trial procedures should take place in the premises called as Vulnerable Witness Deposition Complex which has been newly introduced in the court complex after the Criminal Law (Amendment) Act, 2013 so as to not cause any kind of situation wherein there is a chance of the victim to meet the accused again which would in turn lead to generation of anxiety, trauma and other such feelings thereby hampering her deposition in the court. Thus, in order to shield her, in camera proceedings were introduced through which proper measures have been taken by the court in ensuring that the victim is comfortable while facing the trial proceedings²³. The concept of in camera proceedings or CCTV, proceedings through screen was prevalent in South Africa, U.K., Australia and other such countries since many years. Only at a later stage, the proceedings are to be taken place in open court in presence of women's organization.

The judicial officers through this act were also directed to be trained while taking up such cases keeping in mind the sensitivity of the case and also to uphold the dignity and integrity of women which is one of the main principles that India has adopted through the Constitution of India and while ratifying various international conventions protecting the dignity and safeguarding the interests of women.

IV. CHANGES IN POST TRIAL STAGE

Since, sexual assault on women especially rape is a very sensitive issue, this stage involves eradicating the psycho-sociological impact which would be created on the victim and also all

²¹Code of Criminal Procedure 1973 § 154.

²²Code of Criminal Procedure 1973 § 273.

²³Code of Criminal Procedure 1973 § 54A.

the other circumstances which follow.

4.1 Pre Globalization Era

Most of the cases involving the offence of rape always went unreported due to fear of being subjected to social exclusion of the victim. Thus, there wasn't much importance given to the victim's rehabilitation and there weren't any centres which could treat the victim and help her in gaining her strength back to live in the society fearlessly again.

4.2 Post Globalization Era

Post globalization era, especially since when people got the access to acquire knowledge and information about the crimes happening across the world, slowly people in India also started noticing rape as an offence which requires a lot of support to the victim since she would be subjected to a lot of trauma. The Criminal Law (Amendment) Act, 2013 also recognized this victim based approach as the need of the hour and directed the governments to establish rape crisis centre²⁴ (a United Nations initiative and also a model already in existence in Canada) for the purpose of rehabilitating the victim and bringing her out of the trauma through counseling and other such medical treatments.

V. CONCLUSION

“Globalization” which is most commonly thought of as a new phenomenon hasn't just brought about the exchange of technology, goods, knowledge, culture, etc. across the nations but it also went a step ahead and made achieving “Global Justice” collectively as one of its main criterion. Thus, for example, when one country is not able to tackle its problems through the existing legislatures, through globalization taking inputs from other countries and making certain amendment to the existing legislatures became possible. This, through another dimension can be seen as considering a country's problem not just limited to the country itself but as a problem of the entire world irrespective of where they are situated. To achieve this, the international organizations such as United Nations are also playing a major role by providing a platform to the nations to stand together for a common cause.

For example, this can be seen through the latest Criminal Law (Amendment) Act, 2013 which

²⁴*Explaining India's New Anti Rape Laws*, CBN, March 28, 2013, at <http://www.bbc.com/news/world-asia-india-21950197>.

is largely based on the Justice Verma Committee Report wherein the report can be said to be an amalgamation of inputs taken from the legislations, stake holders belonging to different nations across the world and this could undoubtedly be possible only due to globalization.

Though the Criminal Law (Amendment) Act, 2013 brought with it many changes in the pre trial, trial and post trial stages, still the implementation of the laws can hardly be seen in the country. This can be due to lack of awareness about the procedures to be followed, the stigma that the offence of rape still carries in the society or it can also be due to the lack of proper supportive and preventive measures taken by the respective state governments. Example, still most of the courts follow the traditional open court system of trial, at some places still the doctors are performing the two finger test²⁵ and there are no proper rape crisis centres established.

This definitely poses a serious threat to a progressing country like India because due to these loopholes in the administration, India is giving a chance to the nations across the world in questioning India's failure in protecting and safeguarding the dignity and interests of women that too the irony being India is a place where women are worshipped as goddess and India itself being personified by the people as "Bharat Mata"!

²⁵Jayashree Bajoria, *Doctors in India continue to traumatize rape survivors with the two finger test*, SCROLL November 9, 2017, at <https://scroll.in/article/857169/doctors-in-india-continue-to-traumatise-rape-survivors-with-the-two-finger-test>.