3 METHODOLOGY

The above hypotheses will be tested first by reviewing the available literature in the form of Statutes, Law Reports and the Reports of Committees and Commissions on the System of Punishment.

The documents available in the Library of the University where I am seeking admission to Ph.D. will be reviewed together with the data available in other public libraries of the State of Rajasthan.

Next, the researcher will conduct discuss the matter of law reform with eminent lawyers, Judges and academicians of Rajasthan by seeking personal interviews and make a thorough study of the system of punishments and the problem of reform of the system.

The research proposed to be undertaken will be both a doctrinal and a non-doctrinal research.

4 SCHEME OF PRESENTATION

When completed the research will be presented in nine (9) chapters, a brief description of each of them may be given as under:-

CHAPTER I ‘INTRODUCTION’ will give an outline of the topic of research the justification for study. It will explain the elements of the prevailing system of punishments, the theories which have guided the legislators in devising such a system and the need for reform of the system. It also describes the hypothesis formulated for study and the methods proposed to be adopted for conducting the study.

CHAPTER II ‘CONCEPTUAL STUDY OF PUNISHMENTS AND THE NEED FOR REFORM’ will explain the theoretical concept and the operational concept of punishments. It will start with the meaning and definition of punishment and proceed to review the views of learned jurists on the subject of punishments. It will then touch upon the specific punishments which would be the operational concept of punishment.

CHAPTER III ‘CONSTITUTIONAL IMPERATIVES OF PUNISHMENT’ will discuss the principles laid down in the Constitution which are relevant to the subject of punishment, such as, the principles embodied in Article 20 (Principles relating to Criminal Justice). Since the Penal Code 1860 was adopted before the coming into force of our Constitution we have to see what changes are needed to bring the Penal Code in tune with the Constitution.
CHAPTER IV ‘INTERNATIONAL HUMAN RIGHTS NORMS RELATING TO THE SYSTEM OF PUNISHMENTS’ will discuss the principles embodied in the Universal Declaration of Human Rights 1948, the International Covenant on Economic, Social and Cultural Rights 1966, and the International Covenant on Civil & Political Rights, 1966. It is necessary to make a study of the human rights norms and relate them to the system of punishments because whenever a suggestion is offered by the committees or commissions on Penal Law Reform the Human Rights activists raise a hue and cry that the Indian Law is not Human Rights-compliant. It is necessary to update our system by bringing it in tune with the international human rights.

CHAPTER V ‘SYSTEM OF CRIMINAL JUSTICE IN FOREIGN JURISDICTIONS AND THE REFORMS UNDERTAKEN THERE’ will make a study of the system of punishment as existing in other countries and the reforms that have been made in recent years. Such a reference is necessary in view of the fact that most of the countries like South Africa etc. which like India had enacted the Penal Laws under the inspiration of the colonial powers have modified their systems and made them free from deficiencies.

CHAPTER VI ‘SYSTEM OF PUNISHMENTS UNDER THE PENAL CODE AND THE NEED FOR REFORM’ will study such of the provisions which stand in need of reform, particularly the provisions relating to Death Penalty, Corporal Punishment, and Sexual Offences etc.

CHAPTER VII ‘SYSTEM OF PUNISHMENTS UNDER THE SPECIAL LAW OF CRIMES AND THE NEED FOR REFORM’ will study the punishments which are prescribed under the provisions of Special Laws and examine the question of reforming those provisions from the point of view of making them effective.

CHAPTER VIII ‘EVALUATION OF THE WORK DONE BY THE COMMITTEES AND COMMISSIONS ON THE SYSTEM OF PUNISHMENTS AND THE NEED FOR REFORM’ will analyse the recommendations of the Law Commissions which have so far made a study of the subject of Punishments and come up with recommendations. It will point out how the Commissions missed the idea of making the system of punishments workable.

CHAPTER IX ‘SUGGESTION AND CONCLUSION’ will contain a summary of the work, the findings of the researcher and his recommendations to improve the system of punishments.