CHAPTER-6

CONCLUSION AND SUGGESTIONS

6.1. HYPOTHESIS & RESEARCH QUESTIONS:
Researcher had formulated following hypothesis;

“Misuse of investigative powers by police results into violation of human rights of victims of personal violence crimes.”

To check the validity of this hypothesis, researcher had framed following research questions:

i) What are the human rights of victims of personal violence crimes?

ii) What role and positive obligation has been assigned to police as a state agency in relation to victims of personal violence crimes for protecting their human rights?

iii) How the investigative powers are misused by the police? and

iv) Whether the misuse of investigative powers by police affects the Victims’ Human Right to Justice?

6.1.1. INTERNATIONAL RECOGNITION OF VICTIM'S HUMAN RIGHTS:
Human rights are inalienable rights for the survival of any human being. These are the rights that accrue to all human beings only on the ground of their being a human. These rights are needed for the existence of a human being in a dignified manner. Human rights as identified by the United Nations Declaration of Human Rights 1948 include the right to life, liberty and security of person, equality before the law and freedom from inhuman or degrading treatment. The values appreciated by the UN Charter include the fundamental human rights, dignity and worth of human person, equal rights and right to justice. There has been remarkable advancement in promotion, recognition, safeguarding and enforcement of human rights world over in almost all the nation states. This became possible because of the initiatives taken by International agencies, cooperation amongst nation states and supervision and monitoring agencies.
After a perusal of various international instruments of Human Rights, it can be safely deduced that all these human rights are also available to the victim of crime. Since victim of personal violence crimes are also human beings, any crime of violence by their very nature and effect, directly infringes their human rights. But this otherwise remarkable achievement and acceptability of human right has not been proved to be effective and sufficient to take care of interest of victims of personal violence crimes. The major hurdle that was obstructing victims of personal violence crime from realising any meaningful and constructive human right was the linear trajectory in which human right jurisprudence was advancing. Traditionally, idea of human rights was conceived as a form of protection available against the State aggression or intrusion by the State agencies into the domain of individual human rights. This negative approach of Human Rights focused its efforts in controlling State action by imposing a negative obligation upon the State not to violate the human rights of individuals. This approach was not comprehensive enough to take care of the situations where such violation is not the result of State actions but is a result of actions performed by the non-State actors. Victims of Crime needed this protection from the acts of third party violators and after the crime was committed, a proactive role on part of the State and its agencies to effectively remedy the wrong done to the victim.

This required a change in perception, concept and application of Human Rights since by adhering to restrictions on the State actions only, nothing worthwhile could be achieved for enforcement of victims’ human rights. This demand for change resulted into recognition of positive approach to human rights. Positive approach demands something positive to be done by the State to provide protection and promotion for human rights. This positive approach to human rights gave rise to State’s positive obligation theory that focuses upon State’s active role in providing protection to victims of crime in case third party actors violate victims’ human rights. Of late, this theory is well recognized under international human rights norms.

Universal Declaration of Human Rights (1948) as well as International Covenant on Civil and Political Rights recognize that everyone is entitled to have a right to remedy that include right to justice. Study shows that various
international instruments recognize victims’ right to justice that is a component of victims’ right to remedy, as a human right. Victims’ right to justice encompasses further three distinct rights i.e., victims’ right to protection, right to access to justice and right to fair investigation. United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) appears to fully ascribe to the notion of positive obligation of State to protect human rights of victim of crime and provides that victims of crime are entitled to fair treatment and access to justice.

International norms, whether conventional or non-conventional, pertaining to victims’ human rights also recognise Victims’ right to protection, right to access to justice and right to fair investigation as part and parcel of Victims’ right to justice. UN Human Rights Committee has emphasized that non-initiation of criminal investigation is an impediment in the way of obtaining access to justice. ICCPR has also recognized that effectiveness of any such remedy lies in the initiation of criminal investigation. European Court of Human Rights has made it clear that victims’ right to access to justice must not be unjustifiably hindered by the acts or omissions of the State authorities. In addition to international norms and conventions, there are many significant decisions of European Court of Human Rights, the Inter-American Court of Human Rights, and some African Courts (reading from African Charter on the Human and People’s Right) that have identified and emphasised upon right to protection, right to access to justice and right to fair investigation as the core rights for realising the right to justice as a human right of victim of crime. After an analysis of International instruments, certain determinants can be identified that help in ascertaining whether these three right of the victim of crime can be said to have been fulfilled and realised.

6.1.2. IDENTIFICATION OF DETERMINANTS FOR REALIZATION OF VICTIM’S HUMAN RIGHT TO JUSTICE:

Victims’ Right to protection can be enforced if there are preventive operational measures in place, before the event remedies available, effective normative measures followed by the effective law enforcement machinery and due diligence on part of State.
Victims’ Right to Access to Justice can be satisfied if victim is provided with a mechanism to approach the authorities for initiating criminal justice process, an adequate and effective Constitutional and Statutory right that is backed by an effective system to seek and obtain such remedy.

Victims’ right to fair investigation can be satisfied by ensuring a prompt, thorough, impartial and effective investigation that is capable of leading to the establishment of the facts of the case and identification of the perpetrator and that is not unjustifiably hindered either by the acts or by the omissions of the State authorities. Further it is required that results of any such investigation must be made known to the victims. There are many significant decisions of European Court of Human Rights as well as the Inter-American Court of Human Rights emphasizing that victim must be provided with full access to investigation files so as not to create an impediment in his way to seek justice.

6.1.3. CONSTITUTIONAL PERSPECTIVE OF VICTIM’S HUMAN RIGHT TO JUSTICE:

Viewed from international perspective, comparing the position of human rights of victim of crime in India, it is suggested that right to justice as human right along with its three-allied right i.e. right to protection, right to access to justice and right to fair investigation is duly recognised in Indian Constitution. Regarding Indian constitutional position, Preamble, Fundamental Rights and Directive Principles of the Constitution that form the soul of Indian Constitution emphasize upon the respect for human dignity, justice, equality and non-discrimination. The Preamble of the Constitution reflects that the objective behind this Constitution was to secure and advance the cause of justice and assure human dignity of the individual. Importance of Fundamental Rights that include Right to Life is clearly evident from the fact that these rights cannot be extinguished, abrogated or abridged by any constitutional or legislative measures.

Article 14, 21 and Article 39-A of the Indian Constitution has been given expanded meaning by the Supreme Court so as to recognize right to access to justice as a constitutional right of the Victims of Crime, the State obligation to ensure ‘Equal justice and free legal aid’, ensure victim-witness protection and
impose an obligation upon the State to provide such protection to Victims of crime. Victims’ right to fair investigation has not been dealt with directly under any provision of the Constitution but the extended dimension of Article 21 includes Victims’ right to speedy justice including speedy investigation and his right to know the result or action taken in the case initiated by him. Right to fair trial including right to fair investigation has been recognized by the courts as a part of right to life and liberty and Courts have also recognized that Victims of crimes have right to question the correctness or the veracity of the investigation. Courts have observed that infraction of basic duty of ensuring fair investigation results in denial of access to justice and equality before the law in the matter of seeking justice and redressal.

The Criminal Justice Process should be fair to all meaning thereby that Courts should take into consideration the interest of all concerned i.e., the accused, the victim and his family members and the society at large. By permitting manipulative investigations to take place, this paramount duty of the Courts cannot be abrogated, diluted or diverted so as to result into failure of justice. To provide a safeguard against violation of these fundamental rights a protection mechanism has been provided under Articles 32 & 226 of the Constitution of India. Courts can exercise their power of judicial review to provide meaningful protection to these fundamental rights and to ensure the ends of justice. It is for the courts to see that justice is administered to all concerned in a criminal trial.

While giving these fundamental rights a wider meaning, it has been recognized by the Supreme Court that these rights can be interpreted in the light of Directive Principles of State Policy and also in the light of International Covenants or Conventions. Directive principles as provided under Article 38 and 39-A further emphasize upon ‘equal justice’ and postulates that justice shall not be denied to any citizen because of any disability. This constitutional position is reflective of the international trend of recognizing right to justice as a fundamental and human right of the Victim of crime. This recognition of victims’ human rights has only been made possible by the initiatives taken by the judiciary. Giving wider interpretation to Article 14 and 21, judiciary has extended the dimension of ‘fair trial’ and ‘right to fair investigation’ by including victims of crime into its ambit.
Directive Principles that guide State in its policies, imposes an obligation upon the State to ensure justice but it is only directive in nature without any enforceability. Any right without a corresponding duty cannot be termed a right in its true sense. In the same manner, any obligation without a corresponding right is no more than a mere rhetoric. Though, there exists constitutional remedies in the form of writs to implement constitutional ideal that provides for equal treatment before law, right to life and also state obligation to ensure justice to all, but there is absence of specific constitutional provisions that directly recognize victims’ rights to justice as fundamental rights. In the absence of such a Constitutional provision, victim’s right to justice cannot be treated as enforceable per se and State cannot also be compelled to take proactive steps for better implementation of the victim’s rights. This situation is reflected in a lack of initiative on part of the government to legislate in the area of victims’ rights suitably so as to incorporate these international best practices into domestic legislative framework.

6.1.4. TESTING DETERMINANTS OF VICTIM’S HUMAN RIGHT TO JUSTICE: NORMATIVE AND JUDICIAL RESPONSE:

Analysis of the normative measures in India depicts not so satisfactory scenario for the victims of crime. Few rights have been created in favour of the victims in the Criminal Procedure Code by recent Criminal Law Amendment Act 2013 but they mostly are targeted to women victim in sexual offences. There are provisions to ensure victims’ right to protection by making victim-witness intimidation as an offence under Indian Penal Code and provision that provides for imposition of condition on bail but other measure are in the nature of after the event remedies. Before the event preventive measures and remedies as are prevalent under the international norms are nonexistent. In India, there is a complete lack of victim- witness protection mechanism in cases of a real risk to life. Law enforcement machinery is short on effectiveness and there is a lack of attention towards ‘Due diligence’ requirement. No particular Section either of the Indian Penal Code or of the Code of Criminal Procedure provide that Victim has a right to claim protection because of his being a victim of personal violence crime.
For the victim’s right to access to justice, Criminal Procedure Code, 1973 provides for mandatory registration of First Information Report in case of a cognizable offence. Victim is entitled to get a copy of First Information Report and he can approach Superintendent of Police and Magistrate in case of any grievance. But the practice indicates that there is scope for the misuse of such provision by the police.

Regarding the right to information about the progress in the investigation Code of Criminal Procedure provides for the obligation on police to inform the informant, in both the cases, whether the case is not being investigated and at the culmination of the investigation. There is no provision that imposes an obligation upon the police to inform the victim about the case not being investigated or the outcome of the investigation.

As per the requirements of the Code the State investigative agency is under obligation to complete the investigation without any delay and in fair manner. Under the scheme of criminal Procedure Code Police have been entrusted with wide powers in relation to investigation of an offence and at the same time almost at every stage of investigation right from the registration of FIR to filing of police report, magistrate is placed in a supervisory role to make sure investigation is being carried out as per the procedure in a fair manner. But the provisions regulating the investigation, leave scope for the ample discretion with the police which as emerges in this research, can easily be misused. There is absence of sufficient statutory rights in favour of victim to make intervention at various stages of investigation whenever his rights are adversely affected and also a lack of corresponding penal provisions for erring police officers in case there is violation of these victim’s rights during investigation. Newly inserted Section 166 A (b) of IPC, by providing punishment fixes the liability of the concerned investigating officer, but fall short of the standard of ‘due diligence’ requirement as is the norm under international best practices. Use of the term ‘knowingly’ and ‘to the prejudice of any person’ makes it difficult to be proved thus rendering its application limited.

It has emerged from the analysis of the judicial trend in India that Supreme Court, time and again, made it clear that protection of victim-witness is imperative if justice is to be done. Regarding the requirement that demands for
before the event remedies, imposition of certain conditions by the court at the
time of release of the offender on bail tries to check victim-witness intimidation.
Regarding preventive operational measures, it is clear from the directions given
by the Courts that in case of a real risk to life, a victim-witness may seek for
and shall be granted such protection as is needed in the circumstances of the
case. Judicial pronouncements have emphasized upon the requirement of due
diligence on part of State and an effective law enforcement machinery for
providing better protection to victims.

Judiciary is playing a prominent role in ensuring Victims’ right to access to
justice. Wherever any such obstruction created by police comes in the way of
victims’ right to access to justice there are many prominent judicial decisions
that have made registration of FIR a mandatory exercise on part of police
thereby removing any discretion to not register it or delay it for conducting
inquiry. But there is a lack of swift mechanism, statutory right in victim with
effective remedy and penal provision to compel the concerned authorities to
work within their legal bounds and discharge their obligation vis-à-vis victims’
right to get the case registered.

As per the international perspective on victim’s right to justice, there is an
understanding that right to fair trial is inclusive of a right to fair investigation.
Courts in India, over the years have developed the notion of right to fair
investigation as inclusive of swift, impartial, thorough and effective
investigation. Court in India have held that ‘Fair investigation’ means an
‘impartial investigation’ where there is no bias or no prejudice either for the
accused or for the victim. Judicial trend reflects that where investigation was
conducted with ulterior motives or where there was lack of objectiveness in
conducting an investigation, it was not considered as a fair investigation. Courts
have interpreted ‘thorough investigation’ as an investigation where all the facts
that surface during the course of investigation are contemporaneously recorded,
irrespective of the consideration that the same are in favour of the accused or
are against the accused. ‘Effective investigation’ has been incorporated into the
concept of fair investigation by providing that investigation into a case does not
mean arrest of fringe players or selective collection of material evidence. It
means collection of such material evidence that lead towards the identification of the offender and establishment of his guilt.

Legislative measures are lagging far behind the international norms or the constitutional ideals. As far as the initiatives taken by the judiciary are concerned it has left no stone unturned in realizing the constitutional ideals or to serve the cause of justice or to bring the justice to victims of crime at par with the international trend. Still there lies a void in normative domain that provides for swift and effective remedy mechanism whereby the victim is able to get justice instantly and corresponding liability upon the erring police officials for the violation of victim’s right to justice.

6.1.5. POLICE ROLE IN REALIZATION OF VICTIM’S HUMAN RIGHT TO JUSTICE:

Being the front-line agency of Criminal Justice System, police comes first in contact with the victims of crime and as an agency of State has a vivid role to play in ensuring fair and just treatment to victims’ human rights. Police role has been defined and delineated by the means of various international and national instruments. International instruments prescribe police role as inclusive of a duty to uphold human rights of all, to provide protection from crimes, to maintain secrecy of the investigation, to inform victim about the outcome of the investigation. Whatever impression, victim forms of Criminal Justice System, it depends upon the treatment meted out to him by the police and the role performed by the police in ensuring victims’ access to justice and his right to fair investigation. Police conduct not only helps in reporting of crime but further helps in easy access to important information pertaining to the investigation. Ethical norms provide for abiding the law in performance of police duties and an impartial attitude or objectivity in conduction of fair investigation.

Code of Criminal Procedure, 1973 in its normative scheme for fair and effective investigation enumerates numerous powers and corresponding duties that every police officer engaged in investigation is supposed to follow in letter and spirit. Since, a quick police response may lessen the chances of further victimization, intimidation or harassment as well as may be helpful in better collection and preservation of evidences, police is supposed to reach at the crime scene.
promptly, provide protection and ensure fair and speedy investigation. It may further be helpful in early arrest or identification of the witnesses or ensuring an easy access to medical services.

Police is supposed to do a fair investigation that means an effective, thorough, impartial investigation. Courts are of the view that investigating officer must follow the ethical norms while conducting an investigation. They are supposed to be diligent, truthful and fair in their approach and during investigation.

6.1.6. METHODOLOGY OF MISUSE OF INVESTIGATIVE POWERS:
An investigation is required to be conducted by the investigating officer in due obedience to law and he is under a statutory duty to bring out a real unvarnished truth by fair investigation that is not tainted and biased.

Despite all these mandates of international instruments, national guidelines such as code of conduct for law enforcement officials, legislative measures and judicial pronouncements, too many times police is found to be at fault, violating the human rights of victims of personal violence crimes.

In this research, it has emerged from the analysis of various judicial pronouncements, observations of various Law Commission Reports and Newspaper reports that police has devised, adopted and resorted to various illegal methods of conducting investigation. This misuse of investigative powers by the police is generally the outcome of action and inaction on part of the police which is not in conformity to rules provided for and in utter disregard to the ‘Rule of Law’. The researcher has been able to identify about forty (40) methods of misuse of investigative powers by the police where Courts have made specific reference thereto.

Protection to victim/witness is denied though there being a threat perception or a real risk to the life of the victim, no arrest is made or no restriction is imposed upon the accused, or no protective measure is taken so as to protect the victim from being intimidated or harassed by the offender.

Police does not take any initiative to register a first information report, many a times it discourages the victim/complainant from lodging the information about the crime. There are numerous instances where victims’ case is either not
registered or registration is delayed on one ground or on other or if registered, facts are so twisted that alters the nature of the case or sometimes the penal provision that are required to be invoked are not invoked so as to show minimization of offences, for its own convenience and sometimes to shield the perpetrators of crime, naming a particular person is avoided.

For fair investigation, it is required that victims’ case is substantiated by factual and material truth but quite often an investigation is conducted without applying required scientific and forensic techniques to bring out the factual truth before the Courts, investigation agency allows evidence to get destroyed in order to favour the real culprit or an investigation agency arrests some fringe players instead of the real culprit to provide them a helping hand.

Delaying tactics adopted in visiting the crime scene may make futile all the objectives of a prompt visit like to collect the best evidence before they are destroyed, identification of witnesses, and identification of accused if victim is still in proper medical state, to lessen the chances of accused threatening victim-witnesses or trying to manipulate the evidences. Deliberate delay in arrest gives accused a chance to mold the circumstantial evidences in their favour.

Police officers also indulge in misuse of investigative powers by resorting to manipulation like not making entries in station diary, not keeping secrecy of the investigation, not interrogating accused, not recording statements of victim-witnesses, preparation of false statements, tampering with important evidence, not preparing sketch plan, not seizing the crucial articles or weapon used in crime, not conducting medical examination, evidence not being sent to forensic labs or not conducting the investigation with the help of advance scientific methods or tools.

These are among some of the varied methods adopted by police during investigation that create an obstruction or hindrance in the way of Victims’ Human Right to Justice.

6.1.7. EFFECTS OF MISUSE OF POWERS ON VICTIM’S HUMAN RIGHT TO JUSTICE:
Misuse of investigative powers by police adversely affect human rights of victims of personal violence offences.

The right to protection is violated when there is intimidation or threatening to victims’ right to life and in such situation, victim may be in need of getting some protection from State machinery. This protection is denied if though there being a threat perception or a real risk to the life of the victim, no arrest is made or no restriction is imposed upon the accused, or no protective measure is taken so as to protect the victim from being intimidated or harassed by the offender.

The right to access to justice gets affected when victims’ case is either not registered or registration is delayed on one ground or on other or if registered, facts are so twisted that convert the nature of the case or sometimes the Section supposed to be invoked are not invoked so as to show minimization of offences. Sometimes to shield the perpetrators of crime, naming particular persons are avoided.

Victims of crime has a right to fair investigation. Investigation should be fair so as to ensure a fair trial. The truth about the crime committed against victim can be arrived at by the Courts only on the basis of analysis of the evidences collected through fair and just investigation. Cases of violation of Victims’ right to fair investigation can be seen from the very first stage of investigation. This research has identified various acts and omissions committed by police while misusing powers of investigation that weakens the prosecution case and ultimately benefits the offender resulting in benefit of doubt accruing to him.

A positive police role helps in advancing the cause of justice but a negative police role may result into total eclipse of the notion of justice and rule of law. It has emerged in this research that Courts in India, in no uncertain terms have recognized that police while misusing investigative powers adopt various ways due to which victims’ human right to justice that include victims’ right to protection, right to access to justice and right to fair investigation is not only delayed but too many times denied and violated. Such misuse of investigative powers by police is found to be adversely affecting the human rights of victims of personal violence crimes.
This misuse leaves its effect upon the victim of personal violence crime in various forms as identified by this research work. While dealing with the issues of misuse of investigative powers by the police, Courts have gone on to hold that there results a gross infraction of rule of law when victims’ human right to fair investigation is sacrificed by the investigating agency by indulging in manipulation during investigation or by being biased or by conducting investigation with some ulterior motives.

Designed or negligent investigation are responsible for people losing their faith in the Criminal Justice System. Victim conceive truth and justice as synonyms. Therefore, failure of truth means failure of justice for them. Victim loses his faith in justice delivery system due to the misuse of investigating powers by police. A perfunctory investigation may not bring out the real truth so as to secure justice for victims of personal violence crime. Large number of acquittals due to shoddy investigations shakes the faith of victim in criminal justice system and too many times such victims are forced to go towards hiring “quotation or protection agencies” to secure justice themselves. This misuse also results into secondary victimization of victims thus causing a second injury to victims of crime.

6.2. **MAJOR FINDINGS:**

- An analysis of international instruments of Human Rights including conventional and non-conventional instruments, regional human rights treaties and findings, observations and case laws of their monitoring bodies make it clear that positive approach of Human Rights recognizes ‘Right to Justice’ as victims’ human right and further recognize State’s positive obligations to provide protection to Victims’ Human Rights.

- Study of Indian Constitutional measures and statutory measures make it clear that though the Constitutional ideals are in sync with international norms still there is need for some distinct and direct provisions to give a concrete shape to Victims’ Human Right to Justice.

Also, there are certain areas in the statutory mechanism wherein gap between constitutional and human rights ideals vis-à-vis factual position
of victims’ human rights need to be bridged by enacting effective provisions for regulating the investigating powers of the police.

- Police has wide discretionary powers during investigation providing with ample chances of their misuse. Proper checks are required to make them function within their legal bounds and in tune with widely recognized Victims’ Human Right to Justice. Analysis of the case laws has shown that the Courts have time and again made it amply clear that until and unless there is an effective implementation machinery, normative measures cannot ensure better protection to Victims’ Human Right to Justice.

- There is sufficient judicial recognition of the fact that misuse of investigative powers are adversely affecting Victims’ Human Right to Justice and changing their perceptions about and trust upon the justice delivery system.

6.3. TESTING OF HYPOTHESIS:

The research questions have resulted in following outcome:

- Study of international instruments on human rights and case laws of human rights monitoring bodies as well as positive approach of human rights make it clear that victims of personal violence crimes have ‘Right to Justice’ as a human right and this right further has three allied rights i.e., right to protection, right to access to justice and right to fair investigation.

- Positive approach of human rights imposes a positive obligation upon the State to provide protection to human rights of victims of personal violence crime in case of violation of their human rights by a Non-State actor. State has entrusted this obligation upon its agency police to ensure victims’ human rights to protection, access to justice and fair investigation.

- Police has wide discretion during the investigation of an offence. Though the judiciary supervises the investigation, it cannot decide a particular line of action to be followed by the investigating officer and cannot monitor investigation in a fool proof manner. There is ample
scope for misuse of investigative powers by police. This research has identified more than 40 such methods of misuse of investigative powers by police.

- It has emerged from the analysis of case laws that misuse of investigative powers by police adversely affects Victims’ Human Right to justice inclusive of his right to protection, access to justice and fair investigation.

Hypothesis is tested as:

Since all the research questions are answered in a positive and affirmative manner, thus the hypothesis stands validated and it is established that misuse of investigative powers by police results into violation of human rights of victims of personal violence crimes.

6.4. SUGGESTIONS:

From time to time many Committees and Commissions have been formed in India for reviewing the Criminal Justice System. Courts in their judicial pronouncements and Committees and Commissions in their recommendations have been supportive of Victim-orientation of Criminal Justice System. Malimath Committee report emphasize upon the need of victim-witness protection mechanism since the intimidation and harassment from the offender dissuade the victim from seeking justice. To ensure victims’ right to access to justice, this committee has recommended for prompt registration of complaints without any undue delay and invoking of appropriate sections of law. Committee recommended for making registration of complaints on part of police officer obligatory with penal consequences in case of failure in performing of their duties. Malimath Committee has expressed the view that victim has a very limited role regarding his right to fair investigation. Law Commission in its 154th Report also mentioned that victims of crime should be given priority attention because they suffer substantive harm due to the incidence of crime. Report of the National Commission to Review the Working of the Constitution, recommended for adding of a new Article in Constitution, Article 30-A that shall provide for a right to access to courts to get reasonably
speedy and effective justice and shall provide for State’s obligation to take all reasonable measures so as to ensure this right to access to justice.

In spite of all these recommendations and judicial directives, there has been no sincere exercise by the legislature to make the Indian criminal justice system more victim sensitive. The researcher after analysis of modes of misuse of the investigation and its effect upon human rights of the victim proposes following suggestions:

1. National legislative framework that includes Police Acts, Police Manuals and provisions relating to investigation in Code of Criminal Procedure should be reviewed every 3 years to keep it in tune with International Best Practices in relation to police role.

2. Victims’ human right to justice should be recognized and this should run parallel to the State’s obligation to ensure justice. For this purpose, Constitution should be amended so as to incorporate Articles that directly enforce the Victims’ Human Right to Justice. All State agencies will take such Constitutional right seriously.

3. There should be a Victim specific legislation to provide in greater detail what rights do victims of crime have; what remedies are available to them if there is violation of such rights; what procedure is to be followed for redressal and whom they should contact in cases of violations.

4. Victim- witness protection mechanism should be provided by enacting a Special legislation or by incorporating new provisions under Indian Penal Code and in the Code of Criminal Procedure wherein victim can claim protection as a right.

5. To prevent Victim intimidation or real risk to life, ‘before the event remedies’ should be provided in tune with the best practices being followed in other countries. Accused establishing contact (directly or indirectly) with victim should be treated as an aggravating circumstance. Restrain Order by default should be issued against accused in all cases of personal violence offences.

6. Some alternative mode of filing of the F.I.R by the informant should be devised so that interaction with the police at that time can be done away with.
7. At each important stage of investigation, victim should be informed about the steps taken so far with a copy of the same to be sent to Magistrate every time. If any information is to be withheld, it should be mentioned along with reasons to the Magistrate in report. Code of Criminal Procedure should be amended to accommodate these laws along with a statutory remedy in case of violation of this right.

8. After completion of investigation, the officer-in-charge is required to send his report to the magistrate for taking cognizance. The officer is also required to inform the informant about the action taken by him in such matter. Section 173 (2) (ii) gives a right only to the informant. Police is not obliged to inform the victim or to his family members about the action taken by him. To cover the cases where informant is not the victim or his relative, Section 173 (2) (ii) should be amended so as to provide that not only the informant but the Victim or in case of deceased, his family members would also be entitled to receive any such information.

9. At the time of the submission of the Charge-Sheet to the Magistrate, copy of all the documents should be provided to the victim by the Magistrate as is provided to the accused under Section 207 Cr.P.C.

10. In case police takes a decision not to investigate the case there should be an effective mechanism to review the police decisions and victim if inclined, should be involved in such procedure.

11. As suggested by Supreme Court investigation wing should be separated from law and order police wing. To improve police performance in investigation of the case of victims of personal violence crimes, it is required that the investigation police be separated from the law and order police. This separated investigation wing should be a unified wing of police in the sense that victim of crime would not be required to approach different channels to get their concerns resolved. This unified wing of investigation may have following sub-wings:

i. **Victim Officer:** There should be Victim Officers in this ‘main investigation wing’ who can act as a first contact officer entrusted with the following duties:
   a. He should be trained to take down the F.I.R.
b. Explaining to the victim, police procedure and investigatory process;
c. Providing the victim with the information on how to protect evidence in the case;
d. Providing victim with the information in relation to progress in investigation and outcome of the investigation.

ii. **Assistance and Service Wing:** This may be made responsible for securing immediate medical services for the victim for securing vital medical evidences; recording of dying declaration; escorting victims to court for deposition and other similar assistances.

iii. **Protection Wing:** This wing should be made responsible for providing protection to the victims of personal violence crime from intimidation and harassment. This may further be helpful in better reporting of crime. This wing should be made responsible for providing victim with the information on how to prevent or to deal with acts of further victimization.

iv. **Main Investigation Wing:** This wing should be assigned with the role of investigating the case from the stage immediately after registration of FIR. There should be a Forensic expert in each investigating team with knowledge of evidence collection and analysis techniques.

12. Police training programmes should be conducted with a victim sensitive approach. Curriculum of such training programmes should be designed in a manner that gives emphasis upon the following:

   (i) Observance of Codes of Conduct (Best International Practices);
   (ii) Knowledge about Human rights of victims of crime;
   (iii) Police duty in protecting human rights of victims;
   (iv) How to deal with victims of crime;

13. Continuous and recurring training courses for scientific methods of investigation to be made mandatory for promotion.

14. Early and speedy promotion scheme based on case solving skills through scientific methods and on performance based on ‘due diligence’.
15. Every case resulting in acquittal on the basis of benefit of doubt to the accused should necessarily be handed over to Analysis Wing (separately created and comprising of retired judicial and senior police officers) to find out the police lapses. Victim’s written representation should be taken on record.

16. Such Analysis Wing should come out with specific finding as to whether the lapses were the outcome of dereliction of duty simpliciter or were the result of malice, deliberate act or omission.

17. On the basis of the report of the Analysis wing, mandatory penal sanctions in case of misuse of investigative powers arising out of malice, deliberate act or wilful omission by police and compulsory departmental action in cases of dereliction of duty simpliciter should be provided for. Punishment provided under Section 166 A (b) of Indian Penal Code, 1860 should be enhanced and this provision should be invoked frequently.

18. Findings of the Analysis Wing pertaining to the reasons of lapses should be incorporated in training programmes meant for skills development.