Chapter VI

SUMMARY, CONCLUSION AND SUGGESTIONS

In this chapter, a brief summary of the thesis is put forth together with the observations, findings and suggestion of the research scholar.

6.1.0 SUMMARY

In the summary of the thesis, the research scholar has endeavoured to bring out all the various concepts involved in the research project has been summarized according chapters.

Summary of Chapter-I: Generally speaking, human rights are regarded as those fundamental and inalienable rights, which are essential for life as a human being. There is, however, no consensus as to what these rights should be. Human rights may be interpreted as being different, according to the particular economic, social and cultural society in which they are being defined. Human rights have so far escaped a universally acceptable definition, presenting a problem to international regularisation.

The concept of human rights falls within the framework of constitutional law and International law. For this purpose, it has been identified to "defend by institutionalized means the rights of human beings against abuses of power committed by the organs of the State and at the same time to promote the establishment of human living conditions and the Multi-dimensional development of human personality".

Ever since civilized societies came into being, police force, in one form or other has been made to function from times immemorial. The Constitution of India provides
police is a state subject, list 2 entry 2 and residuary powers are vested with the Centre. There are central police organizations while state has its own police force with different divisions and units. To quote but a few are Central Bureau of Investigation (CBI), Central Reserve Police Force (CRPF), Border Security Force (BSF), Indo-Tibetan Border Police (ITBP), Central Industrial Security Force (CISF), Railway Protection Force (RPF) and Central Intelligence Bureau (CIB).

The police at the present day have enormous responsibilities. On the one hand, the police have to maintain the law and order in the society. On the other hand, they should not violate human rights, which are guaranteed under the Constitution of India and the U.N. Declaration on Human Rights. This is indeed beset with complications and innumerable problems on all sides. In this connection, the functions of the police may be briefly examined.

The present study clearly shows that those who have to make the laws and implement them are themselves becoming the law breakers in the society. This is indeed a deplorable situation and results in violation of human rights on a large scale. The criminal justice system can function satisfactorily only when there is a close cooperation and coordination between the police bench and the bar. Any lacuna or drawbacks in the system would result in violation of human rights which are basic fundamental rights or inherent rights of every individual.

**Summary of Chapter-II:** The concept of crime revolves around the guilty act and guilty mind i.e., actus reus and mens rea. Only when both these aspects are concurrently present, the penal liability gets attracted. This concept no doubt is good enough for blue
collar crimes like theft, cheating, misappropriation etc., where the mental element undoubtedly play a crucial role. Unless there is guilty mind in blue collar crimes, no penal liability can be attracted. The society had advanced since the blue collar crimes of ancient times and today white collar crimes are being committed on a massive scale. For example – Organized crime, internet frauds including banking frauds, adulteration of food, hoarding of essential commodities, human trafficking etc., where the mental aspect cannot be made the basis of criminal liability. The doctrine of strict liability as propounded in Reyland vs. Fletcher and absolute liability as propounded in Bhopal Gas leakage case, Union Carbide vs. Union of India etc., are to be followed and applied. Cases like bribe burning, dowry deaths etc., is blatend violation of human rights, but it is very difficult to prove such offences. The Evidence Act has also to be amended so that the onus probandi i.e., burden of proof is shifted from prosecution to the accused. The scope of such offence is elaborately brought out in this chapter. Offence has also been classified under different heads and analyzed in detail.

**Summary of Chapter-III:** The police is a state subject and its organisation and working are governed by rules and regulations framed by the state governments. These rules and regulations are outlined in the Police Manuals of the state police forces. Article 246 of the Constitution of India places the police, public order, courts, prisons, reformatories, borstal and other allied institutions in the State List. Superintendence over the police force in the state is exercised by the State Government. The head of the police force in the state is the Director General of Police (DGP), who is responsible to the state government for the administration of the police force in the state and for advising the government on police matters. To enable the police have greater and speedier reach and the public to gain easier access to police help, police posts have been set up under police
stations, particularly where the jurisdiction of the police station, in terms of area and population, is large.

Keeping the above points in mind, the research scholar conducted a study on (a) the organisation of police, (b) investigation by the police and (c) safeguards for the arrested under the Constitution of India and the criminal procedure code for the protection of human rights of the arrestee.

**Summary of Chapter-IV:** Torture is practiced as a routine and accepted means of investigation. Most police and other law enforcement officers consider torture as an essential investigative tool, rather than unscientific or crude. Policy makers and bureaucrats believe there is nothing wrong in punishing a criminal in custody, not realizing, first that a person under investigation is only an accused, not a convict, and second, that torture is a criminal act, not a method of punishment. There is a lack of societal awareness about torture, its nature and gravity. This allows torture to be practiced by all sections of law enforcement agencies, as well as paramilitary and military units. In fact, torture and violence are used in the country as methods of social control.

India’s National Human Rights Commission has repeatedly recommended that the Indian government ratify the Convention against Torture and criminalize torture in the country.

In this chapter the researcher the following points are discussed: (i) The procedures to be followed by the police conducting investigation and having custody of the accused person. (ii) Enforcement of human rights and (iii) The international
conventions and municipal legislation on the subject. An in-depth study with regard to these matters together with some important cases and current incidence that take place in the society was discussed.

It is clear from the analysis that the role of police in maintaining law and order, protecting at the same time the human rights of individuals is indeed a Herculean task. This is particularly so in view of the fact that at the present day various kinds of crimes are being committed, for example – organized crimes, human trafficking, drug addiction, foreign exchange smuggling etc. In such cases, the police cannot easily get to the truth and extract the truth from the accused. It becomes necessary to apply the modern techniques like lie detection, mind mapping etc., though it may amount to some extent the violation of human rights, in particular testimonial compulsion, which is not allowed under Article 20 Clause 3 of the Constitution of India. Nevertheless, such techniques are being lawfully used with the permission of the Court and in spite of the fact that on employment of such techniques what is being successfully detected by the police is only a tip of the iceberg. Therefore, the role of police in this connection is indeed an unenviable task.

**Summary of Chapter-V:*** Maintaining social order is such a fundamental police function, and social order is so fundamental to the realization of human rights that the protection of human rights can be seen, in itself, as a police function. The very specific ways in which police protect particular human rights give further support, if it were needed, to the notion that the protection of human rights is a police function. Indeed, it is argued that the protection of human rights should stand alongside the prevention and
detection of crime; the preservation of social order; and the provision of assistance in emergencies as one of the primary functions of policing.

The relationship between human rights and policing should be characterised by these three concepts - protection, respect and entitlement. However, the protection of human rights by policing is a very positive aspect of the relationship and this need and deserves further consideration. Therefore, the researcher presented the recent trends on the protection of human rights in the context of the role of police.

6.2.0 CONCLUSIONS

1. It is concluded that the police personnel work together and ensure human rights violation free zone with indicators in the Field Action Project of the Institute’s initiative. This can be achieved by collaborative efforts of the police and other stakeholders such as lawyers, human rights activists and the non-governmental organizations working in the field of human rights.

2. Despite the rhetoric on rule of law, constitutional provisions, the existence of human rights laws and institutions such as the NHRC, the fact remains that at bottom the Indian police are a government department functioning under government orders with hardly any meaningful autonomy, an issue that needs serious analysis.

3. The focus on crime and investigation detracts attention from the fact that the Indian police organization, based on the colonial Irish paramilitary police model with specific characteristics as designed by Charles Napier in the 1840s, was originally set up to put down by brute force political resistance to British rule; that structure has not only been retained without change in the
post-colonial period, but has been vastly strengthened to put down political resistance to regressive development policies, whether non-violent resistance as in the Narmada Bachao Andolan or violent resistance as in the Naxalite movement.

4. Most of the provisions of the Indian Penal Code and the Criminal Procedure Code possess a narrow focus on security of state and public order at the cost of human rights protection and service provision, which needs to be removed along with similar reform of the Police Act of 1861.

5. The sample size of the HRW report (excluding Uttar Pradesh) may appear small considering that India is a large country with 28 states and 7 union territories.

6. The issues of decentralisation, democratisation and empowerment of panchayati raj institutions (PRIs) for discharging police functions need to be addressed.

7. The sufferings of large sections of ordinary people in Jammu & Kashmir, the north-eastern states and the Central Tribal Belt including women and children, under the adverse impact of the imposition of ‘lawless laws’ such as the Armed Forces Special Powers Act and Criminal Law Amendment Act, affecting human dignity needs addressing.

8. Intelligence systems oriented to security of the state and public order do not respect human rights concerns and priorities and must be addressed.


10. The role of the two All India Services, the IAS and the IPS, in over-all law and order management needs reconsideration.
6.3.0 SUGGESTIONS

1. Scientific investigation tools should be adopted in investigation of cases than that of third degree methods.

2. Education of police personnel vis-à-vis civil society in terms of the human rights sensitization programmes.

3. Curb the political interference in the police functioning.

4. The role of media is that it should give the authentic information of any incidence or issue.

5. The media should also bring to the light the positive role played by the police i.e., the success stories of police in protection of human rights.

6. There should be meeting, dialogue or conference amongst police, public and media.

7. Discussion on organised crime, inequality in Indian society, and criminalization of politics.

8. Seminars should be organised at various levels like, District, State and National with regard to human rights and the role of police.

9. Participation of NGOs on the area of women and children, minorities, disabled and their marginalised section of the society.

10. Emphasis to be given on public–police relation.

11. Ways and means to improve the efficiency of the police in protection of Human rights.

12. The role of police is to put up posters & charts outside the police station to comply with the Right to Information.

13. Special measures to be taken, to create legal awareness among the public, on issues of right of accused, procedures of bail, FIR, probation, special protection for children, women & weaker sections of the society.
14. The police should realize that they had lots of legal powers to control the human rights violations and so it is their responsibility to protect human rights without submitting to any kind of pressures like that of the media, public and the politicians.

15. Law enforcement officials shall at all times fulfil the duty imposed on them by law, by serving the community and by protecting all persons against illegal acts with regard to human rights, consistent with the high degree of responsibility required by their profession.

16. Law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

17. Training and clear guidelines shall be made available on all matters of police activity affecting human rights.

18. Police shall develop strategies for law enforcement which are effective, lawful and respectful of human rights.

19. Police officials should have a general understanding of the most relevant human rights standards and what these mean in daily operations.

20. Police training that aims to increase ‘professional policing’ and includes human rights aspects.

21. The important principle in ensuring Human Rights is the ‘Protection against double jeopardy’. This means that no person can be punished for the same offence twice. This has been enshrined in the Indian Constitution in Article 20(2) and also in the Criminal Procedure Code.

22. Compliance with the eleven requirements enumerated in D.K.Basu, should be ensured in all cases of arrest and detention.
23. Computerization, video-recording, and modern methods of records maintenance should be introduced to avoid manipulations, insertions, substitutions and antedating in regard to FIRs, Mahazars, inquest proceedings, Port-mortem Reports and Statements of witnesses etc. and to bring in transparency in action.

24. An independent investigating agency (preferably the respective Human Rights Commissions or CBI) may be entrusted with adequate power to investigate complaints of custodial violence against Police personnel and take stern and speedy action followed by prosecution, wherever necessary.

25. A variety of programmes have been developed in Anglo-American countries for training police for the prevention of juvenile delinquency the international criminal police organization, the international federation of senior police officers and the international association of chiefs of police have often made important suggestion bearing on police training.

26. The National Human Rights Commission has measure as the police to magistrates court every fifteen days for extending their remand period. Magistrates would extend the remand period through video-conferencing, indeed, e-mail connectivity to all police stations will provide for speedy correspondence as in most of the states video-conferencing facility has been provided to DGP, Zonal IGs, Range DIGs and SPs of the district level.