A sincere attempt has been made in this work to analyse comprehensively "The role of police and the protection of human rights". For the first time an in-depth exploration has been undertaken to study the statues and judicial precedents, statistics, view of various eminent personalities to realise the importance and the need to reform the police force and eradicate the violence of human rights. The researcher believes that the biggest ever challenge faced by the human community is the danger of violation of human rights by the armed forces and what they literally need is the peaceful life without any interference by others and their sovereignty and human dignity should be protected as much as the sovereignty and dignity of the country. This research work aims at meeting this challenge and suggests the routes to protect and promote the human rights as well as to reform the armed forces. The human community is badly infected with the alarming increase in the violation of human rights by the police which can, thus, be reduced. If this menace of violation of human rights is over looked or not properly treated then it would be a disaster to the human community at large. Improving the quality and attitude of the armed forces by imparting the value of human rights will make the human community peaceful and stronger.
REASONS FOR THE POLICE REFORMS

The police force in India has still not woken up to the fact that it is a civilian force which is part of civil society, paid for by society and it requires to deliver the mandate given to it by society through laws. It cannot be antagonistic to society, nor can it look upon society as its prey, which it can exploit and feed upon at will. The police do have cohesive force, but they cannot be used against the law-abiding citizens, neither by design nor by accident. The army only when dealing with the enemy has a field of fire and destroys them when it intervenes in the field by using maximum force. The police force should understand that they have no such field of fire. Under the Anglo-Saxon system of jurisprudence that we have adopted, every citizen is deemed to be innocent till a case is proved against them and he is convicted by the court of law. The police, therefore, have no authority to treat even the alleged criminal as anything but a citizen against whom, by investigation, they have to establish a prima facie case which can be prosecuted before the court. No situation permits the police to cause any harm or injury and certainly it does not permit the Police to use torture, third degree method or any other form of physical or psychological brutality against the citizens, especially one who is in his custody.

It is submitted that the need of police reforms today is evident and imminent. It is also essential for the establishment of good Government, protection of Human rights and economic progresses. The reforms will not come of their own. Resistance to the idea of police reforms is deeply
entrenched. The police are the most visible and ubiquitous of all the Government agencies and it is their acts of commission and omissions, which determine largely as the public perceptions about the quality of governance being provided to them. It is therefore the interest of our Government to bring about reforms in the police.

There are two directions in which the idea of police reforms must be pursued simultaneously. One is to establish statutory institutional arrangements which would ensure that the power of superintendence of the state Government over their police forces is limited to guarantee that police performances is in strict accordance with law. In other words, the police function is to establish, rule of law and not the rule of politics.

The other direction is to think in terms of doing all that can be done to strengthen and improve the police force under the existing set up. Besides improvement in recruitment, training and leadership at all levels, the status of constabulary needs immediate improvement. There is also a need to set up strong statutory monitoring accountability mechanisms outside our police department so that they have public credibility.

It is submitted that the conditions of the police and the reforms should be from the basic root (i.e.) the recruitment, Training and culture.

So far, lot of incidents of police atrocities which have been accruing quite often, clearly indicate that a number of wrong and emotionally

---

1 world focus (MDJ) Vol22 No.1 Jan 2001, HS Chhabra (pub) p.12
unbalanced persons are able to enter into the police force and remain there.

A number of judicial enquiry commissions are set up to inquire into communal and caste riots. They have recommended adversely on the police for showing discrimination in handling the disturbances. The National Police Commission has referred to the stringent criticism received by it from many responsible quarters that the police often did not act impartially and objectively.

There has been a very significant expansion of the police force all over the country during the last few decades. Police have failed to design a system, which would prevent the entry of wrong types of people into the organization. Corruption, caste and communal considerations and the political system have resulted in diluting the recruitment standards or at least in reducing the quality of manpower inducted into the police.

The subject of police training in this country has been reviewed from time to time by various expert bodies. Despite this, the state police training in the country is known to be poor. The police training institutions in this country are known to be suffering from a loss of infrastructure deficiencies due to lack of adequate investment of resources by the state Governments. However, more than lack of infrastructure and other facilities, it is the culture of the training institutions, which is only a reflection of the culture of police organizations as a whole, that fails to produce a community friendly policemen. The existing system is aimed at developing a militaristic pattern of policing, which tries to control crime.
and law and order disturbances, without being sensitive to the requirements of the community.

The police training must change this culture. Besides introducing other needed improvements, the training syllabus for lower ranks must be reviewed and revised. It is important that the training programme stresses the need to impart proper and adequate training in Human rights and in ethics to police personnel. The present arrangements are not satisfactory in this respect.

In a study conducted by Common-Wealth Human Rights Initiative (CHRI) an International Non-Governmental Organisation, it was noticed that slightly less than 1.1% of the total indoor training time was being spent on teaching Human rights subject to lower ranks of the police force. It is no wonder that the awareness and attitudes of police personnel towards human rights issue leave a lot to be desired. Further the study reveals that the general awareness among the rank of assistant, Sub-Inspector and Inspector of Police about basic Human rights of a person, both at International as well as national level was poor and their attitudes towards Human rights were at the root of the problem.

The next to watch is the criminality amongst the police force. It is true that there was an increasing involvement of police personnel in different types of crimes including murder, rape, robbery, extortion etc. The police officers links with under world Mafia people in several states
were revealed. In Calcutta, a commissioner of police was seen to have maintained close links with the underworld. In Harayana, a DGP was caught red handed while accepting bribe and another was involved in getting a person killed in his custody. Police officers in the rank of Supt. of Police had no hesitations in filing false Affidavits in the courts. In Karnataka, a senior IPS Officer is facing Murder charges. Recently a DGP of TamilNadu has been kept under suspension for complaints against Torture, sexual harassment and corruption charges. In Assam, two senior officers were involved in cases of Rape. This shows the trend that the Criminal activities of the police force is definitely growing.

The Padmanabiah committee in its Recent report on police reforms has referred to this fact in these words.

“Unfortunately, criminalisation of the police force is also growing. While police personnel hobnobbing with Individual Criminal Elements or with people operating in the grey areas of Law is itself most undesirable, the reported links between the policemen and the organized criminal gangs, is most pernicious and threatens the National Security of the country”.

Another aspect or view is that the criminalisation of politics and their impact on police forces as the nexus between the criminals and politicians becomes stronger, the former is able to subvert the loyalty of the functionaries at different levels in the Government including the

1THE HINDUSTAN TIMES' report of November 1997 under the title "Tainted Bureaucrats"
2Supra 1
Source www.humanrightsinitiative.org/programs/police/padmanabiah.htm
police, this is because, in our country the police force in the states is under the control of Home ministry and this in turn comes under the port folio of concerned ministers. So the ministers have the final say in what the police should do and not to do .The police acts as puppets in the hands of the politicians. Interestingly it is a open secret that if the police officer is not obeying the orders of the politician and goes by rule of law, the concerned officer either gets transfer to remote area or will be placed at unimportant posts (as they mention in the police circle).

Sometimes when controlling crimes and dealing with law and order problems efficiently, it becomes highly important from political point of view, that the police brutality gets state encouragement and protection, with complete assurance of impunity granted in advance. A glaring example of this is the address made on April 30th 1998 by the then Chief Minister Mr.Kalyansigh of Uttar Pradesh at Lucknow to Police Officers meet on Law and order problems is as follows,

"I want performance, results. I want you to take a vow that you will create a explosion in the state. If noted criminals can be liquidated in the encounter, DO IT. If you take the life of One person who has taken the life of 10 others, then people will praise you. And I am here to protect you."

This is a serious way of a politician to address the police officers to act in a brutal way ignoring the basic human rights and the values of law. The result of his words did result in killing of some gangsters but failed to produce the desired results. Another thing is that under pressure to show
results, the police organized dozens of fake encounters to bump off "criminals" and later it transpired that many of those so called criminals killed in encounters were innocent poor people.

The next aspect of police reforms should be focused on accountability of police officers. This is an important aspect responsible for increasing incidence of the police lawlessness and the impunity enjoyed by policemen even in proven misdeeds. There is a provision in law, which comes to the rescue of the diligent police personnel. The provision is contained in Sec 197 of Cr.P.C. under which 'a public servant cannot be prosecuted without the sanction of the appropriate authorities for acts done while acting or purporting to act in the discharge of his official duties'.

The very purpose and interpretation of this section is to protect the bonafide of a police officer from frivolous and vexatious complaints to demoralize them and dissuade them from performing their duties. However this is a fact that this provisions of law has been abused to provide protection to police officers even in serious cases of misconduct. This happens because of a strong nexus between politicians, bureaucrats and police officers, which deliberately delays or denies sanctions to prosecute the diligent police officer.

Police persons committing excesses on citizen sometimes succeed in getting scot-free because of the absence of independent effective accountability mechanism. Public find it difficult to get redress when they make complaints against the brutal behaviour of police personnel.
In India, the police are policed mostly by themselves. This system has two major faults. One it does not take the entire dirt in the police department to come to the surface. The next, an enquiry into a public complaint against the police lacks credibility. The public distrusts the police and feels that the Department is incapable of conducting enquiries into public complaints in a fair and effective manner.

The other institution where the people have the confidence is the judiciary. Already the judiciary has doing the commendable work in this sphere, however, the judiciary cannot come into the rescue for every human rights violations happening in every nuke and corner of the country. Moreover, the public think that the Court procedures are time consuming and cost effective and moreover the courts are already clogged with huge arrears of cases to deal within.

The next institution to which the citizens may prefer is the National Human rights Commission, which has the existence of about 9 years. The problem, however is that an institution like this in a country of India's size becomes too remote from the scene to be effective in many cases. A large number of police atrocities are committed in small towns and villages of India, where the people are not aware of either the Commission's existence or their procedures and doubt the performance. It is very sad to note that even most of state Government have yet to set up their own State Human rights Commission. At present the commissions is said to be weak and inadequate in its form. The country should take up the matter into
discussions and make commission more effective, as it can play a major role in protection and promotion of Human rights in India.

The Padmanabiah committee on police reforms, suggested changes in the existing system of police accountability\(^7\). The committee's analysis about the subject, particularly about handling of public complaints against police has been disappointing. The committee held that the public complaints originate from the nature of the police job, not from the manner in which the job is done. It also recommended that all these complaints against the police personnel must in first instance be handled by the superiors in the department itself and then if necessary it will go to the formal investigation. It is to be noted that the public lost faith in the police investigation citing that the police personnel themselves handle the complaint filed against themselves. So the public will not probably welcome this recommendation at large. Subsequently after the formal investigation is over by the police officers and if action does not satisfy the complainant, he can have the access to a "Non-Statutory District Police Complaints Authority" (NSDPCA). This authority will be headed by the District Magistrate (DM) and have the senior Additional Sessions Judge and District Supt. of Police and eminent citizens nominated by the DM as members\(^8\). This authority, as they suggested is in par with the PCA (Police Complaints Authority) in United Kingdom(UK) and CCRB (Civilian Complaint Receiving Board) as in United States of America(USA) but with some minor changes.

\(^{1}\) Supra 5  
\(^{2}\) Supra 6
It is submitted that this proposed NSDPCA credibility will be reduced due to the involvement of District Superintendent of Police in the hierarchy such that he will be biased in the complaint against his own agency (i.e. the police) and the next important aspect is that the NSDPCA is not being provided with an Independent Investigation agency of its own. It would depend upon the police force to enquire into public complaints against police personnel. This is precisely the reason why the PCA of UK had failed. No police accountability mechanism can be considered successful if it fails to inspire public confidence.

But in USA the CCRB have been set up in about 70 jurisdictions. These are independent non-police civilian agencies, which are empowered to receive, investigate, hear, make findings and recommend action on complaints against police officers. Moreover there is an increased demand from the public that the Board should be given some powers to discipline the delinquent police officers.

Policing in India has never been democratic. The police as an organized institution in this country is about 140 years old. It was set up through the police act of 1861, which brought into existence a police force governed by the colonial power to ensure their sovereignty over the population and to perpetuate their rule in the country. In this system, the police remained unaccountable to anyone except to their own hierarchy and the executives. The idea of the police being a part of the community and accountable to it thus took a violent new turn.
Thus to sum up the researcher taking all extraneous conditions suggesting the following reforms:

(i) **REFORMS TO BE MADE IN THE POLICE DEPARTMENT:**

1. **HUMAN RIGHTS AS A COMPULSORY SUBJECT:**

   Human rights training cannot be regarded as a mere add-on to the existing syllabus, it must be treated as a core of the training programme of all ranks. There is a common perception amongst the police personnel that the Human rights are an encumbrance, an obstacle to effective policing. The importance of the training programme should be to change this perception. Further, the subject of Human Psychology should be given importance in the training programme. And it should be made compulsory to pass through the Human Rights Subject to get in to the next stage of training.

2. **MINIMUM EDUCATIONAL QUALIFICATION:**

   The next is the basic qualification required to enter in to the police department. For this the selection committee shall prescribe that a basic degree is a must to enter in to the police service starting from recruiting Constables, Sub-Inspectors etc.
3. **SCIENTIFIC MEANS:**

An average Investigation Officer (IO) in this country still depends on traditional methods of recording statements of witnesses or getting confession from accused to work out a case. The reluctance of the IO to use modern methods like, DNA Finger Printing, Lie-detector etc. can be broken by imparting regular in-service training to them at periodical intervals and by providing scientific facilities at their doorsteps.

4. **NEGOTIATING TECHNIQUE:**

In the foreign countries, the police mostly depend upon the negotiator who by conversing to the accused and in quite some moments would bring the accused in his control and act in his favour. By this a large number of crimes and dangers have been averted with out problem of violating any laws. So the researcher here stresses and suggested that the art of negotiating technique shall be taught to our police personnel by bringing a trained tutor from the foreign countries.

5. **HIGH LEVEL COMMITTEE FOR WORKING CONDITIONS AND LIVELIHOOD OF THE POLICE:**

A high level committee headed by the respective Chief Minister of the state with one working Judge of the High Court, members including the authorities of State Human Rights Committee and
chief of Police department should decide the matter of the service conditions of the Police, as a recent study revealed that the police personnel at the station level were highly dissatisfied with their service conditions. The next is from the point of view of the police. Taking the grounds on humanitarian and psychological aspect, there is no time bound duty for the police. The police personnel has to work 24 hours a day, 365 days a year. Their salaries are too low, no fixed hours of work, no family accommodation available to majority of them, they have very little to look forward to in terms of their career advancement. Their promotions are far slow. They are always under constant pressure to produce the results according to what their superiors want or politician want. Such work load in any situation would cause stress and strain to a normal human being. According to doctors, this would lead to abnormal irritation, lethargy, depression. And adding fuel to fire the police personnel receives pressure from all quarters. All this would ultimately result in an inhuman behavior. So the working hours of the police personnel should be worked out immediately and proper facilities and remuneration should be given to them to live a decent mode of life.

HIGH LEVEL COMMITTEE FOR SERVICE CONDITIONS OF THE POLICE:

There is also a feeling that the decisions regarding their postings, transfers, rewards, suspensions, dismissals and other punishments
are often taken on extraneous considerations and not always on merit. For this obvious reasons one working Judges of the High Court and the Chairperson of the SHRC of the respective States shall be included in the committee which decides above matter of the Police Personnel. This will obviously eliminate the Political interference in the above matter.

7. **POLICE GRIEVANCE CELL:**

A Police Grievance Cell which shall receive the grievance from the Police Personnel, shall work under the direct supervision of the Concerned State Chief Minister, the Chairperson of SHRC. One working /retired Judge of the High Court should decide the matter. The lower rank police personnel had been rudely treated by their superiors and politicians such that they often are being shouted in abusive language in presence of others. The National Police Commission observed that the manner in which the police personnel behave towards public is largely conditioned in the manner in which they are themselves treated by their own senior officers.

8. **ACCOUNTABILITY OF POLICE (AMENDMENT OF Cr.P.C)**

Sec 197 of the Cr.P.C. should be immediately amended to explain that it would not apply to any offence committed by a public servant against the human body committed in respect of a person in his custody or to any other offence constituting an abuse of authority.
The law commission of India has already recommended that this provision of law should be amended.

The National police commission also recommended that the protection available to the police officers under section 132 and 197 of the Cr.P.C. of 1973 should be withdrawn. So that the complainant is free to press his complaint against police official for a judicial pronouncement without having to obtain prior permission of the competent authority for such prosecution.

9. **FORMALITY TO A POLICE CALL**

The first and foremost is to take the starting point of the violation of Human Rights. It begins when an informal call is given by the police to the accused or suspected person to come to the station. Now it should be taken as a serious view that hereafter no police should give an informal call to any body to come to the police station. Because violence of Human rights takes place and there is no evidence to show that which police station called him or on what authority he was called on etc. To avoid this, the police station officer should send a slip notice stating that his/her attendance is required in the concerned police station on the particular matter and the time of attendance tentatively is to be written on it. One slip has to be handed over to the so called accused signed by the police officer and the other, countersigned by the accused, to the police officer.
Any police officer tends to violate this, the concerned person or a victim can refuse to come to the police station and should report to the nearest Magistrate of his jurisdiction or can report it to NHRC or SHRC and the concerned Authority has to take the matter and conduct formal enquiry. If the violation is proved, then the concerned Police Officer should be dismissed from the service. This will surely help to reduce the malpractices and violation of Human rights by the police to very large extent.

10. **JUDICIAL OFFICER IN POLICE STATIONS**

The next violence of Human rights by police takes place in police stations. So an judicial officer post should be created so that the officer may be a visiting or a full time officer of that station or a group of stations. It is his work to note and check the violations in the police stations coming under his jurisdiction and to report the same to the concerned judicial Magistrate or NHRC or SHRC. Based upon his report, the appropriate authorities can enquire in to the matter. In this way one can have an eye over the direct happenings on the police station. This will cast the Government exchequer an expense. But one should not forget that basic Human rights cannot be equated in terms of money and money alone.
THE PROCEDURE TO BE FOLLOWED IN SHOOTING ORDER

a. The next important aspect is the firing by police. It is strictly to be noted that the police are given weapons to protect the people. But in some cases of riots and also when an unlawful assembly goes on rampage, the police are given the power to shoot such that it does not take one’s life easily. The police officer can cripple the anti-social person by shooting at his legs and his legs alone. But what is the need of the PO to shoot him in his chest or head. And this means that he has deliberately attempted to take the life of the person under the cover of law. This has to be stopped. In event of the death of a person other than by way of encounter (a real encounter), the concerned police official shall be suspended, and he or she shall have to prove the cause of situation that made them to shoot at other parts instead of the leg. Moreover to prevent the fake encounters it is suggested that whenever there is a need to take the prisoner out of the prison for any reason, a Magistrate or any two member of the NGO recommended by the Magistrate can accompany the prisoner. This will protect the prisoner from the death due to the fake encounters.

b. Unless until needed, the main object of the shooting is to cripple a person temporarily. Then what is the need of using a real bullet, which causes death. Therefore it is advisable to use the rubber
bullets or in extraneous circumstances the tranquiliser, wherever necessary to make the person to cripple temporarily.

12. **THE PROCEDURE TO BE FOLLOWED DURING LATHI CHARGE**

The same should also apply to the lathicharge. Nowadays, as the media is a watchdog of all happenings, one can see the entire picture of riots or arson completely in the television and know what is happening. Any one can see the police personnel chasing the people ruthlessly, the barbaric manner of the lathicharge of the head, ribs, chest, abdomen, all other parts except in legs (where lathicharge is meant for). This is seen as a very distressing trend as one can see the person's head being broken by the police beating him with the lathi. A strict order should given to police that in lathi charge the police have to strike at the people's legs that too only below the knees.

13. **PROCEDURE DURING PROCESSION**

It is quite common to see nowadays that during the procession (both political and non-political), one way or the other there seems to be clash between police and processionists and lot of bloodshed occurs. Each section blames the other for the happenings. After the incidents the concerned Government as a matter of routine will announce the solatium and constitute an Enquiry Commission headed normally by a retired judges of the High Court.
As the prevention is better than cure, and taking every procession as a serious one, the concerned Government can act to prevent the untoward incidents. For every procession, the police permission is a must, by this the police in advance know the date, route, venue etc., of the procession. The Government can appoint a Magistrate of the concerned district where the procession going to take place, a top level police officer not less than ADGP or IG of the concerned jurisdiction and any one member of the SHRC to observe the procession throughout. The entire procession shall have an coverage by the Government T.V. channel and one private channel.

By this method, if any untoward incident happened during the procession, the Magistrate can act swiftly by passing appropriate orders to the police officials directly then and there, to bring the situation under the control. Since the Magistrate and the member of the SHRC know the entire situation and watch any police officials indulge in violation of human rights during the procession. The Magistrate and the member of the SHRC shall file the report on the incidents of the procession to the Government and recommend the appropriate measures to be carried out.
14. **THE HIGH TOLERANCE CAPACITY TEST**

This test shall be introduced in the training programme of the police personnel. With the High Tolerance Capacity, the police can deal with any kind of situation tactfully and exhaust all means before using excessive force. Experience has shown that whenever a riot takes place and police firing is ordered due to the inept handling of the situation by the police at the initial stage itself. The triggered and provoked policemen quiet often come in for several criticism throughout the country for allegedly killing people, while quelling riots, dispersing unlawful assemblies, controlling crowds etc. While there may be an immediate cause for the people to indulge in rioting, the police must exercise maximum restraint even under gravest provocation and try to counsel those spearheading the agitation. Whatever may be the situation, the police should not be provoked to exercise extreme force all of a sudden, but to execute the methods one by one. For example in a riot like situation, a very first instance is to pacify the crowd and assure them of appropriate action. Secondly, firing tear gas is the simplest method to disperse the mob. Thirdly, sprinkling of water may be done. Fourthly, mild lathi charge may be resorted, that too below the knee. Fifthly, if this fails, shooting at Air can be done to disperse the Crowd.
15. CUSTODIAL DEATHS

The next crucial aspect is the custodial death. As the Supreme Court and NHRC has already made serious note and took some serious method to stop this, further suggestion is that is to suspend the DCP, ACP and Inspector under whose jurisdiction the Police station is. Nowadays it seems to be a mockery, as there is only the transfer of such police officer that is being taking place. This will not stop the violation of Human rights as simply as that and the punishment of the concerned guilty official should be a deterrent to others. The onus of proving the lock up death is upon by the concerned officer only and until he proves his innocence, he or she shall be kept under suspension.

16. ENCOURAGEMENT TO THE POLICE PERSONNEL

As a good initiation, the appropriate Government can announce that whichever police station (PS) has a clear record of not being involved in any violation of human rights issue for say about six months or one year(as prescribed) shall be given a special status and award for that purpose and to adjudge that station as a role model. The special status means sanctioning of funds. Immediate priority shall be given to the particular station in all aspects. In addition to that, all the authorities of the station from top echelon to the bottom shall be awarded with a special citation and cash price
and preference shall be given in promotion and postings to them. The above recommendation would definitely give a morale boost to the police authorities. And they would strive to get a good image and in turn eradicate the menace of Human rights violation.

17. DEFAME THE ERRING POLICE PERSONNEL

As there are two sides to a coin it is appropriate here to suggest that whichever Police Station is involved in the Human rights violation, the concerned authorities of that station from the top echelon to the bottom level shall be forced to strip the medals given to them and they would be suspended immediately and later be dismissed if the guilt is proved beyond reasonable doubt. A question may be raised that why all the authorities of the station be penalized as the actual violation of Human rights are committed by one or two officers. The answer is simple that if all were dragged in to the picture then everybody would tend to be more cautious and prevent each other from involving in any violation of Human rights within the station.

18. POLICE UNDER DEPARTMENT OF JUSTICE

An important suggestion is to bring the entire administration (including the transfer and promotion in police force) under department of Justice. The department should be created as the one in U.S.A This is because of the fact that politicians under whom the police organization is working does not favour the over all reforms made to the police as they want the police officers to be
under their control so that they might command and ask them to
dance to their tunes.

But as suggested, under the Department of Justice, the police
Organisation will be given a free hand, subject to the supervision of
the department, to think and act as a prudent human being. Also
they are not subjected to any pressure, undue influence, political
transfers, intentional transfers and suspension when they are
under the roof of Department of Justice. Another advantage of this
is since the two departments' functions are intermingled, they can
come to know the practical difficulties facing each other and can
evolve solutions, which will run the organization with out
confrontation.

19. **REFRESHER COURSES**

The next suggestion is as agreed by all and also discussed in various
seminars and commissions is that to impart the Human rights
subject in police training colleges. It is as simple as such to
introduce the same. But the real fact is that once the policemen
completes the training and posted in the job, he forgets and ignores
all that are taught to him. And a glaring example for that is the
exercise taught to police man at training.

To make things work out in reality, a stringent and efficacious
method should be adopted. After every two or three years, the police
personnel should be made to under go a refreshing course. The
reasoning capacity of the personnel should be checked by conducting an Aptitude test with a qualifying mark for it. This method would keep the personnel alert and conscious about the current situation.

20. **SEPARATE TRIBUNAL FOR POLICE PERSONNEL**

Since the police organization is an important and effective one in dealing with the Law & order of the State and as it carries a sizeable population from the public, a separate attention is to be made on them. So a separate TRIBUNAL dealing only with the police excesses and other cases, should be established so as to deal the cases expeditiously in the first instance and dispose the same. And a time limit say about 90 days is given to dispose of the same shall be ordered and from there the appeal goes to the National Human rights Commission or State Human rights Commission which would take appropriate action and in any way the said Tribunal shall be under the control of the High Court or the Supreme Court as the case may be.

21. **24 HOURS MONITORING**

A group of 15 to 20 police stations shall be fitted with the short circuit TV cameras and can be monitored by an independent group consisting of eminent citizens, and personnel preferred by the SHRC or NHRC. The group shall work under the control of the NHRC only. This will check and monitor the violation of Human
Rights taking place at the Police stations. This method shall be expanded to all the police stations throughout the state in the phased manner.

22. COMPUTERIZATION OF THE ENTIRE POLICE DEPARTMENT

In the modern world, the potential of the computer can be fully made use to the police force. All the police stations in the States should be provided with the Computer systems and linked to one centralized point where it will be monitored by an independent committee under the chairmanship of NHRC. This centralised point shall record all the informations such as FIR, case diary, from the respective police stations, by this method once the information given by the concerned police station cannot alter or manipulate the same in any way and have to go by the procedures. This will protect the manipulations made in some police stations to suit their requirements thereby violating the value of Human Rights.

23. REVIEW OF SIX MONTHS REPORT

The NHRC shall submit the report for every six months to the Government. A high level committee headed by the Prime minister of India, Chief Justice of Supreme Court and NHRC Chairperson shall discuss the report and shall take appropriate decision to take effective remedy to the problems.
(ii) **REFORMS TO BE MADE IN LEGISLATION**

(1) The Advisory committees at national level and the state level as well as at local level be constituted to involve more people in the administration.

(2) The politicians should be made obligatory that they must go to their constituencies and gather the complaints and present them before the house.

(3) Executive Magistrates should not be given judicial power because they act as tools of the Government and the police as they are likely to be biased.

(4) The transparency in the administration of the State Government is given full effect and the right to know should be given a statutory recognition.

(5) The most important suggestion is that to make the "Human rights Commission" a Constitutional body like Election Commission and Union Public Service Commission, So that it acts independently without fear or favour.

(6) The NHRC reports should be taken up for immediate action to make necessary Amendments as proposed by NHRC to "The Human rights Protection Act 1993" so that more teeth is added to strengthen its limbs.
Since the prisons in the country are in such a pathetic situation, it is a must to privatise all the prisons in the country as it has been done in USA and UK. As the basic amenities and an healthy environment is a right of human dignity of the prisoners.

The researcher also suggesting the recommendation made by the National Law Commission, as to amend the Criminal Procedure Code, 1973, and other related laws to incorporate the general principles to be observed in the matter of arrest for offences (other than those offences for which the punishment is life imprisonment or death but not offences where the punishment can extend up to life imprisonment) shall be as follows:

1) **ARREST SHALL BE EFFECTED IN THE FOLLOWING CIRCUMSTANCES:**

(a) where it is necessary to arrest the accused to bring his movements under restraint to infuse confidence among the terror-stricken victims or where the accused is likely to abscond and evade the process of law;

(b) where the accused is given to violent behaviour and is likely to commit further offences unless his movements are brought under restraint or the accused is a habitual offender and unless kept in custody is likely to commit similar offences again;
(c) where the arrest of the persons is necessary to protect the arrested person himself; or

(d) where such arrest is necessary to secure or preserve evidence of or relating to the offence; or (e) where such arrest is necessary to obtain evidence from the person concerned in an offence punishable with seven years or more, by questioning him.

In this connection, section 157 of Code of Criminal Procedure, 1973, which says that where a police officer proceeds to investigate the facts and circumstances of a case (on receiving information about commission of an offence), he shall arrest the offender, only where it is "necessary". Sub-section (1) of section 157, insofar as relevant reads as follows:

"(1) If, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the State Government may, by general or special order, prescribe in this behalf, to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender...."
2) **NO ARREST TO BE MADE MERELY ON SUSPICION OF COMPLICITY IN AN OFFENCE**

The law must provide expressly, by amending section 41 and other relevant sections of the Cr.P.C., if any, that merely on the suspicion of complicity in an offence, no person should be arrested. The Police Officer must be satisfied prima facie on the basis of the material before him that such person is involved in a crime/offence, for which he can be arrested without a warrant. It is to be amended in such a way that, on mere suspicion, however bona fide, cannot be a ground for arrest. As such the word like “Suspicion” shall be replaced by the words "has been concerned in the commission, preparation or instigation of acts". This amendment shall be in accord with the modern concept of human rights, which are implicit in Part III of our Constitution.

3) **STATUTORILY INCORPORATION OF SAFEGUARDS CONTAINED IN D.K. BASU'S CASE**

It is equally necessary to give legislative recognition to the safeguards contained in the decision of the Supreme Court in D.K.Basu. The safeguards to be incorporated (being No.1 to 11) have been set out in Chapter-VI of this research work.

AIR 1997 SC 610
4) REPRESENTATIVES OF REGISTERED NGOS TO BE ENTITLED TO VISIT POLICE STATIONS

To check the illegal practice of unlawful arrest, detention and torture, there should be a specific provision in the Code of Criminal Procedure creating an obligation upon the officer in-charge of the Police Station to permit representatives of registered non-Government organizations to visit the Police Station at any time of their choice to check and ensure that no persons are kept in the Police Stations without keeping a record of such arrest and to ensure further that the provisions of the Constitution and the Code of Criminal Procedure are being observed. For this purpose a procedure must be devised for registration of genuine NGOs and a record must be kept of their representatives.

5) NECESSITY TO INCREASE COMPOUNDABILITY OF OFFENCES AND INCORPORATE THE CONCEPT OF PLEA BARGAINING

It is equally necessary to increase the number of compoundable offences. It must be remembered that quite a few offences in the Indian Penal Code are essentially of civil nature. There must be a massive decriminalisation of law. The concept of plea bargaining, which has been recommended in the 154th Report of the Law Commission (on Code of Criminal Procedure), should be incorporated in the Code.
6) **NO ARREST SHOULD BE MADE UNDER SECTIONS 107 TO 110, Cr.P.C.**

So far as proceedings under sections 107 to 110 Cr.P.C are concerned, no arrests should be made. Police must be empowered to take if necessary a personal interim bond to keep peace/for good behaviour from such persons. This should be extended to all similar offences under the local Police Acts.

7) **BAIL SHOULD BE GRANTED AS A MATTER OF COURSE EXCEPT IN SERIOUS OFFENCES.**

In respect of all offences except the serious offences like murder, dacoity, robbery, rape and offences against the State, the bailable provisions should be made liberal and bail should be granted almost as a matter of course except where it is apprehended that the accused may disappear and evade arrest or where it is necessary to prevent him from committing further offences. The provisions in Cr.P.C relating to grant of bail may be amended suitably.

8) **NO ARREST OR DETENTION FOR QUESTIONING**

It is also necessary to provide that no person shall be arrested or detained by police merely for the purpose of questioning. Such arrest or detention, it is obvious, amounts to unwarranted and unlawful interference with the personal liberty guaranteed by Article 21 of the Constitution.
9) **ENSURING THE SAFETY AND WELL BEING OF THE DETAINEE IS THE RESPONSIBILITY OF THE DETAINING AUTHORITY.**

It should also be provided by law that once a person is arrested, it is the responsibility of the arresting and detaining authority to ensure the safety and well being of the detainee. The recommendation of National Police Commission regarding mandatory medical examination of the arrested person deserves implementation.

10) **NEED FOR STRICT COMPLIANCE WITH SECTION 172, Cr.P.C.**

Sub-section (1) of section 172 of the Code of Criminal Procedure requires that (1) "every police officer making an investigation under this chapter shall day-by-day enter his proceedings in the investigation in a diary setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him and a statement of the circumstances ascertained through his investigation". Inasmuch as such diary would also record and reflect the time, place, and circumstances of arrest, it is necessary that the provisions of this sub-section should be strictly complied with. In this behalf, the Apex Court in Shamshul Kanwar Vs State and in Ashok Kumar Vs State emphasised the significance of the case diary and its relevance as a safeguard against unfairness of police investigation and

---

11 AIR 1995 SC 1748  
12 1979 Cr L J 1477
suggested the legislative change to rectify this confusion and vagueness in the matter of maintenance of diary under section 172. It is therefore appropriate that section 172 be amended appropriately indicating the manner in which the diary under section 172 is to be maintained, its contents and the manner in which its contents are communicated to the Court and the superior officers. Such an amendment would also go to ensure that the time, place and circumstances of the arrest of an accused are also properly recorded and reflected by such record, which is indeed a statutory record.

(iii) **REFORMS TO BE MADE WITH THE CITIZENS**

1. **MEDIA**

In the fast present world the media is considered as excellent tool which can carry message to the people at large. The media should play a part in strengthening the awareness among people. The television, Newspaper, Radio and Internet should have a compulsory slot of programs based on Human rights concepts.

2. **EDUCATION**

It is suggested that as the part of reform process, the subject of Human Rights which shall be included in the curriculum right from 1st standard in the schools. Also the same subject shall made compulsory in the Public Exams.
3. **PROPAGANDA**

The Government shall organise various seminars, workshops and create endowment lectures on Human Rights and can announce prize schemes to the winners thereby creating awareness of Human Rights among the citizens. Further it can propagand through the mobile vehicle which can be taken even to the remote villages with screening of document pictures of the concept of Human Rights.

4. **POLICE AS FRIENDS**

The Police department shall effectively organise various programs in public, to spread the need for the public to help and treat police as friends, the ways in which the public shall co-ordinate and co-operate with police in solving crimes. This would eradicate the fear of police in the minds of public.

Before conclusion it is appropriate here to mention a point that the police should given free hand and they should not be in fear and favour of any political or other influences except the rule of law. The central Government can take effective steps to reform the police in the States. But the central Government has often taken refuge behind the provisions of the constitution and washes its hands off the entire responsibility of initiating action to introduce reforms in the police citing that police is not the direct responsibility of the Central Government as the police and public are placed by Article 246 of the constitution in the State list.
It also interesting to note that even if the Central Government initiated the action, it has been vehemently opposed by the State Government quoting the same Article for its defence. This can be really seen in the very recently ended episode of Tamil Nadu. When a former Chief Minister and two union ministers were arrested in the state and where the police excesses complained by them to the central Government.

It can be just right and perfect to quote here what Lord Denning said in the context of a refusal by the London police to register a case as directed by the Home secretary,

“The police should be accountable to the law and law alone. No minister of the crown shall tell the commissioners of police whom to arrest and whom not to arrest.”13

13 R Vs Metropolitan police Commissioners Exp. Black burn, 1968. Also see practical police management p20 , by Geoff Berry Jim