

REPORT

ON

“FUNDAMENTAL & STATUTORY RIGHTS OF ARRESTEES & UTPS”

1. The National Human Rights Commission, New Delhi has sent letter D.O. No.4/6/2005-PRP&P dated 25th October 2007 to the Hon’ble Chief Justice, High Court of Gujarat, wherein it is stated that the need to organize training and orientation course for the Magistrates to emphasize the point that remand proceedings before them to authorize detention of the arrestee. Magistrates need to sensitize that while considering remand application they are expected to go through the FIR and Police Case Diaries to ascertain whether or not there are prima facie reasons for authorizing further detention of the arrestee etc. The Commission has also requested to consider giving appropriate instructions to all the District and Sessions Judges to take necessary steps to resolve the acute problem, which has the impact of violating a human right, which is given the status of constitutional guarantee.
2. Hon’ble the Chief Justice of the Gujarat High Court and the Chief Patron of the Gujarat State Judicial Academy had approved the proposal on 7.12.2007, prepared by this Academy for conducting the One day Judicial Colloquy at the district headquarters on Fundamental and Statutory Rights of Arrestees and UTPs in the manner and methodology as stated in the proposal.
3. Accordingly, this Academy had invited the legal problems of the Judicial Officers of the State in the form of short questions for clearing off their doubts and erroneous conceptions on the subjects, topics or points as under:
 - a) *Article 14, 19 to 23 and 39A of the Constitution of India.*
 - b) *The Human Rights Protection Act, 1993.*
 - c) *The Code of Criminal Procedure*
Chapter - V - Arrest of Person - S. 41 to 60
Chapter - VI - B- Warrant of Arrest - S. 70 to 81
Chapter XII - Remand - S. 167
Chapter XXIV - Legal Aid, Adjournments etc. - S. 303, 304, 309
Chapter XXXIII - Provisions as the bail and bonds - S. 436 to 450
 - d) *Criminal Manual - Chapter II - Para 12 to 20*

- e) *The precedents of the Hon'ble Apex Court and Hon'ble High Court operating in this field.*
 - f) *Human Rights and Custodian Crime – rights of Accused person.*
 - g) *Human Rights and Delay in Justice.*
 - h) *Human Rights and Legal Aid*
 - i) *Any other laws operating this area and time being in force.*
4. This Academy has scrutinized the questions received from the Judicial Officers of the State and prepared a final questionnaire containing 160 questions on the above subjects. The same was sent to the Principal District Judges of the State for conducting a Judicial Colloquy as per the manner and methodology referred hereunder and to report this Academy after concluding the Judicial Colloquy.
- a) *The Principal District Judge has to forward the questionnaire to all the Judicial Officers of his District with a direction to make an intensive study of the questions and draw plausible answer in light of the specific provisions of laws and latest precedents.*
 - b) *The Principal District Judge has to set up a panel of selected three Judges, who will prepare the key to the questionnaire and submit it to the Principal District Judge.*
 - c) *The Principal District Judge has to preside over the colloquy. He will make ready the chit prepared for each question. Each Judicial Officer has to pick one chit, one by one, and after reading it, answer the question, followed by the discussion. During discussion, the empanelled Judicial Officers will pass final comments and add legal provisions/case law to the answer given, if requires.*
 - d) *The empanelled Judicial Officers have to prepare final and complete key to the questionnaire and submit it to the Principal District Judge after the conclusion of colloquy.*
5. The Academy has received the reports submitted by the Principal District Judges of the State consisting following information:
- a) *Day and date on which Judicial Colloquy was conducted.*
 - b) *Name of Judicial Officers/Participants in the colloquy.*
 - c) *Name of the empanelled Judicial Officers.*
 - d) *Suggestions of participants, empanelled Judicial Officers, Principal District Judge etc.*
 - e) *Remarks, if any.*

6. Meanwhile, this Academy has received the letter No.4/6/2005-PRP&P dated 13th March 2008 from the National Human Rights Commission, New Delhi, wherein it was requested to response in the matter. This Academy has replied vide letter No.GSJA/167/2008 dated 31st March 2008 that the matter is in progress.
7. Bearing in mind the reports submitted by the Principal District Judges of the State after the colloquy was conducted at the different district headquarters on Fundamental and Statutory Rights of Arrestees and UTPs following fact revealed:

S/n.	District	Date of Colloquy	Date of Receipt of Report	No. of Participants
1	A'bad (Rural)	07/09/08	17/09/08	26
2	Amreli	07/09/08	29/09/08	13
3	Anand	21/09/08	08/10/08	20
4	BK at Palanpur	31/08/08	12/09/08	32
5	Bharuch	31/08/08	24/09/08	31
6	Bhavnagar	31/08/08	28/11/08	26
7	Dahod	07/09/08	15-9-08 & 27-09-08	15
8	Gandhinagar	13/09/08	29/09/08	24
9	Jamnagar	13/09/08	01/01/2009	29
10	Junagadh	13/09/08	17-69-08	30
11	Kheda at Nadiad	21/09/08	17/10/08	33
12	Kutch at Bhuj	13/09/08	13/10/08	27
13	Mehsana	21/09/08	21/11/08	32
14	Narmada	21/09/08	29/09/08	7
15	Navsari	21/09/08	10/10/08	13
16	PM at Godhra	21/09/08	18/11/08	20
17	Patan	31/08/08	12/09/2008 & 15/11/2008	16
18	Porbandar	03/09/08	09/09/08	9
19	Rajkot	05/10/08	23-10-08 & 28-11-08	47
20	SK at Himatnagar	13/09/08	23/10/08	27
21	Surat	07/09/08	17/09/08	41

S/n.	District	Date of Colloquy	Date of Receipt of Report	No. of Participants
22	Surendrangar	05/10/08	24/10/08	21
23	Vadodara	07/09/08	20-11-08 & 24-10-08	51
24	Valsad	07/09/08	14/10/08	12
25	City Civil Court	27/09/08	18/10/08	24
26	Small Causes Court	03/09/08	29/9/08	7
27	Metropolitan Court	03/09/08	01/01/09	27
28	Family Court	11/10/08	24/10/08	5
	Total			665

8. The questionnaire consisting 160 questions, which were discussed at the district headquarters of the State, are attached herewith.

9. **Feed Back:**

Taking into account the Feed Back/ Suggestions of participants, empanelled Judicial Officers and Principal District Judges on the programme following facts emerged:

- a) The Judicial Officers found the new way of gaining knowledge on law points by way of discussion and active participation of each participant.
 - b) It is very effective, informative and inspiring one.
 - c) Useful in daily judicial work.
 - d) Acquired good knowledge amongst the Judicial Officers by this colloquy.
 - e) Questionnaires should be prepared on different subjects and such type of colloquy on different subjects should be arranged periodically.
10. The National Human Rights Commission has encouraged this Academy to organize training and orientation course for the Magistrates to refresh as well as boost up the knowledge on Fundamental and Statutory Rights of Arrestees and UTPs and sensitized on the Human Rights issues. The Judicial Officers have benefited by the colloquy in discharging their duties more efficiently

and judiciously. This Academy is thankful to the NHRC for drawing attention for emphasizing the need for training to the Magistrate for rights of the arrestees and UTPs and providing guidance thereto.

January 1, 2009

Director

(V.P. Patel)
Deputy