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ANNEXURE-A

Excerpts of the Scientific Research of the Human Rights violations of the Arrested
Persons by the Police

By

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Notwithstanding a plethora of mandatory requirements of our Constitution, Statutes and requirements by the Apex court, custodial violence remains unabated (Annual report of National Human Rights Commission). Therefore, Shyamsundar did stock-taking by undertaking a scientific research on the extent and magnitude of violations of human rights of the arrested persons by the police in the state of Tamil Nadu and found that of the 411 samples, only in 28 samples there was not even a single violation, where as in as many as 383 samples (93.19%) – 183 out of 191 in Chennai and 200 out of 220 in Villuppuram district, there were human rights violations of one type or the other to the extent of about 3 per sample.

Proportion of Samples with violations and without violations:

S.No.	AREA	Number of cases with violation	Number of cases without violation
1	Chennai Commissionerate Sample size – 191	183	8
2	Villuppuram District Sample size – 220	200	20
3	Total	383	28

I) Pre-arrest Human Rights Violations of the Arrested Persons and their Relatives by the Police – Summary

- A. There are totally 426 violations in the sample size of 411 of the arrested persons. Out of the total number of 1644 of rights, the violation works out to 25.91%
- B. Unparliamentary language was the most common form of violation by the police against the arrestee and it was in 43.06% of the sample.
- C. Unnecessary force was used in 35.55% of the sample of the arrestee.
- D. Illegal detention was inflicted in one sixth of the sample (17.27%) of the arrestee.
- E. Parading the arrestee in public deliberately, which is a gross violation against human dignity, was found in one twelfth of the samples (8.75%) of the arrestee.
- F. There are 47 violations of the human rights of the relatives of the arrestee by the police in the sample size of 95 (49.47%). Moreover, there are 44 violations of the relatives who accompanied their arrestee but could not be interviewed.
- G. Unparliamentary language was the most common form of violation by the police against the relatives (22.1%) followed by demand of illegal gratification (15.79%) and then unnecessary force (11.58%)

II) Violations of the Human Rights of the Arrested Persons by the Police relating to Mandatory / Statutory Requirements: Summary

- A. Non-issue of receipts was found in all the 6 cases (100%) relating to seizure of money.
- B. Non-issue of receipts was found in 17 out of 28 cases (70.3%) pertaining to seizure of articles from the premises of the arrestee.
- C. Handcuffing of the arrestee without court orders was found in 26 out of 37 cases (70.3%).
- D. The police violated the right to dignity by making the arrestee nude in 39 cases (9.48%) of the total sample.
- E. The police did not grant bail in 56.75 per cent of the totalailable cases of 105.
- F. The police failed to inform the grounds of arrest in 23.6 per cent of the total sample.
- G. The police demanded money from one eighth of the total sample (50 cases).

There were significant human rights violations due to non-compliance of the requirements of law in 22.45% of the total sample.

III) Violations of the Human Rights of the Arrested Persons by the Police relating Supreme Requirements in DK Basu Case

There were violations in all the chosen seven requirements of D.K.Basu case that were taken as dependent variables for the research.

Right to entitlement of informing one of the relatives about the arrest was found violated in 252 cases (61.3%); violation of this requirement was found very high in dowry death cases (84.84%) followed by simple hurt cases (69.04%) and the least violations of 20 per cent in Prevention of Atrocity cases.

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Preparing arrest memo immediately was found not implemented in 208 cases (50.6%); it was to the extent of 72.7 per cent of dowry death cases; 57.5 per cent of simple hurt cases; 51.42 per cent of property cases with least violations of 11.5 per cent in assault on public servants.

Right to counsel was found violated in 157 cases (38.2%).

Right to medical examination was found denied in 17 out of 28 cases (60.7%)

Right to medical examination every 48 hours was found violated in 4 out of 10 police custody cases (40%).

The police failed in their duty in not sending a telegram to one of the relatives staying in a different district in 39 out of 59 cases (66%).

The total number of rights of 411 samples pertaining to DK Basu case is 1386 and number of violations was 719 (51.88%), which was higher than number without violations that stood at 667 (48.18%). Since the sample size is 411, for each case there were almost 2 violations (1.75 to be precise)

Please find enclosed three sections as follows:

- A) Pre-arrest violations of the arrested persons by the police are in the first section viz. 'Inhuman Wrongs by the Police in their Exclusive Domain.'
- B) Violations of the Mandatory / Statutory Requirements of the Arrested Persons by the Police in second section under the caption: 'Inhuman Wrongs Perpetrated by the Police against the Arrested Persons.'
- C) Violations of the Supreme Court Requirements in DK Basu case are in the third section namely, 'Pro-Active Judgment but Retro-Active Implementation pertaining to Human Rights.'

Section 1: INHUMAN WRONGS BY THE POLICE IN THEIR EXCLUSIVE DOMAIN

INTRODUCTION: The general purpose of the Criminal Justice System is to provide a mechanism for the administration of criminal law. Its core object is "to ensure for the accused a full and fair trial in accordance with the principles of natural justice". However, the sequence of events and measures that precede the actual trial are most crucial from the point of view of the very successful functioning of the Criminal Justice System. The first segment of criminal procedure, as provided under the Code of Criminal Procedure, 1973 i.e. events that precede the actual trial is in the exclusive domain of the police that includes information as to the commission of an offence of crime, discovery and arrest of the suspected offender and collection of evidence relating to the commission of the offence which may consist of examination of various persons and search of the places and seizure of things and documents useful as evidence in the trial. The scope of the article is to find out the extent and magnitude of violations of the rights of the arrested persons and their relatives by the police in the pre-trial and pre-arrest stage.

2) **Police Custody:** A person is said to be in police custody when he is kept in attendance in such a way as to deprive him of his freedom and the test being whether he is at liberty to depart at will. Though a person may be in police custody without being formally arrested, in actual practice police custody usually entails arrest.

3) **Unparliamentary Language:** It is the most common form of violation by the police in pre-trial stage. "When a person goes to a police station with a complaint no one listens to him willingly or patiently", and if the complainant insists on being heard immediately he receives a shower of abuses in 'vile language' and is 'threatened with some sort of action against him. The complainant leaves the police station with feelings of deep regret for having gone to the police station at all (Report of Tamil Nadu Police Commission, 1987). The situation has not changed since then in India.

4.1) **Independent variables:** Variables refer to any phenomena that can assume more than one value. There are two categories of variables viz. independent variable and dependent variables. Dependent variables are those whose values are affected by independent variables. For the present study the characteristics of arrested person's viz. income level, educational level, caste, gender, area of operation of the arrested persons and different categories of offences viz., murder, rape, grievous or simple hurt, theft, dowry death, atrocity offences against Scheduled Castes or Scheduled Tribes and offences of assault on public servants committed by the arrested persons were chosen as the independent variables.

4.2) **Dependent Variables:** The dependent variables are those variables whose values are influenced by independent variables. They were identified to find out the relationship between independent variables and dependant variables.

4.2.1) Violation of human rights of the arrested persons by the police prior to the formal arrest by way of:

- a) Use of unparliamentary language
- b) Use of unnecessary force
- c) Illegal detention
- d) Parading in public with the intention to insult

4.2.2) Violations of the rights of the relatives of the arrested person by the police by way of:

- 1. Use of unparliamentary words
- 2. Use of illegal force
- 3. Demanding illegal gratification

The above violations are dependent variables, which are influenced by the independent variables.

4.3) The operational definitions of income level, educational level are given below:

4.3.1) Income Level: During the study period 2002 – 2004 the arrested persons were categorized into four categories based on their income level namely a) No income group; b)

Low income group with an income up to Rs.1200/- per month; c] Middle income group with an income above Rs.1200 per month but below Rs2500/- and d] Higher income group with an income of Rs.2500 per month or above.

4.3.2) Educational level, Based on their education, arrested persons were classified into 7 groups – illiterates, below 5th standard. 5th to 9th standard, 10th to 12th standard, diploma holders, under graduates, post graduates. However, the last three groups namely diploma holders, under graduates, and, post graduates were clubbed into one group namely higher educational group for the purpose of the study.

5) Construction of the Tool

In order to investigate the variables chosen for the study, the following interview schedules were constructed by the author: -

1. Methods of violation of human rights of the arrested persons.
2. Methods of violation of human rights of the relatives of the arrested persons.

5.) Description of the Tool

Two structured interview schedules, one to interview the arrested persons and the other to interview the relatives of the arrested persons who witnessed the violations of human rights by the police were framed.

5.1.1) **Interview Schedule-I:** The first interview schedule is the schedule for the arrested person. It has two parts.

Part-I of the schedule contains 12 questions dealing with the personal data of the arrested person. Part-II of the schedule contains 52 questions with regard to treatment of the arrested person by the police from the time of picking up till either releasing the arrested person on bail from police station or production before a magistrate.

5.1.2. Interview Schedule-II

It concerns interview schedule of the relatives of the arrested person and has one part with 25 questions. Its purpose is to find out not only the veracity of the statement of the arrested person made during the interview but also their violations, if any

5.2) The universe of the study were the arrested persons by the police of the chosen categories of offences.

5.3) The primary data were collected from the arrested persons with the help of the interview schedule designed for this purpose and administered in vernacular language. Secondary data, the statistics were collected from the respective district Crime Records Bureau.

5.4) After carefully considering the statistics collected from the Crime Records Bureau, due to the availability of a larger sample the respondents were identified by stratified random sampling technique. A sample size of 411 arrested persons – 191 from a metropolitan city and 220 from a mofussil district was taken for the research study.

5.5) The data collected were classified and subjected to statistical analysis on the basis of inferential analysis, Bi-variate analysis and Content analysis. These analyses were done in order to accept or reject the chosen hypotheses for the study.

6) Pre-arrest human rights violations – Frequencies and Percentages

6.1) It is evident from table-1 below that of the four chosen pre-arrest human rights, unparliamentary language is the most common violation followed by the use of unnecessary force by the police that was found in almost one third of the samples.

6.2) The general perception that police show arrest of the criminals as and when they consider it necessary and accordingly create the records gained support from as many as one sixth of the samples in which the arrested persons were found detained illegally though everything was found correct on record. Illegal detention is the most dangerous one as it violates almost all the human rights of the arrestee as listed out in the Constitution, law and the Supreme Court requirements. The high frequency of occurrence of illegal detention perhaps

reflects not only the lack of transparency, lack of training and sub-culture of the police organization but also underlines the inadequacy of law, failure to introduce police reforms and lack of coordinated and concerted efforts on the part of human rights activists and non-government organizations and failure of the defense lawyers in not agitating in the Court of law.

TABLE – 1: Pre-arrest human rights violations – Frequencies and Percentages

S.No.		Number of samples with violations	Number of samples without violations
1	Use of unparliamentary language	177 (43.06%)	234 (56.94%)
2	Use of unnecessary force	142 (35.55%)	269 (64.45%)
3	Illegal Detention	71 (17.27%)	340 (82.73%)
4	Parading to insult	36 (8.75%)	375 (91.25%)
5	Total x2 value & significant level - 1518.08; P< .001	426 (25.91%)	1218 (74.09%)

6.3) Notwithstanding legal provisions, government orders and departmental circulars against parading of the arrestee in public with the intention to inflict insults, its occurrence in one twelfth of the samples shows not only the failure of the supervisory officers to pull up the erring personnel and lack of constant briefing but also the failure of the NGOs dealing with human rights in not taking up the matter with the press, senior officers and the Court.

7) Relationship between Income Level of the Arrested Persons and Human Rights Violations:

7.1) Among the samples only 29 (7.1%) had no income, while 141 (34.4%) belonged to low-income group, 149 (36.3%) belonged to middle income group and 93 (22.4%) belonged to higher income group. 16.5 per cent of the population (68) was coolies (unskilled wage earners); 12.7 per cent (52) worked in the agricultural land of their fathers; 4.6 per cent (19) were industrial workers; 4.1 per cent (17) office goers and 8 per cent (33) were unemployed.

TABLE – 2: Relationship between Income Level of the Arrested Persons and Human Rights Violations

S.No.	Violations	No. of Cases	Income level				x2 value & Significant level
			No-income	Low-income	Middle income	Higher income	
1	Use of unparliamentary language	With violations	7 (24.1%)	60 (42.6%)	71 (47.7%)	39 (42.4%)	5.54 P>0.05
		Without violations	22 (75.9%)	81 (57.4%)	78 (52.3%)	54 (57.6%)	
2	Use of unnecessary force	With violations	7 (24.1%)	87 (61.7%)	51 (34.2%)	30 (32.6%)	2.43 P>0.05
		Without violations	22 (75.9%)	28 (19.9%)	98 (65.8%)	63 (67.4%)	
3	Parading to insult	With violations	NIL	8 (5.7%)	20 (13.4%)	8 (8.7%)	8.52 P<0.05
		Without violations	29 (100%)	133 (94.3%)	129 (86.6%)	85 (91.3%)	
4	Illegal detention	With violations	4 (13.8%)	28 (19.9%)	27 (18.1%)	12 (13.0%)	2.13 P>0.05
		Without violations	25 (86.2%)	113 (80.1%)	122 (81.9%)	81 (87.0%)	

7.2) A perusal of table-2 reveals that there is no association between the income level of the arrested persons and the violations of the human rights of the arrested persons such as use of unparliamentary language, use of unnecessary force and illegal detention. The only satisfying feature of the study was that the police did not differentiate between the no-income group and other income groups either in use of unparliamentary language, or in the use of unnecessary force or in detaining them illegally.

7.3) Of the four chosen pre-arrest rights, the only exception is that there is a relationship between income level and right against parading in public with the intention to insult. While it is heartening to note that no arrested person belonging to no-income group suffered the humiliation of being paraded in public by the police, it is disheartening that the other groups did suffer. The reasons for the relationship between the income level and parading of the arrestee in public in order to insult him / her are perhaps due to the following.

Either the arrested person in the no-income group might not have been so notorious to attract the wrath of the community or the police or the arrestee would not have challenged the authority of the police by committing the crime repeatedly or there would not have been tremendous pressure on the police from the public / political party in power / senior police officers to show results or due to lack of supervision of senior police officers or due to the sadistic attitude of the police.

8) Relationship between Gender and Human Rights Violations of the Arrested Persons

TABLE – 3

S.No.	Violations		Gender		x2 value & Significant level
			Arrested women (26 samples)	Arrested men (385 samples)	
1	Use of unparliamentary language	No. of Cases			0.80834 P>0.05
		With violations	9 (34.6%)	168 (43.63%)	
		Without violations	16 (65.4%)	217 (56.37%)	
2	Use of unnecessary force	With violations	4 (15.4%)	138 (35.84%)	4.50845 P<0.05
		Without violations	22 (84.6%)	247 (64.16%)	
3	Parading to insult	With violations	2 (7.7%)	37 (9.61%)	0.105 P > 0.05
		Without violations	24 (92.3%)	348 (90.39%)	
4	Illegal detention	With violations	4 (15.4%)	67 (17.40%)	0.069 P > 0.05
		Without violations	22 (84.6%)	318 (82.60%)	

8.1) In the State in which the samples were taken in every police station, a minimum strength of three women including an officer is posted to act as receptionists and to assist male

investigating officers in all crimes against women. Of the total sample of 411, the 26 arrested women constituted 6.326% of the sample.

8.2) A study of the table-3 reveals that there is no relationship between the gender and the use of unparliamentary language, illegal detention and the parading in public. However, there is an association between the gender and use of unnecessary force. It is satisfying to note that the police did not use unnecessary force against the arrested women to that extent as was used against their male counterparts. The recognition of the weak physique of the arrested women might be the reason for the significant lesser use of force against the arrested women.

9) Relationship between categories of offences and human rights violations of the arrested persons prior to formal arrest

9.1) It is evident from table-4 below that there is an association between categories of offences and all the four pre-arrest human rights violations namely use of unparliamentary language, use of unwarranted force, illegal detention and parading the arrested persons in public with a motive to insult.

9.2) If all the four variables under pre-arrest violations of human rights of the arrested persons were taken together, it is interesting to note that violations were found to be maximum in the case of the arrested persons involved in heinous offences namely murder, rape, followed by property offences, offences under POA act and grievous hurt offences in that order when compared to assault cases, simple hurt cases and dowry offences. The pre-arrest violations of the arrested persons involved in dowry death cases were found to be minimal. The treatment of the arrested persons who had committed the offences of assaulting public servant, simple hurt and dowry death by the police was relatively better, which perhaps indicates that the police treated those offences not that grave as that of murder, rape, property offences, offences under POA and grievous hurt. The perception of gravity of the offences by the police might be the reason for the significant differences in human rights violations against the arrested persons in various categories of offences.

Table - 4

S.No.	Violations x2 value & significant level		Categories of offences							
		No. of Cases	Prop- erty offence	Murder	Rape	Assault on Public servants	*POA	Dowry Death	Simple hurt	Grie- vous hurt
1	Use of unnecessary force 34.60 P< 0.01	With violations	38 54.3%	33 67.3%	12 52.2%	11 42.3%	8 53.3%	7 21.2%	49 32%	19 45.2%%
		Without violations	32 45.7%	16 32.75	11 47.8%	15 57.7%	7 46.7%	26 78.8%	104 68%	23 54.8%
2	Use of Unnecessary Force 76.65 P< 0.01	With violations	41 58.6%	32 65.3%	11 47.8%	6 23.1%	4 26.67%	2 6.1%	31 20.3%	15 38.5%
		Without violations	29 41.4%	16 34.7%	12 52.2%	20 76.9%	11 73.33%	31 93.9%	122 79.7%	27 61.5%
3	Parading to insult 24.23 P< 0.01	With violations	11 15.7%	8 16.3%	1 4.3%	5 19.2%	1 6.6%	1 3%	4 2.6%	6 14.3%
		Without violations	59 84.3%	41 83.7%	22 95.7%	21 80.8%	14 93.4%	32 97%	149 97.4%	36 85.7%
4	Illegal detention 64.23 P< 0.01	With violations	21 30%	11 22.4%	10 43.5%	Nil 0%	5 33.3%	2 6.1%	19 12.4%	3 7.1%
		Without violations	49 70%	38 77.6%	13 56.5%	26 100%	10 66.7%	31 93.9%	134 87.6%	39 92.9%

* POA means The Scheduled Caste and the Scheduled Tribe (Prevention of Atrocity) Act

10) Relationship between Religion of the Arrested Persons and Human Rights Violations

Results of the table-5 reveal that there is no association between religion and human rights violations of the four taken for the study. It is gratifying to note that the police did not discriminate on the basis of the religion of the arrestee.

Table - 5

Sl.No.	Violations	Hindu Size - 373	Muslims Size - 22	Christians Size - 16	χ^2 value & Significant level
	Use of unparliamentary language	161-43.2%	7-31.8%	9-56.3%	2.27085 P>.05
	Use of Unnecessary force	127-34.0%	8-36.4%	7-43.8%	.67241 P>.05
	Parading to insult	29-7.8%	4-18.2%	3-18.8%	4.89470 P>.05
	Illegal gratification	44-11.8%	3-13.6%	3-18.8%	.74133 P>.05

11) Relationship between Educational level of caste of the arrested persons and Human Rights Violations

Of the total sample of 411 arrested persons, 155 (37.7%) belonged to Scheduled Caste, while four to scheduled tribes (1.0); 122 to most backward class (29.7%), 120 to backward class (29.2%); and 10 to other castes (2.4%).

It was evident from the results that no relationship was found between the four violations and educational level or caste at 0.05 level of significance.

12) Human rights violations of the relatives of the Arrested Persons

Those relatives of the arrested persons who had witnessed violations of the rights of the arrested persons and who were available were interviewed to find out not only about validity of the statement of the arrested persons but also violations of their rights, if any.

Table - 6

Human rights violations of the relatives of the arrested persons

Size of the population - 95	Violation of the rights of the relatives, who were interviewed	Violation of the rights of the relatives, who were not interviewed	x2 value & significant level
Use of unparliamentary language	21	21	104.1
Use of unnecessary force	11	06	85.6
Demand of illegal gratification	15	17	79.26

12.1) The results reveal that human rights violations were highly significant at 0.05 level. Therefore, the hypothesis that there will not be any human rights violations of the relatives of the arrested persons is rejected.

12.2) The relatives have not committed any crime and the police violated in 50% of the sample shows that the deep-rooted indifference arising out of the sub-culture of the police organization. Moreover, rights of 44 of relatives who had accompanied the arrestee but could not be interviewed also were found violated.

12.3) Results indicate that while explaining the nature of the offences to the relatives of the arrested persons the police had exaggerated in 21% of the cases. The reason perhaps was to extort more illegal gratification.

12.4) Relatives interviewed corroborated the violations claimed by the arrestee in 94.7% of the cases.

13) Summary:

H. There are totally 426 violations in the sample size of 411 of the arrested persons. Out of the total number of 1644 of rights, the violation works out to 25.91%

- I. Unparliamentary language was the most common form of violation by the police against the arrestee and it was in 43.06% of the sample.
- J. Unnecessary force was used in 35.55% of the sample of the arrestee.
- K. Illegal detention was inflicted in one sixth of the sample (17.27%) of the arrestee.
- L. Parading the arrestee in public deliberately, which is a gross violation against human dignity, was found in one twelfth of the samples (8.75%) of the arrestee.
- M. There are 47 violations of the human rights of the relatives of the arrestee by the police in the sample size of 95 (49.47%). Moreover, there are 44 violations of the relatives who accompanied their arrestee but could not be interviewed
- N. Unparliamentary language was the most common form of violation by the police against the relatives (22.1%) followed by demand of illegal gratification (15.79%) and then unnecessary force (11.58%)

14) **Conclusion:** Respect for human rights should be built into the professional ethics of the police service. "Protection of life, property and rights of the citizens" should be the mission of the police. (Prof. S. M. Dias, IPS Retd.)

"We may acquire all sorts of expensive foreign devices, establish communications and computers, and build up vast laboratories but if we lack leadership, integrity and believe in custodial violence.....it is difficult to see whether we can bring policing up to the standard that this country demands and deserves." - K. F. Rustamji, IPS (Retd.)

The Police Act (of 1861 or New Police Act) no doubt prescribes the duty imposed on the police to detect cases. But, such results cannot be achieved by means not provided for. State must reeducate the constabulary to cutting edge level officers to come out of their sadistic arts and inculcate a respect for the human person – a process which must begin more by example than by precept, if the lower rungs are really to emulate.

Section 2: Inhuman Wrongs Perpetrated by the Police Against the Arrested Persons

Introduction: Maintenance of law and order and prevention of crime in State is exercised through its administrative apparatus - police organization, which exercise the authority of law in pursuit of the constitutionally mandated goals. However, misuse or abuse of that authority or the perversion of the legally accorded power by the law enforcers renders such issue beyond the pale of rule of law. *"Police, creatures of law cannot be allowed to violate the very law they are expected to uphold. Their misdeeds would be more heinous than the game keeper becoming a poacher....."* (Bhagawan Singh v State of Punjab. 1992 Supreme Court).

2) Rights Guaranteed in Indian Constitution

Article 20 guarantees right against double jeopardy under 20 (2) and right against self-incrimination 20 (3) while Article 21 guarantees right to life and Article 22 the following rights:

- Right to a counsel of his/her choice 22 (1)
- Right of an arrested accused to be produced before a magistrate within 24 hours of arrest 22 (2)

2.1) In addition, Indian Constitution has mandated certain fundamental and primary rights which cannot be violated in the enforcement of any substantive or procedural penal laws. Although there is no specific prohibition of degrading treatment under our Constitution, Supreme Court has held in Mullin's case that any form of torture or degrading treatment would be offensive to human dignity and would therefore violate Article 21.

3) Indian Penal Laws and Human Rights: The arrested persons have various protections under Indian penal laws. Some important rights of the arrested person are briefly given below:

3.1) Person arrested to be informed of grounds of arrest and of bail (Section 50), 55 (Procedure when police officer deposes his subordinate to arrest without warrant) and 75

(Notification of substance of warrant) of Cr.P.C. 1973 are mandatory in nature and their propositions can be summarized as under: -

- A. After very arrest (both under a warrant and without it) the person arrested has a right to be informed of the grounds of his arrest.
- B. In all cases of arrest in bailable offences, the accused has a right to be informed of such a right to enable him to avail the same.

3.2) **Right of the accused persons not to be subjected to unnecessary restraints** (Section 49 of the Cr.P.C., 1973): The arrest of a person duly effected as per law further warrants that there should be no more restraint than is necessary to prevent his escape. But, before keeping a person under restraint, it is necessary that there must be an arrest which must be valid and as per law. Thus, restraint without arrest would be clearly illegal. Moreover, sections 56 & 57 of the Code prescribe that the arrested must be produced forthwith before a magistrate by an officer in charge of a police station and this provision is exclusively meant to prevent the misuse of the power of arrest viz. arbitrary arrest or illegal detention by the police without warrant. Further, in any case the arrested person cannot be detained by the police for more than twenty four hours of such arrest (Sec 57 Cr.P.C).

3.2.1) Furthermore, as per section 167 of the Code of Criminal Procedure, 1973 it is incumbent upon the magistrate to ask the accused person whether he has been informed of the grounds of his arrest (Vimal Kishore V. State 1956).

3.3) Persons arrested should be brought before court without delay (Section 76). Its purpose is three fold:

- A. To prevent the arrest and detention with a view to extract confessions, or as a means of compelling people to give information;
- B. To prevent police stations from being used as though they were prisons;
- C. To afford an early recourse to a judicial officer independent of the police on all questions of bail discharge (Md. Suleman, CWN).

3.4) Right to be released on Bail in Bailable offences: The arrested person has the right to be released on bail (436, 437 and 438 and also sections 50(2) and 167 of the Code of Criminal Procedure 1973). The circumstances in which a person may be arrested with or without a warrant are enumerated in the Code of Criminal Procedure 1973 (Sections 41 & 44 of the Code). The basic standards relating to bail are:-

- a) Bail is matter of right, if the offence is bailable whereas in non -bailable offences it is a matter of discretion.
- b) A Magistrate shall not grant bail if the offence is punishable with death or life imprisonment. But, if the accused happens to be a woman, a minor below the age of 16 years, or a sick or infirm person, the court has a discretion to grant bail, and
- c) The court of Sessions and the High Courts have a wider discretion in granting bail even in respect of offences punishable with death or imprisonment for life.

3.5) Right of the Accused to have him medically examined: Section 54 of the Code of Criminal Procedure, 1973 provides for examination of the arrested person by a medical practitioner at the request of the arrested person.

3.6) Right against harassment and ill-treatment while under custody during investigation: The term "police custody" referred to in section 26 of the Indian Evidence Act cannot be construed in a strict or literal sense, as the term "police custody" would be that "as soon as an accused or suspected person comes into the hands of a police officer, he is, in the absence of clear and unmistakable evidence to the contrary, no longer at liberty and is therefore in custody within the meaning of section 26 of the Evidence Act (Maung Lay V. Emperor, 1924).

3.6.1) In fact, section 163 of the Code of Criminal Procedure, 1973 prohibits any police officer from making any inducement, threat or promise for the purpose of obtaining a statement. But, by sub section (2) of the same section, there should be no stopping of a voluntary statement by a witness. Thus, the provisions of section 163 of the Code make it abundantly clear that it does not authorize the police officer to beat or to confine a person with a view to induce him to make a statement. Section 330 and 331 of the Indian Penal Code and



also Article 21 of the Constitution of India guarantee right against harassment and ill-treatment while under custody, during investigation: .

3.7) **Search:** Sec 100 Cr.P.C. Following measures are considered elementary to ensure that the searches are as per law, fair and correct.

- a) At least two independent and respectable witnesses of the locality or any other locality if no such inhabitant of the locality is available or is willing to be a witness, shall be asked to be present;
- b) The search shall be conducted in their presence and the list of things seized should be signed by the witnesses;
- c) The occupant of the place or his representative shall be allowed to be present during the search and a copy of the search list signed by the witnesses shall be given to him;
- d) When any person is searched under section 100 (3), a copy of the list of things taken possession of shall be given to him.

3.8) **Right to Counsel:** It may also be borne in mind that Article 22 (1) provides, in addition to the right against arbitrary arrest, another vital right known as the Right to Counsel. Article 22(1) of the Constitution of India guarantees to the accused a right of consultation with a lawyer of his choice.

In *Nandini Satpathy's* case, the Supreme Court hastened to add ... "by making it prudent for the police to permit the advocate of the accused, if there is one, to be present at the time he is being examined ... We do not lay down that the police must secure the services of the lawyer..."

4) **Description of the Tool, Universe, Primary and Secondary Data, Size of the sample and Statistical Analysis** – Already explained in detail in Page 6 to 8.

5) **Violation of human rights of the arrested persons arising out of non-compliance of the Legal provisions:** The following variables were chosen by the author for his research:

- a) Not informing the grounds of arrest
- b) Not informing the bailable nature of the offence
- c) Not showing the order of the court for hand cuffing of the arrested person

- d) Not preparing a list for seizure of money or other items made from his / her person immediately or not delivering a copy of the list to the arrested person.
- e) not preparing a list for seizure of materials from the house of the arrested person after seizure
- f) Making the arrested person nude against right to dignity.
- g) Denial or right to counsel
- h) Demanding illegal gratification

6) Mandatory Provisions of Law and Human rights violations - Frequencies and Percentages

Table - 1

S.No.	Denial of Rights	Number of samples with violations	Number of samples without violations
1	Not informing Grounds of arrest	97 (23.60%)	314 (76.40%)
2	Denial of right to Bail – Total – 185	105 (56.75%)	80 (43.25%)
3	Making Nude	39 (9.48%)	372 (90.52%)
4	Not issuing acknowledging for seizure of money	6 (100%)	NIL
5	Not showing the search warrant for search of the premises	11 (18.3%)	49 (81.7%)
6	Not issuing any receipt for the seizure of articles	26 (70.3%)	11 (29.7%)
7	Causing unnecessary damage to the premises	12 (20%)	48 (80%)
8	Denial of Right to Counsel	71 (17.27%)	340 (82.73%)
9	Corruption	50 (12.16%)	361 (87.84%)
10	Hand-cuffing the arrestee without actually showing court orders by the police	16 (61.54%)	10 (38.46%)
	Total	433 (21.45%)	1585 (78.55%)

6.1) it is evident from table-1 above that of the chosen ten chosen mandatory provisions of the Constitution and law none have been upheld to the fullest extent. It is rather painful to note that in all the 6 cases of seizure of money from the arrested persons, the police did not issue any acknowledgement, which indicates that the police personnel have perhaps pocketed them. Similarly, in many cases, police did not issue the receipt in support of seizure of articles from the house of the arrested persons. Moreover, the police had indulged in causing

unnecessary damage to the premises of the arrested persons in 12 out of 60 cases as the victims would not dare to report the incident to anyone for fear of reprisal. The police denied the arrested persons their right to counsel in 71 (17.27%), in contravention of article 22 (1).

7) Relationship between gender and human rights violations of the arrested persons arising out of non-compliance of the Legal provisions

Table- 2

S.No.	Violations		Gender		x2 value & Significant level
			Arrested women Sample	Arrested men Sample	
1	Not informing the grounds of arrest	No. of Cases			.16989 P>0.05
		With violations	7 (26.9%)	92 (23.89%)	
		Without violations	19 (73.1%)	293 (76.11%)	
2	Denial of right to Bail	With violations	5 (62.5%)	100 (56.49%)	65087 P>0.05
		Without violations	3 (37.5%)	77 (43.51%)	
3	Demand of illegal gratification	With violations	9 (34.6%)	41 (10.64%)	13.02 P< 0.01
		Without violations	17 (65.4%)	344 (89.36%)	

Results of the above table reveal that there is a relationship between gender and demand of illegal gratification, while there is no relationship between the gender and denial of right to bail and not informing the grounds of arrest. Induction of women in male-dominated police profession, instead of reducing corruption against the arrested women, has only worsened the situation. Such a trend is perhaps owing to two reasons. It could be because the women police officers – the new “emancipated women” wanted to prove a point that they were stricter and tougher than their male counterparts instead of proving their worth in positive terms. The other reason perhaps was the demand of more money from the arrested

women so as to give a share to the women police officers who were associated with men investigating officers in cases involving women accused.

8) Relationship between Religion of the Arrested Persons and Human Rights Violations arising out of non-compliance of the Legal provisions:

Of the 411 samples the frequency of Hindus, Muslims, and Christians was respectively 373, 22, and 16.

TABLE - 3

Violations	Hindu Size - 373	Muslims Size - 22	Christians Size - 16	x2 value & Significant level
Use of Unnecessary force	127-34.0%	8-36.4%	7-43.8%	.67241; P>.05
Parading to insult	29-7.8%	4-18.2%	3-18.8%	4.89470; P>.05
Illegal gratification	44-11.8%	3-13.6%	3-18.8%	.74133; P>.05
Making nude	28-11.1%	2-10.5%	2-15.4%	.24129; P>.05
Not issuing a copy of medical memo	5-71.4%	1-100%	5-100%	2.02597; P>.05
DOR to counsel	140-37.5%	12- 54.5%	5-31.3%	17.58; P<.05

It is evident from the above table that there is association between religion and denial of right to counsel at 0.05 level of significance while there is no such association with the other 4 variables and therefore the hypothesis that the police will not violate human rights of arrested persons based on religion is accepted. In the state taken for the study though there is no proportional representation of Muslims in police force, it is heartening to note that there is no bias against minorities, Muslims or Christians. It is perhaps due to the harmony that prevails among various religions in State in question. 54.5% of Muslims had been denied right to counsel as compared to 37.5% of Hindus and 31.3% of Christians. Perhaps non-availability of lawyers belonging to Muslim religion might be the reason for more violations against the arrested Muslims.

9) Relationship between categories of offences and human rights violations of the arrested persons arising out of non-compliance of the Legal provisions

Table - 4

S.No.	Violations x2 value & significant level		Categories of offences							
	Not informing Grounds of arrest	No. of Cases	Property offence	Murder	Rape	Assault on Public servants	POA	Dowry Death	Simple hurt	Grievous hurt
1	13.49 P>0.05									
		With violations	22 31.4%	15 30.6%	6 26.1%	9 34.6%	1 6.7%	8 24.2%	29 18.95%	7 16.7%
		Without violations	48 68.6%	34 69.4%	17 73.9%	15 65.4%	7 93.3%	26 75.8%	104 81.05%	23 83.3%
2	DOR to bail - 105 36.05 P<.01	With violations	NA	NA	NA	11 84.6%	NA	NA	79 51.7%	15 78.9%
		Without violations	NA	NA	NA	2 15.4%	NA	NA	74 48.3%	4 21.1%
3	Not acknowledging the seizure of items-26	With violations	2 66.7%	7 70%	1 50%	1 50%	—	3 75%	6 75%	6 75%
		Without violations	1 33.3%	3 30%	1 50%	1 50%	—	1 25%	2 25%	2 25%
4	Not sending telegram -39	With violations	9 69.2%	1 50%	—	3 60%	Nil 0%	2 66.7%	18 69.2%	6 75%
		Without violations	4 30.8%	1 50%	—	2 40%	1 100%	1 33.3%	8 30.8%	2 25%
5	Corruption - 50 22.46 P<.01	With violations	5 7.1%	3 6.1%	1 4.3%	4 15.4%	6 40%	1 3%	22 14.4%	8 19%
		Without violations	65 92.9%	46 93.9%	22 95.7%	22 84.6%	9 60%	32 97%	131 85.6%	34 81%
6	Making nude 10.84 P>0.05	With violations	10 14.3%	7 14.3%	4 17.39%	4 15.4%	Nil 0%	1 3%	9 5.9%	4 9.5%
		Without violations	60 85.7%	42 85.7%	19	22 84.6%	15 100%	32 97%	144 94.1%	38 90.5%

9.1) From the above table it is clear that there is no relationship between categories of offences and the human rights violations arising out of not informing the grounds of arrest, making the arrested person nude in violation of their right to dignity, not acknowledging the seizure of articles, while there is a relationship between categories of offences and corruption and denial of right to bail. Corruption was very high against the arrested persons involved in

Prevention of Atrocity cases (POA), grievous hurt, assault on public servants, simple hurt, while it was relatively low against the arrested persons involved in dowry death, rape murder and property offences. Corruption depends on various factors including the attitude of the investigating police officers, the economic conditions and perception of the arrested persons and their relatives as to the benefit of greasing the palm of the police. Perhaps with the expectation of better treatment of the arrested persons by the police or for reducing the gravity of the offence or persuading the police to delay the arrest of the offenders so as to represent the case to senior officers or to move to court, the arrested persons or their relatives who committed crime relating to POA cases, grievous hurt, assault on public servants and simple hurt might have bribed the police. Arrested persons for rape, dowry death, murder and dowry death did not expect for better treatment by the police and therefore did not prefer to bribe. However, demand of illegal gratification from the arrested persons by the police perhaps reflects the deteriorated moral attitude of the police and the prevailing milieu of social permissiveness.

9.2) The significant association between denial of right to bail and categories of offences was perhaps not only due to lack of awareness of the arrested persons or their relatives regarding the rights but also due to the failure on the part of the defense counsel of the arrested persons to take up the matter either with senior officers or court.

10) Relationship between income level or educational level or caste and human rights violations of the arrested persons arising out of non-compliance of the Legal provisions

It is evident from the results that neither the income level nor the educational level nor the caste of the arrested persons show significant association with the human rights violations of the arrested persons pertaining to failure to inform grounds of arrest, denial of right to bail, making nude, not acknowledging seizure of articles and demand of illegal gratification at 0.005 of significance. It is gratifying that the police did not differentiate the arrested person based on either their income or education or caste while violating their rights.

11) **Reasons for recurrence:** Studies reveal that there are officers who believe the legal system they serve is failing and that it is their duty to pick up the slack. This is known as

"vigilantism", where the officer involved may think the suspect deserves more punishment than what they may have to serve under the court system. Unfortunately, they receive support from quick-result pressure group comprising victims to police officers and ruling elite politicians to public. The haters of the snail phase of the criminal justice system may also tacitly support by their silence

12) Summary

- H. Non-issue of receipts was found in all the 6 cases (100%) relating to seizure of money.
- I. Non-issue of receipts was found in 17 out of 28 cases (70.3%) pertaining to seizure of articles from the premises of the arrestee.
- J. Handcuffing of the arrestee without court orders was found in 26 out of 37 cases (70.3%).
- K. The police violated the right to dignity by making the arrestee nude in 39 cases (9.48%) of the total sample.
- L. The police did not grant bail in 56.75 per cent of the totalailable cases of 105.
- M. The police failed to inform the grounds of arrest in 23.6 per cent of the total sample.
- N. The police demanded money from one eighth of the total sample (50 cases).
- O. There were significant human rights violations due to non-compliance of the requirements of law in 22.45% of the total sample.

13) **Conclusion:** Quite a few recommendations viz. organizing proper supervision and arrangements to look after the arrested through Central Reception facilities in cities and towns; fixing responsibility of preventing custodial violence on supervisory officers; to educate public to fight vigorously the violations of the rights through legal processes and in publicizing them have been made by judicial pronouncements, NHRC, various police Commissions, NGOs and well wishers time and often to contain if not eradicate violations of the rights of the arrested by the police. Until and unless there is organizational culture which frowns upon misuse and abuse of force, the chances of containing inhuman wrongs are remote.

Section 3: PRO-ACTIVE JUDGMENT BUT RETRO-ACTIVE IMPLEMENTATION PERTAINING TO HUMAN RIGHTS

Police officers at the cutting edge level were found wanting in knowledge on the recent pronouncements of the Apex court regarding arrest, search, seizure, investigation etc. in 70's. The National Police Commission of India opined that 60% of arrests were unnecessary and that except in heinous offences like murder, rape, dacoity or other professional property offences arrests of the suspect needed to be made while in other cases unless the accused would abscond or would threaten witnesses or tamper evidence no arrest was required to be made. The Supreme Court not only agreed with the recommendations of National Police Commission but also made it a mandatory requirement. In this connection, it is appropriate to present the observations of the Supreme Court in *Joginder Singh V. Uttar Pradesh (Joginder Singh V. State of Punjab, 1994 3 SCC 423)*, in which it held that the existence of power to arrest was one thing and the justification for exercise of it was quite another and remarked that it would be prudent for a police officer in the interest of protection of the constitutional rights of a citizen and perhaps in his own interest that no arrest shall be made without a reasonable satisfaction reached after some investigation as to the genuineness and bonafides of a complaint and a reasonable belief both as to person's complicity and even as to the need to effect arrest.

2) In order to bring in transparency and accountability in police functioning, the Supreme Court in *D.K.Basu V. State of U.P.* case issued eleven requirements to be followed scrupulously and added that non-implementation would not only amount to Contempt of Court but also attract department action against the erring police officers. In addition, as per the directions of SC, the eleven commandments were painted in two conspicuous places in every Police Station throughout India.

3) The author did research for his Ph.D to find out whether the police have complied with the requirements of Supreme Court concerning the rights of the arrested persons given in *D.K.Basu V. State of West Bengal* and chose the following requirements of Supreme Court:



- a) Not preparing the arrest memo immediately after the arrest
- b) Denial of right to entitlement of having one of the relatives informed of the arrest.
- c) Failure to inform telegraphically to the next friend or relative of the arrested person who had committed the crime outside his native district.
- d) Denial of right to the arrested person to meet his / her lawyer for counseling.
- e) Denial of right to medical examination at the request of the arrested person by the police
- f) Not issuing a copy of the medical memo to the arrested person.
- g) Not subjecting the arrested person to medical examination every 48 hours during his detention in police custody.

4) **Description of the Tool:** Already given elaborately in pages 6 to 8.

Table – 1: Sample size in various categories of offences.

Categories	Metropolitan City	Moffusil District
Property offences	46	24
Murder	15	34
Rape	11	12
Dowry death	15	18
Grievous Hurt	17	25
Simple Hurt	76	77
POA cases	Nil	15
Assault on Public Servants	11	15
TOTAL - 411	191	220

4g) **Statistical Analysis:** The data collected were classified and subjected to statistical analysis on the basis of inferential analysis, Bi-variate analysis and Content analysis. These analyses were done in order to accept or reject the chosen hypotheses for the study.

Statistical Tools used for analyzing the results:

a) As in any social science research, content analysis has been performed using the percentages.

b) In order to get more accurate conclusions on the hypotheses of the study, chi-square analysis has been performed as detailed below:

With respect to the hypotheses to find out whether the police discriminate, it is assumed that human rights violations occur independent of the sub-categories of the particular variable viz. area.

5) The requirements of the Supreme Court as enumerated in D.K. Basu case and human rights violations – Frequencies and percentages

Table – 2

S. No.		No. of samples with violations	No. of samples without violation
1	Not preparing Arrest Memo immediately	208 (50.60%)	203 (49.40%)
2	Denial of right to entitlement of informing one of the relatives about the arrest	252 (61.31%)	159 (38.69%)
3	Denial of right to counsel	157 (38.20%)	254 (61.80%)
4	Not sending a telegram	39 (66.10%)	20 (33.90%)
5	Denial of right to Med. Ex.	17 (60.72%)	11 (39.28%)
6	Not getting signature in the medical memo for the injuries sustained	17 (60.72%)	11 (39.28%)
7	Not issuing a copy of med. memo	25 (89.28%)	3 (10.72%)
8	Med. Ex – 48 hrs	4 (40%)	6 (60%)
	Total	719 (51.88%)	667 (48.12%)

It is evident from the above table that violations were found to be the rule rather than an exception notwithstanding the stringent requirements. The high frequency of violations is a very serious matter and it reflects perhaps the lack of awareness of the victims and their relatives regarding the rights of the arrestee, the absence of any scientific study with regard to the extent and magnitude of violations, failure of human rights activists, continued lack of transparency in the police organization and above all the unwillingness of the police to change for the better.

6) Relationship between gender and human rights violations of the arrested persons due to non-compliance of the requirements of the Supreme Court as enumerated in D.K.Basu case

TABLE – 3

S.No.	Violations	Gender		x2 value & Significant level
		Arrested women Sample	Arrested men Sample	
1	Not preparing arrest memo immediately after effecting arrest	Gender		
		With violations	15 (57.7%)	193 (50.12%)
		Without violations	11 (42.3%)	192 (49.88%)
2	DOR to entitlement of informing one of the relatives about the arrest	With violations	18 (69.2%)	234 (60.77%)
		Without violations	8 (30.8%)	151 (39.23%)
3	DOR to counsel	With violations	11 (42.3%)	146 (37.92%)
		Without violations	15 (57.7%)	239 (62.08%)

It is evident from the above table that there is a relationship between the gender and the denial of right to counsel while there is no relationship between the gender and non-preparation of the arrest memo immediately and the denial of right to entitlement of informing one of the relatives about the arrest. Perhaps the awareness level of the arrested women regarding their right to counsel would have been lesser when compared to the awareness level of their male counterparts. However, more violations of the arrested women in relation to denial of right to counsel show the absence of sympathetic attitude of women police officers even towards the arrested women or their failure to influence men investigating police officers with whom they were attached for investigation purpose to be sympathetic towards the arrestee.

6.1) While there is a relationship between gender and use of force, and denial of right to counsel, there is no relationship between gender and not informing the grounds of arrest, denial of right to bail, not preparing the arrest memo immediately and denial of right to entitlement. Since in the majority of the cases there is no relationship between gender and human rights violations, the hypothesis that there will be no correlation between gender and human rights violations indulged in by the police is accepted.

7) Relationship between income level and human rights violations of the arrested persons due to non-compliance of the requirements of Supreme Court as enumerated in D.K.Basu case

From the research it is evident that there was no association between the income level of the arrested persons and all the human rights violations chosen for the research excepting parading of the arrestee in public as the value of $P > 0.05$. Hence the hypothesis that there will be no human rights violations of the arrested persons indulged in by the police based on the income level of the arrested persons is accepted. In spite of 51 per cent violations in this category, the only satisfying feature is that the police did not discriminate between the various income groups.

8) Relationship between income level and human rights violations of the arrested persons due to non-compliance of the requirements of Supreme Court as enumerated in D.K.Basu case

It is evident from the research that human rights violations arising out of non-compliance of the requirements of the Supreme Court as enumerated in D.K.Basu case have no association with the educational level of the arrested as the value of $P > 0.05$.

9) Relationship between caste factor and human rights violations of the arrested persons due to non-compliance of the requirements of the Supreme Court as enumerated in D.K.Basu case

Table - 4

S.No.	Violations		Caste of the arrested person				x2 value & Significant level
			SC & ST	MBC	BC	Others	
1	Not preparing the arrest memo immediately	No. of Cases					4.69 P> 0.05
		With violations	77 (48.4%)	59 (48.4%)	66 (55%)	6 (60%)	
		Without violations	82 (51.6%)	63 (51.6%)	54 (45%)	4 (40%)	
2	DOR to entitlement of informing one of the relatives about the arrest	With violations	98 (61.63%)	67 (54.9%)	79 (65.8%)	8 (80%)	4.85 P> 0.05
		Without violations	61 (38.37%)	55 (45.1%)	41 (34.2%)	2 (20%)	
3	Denial of right to counsel	With violations	54 (33.5%)	44 (36.1%)	57 (47.5%)	2 (20%)	7.69 P> 0.05
		Without violations	105 (66.5%)	78 (63.9%)	63 (52.5%)	8 (80%)	
4	Not sending a telegram	With violations	17 (62.96%)	5 (55.56%)	14 (70%)	3 (100%)	17.84 P> 0.05
		Without violations	10 (37.04%)	4 (44.44%)	6 (30%)	NIL (0%)	
5	Denial of right to medical examination	With violations	6 (46.2%)	6 (75%)	4 (66.67%)	1 (100%)	2.58 P> 0.05
		Without violations	7 (53.8%)	2 (25%)	2 (33.33%)	NIL (0%)	
6	DOR to medical examination every 48 hours	With violations	7 (53.8%)	1 (12.5%)	1 (16.7%)	1 (100%)	9.86 P> 0.05
		Without violations	6 (46.2%)	7 (87.5%)	5 (83.3%)	NIL (0%)	

It is evidently clear from a perusal of the above table that the caste of the arrested persons has no influence on the violations of their rights arising out of non-compliance of the requirements of the Supreme Court as enumerated in D.K.Basu case. Nevertheless, the only satisfying outcome of the study is that the police did not discriminate the arrested persons based on their caste.

10) Relationship between Awareness Level of the Arrested Persons and Human Rights Violations

To find out the awareness level of the arrested persons, some specific questions were put forth while interviewing them and the results were computed and presented below.

Table - 5

Sl.No.	Awareness of the arrested persons relating to	Number of arrested persons who were aware	Number of arrested persons who were not aware (% in bracket)	x2 value & Significant level
1	Preparation of the arrest memo immediately after the arrest	15	396 (96.35%)	355.04 P<.01
2	Right to entitlement of informing one of the relatives about the arrest	36	375 (91.24%)	281.26 P<.01
3	Right to be released in bail in bailable offences	90	321 (78.10%)	130.95 P<.01
4	Right to counsel a lawyer of his choice by the arrested person	267	144 (35.04%)	36.21 P<.01

It is evident from the above table that lack of awareness of the arrested persons in relation to the rights conferred on them by the Constitution, law or the Supreme Court is highly significant. Unless the arrested persons are aware of their rights, the question of requesting the police to uphold their rights, if not demanding them does not arise. Perhaps the police capitalize on the lack of awareness of the arrested persons and violate their rights with impunity.

11) Summary: 4

There were violations in all the chosen seven requirements of D.K.Basu case that were taken as dependent variables for the research.

Right to entitlement of informing one of the relatives about the arrest was found violated in 252 cases (61.3%); violation of this requirement was found very high in dowry death cases (84.84%) followed by simple hurt cases (69.04%) and the least violations of 20 per cent in Prevention of Atrocity cases.

Preparing arrest memo immediately was found not implemented in 208 cases (50.6%); it was to the extent of 72.7 per cent of dowry death cases; 57.5 per cent of simple hurt cases; 51.42 per cent of property cases with least violations of 11.5 per cent in assault on public servants.

Right to counsel was found violated in 157 cases (38.2%).

Right to medical examination was found denied in 17 out of 28 cases (60.7%)

Right to medical examination every 48 hours was found violated in 4 out of 10 police custody cases (40%).

The police failed in their duty in not sending a telegram to one of the relatives staying in a different district in 39 out of 59 cases (66%).

The total number of rights of 411 samples pertaining to DK Basu case is 1386 and number of violations was 719 (51.88%), which was higher than number without violations that stood at 667 (48.18%). Since the sample size is 411, for each case there were almost 2 violations (1.75 to be precise)

12) Conclusion: The purpose of the Supreme Court's pro-active judgment in DK Basu is to bring in transparency and accountability and on record it appeared to have been complied with to the extent of 100%. However, it is evident from scientific research that the very purpose of SC requirements has been defeated not only by the police but also by the defense lawyers of victims of the entire sample of 411 cases. Unfortunately, not even a single case has been taken for contempt of Court against any one of the Investigating officers either by defense counsels or by any human rights activist NGO and consequently no erring police officer faced departmental disciplinary action. Furthermore, as per section 167 of the Code of Criminal Procedure, 1973 it is incumbent upon the magistrate to ask the accused person whether he has been informed of the grounds of his arrest (Vimal Kishore V. State 1956) and also about the treatment meted out to the arrestee. Owing to retro-active implementation by the stakeholders, the much-celebrated pro-active judgment remains on paper only.