

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

LOK SABHA
UNSTARRED QUESTION NO.3299
TO BE ANSWERED ON THE 11TH FEBRUARY, 2014/MAGHA 22, 1935 (SAKA)

ARRESTS/ILLEGAL CUSTODY

3299. SHRI BHISMA SHANKER ALIAS KUSHAL TIWARI:

Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether the Government has received complaints with regard to arrests/illegal custody of innocent persons by the police in various States;

(b) if so, the details thereof and the total number of such cases reported and the action taken against the guilty police officials during each of the last three years and the current year, State-wise;

(c) whether the Union Government has issued any advisories to the State Governments in this regard;

(d) if so, the details thereof and the reaction of the State Governments thereto; and

(e) the other effective measures taken by the Union Government to curb such cases in future along with the advisories issued to the State Governments and police departments in this regard?

ANSWER

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS
(SHRI R.P.N. SINGH)

(a) to (b): Yes, Madam. State-wise details of number of cases registered by the National Human Rights Commission (NHRC), on the basis of complaints of unlawful detention received by them, during the last three years and the current year up to 30-04-2013, are attached at Annexure-I.

(c) to (d): Yes Madam, the Ministry of Home Affairs has issued Advisory / Guidelines on 19-09-2001 to all States/UTs on various issues including arrests, with a view to bringing about greater accountability and transparency in the functioning of Police in the States / UTs, which is attached at Annexure-II.

(e): 'Police' and 'Public Order' are State subjects under the seventh Schedule to the Constitution of India, and therefore, the State Governments are primarily responsible for prevention, detection, registration and investigation of crime and for prosecuting the criminals through the machinery of their law enforcement agencies as also for protecting the life and property of the citizens. The Union Government, however, attaches highest importance to the matter of prevention of crime and therefore, has continued to urge to the State Governments/UT Administrations to give more focused attention towards improving the administration of criminal justice system and taking such measures as are necessary for prevention and control of crime. In this regard, Advisory on Prevention, Registration, Investigation and Prosecution of Crime has been issued on 16th July, 2010, Advisory on Registration of FIR irrespective of territorial jurisdiction has been issued on 10th May, 2013 and Advisory on compulsory Registration of FIR under Section 154 of Criminal Procedure Code (Cr.P.C.) when the information makes out a cognizable offence, has been issued on 5th February 2014.

NATIONAL HUMAN RIGHTS COMMISSION
STATEMENT SHOWING STATE-WISE NO. OF CASES REGISTERED REGARDING ILLEGAL ARREST(POLICE)
DURING THE LAST THREE YEARS AND CURRENT YEAR UPTO 30/04/2013
(DATA AS PER CMS AS ON 03/05/2013)

State/UT Name	2010-2011			2011-2012			2012-2013			2013-2014 (UPTO 30/04/2013)		
	Registration	Disposal	Pending	Registration	Disposal	Pending	Registration	Disposal	Pending	Registration	Disposal	Pending
ANDHRA PRADESH	3	3	0	4	4	0	10	9	1	1	0	1
ASSAM	1	1	0	8	8	0	2	2	0	0	0	0
BIHAR	4	4	0	5	5	0	3	2	1	0	0	0
GUJARAT	3	3	0	3	3	0	5	4	1	0	0	0
HARYANA	13	13	0	6	5	1	5	2	3	0	0	0
JAMMU & KASHMIR	2	2	0	3	1	2	0	0	0	0	0	0
KARNATAKA	13	13	0	6	3	3	12	2	10	1	0	1
KERALA	3	3	0	0	0	0	0	0	0	0	0	0
MADHYA PRADESH	1	1	0	4	4	0	2	2	0	1	0	1
MAHARASHTRA	2	2	0	6	5	1	8	4	4	1	0	1
MANIPUR	2	2	0	2	1	1	0	0	0	0	0	0
ORISSA	8	8	0	15	13	2	12	7	5	0	0	0
PUNJAB	5	4	1	3	3	0	5	2	3	0	0	0
RAJASTHAN	6	6	0	6	6	0	4	4	0	0	0	0
TAMIL NADU	16	8	8	3	3	0	5	4	1	0	0	0
TRIPURA	1	1	0	0	0	0	0	0	0	0	0	0
UTTAR PRADESH	1546	1539	7	1101	1047	54	589	360	229	48	0	48
WEST BENGAL	8	8	0	8	4	4	9	4	5	0	0	0
CHANDIGARH	0	0	0	0	0	0	3	2	1	0	0	0
DELHI	30	30	0	38	26	12	14	7	7	0	0	0
CHHATTISGARH	0	0	0	2	2	0	0	0	0	1	0	1
JHARKHAND	5	5	0	3	3	0	1	1	0	1	1	0
UTTARAKHAND	44	43	1	23	21	2	14	6	8	1	1	0
GRAND TOTAL	1716	1699	17	1249	1167	82	703	424	279	55	2	53

**STATEMENT SHOWING STATE-WISE NO. OF CASES REGISTERED REGARDING UNLAWFUL DETENTION(POLICE)
DURING THE LAST THREE YEARS AND CURRENT YEAR UPTO 30/04/2013
(DATA AS PER CMS AS ON 03/05/2013)**

State/UT Name	2010-2011			2011-2012			2012-2013			2013-2014 (UPTO 30/04/2013)		
	Registration	Disposal	Pending	Registration	Disposal	Pending	Registration	Disposal	Pending	Registration	Disposal	Pending
ANDHRA PRADESH	28	25	3	20	18	2	25	10	15	1	0	1
ARUNACHAL PRADESH	1	1	0	0	0	0	0	0	0	0	0	0
ASSAM	0	0	0	4	3	1	1	0	1	0	0	0
BIHAR	7	6	1	10	9	1	7	6	1	1	0	1
GOA	1	1	0	0	0	0	1	1	0	0	0	0
GUJARAT	7	7	0	5	5	0	5	3	2	0	0	0
HARYANA	37	36	1	29	24	5	33	17	16	5	1	4
HIMACHAL PRADESH	0	0	0	2	2	0	0	0	0	0	0	0
JAMMU & KASHMIR	1	1	0	3	3	0	5	3	2	0	0	0
KARNATAKA	4	4	0	4	2	2	6	5	1	1	0	1
KERALA	5	5	0	1	1	0	1	1	0	0	0	0
MADHYA PRADESH	14	14	0	11	9	2	6	4	2	0	0	0
MAHARASHTRA	10	10	0	12	12	0	10	7	3	0	0	0
MANIPUR	2	2	0	1	1	0	2	2	0	0	0	0
MIZORAM	1	1	0	0	0	0	0	0	0	0	0	0
ORISSA	9	9	0	13	13	0	6	4	2	0	0	0
PUNJAB	11	11	0	6	6	0	10	9	1	1	0	1
RAJASTHAN	30	29	1	22	22	0	17	8	9	1	0	1
SIKKIM	0	0	0	1	0	1	0	0	0	0	0	0
TAMIL NADU	47	32	15	20	18	2	12	6	6	1	0	1
UTTAR PRADESH	728	726	2	889	795	94	1331	825	506	123	0	123
WEST BENGAL	13	13	0	19	9	10	9	2	7	0	0	0
CHANDIGARH	1	1	0	1	1	0	0	0	0	0	0	0
DAMAN & DIU	0	0	0	0	0	0	1	0	1	0	0	0
DELHI	56	55	1	61	54	7	53	25	28	1	0	1
PUDDUCHERRY	1	1	0	0	0	0	0	0	0	0	0	0
CHHATTISGARH	8	8	0	3	2	1	4	3	1	1	0	1
JHARKHAND	14	14	0	8	6	2	12	7	5	1	1	0
UTTARAKHAND	22	22	0	16	15	1	39	21	18	3	0	3
GRAND TOTAL	1058	1034	24	1161	1030	131	1596	969	627	140	2	138

MINISTRY OF HOME AFFAIRS
GOVERNMENT OF INDIA,
NORTH BLOCK, NEW DELHI – 110 001.

D.O. NO.15011/55/2001-HR

September 19, 2001

Dear

The Hon'ble Supreme Court had in a writ petition filed before it in the case of D.K. Basu Vs State of West Bengal and Joginder Kumar Vs. State of UP, laid down certain guidelines required to be followed while making arrest of individuals, thereby modifying the laws relating to arrests to that extent. The Judgement of the Supreme Court in the case of D.K. Basu Vs State of West Bengal had already been circulated to all the Home Secretaries as well as Director Generals of Police of all the State Governments and UT Admins. on the 2nd of July, 1997 by this Ministry for compliance and report.

2. However, instances have come to the notice where these principles have been violated by the authorities making arrests. This not only violates the law of the land but also results in gross violation of human rights to which we stand committed. I recapitulate below the 11-principles laid down by the Supreme Court in the case of D.K. Basu Vs. State of West Bengal for compliance.

(i) The police personnel carrying out the arrests and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.

(ii) That the police officer carrying out the arrest shall prepare a memo of arrest at the time of arrest and such memo shall be attested by atleast one witness, who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be counter signed by the arrestee and shall contain the time and date of arrests.

(iii) A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.

(iv) The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid Organisation in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.

(v) The person arrested must be made aware of his right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.

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- (vi) An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in who custody the arrestee is.
- (vii) The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time. The "Inspection Memo" must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.
- (viii) The arrestee should be subjected to medical examination by a trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the concerned State or Union Territory, Director, Health Services should prepare such a panel for all Tehsils and Districts as well.
- (ix) Copies of all the documents including the memo of arrest, referred to above, should be sent to the Magistrate for his record.
- (x) The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.
- (xi) A police control room should be provided at all district and State headquarters where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on a conspicuous notice board.

3. I would therefore reiterate that instructions be issued for implementation of the principles laid down by the Supreme Court in the above referred case, both in letter and spirit.

With regards,

Yours sincerely,

(S.B. MOHAPATRA)

All Chief Secretaries of States & UTs
(as per list attached)
