The ability to place an accused under arrest is perhaps one of the most significant powers available to law enforcement officials. Arresting an accused not only removes him/her from society, thereby contributing to the safety of other common people, it also sets in motion the wheels of justice.

The powers to arrest are also significant in that it deprives a person of his/her right to liberty and freedom of movement. This power is often exploited considerably by law enforcement agencies. Despite being accused of a crime, an arrested person can still exercise some fundamental rights that are available to him and which have been covered in greater detail in other sections on this website.

The most important rights available to people who have been arrested is their right to life which is not forfeit unless the due process of law has been followed. The right to safeguard against arbitrary arrest and detention is a fundamental right described in great detail in section 22 of the Constitution.

**Q. What are my rights if I am arrested?**

It depends. People can be arrested for committing a crime or be placed under ‘preventive custody’ to maintain public order or to prevent commission of a crime. Or they can be placed under arrest for committing a crime. In each of these cases, the rights available to an arrested person are different.

**Q. What rights are available to a person arrested for committing an offence?**

If arrested for having committed an offence, a person MUST:

- Be informed of the grounds for such arrest. This information must be given as soon as possible.

- Be allowed to be defended by a legal practitioner of his/her choice.

- Be produced before the nearest magistrate within 24 hours (excluding the time taken to bring the accused to the magistrate).

- Not be detained for a period greater than the said period without the authority of a Magistrate

**Q. What rights are available to a person kept under ‘preventive detention’?**

For a person kept under ‘preventive custody’, it is not necessary:

- That he/she be produced before a Magistrate within 24 hours.

- Be allowed to consult a legal practitioner of his/her choice

However, the person may be informed of the grounds under which he/she has been placed in ‘preventive custody’ and be allowed to make a representation against the custody. However, only those facts may be disclosed such that public interest is not hampered.

The maximum detention period for preventive custody is three months. It can, however, be extended by an Advisory Board consisting of people who have been, or are qualified to be appointed as High Court judges.

--Ends