

What to do if wrongfully arrested?

If the person carrying out the arrest does not follow the correct procedure or arrests the wrong person, the arrest may be unlawful. If this is proved, it is possible to claim compensation from the government.

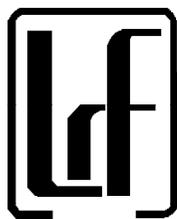
However, a police officer who genuinely makes a reasonable mistake in arresting someone will be protected from paying compensation.

What can you do if your rights are violated?

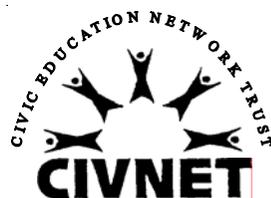
- If possible, get the name of the police officer and his or her force number (on the badge).
- Make your complaint to the Member-in-Charge at the police station, or tell your lawyer, if you have one.
- If you are taken to court to have your statement confirmed, tell the magistrate.
- You can also go to your nearest Legal Advice Centre for assistance.

If you feel you have a case for suing the police for wrongful arrest, you must notify them within 3 months and make your claim within 6 months.

For further information and legal assistance, please contact your nearest Legal Resources Foundation. LRF Centres are in Bulawayo, Gweru, Harare, Masvingo and Mutare.



Legal Resources Foundation (WO 41/84)
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P.O. Box 918, Harare, Zimbabwe
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ARREST

What is an arrest?

A person is arrested when he is taken to a police station because he has committed or is suspected of having committed a crime.

An arrest is a deprivation or violation of a person's fundamental rights such as liberty of movement, association, choice, etc. It must, therefore, not be resorted to lightly.

Subject to the provisions of the Constitution, every person is entitled to the protection of the law. If any person is charged with a criminal offence, then, unless the charge is withdrawn, that case should be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

Who can arrest you?

- A police officer - all policemen and policewomen have powers to arrest a person under certain circumstances.
- Other government officials, such as judges, magistrates, prison officers, immigration officers, National Parks & Wildlife Officers and some members of the CIO also have powers to arrest people.
- Members of the public may also arrest another person if they see him committing or trying to commit a serious offence such as rape.

When can a person be arrested?

A police officer may arrest someone with or without a warrant.

If a police officer thinks a person has committed a crime, he will go to a magistrate or justice of the peace to get permission to arrest him. This permission is a written order called a warrant.

A police officer can arrest someone without a warrant only in special circumstances, for example:

- If he sees someone committing an offence.
- If he has investigated a serious crime such as murder, rape, robbery, theft, or kidnapping and has good evidence to show that a certain person is the criminal, but he believes that if he applies for a warrant the person will either escape, hide some evidence, or interfere with witnesses.

How does a police officer make an arrest?

- The officer making the arrest puts his hand on the other person's shoulder and says, "You are under arrest".
- It may be necessary to use handcuffs or other means of controlling the person.
- The officer is allowed to break open a door or window to get into a building or room where the suspect is believed to be. But he must first loudly demand to enter and state the reason. If no one opens for him, he may break in.
- The officer making the arrest is allowed to search the suspect.

N.B. It is a serious offence to resist anyone who is legally arresting you; or to try to escape from being arrested.

If you think you are being wrongly arrested, do not resist; you will only put yourself in worse trouble. Go with the police officer to the police station and later you will be able to explain to the court that the arresting officer made a mistake.

What are the rights of an arrested person?

- You must be told in a language you understand what you are accused of doing. This is known as the charge.
- You have the right to consult with a lawyer.
- Your conversation with your lawyer must be private - a guard may watch, but not listen.
- You must be allowed enough time with your lawyer to prepare for your defence in court.
- Your lawyer must be informed whenever you are to appear in court.
- You can choose your lawyer if you can afford to pay him/her.
- If you cannot afford a lawyer, you will be given one by the State only if the offence is very serious. To get a lawyer who is paid for by the State, you will need to ask the magistrate when you appear in court to grant legal aid.
- You have a right to remain silent instead of making a statement.
- You do not have to make any statement about the alleged crime to the police.
- It is, however, usually advisable to make a statement; if you keep quiet, there may be greater suspicion that you are guilty.
- If you have a lawyer, it is wise to consult with him or her before you make any statement.
- Any statement you make must be made freely without any pressure by the police

After making a statement, you may be taken to a court for the statement to be confirmed. The magistrate will ask if your statement was made freely.

You must tell the magistrate if the police mistreated you. If you do not tell the magistrate about any mistreatment, it will be assumed that you made the statement willingly.