



# Immigration and Refugee Board of Canada

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## Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website.

28 October 2010

### PAK103607.E

Pakistan: Requirements of a valid arrest warrant; whether these requirements are adhered to in practice  
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

#### Requirements for arrest warrants

Section 75 of Pakistan's *Code of Criminal Procedure* stipulates the following requirements for arrest warrants:

**Form of warrant of arrest.** (1) Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or in the case of a Bench of Magistrates, by any member of such Bench; and shall bear the seal of the Court. (Pakistan 1898)

A senior representative of the Human Rights Commission of Pakistan (HRCP) explained in correspondence with the Research Directorate that court-issued warrants are printed forms that include a judge's signature and the seal of the court (15 Oct. 2010). A Lahore-based lawyer and advocate with the Lahore High Court, in correspondence with the Research Directorate, likewise said that a judge's signature and a court stamp are needed for a valid arrest warrant (12 Oct. 2010). Specifically, the Lawyer, who is also a frequent commentator on legal and human rights issues, pointed out that

[t]he [arrest] warrant is issued by a magisterial court with its stamp and signature of the magistrate and date. It also mentions title of the case, name of the relevant police station, name of the officer who is being authorised to bring the accused to the court, provision(s) of Pakistan Penal Code under which case has been registered, name and address of the accused, and date when to appear before the magistrate. (12 Oct. 2010)

#### Compliance with arrest warrant requirements

In responding to a question about whether these requirements are adhered to in practice, the Lahore-based lawyer said that "[t]hese requirements are/should be met in all the cases" (12 Oct. 2010). If, for example, the stamp is missing, the "signature of the magistrate then it is not valid" (Lawyer 12 Oct. 2010). The Lawyer added that "[a]ny missing details may make the warrant suspicious" (ibid.), and that "[o]nly the concerned magistrate/court" may correct missing details to validate a warrant (ibid. 15 Oct. 2010).

#### Persons authorized to make arrests with warrants

Section 77 of the *Code of Criminal Procedure* states: "A warrant of arrest shall ordinarily be directed to one or more police-officers ...," while Section 79 allows that "[a] warrant directed to any police-officer may also be executed by any other police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed" (Pakistan 1898). The Lahore-based lawyer described the process as follows:

[W]arrants are issued in the name of the concerned Station House Officer (SHO) of the Police Station who can then authorize any subordinate to arrest the person. In practice this sub-delegation is shown on the back of the warrants under signature by the SHO. (15 Oct. 2010).

In addition, Section 77 provides for situations when someone other than a police officer may execute a warrant: "... any Court issuing such a warrant may, if its immediate execution is necessary and no police-officer is immediately available, direct it to any other person or persons ..." (Pakistan 1898). For example, Section 78 permits an arrest warrant to be "directed" to "any landholder, farmer or manager of land ... for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence ..." (ibid., Sec. 78). Those so directed "shall execute it if the person for whose arrest it was issued, is in, or enters on, his land or farm, or the land under his charge" (ibid.). Once the person "against whom such warrant is issued" has been arrested, he or she is to be turned over "with the warrant to the nearest police officer" (ibid.).

The Lawyer also affirmed that the National Accountability Bureau (NAB)-the federal agency responsible for dealing with corruption (Pakistan n.d.)-has the authority to issue arrest warrants (15 Oct. 2010). In responding to a question from the Research Directorate, he replied that "NAB courts working under the NAB Ordinance (and other courts under other laws) can authorise the Chairman NAB or other officers to arrest any person" (Lawyer 15 Oct. 2010).

### Requirements for making an arrest with a warrant

Section 80 of the *Code of Criminal Procedure* outlines the following requirement for making an arrest with a warrant:

**Notification of substance of warrant.** The police-officer or other person

executing a warrant of arrest shall notify the substance thereof to the

arrested, and, if so required, shall show him the warrant. (ibid.)

The Lahore-based lawyer stated that the procedure for making an arrest with a warrant is not always followed, adding that "[i]n many instances, arrest is made before getting warrants and then warrants are obtained, but the fact of arrest is noted in the police registers later" (6 Oct. 2010). Somewhat similarly, the HRCP senior representative, speaking with the Research Directorate in an 8 October 2010 telephone interview, stated that police may arrest an accused suspect, present him or her before a magistrate and then obtain a warrant.

### Types of offences requiring arrest warrants

Section 4 of the *Code of Criminal Procedure* distinguishes between what it terms "cognizable" and "non-cognizable" offences and cases to identify those situations when a police officer may make an arrest without a warrant (Pakistan 1898). Accordingly, a "[n]on-cognizable offence mean an offence for, and 'non-cognizable case' means a case in which a police officer, may not arrest without warrant" (ibid., Sec. 4). The terms are further explained by the Centre for Peace Development Initiatives, Pakistan (CDPI-Pakistan)-an independent civil society organization established in 2003 (CDPI-Pakistan n.d.b)-as follows:

**Cognizable Offence:** A cognizable offence is one in which the police may arrest a person without warrant. They are authorized to start investigation into a cognizable case on their own and do not require any orders from the court to do so.

**Non-cognizable Offence:** A non-cognizable offence is an offence in which a police officer has no authority to arrest without warrant. The police cannot investigate such an offence without the court's permission. (ibid. n.d.a)

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

### References

Centre for Peace Development Initiatives Pakistan (CPDI-Pakistan). N.d.a. "First Information Report (FIR): (A Guide for Citizens)." <[http://www.cpd-pakistan.org/images/stories/publications/What\\_is\\_an\\_FIR.pdf](http://www.cpd-pakistan.org/images/stories/publications/What_is_an_FIR.pdf)> [Accessed 7 Oct. 2010]

\_\_\_\_\_. N.d.b. "About CPDI." <[http://www.cpd-pakistan.org/index.php?option=com\\_content&view=article&id=62&Itemid=93](http://www.cpd-pakistan.org/index.php?option=com_content&view=article&id=62&Itemid=93)> [Accessed 28 Oct. 2010]

Human Rights Commission of Pakistan (HRCP). 15 October 2010. Correspondence with a senior representative.

\_\_\_\_\_. 8 October 2010. Telephone Interview with a senior representative.

Lawyer and High Court Advocate, Lahore. 15 October 2010. Correspondence.

\_\_\_\_\_. 12 October 2010. Correspondence.

\_\_\_\_\_. 6 October 2010. Correspondence.

Pakistan. 1898 (amended 1997). *Code of Criminal Procedure (Act V of 1898)*. (United Nations Refworld) <<http://www.unhcr.org/refworld/pdfid/48511ea62.pdf>> [Accessed 18 Oct. 2010]

\_\_\_\_\_. N.d. National Accountability Bureau (NAB). "About Us." <<http://www.nab.gov.pk/>> [Accessed 28 Oct. 2010]

### Additional Sources Consulted

**Publications:** A Legal Research Guide to Pakistan; Police & Law Enforcement Reform in Pakistan: Crucial for Counterinsurgency and Counterterrorism Success; Political Dimensions of Police Reform in Pakistan.

**Oral Sources:** Representatives of the Canadian High Commission in Islamabad and the Pakistan Consulate in Toronto did not provide information within the times constraints of this Response. Attempts to contact a former Pakistan government official, three Pakistan-based lawyers, a representative of the Asian Human Rights Commission (AHJRC) and a representative of the Embassy of Pakistan in Ottawa were unsuccessful within the time constraints of this Response.

**Internet sites, including:** Amnesty International (AI), Asia Society, Asian Forum for Human Rights and Development, Australia - Refugee Review Tribunal (RRT), Daily Times [Lahore], Dawn.com, Diplomatic Mission of Pakistan in Canada, Embassy of the Islamic Republic of

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Pakistan in Washington, DC, European Country of Origin Information Network (ecoi.net), Guide to Law Online: Pakistan, Human Rights Watch, Institute for Social Policy and Understanding (ISPU), Law and Justice Commission of Pakistan, Pakistan College of Law, Pakistan Daily, Pakistan Lawyers, Transparency International (TI), World Law Guide.

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