



## RESPONSES TO INFORMATION REQUESTS (RIRs)

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22 December 2006

### LKA102038.E

Sri Lanka: Treatment of failed asylum seekers returning to Sri Lanka (2004 - 2006)  
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

#### Procedures followed by Sri Lankan authorities

A 26 September 2005 letter from the British High Commission in Colombo, cited in an October 2006 United Kingdom (UK) Home Office report, provides information on the procedures followed by the Sri Lankan authorities when a failed asylum seeker returns to Sri Lanka (31 Oct. 2006, 126). The letter states that

[t]he Sri Lankan Immigration services and [the Sri Lankan police] are informed in advance of the passenger's arrival. The passenger is handed over to Immigration who briefly interview them and then hand them to [the Sri Lankan police]. In most cases, a record is kept [by Immigration and the Sri Lankan police] of the returnee's arrival and they are then allowed to proceed. (UK 31 Oct. 2006, Sec. 32.11)

The letter further notes, however, that persons with an outstanding warrant for their arrest prior to leaving Sri Lanka may face arrest upon their return (ibid.). According to the letter, the Sri Lankan Directorate of Internal Intelligence may also "have an interest in these individuals and keep records on them" (ibid.).

In 19 December 2006 correspondence to the Research Directorate, an official at the Canadian High Commission in Colombo provided corroborating information on the return of failed asylum seekers to Sri Lanka, stating that

[r]eturnees, if identified to the airlines as such by immigration authorities who are removing them to Sri Lanka, have an established process awaiting them upon arrival. First, the Chief Immigration Officer (arrivals) documents the arrival of the person, takes a statement, and determines whether the returnee should be granted entry as a Sri Lankan national. Next an officer of the State Intelligence Service (SIS) documents the arrival and takes a statement. Finally, an officer of the Criminal Investigation Department (CID) of the Sri Lanka Police documents the arrival, checks for outstanding warrants and takes a statement. If there is an outstanding warrant for arrest, the returnee may be arrested. Otherwise, the returnee is free to go.

## **Persons with previous problems with the authorities**

An October 2006 report published by Hotham Mission's Asylum Seeker Project (ASP), an Australian non-governmental organization (NGO) that "works with asylum seekers in the community" (Hotham Mission n.d.), similarly notes that persons returning to Sri Lanka who have had previous problems with the government of Sri Lanka may be detained by the police upon their arrival (47). According to the report, persons who have been detained or questioned in the past are more likely to be arrested and, because of the state of emergency and ongoing conflict in the country, "may face further human rights violations, such as torture" (Hotham Mission Oct. 2006, 47). The report also notes that Sri Lanka's National Intelligence Bureau keeps records on people dating back more than ten years and, since 2004, has been using a national computerized database (ibid.).

## **Persons travelling without valid identity documents**

Persons who leave Sri Lanka using false documents or who enter the country under irregular or suspicious circumstances are reportedly more likely to be singled out and questioned under the country's current state of emergency (ibid.; see also *Daily News* 15 Sept. 2006). The state of emergency reportedly permits the Sri Lankan authorities to make arrests without warrant and to detain persons for up to 12 months without trial (US 8 Mar. 2006). Under Section 45 of the country's *Immigrants and Emigrants Act*, amended in 1998, persons found guilty of travelling with forged documents may be subject to a fine of between 50,000 and 200,000 Sri Lankan Rupees (LKR) [approximately CAD 533 (XE.com 12 Dec. 2006a) to CAD 2,133 (ibid. 12 Dec. 2006b)] and a jail term ranging from one to five years (Sri Lanka 1998).

A 15 September 2006 article in the Colombo-based *Daily News* indicates that a passenger who was deported from the UK to Madras, India, and then from Madras to Colombo, was reported to have committed suicide after being detained by the authorities at Sri Lanka's Bandaranaike International Airport. According to the article, the passenger did not have identity documents to prove his claims of Sri Lankan nationality and, as a result, "the airline ... made arrangements with [airport authorities] to detain him at Bandaranaike International Airport until he produced documents to prove his nationality and identity" (*Daily News* 15 Sept. 2006). The Hotham Mission report, however, refers to this case as one of a failed asylum seeker being "killed" upon return (Oct. 2006, 48). The returnee was reportedly of Tamil ethnicity (Hotham Mission Oct. 2006, 48). Further information on the returnee and on the circumstances surrounding his death in custody could not be found among the sources consulted by the Research Directorate.

## **Tamil asylum seekers with scars**

Cited in an October 2006 UK Home Office report, a 1 January 2005 position paper by the Office of the United Nations High Commissioner for Refugees (UNHCR) indicates that Tamil asylum seekers with scars may be more likely to be questioned and experience "ill-treatment" by the Sri Lankan security forces upon their return to Sri Lanka (31 Oct. 2006, 126). The paper states that

[the] UNHCR maintains its position ... that 'Tamil asylum seekers with scars, should they be returned to Sri Lanka, may be more prone to adverse identification by the security forces and taken for rigorous questioning and potential ill-treatment' ... Please note that the UNHCR's comments are strictly

limited to the risk of adverse identification, rigorous questioning, and potential ill-treatment of returned persons with scars upon their arrival at the airport, not the potential risk of arrest subsequent to the initial interrogation at the airport. (UK 31 Oct. 2006, 126)

A 24 August 2006 letter from the British High Commission in Colombo, cited in the October 2006 UK report suggests, however, that physical examinations of returnees conducted by the authorities are less common or have ceased altogether. The letter states that

[t]here is strong anecdotal evidence that scarring has been used in the past to identify suspects. In ... conversations with the police and in the media, the authorities have openly referred to physical examinations being used to identify whether suspects have undergone military style training. ... [R]ecent claims from contacts in government ministries [indicate] that this practice has either ceased or is used less frequently. At the very least, it appears to only take place when there is another reason to suspect the individual rather than [as part of] a routine measure for immigration returnees. (UK 31 Oct. 2006, 127)

Further information from 2005 and 2006 on whether Tamils asylum seekers with scars would be targeted by Sri Lankan security forces upon their return could not be found among the sources consulted by the Research Directorate.

### **Persons with an affiliation to the LTTE or other political groups**

The October 2006 Hotham Mission report cites information obtained during consultations with the Sri Lanka Monitoring Mission (SLMM), a body of international observers that monitors the ceasefire agreement between the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE) (SLMM n.d.), concerning the return of failed asylum seekers (47). The SLMM indicates that if a person returning to Sri Lanka has any previous affiliation with the LTTE, they may be targeted by the police (ibid.). The organization also notes that if a person has previous affiliations to certain individuals or political groups, they may be targeted by the LTTE (ibid.). The SLMM provides the example of persons who have been members of the People's Liberation Organisation of Tamil Eelam (PLOTE), an inactive Tamil militant organization (SATP n.d.), who were still being targeted by the LTTE in Sri Lanka at the time the Hotham Mission report was published (Hotham Mission Oct. 2006, 47).

### **Persons returning from abroad**

Persons returning from abroad may also be subject to extortion (Sri Lanka 27 Nov. 2006; Hotham Mission Oct. 2006, 49). According to the Hotham Mission report, in some instances, returnees have been pressured into paying immigration officials to be able to pass through the airport without incident (ibid.). The report also indicates that, across Sri Lanka, wealthy businessmen are being kidnapped for ransom and that "people returning from overseas may be a target, as it will be assumed that they have money" (ibid.).

A 27 November 2006 article by the Media Centre for National Security, a division of Sri Lanka's Ministry of Defence, Public Security, Law and Order, provides a listing of "extortion rates of the LTTE." According to the article, the LTTE charges 500 LKR [approximately CAD 5.30] per journey to persons returning from abroad (Sri Lanka 27 Nov. 2006).

## Returnees from Canada

In 19 December 2006 correspondence, an official at the Canadian High Commission in Sri Lanka indicated that

[s]ince 2004 ... no returnees from Canada have been arrested or experienced negative repercussions at the airport or after exiting the airport grounds in Sri Lanka. Sri Lankan authorities who have dealt with the returnees have carried out their duties in a professional manner in compliance with international norms.

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 additional sources consulted in researching this Information Request.

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#### Additional Sources Consulted

**Oral sources:** Attempts to contact INFORM Human Rights Documentation Centre in Sri Lanka were unsuccessful. The International Organization for Migration (IOM) Sri Lanka did not provide information within the time constraints of this Response.

**Internet sites, including:** Amnesty International (AI), Asian Centre for Human Rights (ACHR), Asian Human Rights Commission (AHRC), British Broadcasting Corporation (BBC), *Daily News* [Colombo], European Country of Origin Information Network (ecoi.net), Factiva, Human Rights Watch (HRW), Internal Displacement Monitoring Centre (IDMC), Refugee Council [United Kingdom], ReliefWeb, TamilNet.

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