

Immigration and Refugee Board of Canada

[Home](#)

> [Research Program](#)

> Responses to Information Requests

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. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment, please email the [Knowledge and Information Management Unit](#).

30 December 2015

PAK105370.E

Pakistan: Requirements and procedures for issuance of a valid arrest warrant; whether requirements are adhered to in practice (2014-December 2015)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Details and Requirements for Arrest Warrants

Article 75 of Pakistan's *Code of Criminal Procedure, 1898*, as amended in 1997, states the following:

75. 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.

(2) Continuance of warrant of arrest. Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed. (Pakistan 1898)

The website of Zaman Vardag Law Associates, a Lahore-based law firm (Zaman Vardag Law Associates n.d.), similarly states that warrants of arrest "shall be in writing, signed by the presiding officer," they "must bear the seal of the court" and they can be signed by a member of the bench of magistrates (ibid. 27 Sept. 2012). The same source further states that a warrant of arrest is issued by a court in order to "bring the required person [to] court with the help of police or other person empowered on this behalf" (ibid.). According to the source, a warrant is addressed to a person, typically the police, to perform a particular act such as apprehending a person or producing an item, whereas a summons is addressed to the "person who is required to either attend or to produce a document or thing" (ibid.). The source states that arrest warrants should denote a reason for the arrest and issuing a warrant without assigning a reason is in "bad" practice (ibid.).

2. Persons Authorized to Make Arrests with Warrants

Article 77 of the *Pakistan Code of Criminal Procedure* states that

77. (1) Warrants to whom directed. A warrant of arrest shall ordinarily be directed to one or more police-officers; but 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; and such person shall execute the same.

(2) Warrants to several person. When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more, of them. (Pakistan 1898)

The same source further states, under Article 78, that

78. Warrant may be directed to land-holders, etc. (1) A District Magistrate or Sub- Divisional Magistrate may direct a warrant to any landholder, farmer or man[an]ger of land within his district or sub-division for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.

(2) Such landholder, farmer or manager shall acknowledge in writing the receipt of the warrant, and 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.

(3) When the person against whom such warrant is issued is arrested, he shall be made over with the warrant to the nearest police-officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 76. (ibid.)

According to Article 79, 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" (ibid.).

The website of Zaman Vardag Law Associates similarly states that arrest warrants are usually given to a police officer, though if no officers are available it can be issued to "any other person," including "landlords, farmers or manager of land for arrest of any escaped convict o[r] proclaimed offender who is hiding in that land" (Zaman Vardag Law Associates 27 Sept. 2012).

3. Requirements for Making an Arrest with a Warrant

According to Article 46 of the *Pakistan Code of Criminal Procedure*, arrests are generally made as follows:

46. Arrest made. (1) In making an arrest the police-officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

(2) Resisting endeavor to arrest. If such person forcibly resists the endeavor to arrest him or attempts to evade the arrest, such police-officer or other person may use all means necessary to effect the arrest.

(3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with [imprisonment for life.]. (Pakistan 1898, square brackets in original)

Articles 80 and 81 of Chapter VI state that

80. Notification of substance of warrant. The police-officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

81. Person arrested to be brought before Court without delay. The police-officer or other person executing a warrant of arrest shall (subject to the provisions of section 76 as to the security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person. (ibid.)

4. Types of Offences Requiring Arrest Warrants

According to Article 54 of the *Pakistan Code of Criminal Procedure*, the following persons may be arrested without a warrant:

54. When police may arrest without warrant. (1) Any police-officer may, without an order from a Magistrate and without a warrant, arrest:

Firstly, any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned;

Secondly, any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking;

Thirdly, any person who has been proclaimed as an offender either under this Code or by order of the Provincial Government;

Fourthly, any person in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing;

Fifthly, any person who obstructs a police-officer while in the execution of his duty or who has escaped, or attempts to escape from lawful custody;

Sixthly, any person reasonably suspected of being a deserter from the armed forces of Pakistan [****];

Seventhly, any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed at any place out of Pakistan which, if committed in Pakistan, would have been punishable as an offence and, for which he is, under any law relating to extradition or [****] otherwise, liable to be apprehended or detained in custody in Pakistan.

Eightly [sic], any released convict committing a breach of any rule made under section 565, sub-section (3);

Ninthly, any person for whose arrest a requisition has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears there from that the person might lawfully be arrested without a warrant by the officer who issued the requisition. (ibid., square brackets in original)

5. Compliance with Arrest Warrant Requirements

Information on compliance with arrest warrant requirements was scarce among the sources consulted by the Research Directorate within the time constraints of this Response. According to the US Department of State's *Country Reports on Human Rights Practices for 2014*, Pakistani law "prohibits arbitrary arrest and detention, but authorities did not always comply. Corruption compounded this problem" (US 25 June 2015, 10). For further information on police corruption, see Response to Information Request PAK105368.

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

Pakistan. 1898 (amended 1997). *The Code of Criminal Procedure, 1898*.

<<http://www.sja.gos.pk/Statutes/files/THE%20CODE%20OF%20CRIMINAL%20PROCEDURE.htm>> [Accessed 16 Nov. 2015]

United States (US). 25 June 2015. Department of State. "Pakistan." *Country Reports on Human Rights Practices for 2014*. <<http://www.state.gov/documents/organization/236860.pdf>> [Accessed 4 Dec. 2015]

Zaman Vardag Law Associates. 27 September 2012. "What Is Procedure for Warrant of Arrest in Pakistan." <<https://pakistanilaws.wordpress.com/tag/arrest-procedure-in-pakistan/>> [Accessed 7 Dec. 2015]

_____. N.d. "About Us." <<https://pakistanilaws.wordpress.com/about-us/>> [Accessed 7 Dec. 2015]

Additional Sources Consulted

Oral sources: Chief of the Citizens Police Liaison Committee, Sindh Province; Lawyer and advocate with the Lahore High Court; Center for Peace and Development Initiatives Pakistan.

Internet sites, including: Amnesty International; Asian Human Rights Commission; Asian Legal Resource Center; Citizens Police Liaison Committee; eoi.net; Factiva; Freedom House; Human Rights Watch; Sindh Judicial Academy; Transparency International; Transparency International Pakistan; United Nations – Refworld.

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[Top of Page](#)

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