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Sri Lanka: Information on the treatment of Tamil returnees to Sri Lanka, including failed refugee applicants; repercussions, upon return, for not having proper government authorization to leave the country, such as a passport

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

This Response to Information Request is being issued to incorporate information received on 16 August 2011 from the Canadian High Commission in Colombo. It replaces LKA103783.E of 4 August 2011.

After seeking information from Sri Lankan government officials, mission staff and other in-country stakeholders, an official from the Canadian High Commission in Sri Lanka stated the following in his correspondence with the Research Directorate:

The screening process is the same for all persons returning to Sri Lanka - whether voluntarily or by escort. The process is not impacted by ethnicity.

The process for persons removed to Sri Lanka begins with verification of the person's citizenship by Sri Lankan Immigration. Once a person's right to enter has been established, clients are then interviewed at the airport by Criminal Investigations Division (CID), followed by an interview by the State Intelligence Service (SIS). Sri Lankan State Intelligence Service's questions are often in regards to how a client departed the country. They are seeking information about human trafficking and smuggling from the country.

The CID conducts criminal background check[s] of returnees by contacting police stations in all districts that a client may have lived. As criminal records are not accessible through a national databank, the final criminal checks may take 24-48 hours to complete depending on the day of the week a person arrives in Colombo. Generally, police record checks may be completed in a few hours, but if a client arrives on a Saturday or Sunday it may take a bit longer to contact appropriate offices. Following this admission process deported Sri Lankan nationals are free to enter the country. (Canada 16 Aug. 2011)

In contrast to the Canadian High Commission official's statement is a joint submission prepared specifically for the Research Directorate by the following parties:

- Law and Society Trust, a non-profit organization based in Colombo that is "conducting human rights documentation, research and advocacy" work (Law and Society Trust n.d.);
- INFORM Human Rights Documentation Centre, a "Sri Lankan human rights organization" that has been active since 1989 and that focuses on "monitoring, documentation and networking" (WEDO n.d.);
- Networking for Rights in Sri Lanka, a group creating a national and international network of Sri Lankan human rights defenders (NFR Sri Lanka n.d.); and

- a human rights lawyer in the United Kingdom (UK) (Law and Society Trust et al. 18 July 2011, 7).

With regard to security procedures at the Colombo airport for failed Tamil refugee claimants, their joint submission states that

[i]mmigration authorities are alerted about the impending arrival of those who are deported or who are 'returned' as a result of failed asylum processes. They are also identifiable by the fact that they travel on temporary travel documents. These individuals are taken out of immigration queues and subjected to special questioning by the Police, and by members of the Terrorist Investigation Department [TID]. They are almost always detained, sometimes for few hours, and sometimes for months, until security clearance is obtained. In situations in which most families of the deported/returned persons have been displaced due to the war, are not contactable by telephone, and in which Police records that could attest to their legitimate address and non-involvement in criminal or terrorist activity have often been misplaced due to the constant cycles of displacement undergone by the entire community of the North and East in the past years, obtaining the required security clearance may take months. If there is no family member to follow up, this may lead to indefinite detention. (Law and Society Trust et al. 18 July 2011, 5)

Their joint submission further notes that Tamil returnees are "particularly vulnerable if they arrive individually, and if no one knows they are arriving" (ibid., 6).

On 19 May 2010, the Director of the Edmund Rice Centre, an Australian research, advocacy and networking organization that also works with refugees and asylum seekers (Edmund Rice Centre n.d.), said that Sri Lanka is "not safe for deported asylum seekers," including anyone connected to the Tamil Tigers or who left the country illegally (ibid. 19 May 2010). He explained that the Sri Lankan authorities are of the view that "any Tamil who fled the country in an unauthorized way must be an LTTE [Liberation Tigers of Tamil Eelam] sympathizer, or if they are Sinhalese, then they must be a traitor" (ibid. 19 May 2010). The Director also noted that in the months leading up to May 2010,

"all asylum seekers returned to Sri Lanka ... [were] handed over to the CID, the Sri Lankan Police, and taken into custody. Some [were] detained, some [were] assaulted." (ibid.)

In a 30 June 2011 telephone interview with the Research Directorate, an adjunct professor of political science at Temple University, who is currently conducting research on Sri Lanka, indicated that information from sources in Sri Lanka suggests that the government has stationed former Tamil Tigers, who have sided with the government and are working with the Sri Lankan security forces, at the Bandaranaike International Airport where they screen arriving individuals. The professor noted that

if you are a Tamil and have any connection to the Tamil causes, it is very likely that you would be screened at the airport and taken into police custody. It is very hard for anyone that has a connection to the Tamil Tigers to go back to Sri Lanka. (Adjunct Professor 30 June 2011)

He also said that Tamils without any connection to the Tamil Tigers but with a history of opposing government policies would be considered associated with the Tigers and be screened at the airport (ibid.). The professor further stated that a person who has any past connection to the Tamil Tigers or a history of opposing the government will be detained and questioned (ibid.). He added that there have been reports of "abuse and torture" of airport detainees (ibid.).

The Director of the Edmund Rice Centre also noted that "[a]nyone who publicly dissents from the Government's position is at risk" (19 May 2011). He explained that

"[d]etention can be indefinite and court processes are heard within the prison itself. No legal arguments are taken, and most often magistrates just continue to postpone the cases to a later date." (ibid.)

In a January 2011 article, the daily *Sri Lanka Guardian* reported that Colombo's Katunayake International Airport has a "heavy presence of the intelligence officers" who "systematically targeted" Tamils coming back from overseas, putting them through "extensive interrogative processes for several hours" (5 Jan. 2011). According to the news site's sources, Tamil passengers on all incoming and outgoing flights are the focus of the TID (*Sri Lanka Guardian* 5 Jan. 2011). These sources report that TID officials take individuals into custody, either interrogating them for hours or taking them away "in unmarked white vans to unknown destinations" (ibid.).

Similarly, the joint Law and Society Trust submission notes that

Tamil returnees are detained and questioned about their connections with the LTTE in Sri Lanka, prior to their leaving the country, about the circumstances of their departures and about their links while they were outside the country. This can be a long process and under the PTA [Prevention of Terrorism Act] persons can be detained for prolonged periods. (Law and Society Trust et al. 18 July 2011, 6)

According to the joint submission, detention conditions are "very brutal" (ibid.). The United States (US) *Country Reports on Human Rights Practices for 2010* indicates that prison conditions in Sri Lanka are overcrowded and "lack ... sanitary facilities" (US 8 Apr. 2011, 8). It also reported other problems with prison conditions, including that prisoners were "sleeping on concrete floors," there was insufficient ventilation, and that there were reports of abuse coming from female-only prison sections (ibid.).

In contrast, the Canadian High Commission official noted that

[t]here have been only four cases of persons having been detained upon arrival of which the Canada High Commission is aware. Each of these cases involved outstanding criminal charges in-country and were not related to their overseas asylum claims or their ethnicity. Persons of all ethnic backgrounds are returned either under escort or voluntarily to Sri Lanka daily, and the screening and admission process for all these persons remains the same. (Canada 16 Aug. 2011)

However, Human Rights Watch publicly expressed concern about Britain returning rejected asylum seekers to Sri Lanka because it believes that "Sri Lankan nationals who have been affiliated with or are considered to be supporters of the ... LTTE, would be at significant risk of persecution if deported back to Sri Lanka" (16 June 2011). The organization noted that its research "shows that Sri Lankan authorities have frequently violated the basic rights of people suspected of being affiliated with or supporters of the LTTE" (Human Rights Watch 16 June 2011).

Hatnews, a UK-based "conduit of information and news for asylum seekers [and] refugees" (n.d.a), which is provided by "professional Journalists from around the world who are either currently refugees and asylum seekers in the UK or have gained their 'status' but are not currently working in journalism" (*Hatnews* n.d.b), states that "there are growing claims made by returnees of detailed questions being asked during the documentation process by the SLHC [Sri Lanka High Commission in the UK] as to the content of their asylum claims and LTTE connections" (ibid. 10 June 2011).

United Kingdom returnees

In a 17 June 2011 press release, Amnesty International (AI) reports that the United Kingdom rejected 26 asylum seekers from Sri Lanka, most of whom were Tamil, and that when the returnees arrived in Colombo, they were taken for questioning (AI 17 June 2011). AI's Sri Lanka researcher is quoted as saying that "[t]he government of Sri Lanka has a history of arresting and

detaining rejected Sri Lankan asylum seekers upon their return and we are aware of cases of people being tortured'" (ibid.). In a news item about the pending deportations issued on 16 June, the day before the deportations, the same researcher is also quoted as saying that "'[t]he end of the armed conflict in Sri Lanka in May 2009 has not diminished the risks faced by rejected Sri Lankan asylum seekers, who continue to be subjected to arrest and detention upon their arrival in Sri Lanka'" (ibid. 16 June 2011).

The *Hindustan Times*, a New Delhi-based newspaper, reports that on 17 June 2011, the Policy Research and Information Unit of the Presidential Secretariat of Sri Lanka issued a news release in which it notes the arrival in Colombo of a "group of Tamil asylum seekers" deported from Britain that day (17 June 2011). As the *Hindustan Times* indicates, a senior police officer informed the Unit that a "special team" from the CID was recording the statements of the rejected Tamil asylum seekers, after which the police would "soon" let them leave (17 June 2011). The *Daily News*, a Colombo-based newspaper, also noted a police spokesman as saying that a CID team and the National Intelligence Bureau "recorded lengthy statements" from the 26 deportees upon their arrival in Colombo (18 June 2011). The Colombo newspaper also said that the deportees consisted of 15 Tamils, 4 Sinhalese, and 7 Muslims (*Daily News* 18 June 2011).

The London-based *Independent* newspaper similarly reported that the 26 rejected asylum seekers were "met for questioning by the authorities" and that a police spokesman specified that they were being questioned by the CID (18 June 2011). In contrast, however, a police spokesman quoted in the Colombo-based *Sunday Observer* stated that no one was questioned by the CID and that the "'CID does not unnecessarily detain people if they don't have criminal records'" (*Sunday Observer* 19 June 2011). The *Sunday Observer* article also indicates that there were no arrests or criminal charges laid against the rejected asylum seekers, and that all had returned to their homes (ibid.).

The Ratmalana-based newspaper *The Sunday Leader* interviewed the South Asia Regional Director of the UK Border Agency in the wake of what it called "the controversy and concerns over the recent deportation of Sri Lankans from Britain, including failed asylum seekers" (27 June 2011). The South Asia Regional Director said that they

"constantly monitor the country situation, and issues of safety on return have not arisen. There is no evidence that those who were previously removed to Sri Lanka have been mistreated. All those who returned to Sri Lanka last week passed through border control procedures and were allowed to proceed without incident." (*The Sunday Leader* 27 June 2011)

Documents

The Canadian High Commission official informed the Research Directorate that

[o]ver the past 2 years, there have been no recorded cases of detention or other issues related to persons who departed the country without legal documents. There have been no known adverse impacts for persons returning having originally depart[ed] without an issued passport.

Those clients without valid travel documents to return to Sri Lanka must provide their details to Sri Lankan Missions. These missions verify citizenship and issue travel documents to return. There has been no issue for clients identified from this process. (Canada 16 Aug. 2011)

The Temple University adjunct professor noted that people who left the country illegally and have no documentation upon their return are selected for screening; however, as mentioned already, they would be "safe" if they are not connected to any government-opposed activities (Adjunct Professor 30 June 2011). The joint submission by Law and Society Trust and others states that if the airport authorities suspect that someone's documents are forgeries, the person would undergo "extended questioning and possible detention" (Law and Society Trust et al. 18 July 2011, 5).

The Law and Society Trust-led joint submission also notes that even if a

deported/returned person is 'cleared' and allowed to leave the airport, they are in danger of being detained at check-points for any number of reasons, and also subject to intimidation and extortion. They also face a threat from paramilitary groups who may abduct and torture them for information or for purposes of extortion. (ibid., 6)

After re-entry

According to the Law and Society Trust-led joint submission, some of the challenges faced by returnees, other than at the airport during re-entry, include difficulties finding accommodation, employment, family, and documentation (Law and Society Trust et al. 18 July 2011, 6). The report notes that if the returnees do not obtain a National Identity Card (NIC), "they could face re-arrest, detention and torture" (ibid.). There are also no programs or policies in place to help returnees reintegrate into society, leaving them "vulnerable to abduction and extortion by armed groups" (ibid.). Returnees are also viewed with "suspicion," and are generally seen as "'traitors,' 'those who brought the country to disrepute' [and] '... lied about the situation in the country abroad'" (ibid., 6-7). They also face "systematic media attacks" that characterize "the Tamil diaspora community as being LTTE mouthpieces and supporters" (ibid., 7).

The United Nations (UN) Integrated Regional Information Networks (IRIN) reports that "returnees to remote villages face tough times and uncertain futures, despite governmental and international efforts at reconstruction" in Sri Lanka's post-war zone (5 July 2011). For example, although the Ministry of Economic Development launched the Northern Recovery Project to help "accelerate development" in Vanni, reconstruction is "a slow process" (UN 5 July 2011). According to a senior rural development specialist with the World Bank,

"[a] detailed assessment of the full needs of the returnees is yet to be completed As such, the limited development projects that are being implemented in selected areas will not meet the entire needs and expectations of the people." (qtd. in UN 5 July 2011)

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.

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Additional Sources Consulted

Oral sources: Attempts to contact representatives at the following organizations were unsuccessful: Amnesty International, the Centre for Policy Alternatives, Minority Rights Group International, Refugee Action, the Lessons Learnt and Reconciliation Commission (in Sri Lanka) and the Sri Lanka High Commission in Ottawa. The International Organization for Migration was unable to provide information for this Response. The United Nations Office of the High Commissioner for Refugees was unable to provide information within the time constraints of this Response.

Internet sites, including: Australia - Refugee Review Tribunal; British Broadcasting Corporation; Centre for Policy Alternatives; Denmark - Danish Immigration Service; *The Economist*; European Country of Origin Information Network; Factiva; *Forced Migration Review*; International Crisis Group; International Organization for Migration; LankaNewspapers.com; Minority Rights Group International; National Peace Council of Sri Lanka; Networking for Rights in Sri Lanka; Onlanka; Refugees International; Reuters; Sri Lanka - Media Centre for National Security, Ministry of Defence; Tamil Information Centre; TamilCanadian; TamilNet; United Nations - Office of the High Commissioner for Human Rights, Refworld, ReliefWeb; United States Department of State; University Teachers for Human Rights (Jaffna).


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