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Immigration and
Refugee Board of Canada

Commission de l'immigration
et du statut de réfugié du Canada

Sri Lanka: Police reports, including records of arrest or detention, extracts of complaints, and police clearance certificates; procedures for an individual to obtain a copy of police reports; prevalence of fraudulent police reports [LKA105436.E]

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Record of Arrest or Detention

Information on Sri Lankan police reports on detentions and arrests of individuals was scarce among the sources consulted by the Research Directorate within the time constraints of this Response. According to Article 38 of the Sri Lankan *Code of Criminal Procedure*,

[o]fficers in charge of police stations shall report to the Magistrates' Courts of their respective districts the cases of all persons arrested without warrant by any police officer attached to their stations or brought before them and whether such persons have been admitted to bail or otherwise. (Sri Lanka 1979, Art. 38)

Sources state that under the emergency regulations [imposed in Sri Lanka from 1983 to 2011 (*The Globe and Mail* 25 Aug. 2011)], authorities were not required to submit a "written record of arrest and detention" to the court (Human Rights Watch Feb. 2010, 18; Kolitha and Wasantha Dec. 2013, 14). For information on the cessation of the emergency regulations, see Response to Information Request LKA103837. The procedures required for an individual to obtain a record of their arrest or detention could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2. Extracts of Complaints

According to the website of the Sri Lankan Police, individuals are able to file a complaint with the police, which are taken and addressed as early as possible (Sri Lanka n.d.a). In correspondence with the Research Directorate, an official from the Immigration Section of the High Commission of Canada to Sri Lanka stated that when a complaint is filed at a police station in Sri Lanka, the complaint is recorded by an officer and "hand written in their Complaints Reference Book" (Canada 3 Mar. 2016). The same source stated that a receipt is given to the person making the complaint, which includes the date and time the complaint was made, as well as the "Complaints Reference Book number" (ibid.). A copy can be obtained by submitting an application to the police station where the complaint was made, and the application must include the date and time of the complaint, as well as the Complaints Reference Book number (ibid.). If the complaint is not related to a criminal

case, a carbon copy of the complaint is given "immediately;" however, if the applicant wishes to have a "typed version" of the complaint, a "small stamp duty" is required and may take "a few days" to obtain (ibid.). According to the Canadian official, if legal action has been taken in a "court of law," a lawyer would be able to request a copy of the complaint on behalf of the victim or accused (ibid.).

The police website similarly states that the "public has the right to request an acknowledgement of the complaint made" and that an "extract of complaints" can be issued by request in civil matters, and in criminal cases, according to Section 444 (1) of the *Code of Criminal Procedure* (Sri Lanka n.d.a). Article 444 of the *Code of Criminal Procedure*, "Accused person entitled to copy of first information," provides the following:

1. Every inquirer or officer in charge of a police station shall issue to every accused person or his attorney-at-law who applies for it a duly certified copy of the first information relating to the commission of the offence with which he is charged and of any statement made by the person against whom or in respect of whom the accused is alleged to have committed an offence.
2. In every proceeding under this Code the production of a certified copy of any information or statement obtained under subsection (1) shall be prima facie evidence of the fact that such information was given or that such statement was made to the inquirer or police officer by whom it was recorded; and notwithstanding the provisions of any other law, it shall not be necessary to call such inquirer or officer as a witness solely for the purpose of producing such certified copy.
3. In the course of a trial in a Magistrate's Court, the Magistrate may, in the interests of justice, make available to the accused or his attorney-at-law for perusal in open court the statement recorded under section 110 of any witness whose evidence is relied on by the prosecution in support of the charge against the accused. (ibid. 1979, Art. 444)

According to the Canadian official, complaints records are usually retained for five years, however, if a court case is pending, the "Complaints Reference book will be kept until the conclusion of the Court case" (Canada 3 Mar. 2016). A copy of the application for an extract of complaints has been attached to this Response (Attachment 1).

3. Police Clearance Certificate

According to the Canadian official, the police will issue clearance reports to "persons with clear records or minor non-criminal infractions" and "deportations from other countries are noted" as well (Canada 18 Feb. 2016). The same source stated that if an individual has a "criminal or security record," they do not issue the certificate to the requesting individual, but issue it "directly to the organization that asked the person to obtain the police certificate," such as the high commission or embassy (ibid.). According to the source, in August 2015, authorities began issuing police certificates "in a new format," though they will continue issuing certificates in the old format to those who applied prior to August 2015 (ibid.). She added that "there is no cut-off date for the old format, but they will taper off and disappear as applications ... are processed" (ibid.). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to sources, a police clearance certificate can be obtained by submitting an application along with a copy of the applicant's National ID card, passport and birth certificate (US n.d.; Sri Lanka n.d.b). According to the website of the Sri Lanka police, if the applicant is under 16 years of age, the original birth certificate as well as a copy must be submitted (ibid.). The website of the Embassy of the US to Sri Lanka and the Maldives states that "women who use their husband's family name must submit a copy of their marriage certificate and an affidavit stating their maiden name and name after the marriage" (US n.d.). The application is submitted to the Police Headquarters in Colombo (ibid.; Sri Lanka n.d.c). According to instructions provided on the webpage of the Sri Lankan police, the police clearance report is based on an investigation by the police department and is issued by the Director of Administration at the Police Headquarters within 14 business days (Sri Lanka n.d.b). A copy of a police clearance application has been attached to this response (Attachment 2).

4. Fraudulent Police Reports

Information on fraudulent police clearance certificates was scarce among the sources consulted by the Research Directorate within the time constraints of this Response. According to the Canadian official, the Immigration Section of the Canadian High Commission is "able to verify whether police certificates are genuine" and as such, "receive very few fraudulent police certificates" (Canada 18 Feb. 2016). However, according to the same source, the police certificates "have limited security features" and "verification is the only reliable way of ensuring the police certificates are genuine" (ibid.). Further and corroborating information on fraudulent police clearance certificates could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Information on fraudulent records of arrest and detention could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

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

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Additional Sources Consulted

Oral sources: INFORM Human Rights Documentation Centre; Law & Society Trust; Sri Lanka – Government Analyst's Department – Examiner of Questioned Documents, High Commission in Ottawa; Transparency International – Sri Lanka.

Internet sites, including: Asian Development Bank; ecoi.net; Sri Lanka – Government Analyst's Department – Forensic Questioned Document Section, Government Information Center – Examination of Questioned Documents, Sri Lanka Police; Transparency International – Sri Lanka; United Nations – Refworld.

Attachments

1. Sri Lanka. N.d.a. Sri Lanka Police. "Applying for the Extracts of Complaints." <<http://www.police.lk/index.php/permits/94-applying-for-the-extracts-of-complaints-?format=pdf>> [Accessed 4 Feb. 2016]

2. Sri Lanka. N.d.b. Sri Lanka Police. "Police Clearance Certificate Request Application." <http://www.police.lk/images/clearence/clearance_application_2015.pdf> [Accessed 4 Feb. 2016]