



Refugee Documentation Centre (Ireland)  
LEGAL AID BOARD

## **Sri Lanka – Researched and compiled by the Refugee Documentation Centre of Ireland on 13 January 2012**

### **Risk of failed asylum seekers of Tamil ethnicity upon return to Sri Lanka.**

An *Immigration and Refugee Board of Canada* response to a request for information on the treatment of Tamil returnees states:

“[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. Their joint submission further notes that Tamil returnees are ‘particularly vulnerable if they arrive individually, and if no one knows they are arriving’”  
(Immigration and Refugee Board of Canada (22 August 2011) *LKA103815.E – 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*)

This response refers to information provided by the Director of the Edmund Rice Centre as follows:

“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)

This response also quotes an adjunct professor of political science at Temple University who indicated that:

"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)

A *Danish Immigration Service* fact-finding mission report, in a section titled "Situation for Tamils in the North" (paragraph I. 1. 4 "Situation for returnees from abroad"), states:

"The Executive Director of the National Peace Council had not heard about Tamils who experienced reprisals in connection with their return to the North from abroad, regardless if they were LTTE members or not. The Executive Director of the National Peace Council further commented that no Tamils would like to return as the Sri Lankan army is still strong and the Sinhalese are ruling in Colombo. Tamils do not see much hope of improving the situation in the North and East. Sinhalese people are moving to the North and East while the Tamils are leaving the country. The anonymous source similarly commented that there was no big influx of Tamil returnees after the war ended. On the contrary, people wish to leave the country. The anonymous source further commented that returnees from abroad would probably undergo scrutiny, but the source did not have any specific information related to any cases. In line with the above source, the Director of an anonymous local NGO said that people who fled the country are generally not coming back which would not be conducive in the opinion of the Director since there are still thousands of LTTE suspects in jail, and minority groups still live in fear. Answering to the question on the situation for returnees from abroad, an official attached to a human rights organisation informed the delegation that returnees from abroad, who were in conflict with the LTTE, will not be at risk as opposed to supporters of the LTTE, who are likely to be at risk if they come back. The official added that this was built on assumptions since there was no recent information on returnees from abroad." (Danish Immigration Service (15 October 2010) *Human Rights and Security Issues concerning Tamils in Sri Lanka: Report from Danish Immigration Service's fact-finding mission to Colombo, Sri Lanka. 19 June to 3 July 2010*, p.10)

In a section titled "Entering procedures at Colombo airport, including security measures" this report states:

"As regards, the authorities' entering procedures for returnees, including returned failed asylum seekers in the Colombo Airport, Mr. W. A. Chulananda Perera, Acting Controller General, Department of Immigration and Emigration (DIE) explained that the returnee can enter the Sri Lankan border with either a national passport or an

Emergency Travel Document issued by the Sri Lankan Embassy. If the returnee enters with a national passport, DIE can check the data in a database. Entry with an Emergency Travel Document does not give this possibility. However, an Emergency Travel Document is considered a proof of identity established in the country of departure. DIE registers the details of all returnee, including travel documents, flight numbers and country of return in a register that all law enforcement agencies are given access to. Mr. Perera said that if an Emergency Travel Document is issued, the Sri Lankan Embassy in the returning country informs DIE about the arrival. DIE questions the returnee about the reason for leaving the country, as well as they clarify citizenship and identity. DIE also checks if the returnee is on a list of wanted persons for court orders, forged documentation etc. If it is the case the deportee is handed over to Criminal Investigation Department (CID). Mr. Perera further explained that all returnees who returned with an Emergency Travel Document will also be questioned by the State Intelligence Service (SIS). In case a returnee is on a list of wanted persons for terrorism then the person is handed over to Terrorist Investigation Department (TID) for further investigation.” (ibid, p.52)

This section refers to information provided by a spokesperson from the British High Commission as follows:

“A spokesperson from the British High Commission stated that if a returnee arrived from abroad holding their original Sri Lankan passport, were not escorted and at the same time the Sri Lankan authorities had not been notified, the returnee will in most cases go through the airport control without further investigation. If the returnee is escorted, they will be handed to the DIE who will confirm the nationality of the returnee in their database. The DIE database contains details of wanted persons. If the returnee is on the alert list, he will be passed to the department who circulated the alert. This may be DIE or SIS or if it was the police or Courts, they would be passed to CID. A diplomatic mission similarly mentioned that the Sri Lankan authorities have a list of wanted people and if the returnee is not on this list, the person will in general be allowed entry to Sri Lanka. A returnee who holds an Emergency Travel Document would not face particular difficulties in entering Sri Lanka according to the diplomatic mission.” (ibid, p.52)

An *Amnesty International* report, in a section titled “Risk of Torture for Failed Asylum Seekers”, states:

“Sri Lankan nationals returning to the country after living abroad are at risk of being arbitrarily detained on arrival or shortly thereafter. Sri Lankan nationals who are failed asylum seekers are especially at risk and are likely to be interrogated on return. Sumith Mendis and Indika Mendis were detained in 2009 at the Christmas Island detention centre after the boat in which they were crew members was stopped by Australian authorities and found to be carrying Sri Lankan asylum seekers. Their own requests for asylum were denied and they were deported to Sri Lanka and promptly arrested and handed over to the Central Investigative Department (CID). Sumith Mendis was released, but Indika Mendis said that he was tortured in CID custody, sustaining severe ear injuries before being transferred to the notorious Negombo prison where he was held for eight months. On 14 August 2010, the brothers were arrested again, apparently on suspicion that they were again planning to migrate to Australia. Sumith Mendis stated that he was tortured by the CID for six days, experiencing beatings and psychological abuse.” (Amnesty International (October 2011) *Sri Lanka: Briefing to the UN Committee against Torture*)

See also *Amnesty International* news report which quotes Yolanda Foster, AI's Sri Lanka researcher, as saying:

"The government of Sri Lanka have a history of arresting and detaining rejected Sri Lankan asylum seekers upon their return and we are aware of cases of people being tortured", said." (Amnesty International (17 June 2011) *Sri Lanka must not torture rejected asylum seekers*)

A *Freedom from Torture* report, in a section titled "Return to Sri Lanka from abroad", states:

"All of the 14 individuals who had returned to Sri Lanka after a period abroad, whether they left Sri Lanka through a legal route or otherwise, were subsequently detained and tortured. In five of these cases, the episode of detention and torture documented in the MLR occurred over a year and up to seven years after return. However, in nine cases the individual was detained within days, weeks or a month of their return. Of these nine cases, six were detained in Colombo, either from their home, at checkpoints or from a lodging house. Others were detained at checkpoints elsewhere in the country or directly from the airport upon arrival." (Freedom from Torture (2011) *Out of the Silence: New Evidence of Ongoing Torture in Sri Lanka 2009 – 2011*, p.7)

This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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