



Sri Lanka – Researched and compiled by the Refugee Documentation Centre of Ireland on 22 January 2010

Information on the treatment of failed asylum seekers returned to Sri Lanka.

A July 2009 *UNHCR* report states:

"Notwithstanding the end of the hostilities, the human rights situation in Sri Lanka remains of concern to UNHCR. UNHCR considers the observations and recommendations in the April 2009 Guidelines remain valid and should be taken into consideration when assessing the eligibility of asylum seekers from Sri Lanka under the 1951 Convention." (UNHCR (July 2009) *Note on the Applicability of the 2009 Sri Lanka Guidelines*)

Page 2 of the same report continues:

"The country of origin information that UNHCR has considered indicates that Tamils from the North of Sri Lanka continue to face a significant risk of suffering serious human rights violations in the region (and elsewhere in the country) because of their race (ethnicity) or (imputed) political opinion. Tamils in the North are still heavily targeted in the security and anti-terrorism measures described in the Guidelines. Wide scale detention and confinement of Tamils from the North remains a serious concern. Pro-Government paramilitary elements also continue to operate with impunity against Tamils in the North. While Tamils with certain profiles (as highlighted in the April 2009 Guidelines) are at relatively higher risk, Tamils of every age and profile have been affected. Although not every Tamil in the North will suffer serious violations of human rights, UNHCR considers that, in the current context, the risk is sufficiently high as to meet the "reasonable possibility" threshold required to satisfy the well-foundedness element of the criteria." (ibid, p.2)

Under the heading 'Current Situation in Sri Lanka' the report adds:

"Notwithstanding the cessation of the hostilities, the current protection and humanitarian environment in Sri Lanka remains extremely challenging. In the North, nearly the entire population from the territory formerly held by the LTTE in the North (285,000 Tamils) has been confined in heavily militarized camps in the Northern region. Although the government has gradually reduced the military presence in the camps and has pledged to start the progressive return to their villages of origin of the majority of those in the camps, it is clear that this may take a considerable amount of time. The lack of freedom of movement remains the overriding concern for this population restricting its ability to reunite with family members outside the camps, access employment, attend regular schools, and ultimately choose their place of residence." (ibid, p.2)

Page 3 continues, stating:

"UNHCR considers that Tamils who are returned to the North at this time are likely to be exposed to the human rights violations associated with massive displacement and confinement of Tamil civilians in the region. UNHCR therefore recommends that the involuntary return of Tamils to Sri Lanka not be undertaken during this transitional post-conflict period and pending clear indications that the situation of displacement and confinement has significantly improved." (ibid, p.3)

Under the heading 'Treatment of Tamils at Colombo Airport', page 7 of an August 2009 *United Kingdom Home Office* report entitled 'Report of Information Gathering Visit to Colombo, Sri Lanka', states :

"1.6 A senior intelligence official said that the State Intelligence Service (SIS) was often notified by the Sri Lankan High Commission in London about planned enforced returns from the UK. SIS interviewed every deportee and ascertained the grounds for their deportation, how they left Sri Lanka and their background. SIS kept paper and computerised records. SIS records dated back 60 years and were being put onto computer. SIS computer records were available at the airport to both SIS and (on request) CID officers. On the other hand, police records were held for five years only; occasionally on computer, but normally on paper only.

1.7 The Superintendent Police, Criminal Investigations Department (CID) Bandaranaike International Airport said that airline officers normally advised the Department of Immigration & Emigration (DIE) of returnees from other countries. Most had Emergency Travel Documents. DIE confirmed nationality and then passed the deportee to the State Intelligence Service (SIS), who checked to see if they had any links to the LTTE. The deportee would then come to CID for questioning." (United Kingdom Home Office (August 2009) *Report of Information Gathering Visit to Colombo, Sri Lanka 23-29 August 2009*)

Point 1.10 on page 8 adds:

"An official from the Australian High Commission thought there were no procedures in place to identify failed asylum seekers. The only way that the authorities were alerted to a failed asylum seeker returning was if the airlines or IOM notified them that a person was a deportee or was being escorted." (ibid, p.8)

Page 9 of the same report continues:

"1.12 A UNHCR Protection Officer said that UNHCR had little involvement with this type of issue. However, they were aware that some returned failed asylum seekers were interviewed with CID. If there was any suspicion there would be a quick, and usually non-problematic, interview with CID who would ask things like why they left and how long they were away for. High profile cases, such as those suspected of having involvement with the LTTE, would be taken away for further questioning, usually by the police. It was UNHCR's understanding there was a [alert] list used by CID and TID, but they did not know whether this was true or whether the list was linked to criminal records or warrants of arrest. On a slightly different note, the UNHCR officer said that

even at the height of the war it was easy to leave the country, no matter whether Tamil or not, and everybody could get a passport." (ibid)

Under the heading 'What would happen to a Tamil on arrival at Colombo Airport?', paragraphs 1.18 and 1.19 of the same report states:

of returning failed asylum seekers, both through IOM and non-IOM means, thought there was no difference in the treatment of deportees or returnees whether they were Sinhalese, Tamil or Muslim.

1.19 The UNHCR Protection Officer thought that, in general, Tamils were more likely to be targeted for further questioning by CID." (ibid, p.9)

An October 2006 response from the *Immigration and Refugee Board of Canada* states:

"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) (Immigration and Refugee Board of Canada (22 December 2006) *Sri Lanka: Treatment of failed asylum seekers returning to Sri Lanka (2004 - 2006)*)

Under the heading 'Persons travelling without valid identity documents', the response continues:

"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). [...] (ibid)

Under the heading 'Tamil asylum seekers with scars' the report adds:

"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) [...] (ibid)

Under the heading 'Persons with an affiliation to the LTTE or other political groups' the response continues:

"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.). [...] (ibid)

Paragraph 28.10 of the February 2009 *United Kingdom Home Office Country of Origin Information Report for Sri Lanka*, under the heading 'Police Registration' states:

"A letter from the British High Commission in Colombo dated 1 October 2008 reported that:

"The Sri Lankan authorities require households to register all residents, the emphasis being on Tamils who take temporary lodgings. These lists are then used in cordon and search operations to identify people who the police consider need to give a fuller explanation of why they are residing or travelling in a location. Returned failed asylum seekers could form part of these, although the areas covered by cordon and search operations (normally a few blocks) would not yield very many. Persons identified as having not registered, are normally detained by the police for further questioning. The government has in the past published large advertisements in the press reminding security officials of their responsibilities when they detain anyone. This is a partial response to complaints that those detained in cordon and search operations were not being treated according to the law." (United Kingdom Home Office (18 February 2009) *Country of Origin Information Report - Sri Lanka*, p.157-8)

Under the heading 'Treatment of Failed Asylum Seekers' paragraph 32.11 of the same report states:

"An Amnesty International statement of 17 August 2007 noted that the police Criminal Investigations Division (CID) in Colombo was holding incommunicado three ethnic Tamils who had been arrested on arrival to Sri Lanka after their asylum application in Thailand had been refused by UNHCR. The three men were thought to have been detained on suspicion of having links with the LTTE because they had served prison sentences in Thailand for illegal possession of firearms and were believed by AI to be in 'grave danger of torture'. (ibid, p.175-6)

Paragraph 32.12 of the same report continues:

"As noted in a letter from the BHC, Colombo, dated 18 August 2008:

"I am aware that a so called 'catch 22' situation has been referred to by returned failed asylum seekers. It is claimed that persons arriving in Colombo without a national identity card require such a document to enable them to travel to their areas of origin, in order to obtain documents to support an application for a replacement. It is further claimed that without an ID card a person faces a serious risk of problems or arrest at a checkpoint or as part of a cordon and search operation by police. According to the Attorney General's Department, under the Registration of Person's Act it is a legal requirement to produce ID upon request by a Commissioner or any prescribed officer. Failure to produce ID without reasonable excuse can result in the arrest of that person under the Emergency Powers Act. [...] (ibid, p.176)

Paragraph 32.16 adds:

"In a letter dated 22 January 2009, the BHC, Colombo reported:

"Since my letter of 28th August 2008, I have further witnessed the return of Sri Lankan failed asylum seekers from the UK. On 15th January 2009, I spent several hours at Colombo Airport watching closely the processes that were afforded to a group of returnees who had arrived by both scheduled and charter flights. All of these returnees were Tamil speakers, and all were in possession of emergency travel documents, issued by the Sri Lankan High Commission in London.

"One of the returnees who had arrived on scheduled flight, without escorts, entered the immigration hall, completed a landing card, and presented himself to an immigration officer. The immigration officer took his emergency travel document and escorted him to the Duty Chief Immigration Officer's office where he was asked to take a seat. The returnees who had arrived on the charter flight entered the immigration hall accompanied by escorts, who left after a few minutes. The Department of Immigration & Emigration (DIE) were aware of their impending arrival and asked them to remain outside the Chief Immigration Officer's office. After a few minutes all of the returnees were placed in a waiting room adjacent to the main immigration control. One of the Chief Immigration Officers explained to them that they would be interviewed in order to confirm that they were Sri Lankan nationals. The fact that they had all been issued with Emergency Travel Documents by the Sri Lankan High Commission in London did not seem to make any difference. He further explained that after that they would be spoken to by officers from the State Intelligence Service (SIS) and the Criminal Investigation Department (CID)." (ibid, p.178)

Under the heading 'Physical Examination/Scarring' paragraph 32.19 of the report states:

"A letter from the British High Commission in Colombo, dated 1 October 2008, reported that:

"There is strong anecdotal evidence that scarring has been used in the past to identify suspects. Previous 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. More recent claims from contacts in government ministries suggest that this practice has either ceased or is used less frequently. At the very least it appears that the security forces only conduct these when there is another reason to suspect an individual, and are not looking for particular scars as such, but anything that may indicate the suspect has been involved in fighting and/or military training. There is no recent evidence to suggest that these examinations are routinely carried out on immigration returnees." (ibid, p.179-80)

See also the April 2009 *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka*, as referenced below.

References

Immigration and Refugee Board of Canada (22 December 2006) *Sri Lanka: Treatment of failed asylum seekers returning to Sri Lanka (2004 - 2006)*
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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.

Sources consulted

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