



**DIRECTIVES ISSUED BY THE HUMAN RIGHTS
COMMISSION OF SRI LANKA**

**ON ARREST AND DETENTION UNDER THE
PREVENTION OF TERRORISM (TEMPORARY
PROVISIONS) ACT NO 48 of 1979**

18.05.2016

**Human Rights Commission of Sri Lanka
No. 165, Kynsey Road,
Colombo 08.**

**DIRECTIVES ISSUED BY THE HUMAN RIGHTS COMMISSION OF SRI LANKA
ON ARREST AND DETENTION UNDER THE PREVENTION OF TERRORISM (TEMPORARY
PROVISIONS) ACT NO 48 of 1979**

The Human Rights Commission of Sri Lanka (HRCSL) issues the following Directives to be followed by designated officials arresting persons under the Prevention of Terrorism (Temporary Provisions) Act No 48 of 1979 (PTA) to ensure the fundamental rights of persons arrested or detained are respected and protected, and such persons are treated humanely. The PTA should be construed narrowly and used in very specific circumstances, and should not be used to arrest persons for ordinary crimes.

The Directives are based on the Directives on Arrest and Detention issued by previous heads of state and binding international human rights law standards.

I. The arrest process

1. No person shall be arrested or detained under the Prevention of Terrorism Act No. 48 of 1979 except in accordance with the law and proper procedure, and by a person who is authorized by law to make such an arrest or order such detention.
2. At or about the time of the arrest:
 - i. the person making the arrest should identify himself/herself by name and rank and show identification to the person being arrested or a relative or friend of such person;
 - ii. every person arrested shall be informed of the reason for the arrest;
 - iii. the person making the arrest or detention shall issue to the spouse, parents, or relations, an arrest receipt acknowledging the fact of arrest. The name and rank of the arresting officer, the time and date of arrest, and the place at which the person will be detained shall also be specified. The receipt shall be attested by the person to whom the receipt is issued, and be counter signed by the arrestee, whose name, address, identity card no and reason for arrest shall also be stated in the receipt. The receipt shall be issued in the language that the arrested person ordinarily uses.
 - iv. where it is not possible to issue an arrest receipt, the arresting officer, if a police officer, shall make an entry in the Information Book detailing reasons why it was not possible to issue the receipt.
 - v. The arrested or detained person shall be allowed to communicate with a family member, relative or friend to inform of his whereabouts if person is arrested when not in presence of family or relatives.
3. Arrested persons should be transported in vehicles clearly identifiable as official.


Dr. N. D. Udagama
Chairperson
Human Rights Commission of Sri Lanka

**DIRECTIVES ISSUED BY THE HUMAN RIGHTS COMMISSION OF SRI LANKA
ON ARREST AND DETENTION UNDER THE PREVENTION OF TERRORISM (TEMPORARY
PROVISIONS) ACT NO 48 of 1979**

4. If any property such as vehicles, i.e. property other than that on the person, is seized during the arrest, the family or relatives of the arrestee should be given a receipt acknowledging such seizure at the time of seizure or 24 hours thereafter. The receipt should contain description of the property that enables it to be clearly identifiable.
5. Searches of the person arrested must be done with due respect to the dignity of the person, without force or aggression and with care for the person's right to privacy.
6. The dignity of the person arrested should be protected at all times.
7. As a rule, use of force is prohibited while effecting arrest. In case of forcible resistance to arrest, minimum force to overcome such resistance may be used. However, care must be taken to ensure that injuries to the person being arrested, visible or otherwise, is avoided.
8. Torture, cruel and inhuman and degrading treatment or punishment is an offence and prohibited at all times.

II. Process to be followed after the arrest

9. When the arrested person is brought to the police station, s/he should, if s/he makes a request in this regard, be given prompt medical assistance. Where the police officer finds that the arrested person is in a condition where s/he is unable to make such request but is in need of medical help, s/he should promptly arrange for the same. This must also be recorded contemporaneously in a register along with any major or minor visible injuries on his/her body.
10. The arrested person should be produced before a Judicial Medical Officer as soon as possible, and no later than 48 hours after arrest.
11. Arrested persons should be held only at gazetted authorized detention centres.
12. The arrestee shall be permitted to meet his/her lawyer during interrogation. The rights afforded to all Attorneys at Law to represent their clients at police stations as per the guidelines issued by the Inspector General of Police shall be applicable to Attorney-at-Law representing clients who are arrested or detained under the PTA.
13. The statement of a person arrested or detained should be recorded in the language of that person's choice. A person who desires to make a statement in his or her own handwriting should be permitted to do so.
14. Adequate provision for basic amenities like food, proper ventilation, light, bedding, sanitation facilities, mosquito net or coil, should be made available in all lockups, which would not make detention itself a torture and humiliation. Detention should be

**DIRECTIVES ISSUED BY THE HUMAN RIGHTS COMMISSION OF SRI LANKA
ON ARREST AND DETENTION UNDER THE PREVENTION OF TERRORISM
(TEMPORARY PROVISIONS) ACT NO 48 of 1979**

in keeping with the established fundamental right enshrined by Article 13(5) of the Constitution that an accused is presumed to be innocent till he is proved to be guilty.

15. Police and military personnel must be explicitly informed that anyone who commits human rights violations against any person (including any act of violence such as sexual harassment, sexual abuse and rape) will be promptly brought to justice, and if convicted will face penalties commensurate with the seriousness of the crime in accordance with the law.
16. Any detainee who alleges that s/he has been raped or sexually abused must be given an immediate medical examination, and if a female be preferably by a female Judicial Medical Officer, or if a female Judicial Medical Officer is not available, then at least in the presence of female personnel.

III. Special measures related to the arrest of women and persons under 18 years

17. Women police officers should be present where the person being arrested is a woman or a person under 18 years of age. The arrest of women and girls between sunset and sunrise should be avoided.
18. When a woman or person under 18 years of age is arrested or detained a person of their choice should be allowed to accompany such child or woman to the place of questioning.
19. Searches of women and girls should only be made by other women with strict regard to their dignity and bodily integrity. Any search that requires the woman or girl to undress should be conducted out of sight of men.
20. Arresting officers should ensure pregnant women are not subjected to harassment. If a pregnant woman is searched, arrested or detained the armed forces and the police should take her special needs into account and ensure her health and well being are not jeopardized in any way.
21. Female detainees must be held separately from male detainees, and must not share bathing or toilet facilities (in accordance with UN Standard Minimum Rules for the Treatment of Prisoners, rule 8(a)).
22. In line with UN Standard Minimum Rule 53, female security personnel should be present during the interrogation of women detainees. There should be no contact between male guards and female prisoners without the presence of a female guard.
23. If the arrested person is the sole carer of children, the children should not be left alone after the arrest. They should be left in the care of an appropriate adult. Immediately following arrest the arrested person should be allowed and supported to make childcare arrangements for the children in their care.


**DIRECTIVES ISSUED BY THE HUMAN RIGHTS COMMISSION OF SRI LANKA
ON ARREST AND DETENTION UNDER THE PREVENTION OF TERRORISM (TEMPORARY
PROVISIONS) ACT NO 48 of 1979**

24. The imprisonment of a mother and child together must never be used to inflict torture or ill-treatment on either by causing physical or mental suffering. If a child is separated from its mother, the mother should be immediately notified and kept continuously informed of the child's whereabouts. She should be given reasonable access to the child.

IV. The mandate of the Human Rights Commission

25. Officials of the Human Rights Commission of Sri Lanka (HRCSL) or any person authorized by it should be permitted access to the person arrested or detained under the PTA and should be permitted to enter at any time any place of detention, police station or any other place at which such person is detained in custody or confined as per section 28 (2) of the Human Rights Commission of Sri Lanka Act no 21 of 1996.
26. As per section 28 (1) of the HRCSL Act when a person is arrested or detained under the PTA it shall be the duty of the person making the arrest or order of detention, forthwith or not later than 48 hours from the time of the arrest or detention, to inform the HRCSL of such arrest or detention and the place at which the person is being held in custody or detention.
27. Where a person so held in custody is transferred to another place of detention or released, as per section 28 (1) of the HRCSL Act it shall be the duty of the person making the order for such release or transfer to inform the Commission of such release or transfer and the location of the new place of detention within 48 hours.

** These directive should be equally applicable to any situation of a declared state of public emergency.


Dr. N. D. Udagama
Chairperson
Human Rights Commission of Sri Lanka