

## Rights of those arrested by Law enforcement [the Police or the Military]

Source: International Convention for the Protection of All Persons from Enforced Disappearance Act, No. 5 of  
2018[1]

[1] The Act is available at [http://www.documents.gov.lk/files/act/2018/3/05-2018\\_E.pdf](http://www.documents.gov.lk/files/act/2018/3/05-2018_E.pdf)

1. Who is a person deprived of liberty?

A person confined to a particular place, where such person does not consent to that confinement [S. 25 of the Act]

2. Is “deprived of liberty” a formal word for arrested?

Yes, it is.

3. What are the rights of a person deprived of liberty?

- An arrest is illegal if the suspect is not informed of the nature of the charges upon which he is being arrested, even if the police officer would be otherwise justified in arresting him without a warrant. [Muttusamy v Kannangara (1951) 52 N.L.R 324]
- No person shall be held in secret detention [S. 15(1)]
- Subject to the conditions established by any written law, any person deprived of liberty shall have the right to communicate with and be visited by his/her relatives, attorney-at-law or any other person of his/ her choice. [S. 15(2)]

4. The Relatives, representatives and attorneys-at-law of a person deprived of liberty have the right to the following information [S. 16 (1)]

- the person or authority that ordered the deprivation of liberty;
- the date, time and place where the person was deprived of liberty and admitted to the place of deprivation of liberty;
- the authority responsible for supervising the deprivation of liberty;
- the whereabouts of the person deprived of liberty, including, in the event of a transfer to another place of deprivation of liberty, the destination and the authority responsible for the transfer;
- the date, time and place of release;
- information relating to the state of health of the person deprived of liberty;
- In case of a death, the circumstances and cause of death and destination of the remains, in the event of death during the deprivation of liberty.

Any relative of a person deprived of liberty, the representative of a person deprived of liberty or an attorney-at-law of a person deprived of liberty as well as persons participating in the investigation, shall be protected from any ill-treatment, intimidation or sanction as a result of the search for information concerning a person deprived of liberty. [S. 16(2)]

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5. Does a person detained arrested under the Prevention of Terrorism Act have a right to access a lawyer?

Yes, in terms of the recent amendment passed by Parliament [S.10A (1) of PTA] An Attorney- at-Law representing a person remanded or detained under the PTA shall have the right;

- To access to such person and
- To make representations on behalf of such person,

These rights will only be subject to such conditions as may be prescribed by regulations made under the PTA or as provided for in other written law.

6. Does a person detained arrested under the Prevention of Terrorism Act have a right to contact their family?

Yes, the rights in the International Convention for the Protection of All Persons from Enforced Disappearance Act, No. 5 of 2018 will apply to such people.

Additionally in terms of the recent amendment passed by Parliament [S.10A (2) of PTA], A person remanded or detained under the PTA shall have the right to communicate with his relatives, as provided for in written law.

7. What do I do if someone I know is arrested / detained?

- Ask for the information in 4 above at the time of arrest.
- Get a name of the arresting officer and where the person is being taken to.
- Take down the number of the vehicle they are traveling in.
- Contact a lawyer for help. [Bar Association of Sri Lanka, Anti Torture Programme hotline 0777144004]
- Contact the Human Rights Commission of Sri Lanka's hotline to register a complain on 1996.

8. What are the duties of law enforcement authorities who detain any person?

- Ensure that Human Rights Commission of Sri Lanka shall have access to the places where persons are deprived of liberty. [S. 15(3)]
- Law enforcement authorities shall assure the compilation and maintenance of an up-to-date official registers or records of persons deprived of liberty. [S. 15(4)]
- These registers and records shall be promptly made available upon request to any judicial or other competent authority or institution authorized for that purpose by the law. [S. 15(4)]
- These registers or records shall contain [S. 15(4)]-
  - a. the identity of the person deprived of liberty;
  - b. the date, time and place where the person was deprived of liberty;
  - c. the identity of the authority that deprived the person of liberty;
  - d. the authority that ordered the deprivation of liberty and the grounds for the deprivation of liberty;
  - e. the authority responsible for supervising the deprivation of liberty;
  - f. the place of deprivation of liberty, the date and time of admission to the place of deprivation of liberty and the authority responsible for the place of deprivation of liberty;
  - g. information relating to the state of health of the person deprived of liberty;
  - h. the circumstances and cause of death and destination of the remains, in the event of death during the deprivation of liberty; and
  - i. the date and time of release or transfer to another place of deprivation of liberty, the destination of the place of deprivation of liberty to which a person is transferred, and the authority responsible for the transfer.