



**Convention on the
Rights of the Child**

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Committee on the Rights of the Child

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**Written replies by the Government of Sri Lanka
to the list of issues (CRC/C/LKA/Q/3-4) related to
the consideration of the combined third and
fourth periodic reports of Sri Lanka
(CRC/C/LKA/3-4)***

(26 August 2010)

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

Part 1

Reply to question 1¹

1. An enactment which covers all rights enshrined in the UNCRC is not practical in the context of Sri Lanka, for several reasons. One of the main reasons relates to the difficulties in implementing such a law within the institutional framework and the capacity of services related to child rights in Sri Lanka, which function on a sectoral basis.

2. For six decades since independence, Sri Lanka has sustained a strong sectoral approach to services for children, which is holistic in many ways. This is particularly so with regard to the rights of children in relation to child survival, growth and development, as well as protection such as health, education and social welfare. Each of these subject areas functions under different Ministries, with separate budget allocations and working norms and policy guidelines. Other institutions, such as law enforcement authorities under the Ministry of Defence and the Ministry of Justice, which also play a significant role in child protection have developed a strong child focus in their programmes and policies which particularly relate to protection aspects. However, these need to continue to be developed and expanded.

3. A more multi-disciplinary approach with the child as the focus is being adopted through inter-Ministerial and multi-sectoral mechanisms based on high-level political commitment. The establishment of the National Child Protection Authority under a separate Act of Parliament, and Child Development Committees at district level is an example of this commitment.

4. Sri Lanka believes in the adoption of approaches that are practical in the Sri Lankan context and which are implementable in achieving the goals of child rights in an incremental and gradual, as well as sustained manner, rather than the introduction of sudden change. It is considered that such an approach is bound to register more concrete and transformational change. New laws will have no impact without systems and structures to support their implementation. At present, such structural mechanisms do not exist in terms of one law containing all the rights enshrined in the UNCRC.

5. With regard to the Children and Young Persons Ordinance (CYPO) of 1939, an amendatory reform was undertaken and completed by the Department of Probation and Child Care, and the suggested amendments are due to be submitted to the Cabinet for approval. With regard to the rights of children between 16 and 18 years, provisions have been made by these new amendments to address this age group because there is a separate Act which deals with young offenders between the ages of 16 and 22 years.

Reply to question 2

6. The National Committee on Child Rights, established following the ratification of the CRC, meets on a quarterly basis. It is a multi-sectoral and multi-disciplinary committee, chaired by the Secretary of the Ministry of Child Development and Women's Affairs. Ministries responsible for the implementation of different child rights are

¹ Please refer to the relevant paragraph in the list of issues (CRC/C/LKA/Q/3-4) for the wording of the questions.

represented on this committee. Furthermore, such multi-disciplinary committees on child rights have been established at the provincial, district and divisional levels.

7. The Department of Probation and Child Care provides technical and financial support for the functioning of these committees at the district and divisional levels. Child Rights Protection Officers function at the divisional level and act as conveners of these committees. District Coordinating Officers of the National Child Protection Authority function as the conveners of the District Child Development Committee. The Chief Secretary of the Province is the head of the Provincial Committee.

8. Technical and financial support for the functioning of these committees is provided by the Government. UNICEF also provides financial assistance.

9. In 2006, a single committee termed the District Child Development Committee was established to monitor the implementation of the UNCRC; it combines child protection with early childhood care and development.

Reply to question 3

10. By virtue of powers derived from the Human Rights Commission Act No 21 of 1996, the National Human Rights Commission (NHRC) is empowered to address issues in relation to child rights. The NHRC complies with the Paris Principles in that the scope and extent of its functions are imbued with the principles with regard to its authority to advise and assist the Government in formulating legislation, administrative directives and procedures in order to further the promotion and protection of fundamental rights. The NHRC also has the power to make recommendations to the Government regarding measures which should be taken to ensure that national laws and administrative practices are in accordance with international human rights norms and standards. The NHRC is also mandated to make recommendations to the Government on the need to subscribe or accede to treaties and other international instruments in the field of human rights. In order to accomplish its objectives the NHRC has the power to monitor the welfare of persons, including children detained either by a judicial order or otherwise, by regular inspection of their places of detention, and to make such recommendations as may be necessary for improving their conditions of detention.

11. In this regard, it is noteworthy that the NHRC has played an active role in monitoring the welfare of child detainees. In fact juvenile justice is a theme that has consistently engaged the attention and research of the NHRC.

12. In the exercise of its wide powers for the protection and enforcement of human rights, the NHRC enjoys independence and is insulated from any kind of political interference. It has to be pointed out that in terms of Section 21 (1) of the Human Rights Commission Act No 21 of 1996 every offence of contempt committed against, or in disrespect of, the authority of the Commission shall be punishable by the Supreme Court as though it were an offence committed against that Court.

13. Human rights issues are also addressed by parents and extended family who could access the services of the Commission on behalf of the child. Various other issues such as pertain to school admission have also been dealt with by the Commission. In addition, during the conflict phase, issues related to recruitment were also reported and addressed by the Commission offices.

Reply to question 4

14. NGOs interested in child rights issues are free to work in Sri Lanka, as long as they register with the NGO Secretariat, link with the relevant Ministry providing a particular service for children, and conduct their activities in accordance with national-level policies and programme norms. Sri Lankan NGOs play an important role in providing services for children in fields in which there are gaps in Government services due to lack of resources. These services are greatly appreciated by both the Government and the communities they serve.

15. Limiting the work of NGOs to reporting human rights violations is counterproductive unless the NGO concerned is also committed to providing the necessary services and finances to respond to the particular issue affecting children. It is also essential to keep in mind that NGOs' establishing parallel and unsustainable services to that of the Government, cannot have a long-term bearing on the welfare of children whose needs are not limited to specific periods of time. There is a need to obtain more information on which NGOs claim that their "capacity" is restricted by the Government, and in what manner. Unless NGOs have the capacity to work in tandem with the Government on issues involving children, their impact to improve the situation would be greatly hampered.

16. Parallel systems of services set up by NGOs in competition with the Government have not been productive enough, as NGOs cannot admittedly play the role of a substitute for a Government. Instead of registering with the NGO Secretariat as is required, many NGOs have registered themselves under the Companies Act as non-profit companies. This has impeded the proper monitoring of such NGOs and their role in Sri Lanka. The government is in the process of trying to remedy this unfortunate situation. It is necessary to find out in what way/manner/method NGOs feel they are "targeted," what restrictions are put on them, and in what subject areas/geographical localities they operate.

17. NGOs operating in Sri Lanka, as in any sovereign state, need to abide by the existing policies of the Government. This includes compliance with the current registration system operating in the NGO Secretariat, rather than registering as a "non-profit company," collaborating with the relevant line Ministry which supervises their particular services to children, and if necessary, the process would also mandate signing a MOU with the particular line Ministry. The MOU would include the scope of their work, geographic locality, subject area, etc.

18. As long as NGOs adhere to Government policies, there is no barrier to their work for children in Sri Lanka. If their work is limited to only reporting alleged rights violations, the protection and implementation of child welfare measures would be nullified. It is preferable if such NGOs extend their work to also providing the necessary services and finances to respond to the gaps and issues affecting children's rights.

Reply to question 5

19. The Ministry of Health has implemented a Nutrition Rehabilitation Programme for the displaced population now living in post-conflict areas. This has helped to reduce acute under-nutrition in children under 5 years from 36% to 13%; and severely wasted children were reduced from 8.8% to 1.1% due to targeted therapeutic training programmes. Furthermore, the Ministry of Health, assisted by UNICEF, has implemented an Integrated Package (INP) to address the high prevalence of low birth weight in the plantation sector. It is envisaged that this will help break inter-generational poverty issues and enhance greater equity. There are ongoing studies in relation to under-nutrition by the Nutrition

Department of the Medical Research Institute of the Ministry of Health, with the assistance of UNICEF.

20. In order to assess the nutrition situation and its underlying causes across the country, the Food Security and Nutrition Survey was, for the first time, conducted and completed by the Department of Nutrition of the Medical Research Institute, in collaboration with UNICEF and the World Food Programme. It is significant that the results of this survey should enable the Government to strengthen and monitor the impact of targeted interventions in order to reduce under-nutrition in Sri Lanka, especially among the affected populations in the estate sector of Hambantota and in urban Colombo.

Reply to question 6

21. The Sri Lanka policy on migration provides for the children of migrant mothers. Accordingly, special laws have been enacted to facilitate the legal protection for children up to 18 years. The National Child Protection Authority (NCPC) will set up a special desk at the Bandaranaike International Airport to register the details of children of migrant mothers travelling overseas for employment. The NCPA is also formulating a system to enable migrant mothers to contact their children while being employed abroad. This may be further amended, and the provisions strengthened.

22. There are also “safety net” programmes at the community level for the children of migrant mothers, particularly in areas where such women are more numerous. Such programmes are implemented under the purview of the Child Rights Protection Officers at the divisional level under the Department of Probation and Child Care, in collaboration with the Foreign Employment Bureau.

23. It has not been possible to undertake a comprehensive assessment of the physical, psychological and social impact of women labour migrants on their children due to lack of necessary resources. Such children are generally cared for by members of the women’s extended family. “Safety net” programmes are implemented in high-concentration areas.

Reply to question 7

24. The Department of Probation and Child Care has been consistent in adhering to the policy that children should be supported in order that they remain in their own homes with their own families and communities as opposed to institutionalization, which is regarded as a last resort. This is accomplished through individual case management as well as through family conferences. Awareness creation among law enforcement officers and the judiciary has been undertaken, as they are in key positions to promote this concept.

25. Community-based rehabilitation programmes are being planned and implemented to identify guardians for children without parents, including orphans, make arrangements for adoptions following proper legal procedures, and identify fit and proper adults to become adoptive parents. Children “in trouble with the law” are kept under probation. Since most such situations arise in families with economic problems, a continued emphasis is maintained to promote employment opportunities, and enable access to vocational training and educational options.

Reply to question 8

26. The Ministry of Education continues its endeavours to provide quality education and expand access to inclusive education for disabled boys and girls, without discrimination.

Teachers are trained in inclusive education and efforts are ongoing to encourage parents to send such children to school. However some still do not do so. Special education is largely provided by NGOs and tends to be more concentrated in the urban areas.

27. As a developing country with limited resources, identifying all children with disabilities such as autism and attention deficit syndrome is not possible. Such disabilities are detected mostly in urban areas where trained personnel are available. Speech, vision and hearing impairments continue to be detected under the School Health Services provided by the Ministry of Health. The necessary diagnostic/curative devices are provided either through the Government or through voluntary organizations, such as the Lions Club, which particularly focus on visual defects.

Reply to question 9

28. Sri Lanka's Personal Laws are offshoots of history, culture and the sacred beliefs of the people who are governed by such laws. Accordingly, the Government is of the view that any amendments to Personal Laws must invariably emanate from those quarters. This is an essential pre-requisite to ensure compliance with ICCPR norms and to protect the rights of the persons concerned, so as to enable them to enjoy such rights in accordance with their religion and culture.

29. A special committee headed by a Supreme Court judge is currently engaged in revisiting the question of reforming the Muslim Law in Sri Lanka, and issues raised as regards marriage, including age, are being addressed by this committee which will submit its recommendations in due course.

Reply to question 10

30. The Domestic Servants Ordinance was enacted in 1871 and has since passed into desuetude. According to the prevailing laws in the country, there remains a restriction on the employment of children under 14 years as domestic workers coupled with a prohibition against any form of economic exploitation. This is in accordance with the age of completing compulsory education which is also 14 years. Earnest efforts are being made to increase the age for domestic work to 16 years.

31. The Employment of Women, Young Persons and Children (Amendment) Act No. 8 (2003) strengthened child labour laws by, inter alia, prohibiting the employment of children under 14 years, and enabling young people between 16 and 18 years to be employed in industrial undertakings.

32. The Employment of Women, Young Persons and Children (Amendment) Act No. 24 (2006) prohibits the employment of any person under the age of 18 years in any hazardous occupation. Regulations prescribing several occupations as hazardous are due to be issued by the Minister shortly.

33. The Prevention of Domestic Violence Act No. 34 (2003) provides for a protection order to be obtained to safeguard those who undergo suffering and are at risk of domestic violence.

Reply to question 11

34. The Penal Code No. 2 of 1883 was amended in 1995 and entered into force on 31 October 1995. The amendment contains special provisions for the protection of children

from all forms of abuse. It is considered a “child- and women-friendly legislation” and the panoply of offences that it addresses could be itemized as follows:

- Section 286(a) Using Children for pornography, videos and obscene publications related to children
- Section 308(a) Cruelty to children
- Section 360(a) Procurement of children for sexual activity
- Section 360(b) Sexual exploitation of children
- Section 360 (c) Trafficking and sale of children
- Section 363 Statutory rape
- Section 364(a) Incest
- Section 365(b) Grave sexual abuse
- Section 365 (c) Publication of matters related to children (especially child abuse matters) - this section is identical to section 11 of the Children and Young Persons Ordinance of 1939

35. It is noteworthy that most of the offences addressed are identical to those specified in the United Nations Convention on the Rights of the Child (UNCRC). Further, the sentence for grave offences, such as sexual abuse of children and rape, is 7 to 20 years rigorous imprisonment. This enhancement of the quantum of the sentence is a noteworthy feature of this amendment.

36. Further to Section 286 (A) 2 of the amendment (No. 22 (1995)), all persons under the age of 18 years are considered to be children – a definition which accords with Article 1 of UNCRC.

37. The phrase “child abuse” has been defined in the Code of Criminal Procedure Act (Amendment No. 28 (1998)). According to the second explanation in section 2(1) of this amendment, when any of the offences enumerated above (i.e. the offences under the Penal Code Amendment No. 22 (1995)) are committed against a child, it is considered “child abuse.”

38. There is also a broad definition of “child abuse” in Section 39 of the National Child Protection Authority Act No. 50 (1998). While defining a “child” as a person under 18 years of age, section 39 states as follows:

“Child abuse” means any act or omission relating to a child, which would amount to a contravention of any of the provisions of the following:

- (a) Sections 286A, 288, 288A, 288B, 308A, 360A, 360B, 360C, 363, 364A, 365, or 365B of the Penal Code;
- (b) Employment of Women, Young Persons and Children Act;
- (c) Children and Young Persons Ordinance; or
- (d) Regulation relating to compulsory education issued under the Education Ordinance.

39. Section 39 also includes involvement of a child in armed conflict which is likely to endanger the child’s life or harm such child physically or emotionally.

40. The Penal Code (Amendment) Act No. 16 (2006) strengthened child rights by providing for several offences, including debt bondage, serfdom, forced or compulsory

labour, slavery and recruitment of children for use in armed conflict. In addition, child trafficking and child pornography via electronic media have been criminalized.

41. Equal protection is afforded without distinction to girls and boys. The State party has developed shelters in the form of care institutions. Others are run by civil society organizations and religious institutions. Although there are professionals available to provide therapy and counselling, the demand exceeds capacity. Resource availability continues to be a constraint.

Reply to question 12

42. Police training with regard to sex tourism is ongoing, particularly sponsored by the Sri Lanka Tourist Board and supported by organizations such as UNICEF. The Cyber Watch programme implemented by the National Child Protection Authority, in collaboration with ILO/IPGC, was discontinued due to lack of funds. A police manual on human rights has been prepared in order to sensitize the police force by way of training programmes and workshops.

Reply to question 13

43. Following the return of the peacekeepers to Sri Lanka, a court of inquiry was convened in terms of the Army Courts of Inquiry Regulations (1952) to address the sexual exploitation and abuse alleged to have been committed. UNOIOS investigators were assisting the CGI process and visited Sri Lanka for cross-examinations.

44. Based on recorded evidence and findings derived by the aforementioned Court of Inquiry and having considered the observations and the opinion of the said Court, the Commander of the Sri Lanka Army ordered that disciplinary action be initiated against 10 officers and 13 soldiers of the said Battalion, in keeping with the strictly enforced “zero tolerance” policy on misconduct by peacekeepers. The Government of Sri Lanka has followed due process with regard to this matter and UNDPKO was kept adequately informed on action taken in this regard.

45. The Directorate of Training of the Sri Lanka Army has taken measures to incorporate the pertinent subjects delineated in the pre-deployment training programmes for troops to be deployed on UN missions in order to educate them on their responsibilities and behavioural conduct whilst on duty. The subject areas include:

- (a) Prevailing country situation and social differences in mission areas (conducted by the chief instructor of the Peacekeeping School having prior UN mission experience);
- (b) Sexual exploitation and child abuse (module led by a professional legal officer with UN mission experience);
- (c) ST/HIV/AIDS awareness, gender issues (conducted by a medical officer);
- (d) Stress management (conducted by a professional counselor or psychologist);
- (e) International humanitarian law and human rights/UN missions (module led by the Directorate of Humanitarian Law of the Sri Lanka Army and the ICRC).

Reply to question 14

46. Humanitarian agencies are not restricted in their access to about 3,000 children who are among a total of 31,393 (as of 31.05.2010) people still remaining in camps. Basic

services in terms of food, shelter and access to safe water are provided by the Ministry of Resettlement. Agencies wishing to help are requested to apply for access and enter into a MOU with the Ministry concerned. Health and education are provided by the relevant line Ministries. Camps are protected by law enforcement officers, including women police officers. Complaint and inquiry boxes have been placed in the relief villages. Civil police posts have been established to inquire into any complaints. No allegations of sexual abuse among IDPs have been either reported to the local police or to the Women and Children's Bureau headquartered in Colombo. During March to May 2009, the National Child Protection Authority, in collaboration with the Department of Pediatrics of the Faculty of Medicine in Colombo, set up three Child Protection units in the IDP camps. No cases of rape or sexual violence were reported. Families in the camp are provided with basic health care and nutrition and protection issues are ascertained.

47. All IDP families are provided with basic food, shelter, water/sanitation, access to education for children. Lost documentation, such as birth certificates, is replaced through the Ministry of Justice under the "An Access to Justice" project, which also issues death certificates. There is access to telephones, newspapers, pay phones in the IDP camps.

Part II

Reply to Part II

48. Update on new or recent developments:
- (a) None;
 - (b) None;
 - (c) - National Plan of Action for Children (2010–2015), financed by the Government of Sri Lanka;
- National Action Plan for the Protection and Promotion of Human Rights, including a chapter on areas relating to the development, protection and promotion of child rights (still in draft form); financing unknown;
 - (d) None.

Part III

Data, statistical and other information

Reply to question 15

49. Data for 2007, 2008 and 2009 regarding:
- (a) N/A;
 - (b) Census scheduled for 2011 would yield this data;
 - (c) N/A;
 - (d) No children are placed in remand for prostitution; affected children are placed in care institutions;
 - (e) 12 cases of indictments have been undertaken in relation to child trafficking by the AG's department; the cases are in progress;
 - (f) See table below:

Complaints and Filing of Cases relating to Child Labour

<i>Year</i>	<i>Number of complaints received</i>	<i>Nature</i>		<i>Action taken</i>		<i>Over 14 years</i>
		Domestic	Other	Charge (cases filed)	Lack of evidence	
2008	166	76	90	08	158	15
2009	149	70	79	09	140	09

Source: Department of Labour, Sri Lanka
