



**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
concerning the list of issues
(CRC/C/OPAC/LKA/Q/1) related to the
consideration of the initial report of Sri Lanka
under article 8, paragraph 1, of the Optional
Protocol to the Convention on the Rights of the
Child on the involvement of children in armed
conflict (CRC/C/OPAC/LKA/1)***

[26 August 2010]

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

**Reply to the issues raised under paragraph 1 of the list of issues
(CRC/C/OPAC/LKA/Q/1)**

1. Most schools in Sri Lanka, from primary to secondary levels, function under the Ministry of Education. Some schools, particularly boys' schools, a few girls' schools as well as co-ed schools, can choose to obtain cadet training for their students through the National Cadet Corps under the Ministry of Defence.
2. The National Cadet Corps was started in Sri Lanka in 1885 by the British, and has therefore been functioning for 125 years. Most of the SAARC countries, particularly those which were under colonial rule, have similar systems whereby students may join on an entirely voluntary basis at the age of 16 years until the age of 18 years, when they leave school. Students may join the Corps of their own accord and with parental consent, following a medical examination. Cadet training entails not only monthly physical training, but also participation in ceremonial marches, etc.
3. The Ministry of Education and the school authorities appointed by it oversee the administration, curricula and functioning of the Cadet Corps within the school. The Corps therefore forms part of the school and education system. According to the National Cadet Corps officials, firearms are used only on a symbolic basis during march pasts. Disciplinary mechanisms are in place, and students also have the opportunity to lodge any kind of complaints during their participation in the programme.

Reply to the issues raised under paragraph 2 of the list of issues

4. The Ministry of Justice in collaboration with officials of the Ministry of Defence and the local police have taken steps to determine the whereabouts of the four remaining children alleged to be associated with the TMVP, including the two cases signalled in the December 2009 report of the Special Envoy of the Special Representative for children and armed conflict. UNICEF has also been closely involved in those investigations.
5. The multidisciplinary committee which undertook to investigate allegations of State complicity in the recruitment of children by the Karuna Group has not yet found credible evidence on the issue. UNICEF is closely involved in those investigations and is aware of the difficulties of determining the veracity of the information.

Reply to the issues raised under paragraph 3 of the list of issues

6. Allegations that a "commander" named Iniya Barrathi is recruiting children in the Ampara district could not be verified. In the context of the end of terrorism in May 2009, the need for such re-recruitments no longer exists.

Reply to the issues raised under paragraph 4 of the list of issues

7. The practice of child recruitment no longer exists in the context of the aftermath of the events that followed in May 2009. Investigations conducted by the Ministry of Justice as to the veracity of those statements did not yield any credible information to confirm that the EPRLF and PLOTE are recruiting children.

Reply to the issues raised under paragraph 5 of the list of issues

8. Recruitment of young persons for military purposes has been investigated, however, the investigations did not disclose persons directly responsible for any such recruitment. Under the circumstances, it has not been possible to launch prosecutions in the absence of positive evidence to establish the offences beyond reasonable doubt, as required by law.

Reply to the issues raised under paragraph 6 of the list of issues

9. The doctrine of command responsibility is a part of the corpus of laws in Sri Lanka and the armed forces are fully acquainted with the principles governing the doctrine. In fact,

the Supreme Court of Sri Lanka reiterated the principle in *Deshapriya v. Captain Weerakoon, Commanding Officer, Sri Lanka Navy Ship "Gemunu" and Others* (2003), 2 Sri LR 99 – a case that focused on the liability of a commanding officer.

Reply to the issues raised under paragraph 7 of the list of issues

10. The Bill on Assistance and Protection to Victims of Crime was presented to Parliament and was still pending prior to the prorogation of the Parliament early this year. Subsequently, the bill was referred to the Parliamentary Consultative Committee on Justice and Law Reforms, which has proposed certain amendments. The debate on the bill, including the proposed amendments, could not be resumed as Parliament was dissolved. The bill, together with the proposed amendments will be re-gazetted and submitted to the present Parliament in due course.

Reply to the issues raised under paragraph 8 of the list of issues

11. There are no statistics available on the casualties that might have occurred during the last few months of the conflict in areas which were under the control of armed LTTE combatants. In those areas, doctors were not registered and inquests did not take place. Therefore, no mortality and morbidity data is available. In the absence of credible evidence as to the casualties, it is intrinsically impossible to comment on the allegation that "*a large number of children died during the last months of the conflict.*"

12. Further specifics, such as which areas experienced such deaths and the parties that reported on them, have been lacking and most information is based on hearsay. Other issues include lack of information on the areas where such deaths were reported, the parties that undertook the inquests and post-mortems, and the reasons why the hospitals and schools where such events occurred failed to report the deaths to the relevant judicial medical officer or authorities prior to burial or cremation. Such information is pertinent to clarifying such allegations. It would also be useful to ascertain the sources of data on the missing children, the parties that collected the data on such children, the skills of those involved in conducting forensic investigations, and the forensic methodologies used, as these were in areas under LTTE control. However, subsequent to the final days of the conflict in May 2009, all dead bodies were brought to the Vavuniya Hospital. Records are being prepared by the Chief Judicial Medical Officer, based on post-mortem findings of cause of death, probable age, etc.

13. It should be noted that the Commission on Lessons Learned and Reconciliation, which has commenced island-wide hearings, is tasked with a wide mandate that includes recommendation of an accountability mechanism. It is expected that its proceedings will bring to light any evidence of child casualties which would help to determine whether there is truth in those allegations.

Reply to the issues raised under paragraph 9 of the list of issues

14. It has to be asserted that no children are being held by the Terrorist Investigation Department (TID) within the High Security Zone in Colombo.

Reply to the issues raised under paragraph 10 of the list of issues

15. The guidelines on screening children associated with armed groups were followed as regards the screening of former child combatants in May and June 2009. All such children were released in May this year (2010) and reintegrated into society.

Reply to the issues raised under paragraph 11 of the list of issues

16. The Emergency Regulations of December 2008 on child rehabilitation were formulated with regard to international standards pertaining to juvenile justice, the UNCRC and the Paris Principles.

Reply to the issues raised under paragraph 12 of the list of issues

17. The Emergency Regulations 1580/2008 which deals with children who have surrendered contain built-in mechanisms to ensure their protection and welfare with a view to rehabilitation and reintegration into society. The interposition of the Magistrate in the process brings to bear judicial safeguards that are in consonance with international juvenile justice mechanisms. The Magistrate exercises wide powers as regards the welfare and protection of the child, and is specifically enjoined to consider the necessity to ensure the protection and the best interests of the child, and the need to effect family reunification or placement within the extended family, and the necessity to ensure at all times, the safety of the child and his/her family.

18. As such, the obligations placed on a Magistrate with regard to children who have surrendered concord with Article 40 of the CRC which recognizes “the right of every child [...accused of an offence] to be treated in a manner consistent with the promotion of the child’s sense of dignity and worth, which reinforces the child’s respect for the human rights and fundamental freedoms of others and which take into account the child’s age and the desirability of promoting the child’s reintegration and the child’s assuming a constructive role in society.”

19. It should be pointed out that the recent amendments to the Emergency Regulations contain several provisions governing the protection and rehabilitation of children who have surrendered.

Reply to the issues raised under paragraph 13 of the list of issues

20. A total of 667 former child combatants, including 316 boys and 351 girls, have undergone rehabilitation since May/June 2009. The period of rehabilitation was one (1) year or less. All 667 children have been released and reunited with their parents and families. The staff in the camps included Cadet Corps Officers. Girls were kept separate from boys in terms of accommodation facilities and were under the supervision of female officers.

Reply to the issues raised under paragraph 14 of the list of issues

21. Reintegration of children returned to their families and communities include providing access to vocational training, formal schooling, and psycho-social support where necessary. UNICEF is actively involved with these activities at the local level.

22. Resettlement of families has mainly occurred in areas cleared of mines. Basic services, such as safe water and sanitation, are provided by the Ministry of Resettlement. Government hospitals continue to provide free services as they did uninterruptedly during the entire period of the conflict. Access to schooling is mainly through the government-supported schools which continued to functioning during the entire period of the conflict. Schools and health services are provided free by the Government.

Reply to the issues raised under paragraph 15 of the list of issues

23. Children leaving the rehabilitation centres were provided with National Identification Cards by the Ministry of Justice. The National Identification Card is the regular identification document used by all the population.

Reply to the issues raised under paragraph 16 of the list of issues

24. Sri Lanka is not a country which produces arms. The sale of arms is criminalized by national legislation such as the Firearm Ordinance and Explosives Ordinance. Recent amendments to the Emergency Regulations criminalize the collection, transportation and

unauthorized possession of arms, ammunition, explosives or offensive weapons and other dangerous articles.
