



# Convention on the Rights of the Child

Distr.: General  
7 April 2011

Original: English

---

## Committee on the Rights of the Child Fifty-fifth session

### Summary record of the 1571st (Chamber A) meeting

Held at the Palais Wilson, Geneva, on Friday, 24 September 2010, at 10 a.m.

*Chairperson:* Ms. Lee

## Contents

Consideration of reports of States parties (*continued*)

*Initial report of Sri Lanka under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*

---

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

*The meeting was called to order at 10.05 a.m.*

**Consideration of reports of States parties** (*continued*)

*Initial report of Sri Lanka under 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; CRC/C/OPAC/LKA/Q/1 and Add.1)*

1. *At the invitation of the Chairperson, the delegation of Sri Lanka took places at the Committee table.*
2. **The Chairperson**, speaking in her capacity as Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict (OPAC), said that, following the conflict that had finally come to an end only on 17 May 2009, Sri Lanka had been faced with the task of rebuilding the nation during a global economic downturn. It was an enormous challenge, but real progress had been made: the country had ratified OPAC in 2002, it had amended its Penal Code to penalize the recruitment of children as combatants and 200,000 internally displaced persons had been released from the camps in which they had been living.
3. She drew attention to the fact that the report did not follow the Committee's reporting guidelines and she asked what kind of consultative process had been carried out with civil society or with children who had been victims of the armed conflict.
4. At the 1567th meeting, the delegation had informed the Committee that the downgrading of the National Human Rights Commission would shortly be reversed by the adoption of the eighteenth amendment to the Constitution. She noted, however, that the amendment gave the President the power to appoint members to the Commission, as well as the Chief Justice and judges of the Supreme Court. In her view, that would not result in an independent monitoring system. In that connection, she reiterated the question posed by Mr. Guráñ about the status of the Parliamentary Commissioner for Administration (Ombudsman), who was also appointed by the President, under the amendment to the Constitution.
5. Referring to the Assistance and Protection to Victims of Crime and Witnesses Bill, which was described in paragraphs 63–73 of the initial report (CRC/C/OPAC/LKA/1) she expressed concern that it might not provide enough safeguards to ensure the protection of witnesses. Witness assistance and protection addressed a different category of child from victims of crime, although it was true that some former child soldiers might fall into both categories. Nonetheless, it was possible that such former child soldiers might be requested to provide evidence against individuals currently in positions of power.
6. She requested the delegation to provide further information on the two cases referred to in the report of the Special Envoy of the Special Representative of the Secretary-General for Children and Armed Conflict, General Cammaert, concerning the activities of Iniya Barrathi, a commander of the Tamil Makkal Viduthalai Pulikal (TMVP) breakaway faction, who had been reported to have recruited children to the armed forces. It was claimed that children continued to be recruited for such purposes as guarding offices.
7. Regulations issued on 12 September 2006 provided for the prosecution of children for association with armed groups. Emergency Regulations 1580/2008 did not repeal or amend that provision and she asked what steps had been taken to verify the age of detainees to ensure that no one under 18 was held with adults. The Emergency Regulations also established centres to care for children, but there seemed to be some confusion between accommodation centres — for children regarding whom there was no evidence that an offence had been committed — and rehabilitation centres, for children regarding whom there was evidence of an offence during the period of that association with an armed group.

Moreover, a child's age at the time of surrender rather than of recruitment was significant. The Regulations called for the establishment of either kind of centre to be declared in the Official Gazette. She understood there were three such centres and she asked whether they had been declared, as required. She also asked from what date the maximum stay of one year in the centres was calculated. Many had already spent a long time as "surrendeeds" in adult centres prior to being screened and transferred.

8. The Paris Principles, to which Sri Lanka was party, emphasized the centrality of the family and the community in the rehabilitation process. In that connection, she wondered who was responsible for the rehabilitation centres and whether that person had any connection with the military. It seemed that one of the centres was guarded by military staff. Paragraph 8 of the written replies to the list of issues (CRC/C/OPAC/LKA/Q/1/Add.1) stated that it had not been possible to launch prosecutions against persons responsible for the recruitment of young persons for military purposes, since the offences could not be established beyond reasonable doubt. However, in its observations on the "Report on the findings of the investigation with respect to the effective implementation of certain human rights conventions in Sri Lanka" (European Commission document No. C (2009) 7999), the Government of Sri Lanka had stated that two persons had been arrested on suspicion of child recruitment, thereby enabling the commencement of judicial proceedings against them. The two statements were inconsistent and she requested clarification.

9. It was important for families to know the status of loved ones who were still missing. In view of the fact that legislation on death certificates had been passed within a few months of the tsunami of 2004, she wondered whether there were any plans for legislation to speed up the issuance of death certificates following the conflict. The United Nations had stated that 7,000 people had died during the final five months of the war. Lastly, she requested information regarding the assurance that no children were currently detained under the Emergency (Miscellaneous Provisions and Powers) Regulation No. 1, of 2005, within the high security zone in Colombo.

10. **Mr. Kotrane** said that he welcomed the enactment of the Penal Code (Amendment) Act No. 16 of 2006 relating to the prohibition on the recruitment of children as combatants, which was in line with article 4, paragraph 2, of the Optional Protocol; but to be effective it must be implemented and the State party had provided no information on anyone being prosecuted or convicted for such an offence. He noted that Sri Lanka had not ratified the Convention Relating to the Status of Refugees or the Rome Statute of the International Criminal Court and he wondered whether the country's legislation permitted the prosecution of persons, whether Sri Lankan national or others, who recruited children abroad, or, more generally, whether Sri Lanka had extraterritorial jurisdiction for offences against children. He also expressed concern about the statement by the delegation at the previous meeting that children involved in the armed conflict would be tried by military courts. Such children should be dealt with by juvenile justice, even if they were associated with activities prohibited under national law.

11. **Ms. Aidoo** noted that the United Nations Children's Fund (UNICEF) had helped Sri Lanka with the collection of data on children affected by the armed conflict, but she asked what system the Government itself had adopted to find out how many children were in camps and how many had been resettled or returned to their homes. Without such data, it would be difficult to take effective action. She also asked what action was being taken to trace the families of children and whether such action was successful. She hoped that the language capacity of the people involved in the research was adequate. Lastly, she requested a clear statement on how Sri Lanka was going to work with the humanitarian agencies, both local and international, given that they were required to register with the Ministry of Defence. She wished to know what the Government intended to do to make all

areas of the country accessible, so that the humanitarian agencies could help gather information and, on that basis, provide services.

12. **Mr. Citarella** said that he presumed that some kind of written agreement had been drawn up following the cessation of the conflict and he wondered whether the situation of children had been taken into account by all the parties to the agreement. In particular, he asked what was the position of children who had been recruited by armed groups. Were they also subject to punishment?

13. He was concerned that pictures of children who had been released or had surrendered in the conflict area had been published. Lastly, he was concerned by the number of light arms that must inevitably exist in large quantities. He asked whether the State party intended to destroy, or at least reduce the number of such weapons.

14. **Mr. Pūras** asked what measures, legal or otherwise, were taken to ensure that children were treated as victims rather than offenders in rehabilitation centres. He noted that such centres were staffed by military personnel, and the general environment was military, which militated against the children's needs, and he asked what safeguards existed against the systematic violation of children's rights.

15. International agencies could provide much assistance, but humanitarian access to parts of the country had recently been curtailed by the Ministry of Defence, even for United Nations agencies. He asked the reasons for such denial of access.

16. He welcomed the fact that almost 700 children had been released from rehabilitation centres and reunited with their families, but he wondered what subsequent services they would receive. Recovery and rehabilitation should not end with their release. Moreover, he wondered whether, under Emergency Regulations 1580/2008, there was full compliance in practice with the requirements of international juvenile justice standards, particularly with regard to the right to have legal counsel.

17. Lastly, it was essential to solve the problem of missing children. If they were dead, as was all too likely, death certificates should be issued without delay.

18. **Mr. Guráň** said that it was crucial that monitoring should be independent in respect of displaced children and children who had been involved in armed conflict. The Committee required assurances from the State party that the action plan to put an end to the recruitment of children was being implemented. He asked who was responsible for data collection, whether the Ombudsman or the National Human Rights Commission would monitor OPAC, and whether children would have access to a complaints mechanism. Lastly, he requested more information about military schools.

19. **Ms. Al-Asmar** said that the existence of military schools was surprising, given that the Government was promoting education for peace. Even if children at such schools carried firearms only in a symbolic way when marching, that was not appropriate for a society trying to live in peace. She asked for further details on such schools, such as whether they were boarding schools, whether they were fee-paying, whether children could drop out, whether children could make complaints, and, if so, to whom, and what subjects were studied. If those subjects included human rights, she asked for further details of the textbooks used.

20. **Ms. Ortiz** asked whether there was a law against terrorism and, if so, whether children could be charged under it.

*The meeting was suspended at 10.40 a.m. and resumed at 11 a.m.*

21. **Ms. Wijemanne** (Sri Lanka), responding to the observation by the Chairperson, speaking in her capacity as Country Rapporteur for OPAC, that the State party's initial report (CRC/C/OPAC/LKA/1) did not follow the Committee guidelines and to her question

as to whether the report had been prepared in consultation with civil society, said that, at the request of the Ministry of Foreign Affairs, the Secretariat for Coordinating the Peace Process had prepared the report, working with a consultative committee that had included civil society representatives. There had been a delay in contacting the Secretariat and unfortunately there had not been time to consult extensively with children. However, the Secretariat had been monitoring the peace process at that time and therefore it had been able to give an accurate account of the situation on the ground.

22. **Mr. Fernando** (Sri Lanka), speaking further to the explanations he had provided at the 1567th meeting, said that appointments to the National Human Rights Commission had previously been made by the President on the recommendation of certain politicians including the Speaker of the House and the Leader of the Opposition. Following disagreements concerning the right to nominate and to be nominated, the Supreme Court had endorsed a decision, recorded in an eighteenth amendment to the Constitution, under which members of the Council, who would be formally appointed by the President, would be drawn entirely from elected Members of Parliament: minority parties, the leader of the opposition, the Speaker and the Prime Minister would all be represented.

23. **The Chairperson**, speaking in her capacity as Country Rapporteur for OPAC, said that it was her understanding that many members of Government commissions and other senior public officials continued to be appointed by the President, including members of the National Police Service Commission; the National Human Rights Commission and the Finance Commission, as well as the Chief Justice and judges of the Supreme Court and the Court of Appeal.

24. **Mr. Fernando** (Sri Lanka) said that, prior to the adoption of the seventeenth amendment to the Constitution and following adoption of the eighteenth amendment, public appointments were made by the President.

25. **Mr. Nawaz** (Sri Lanka) said that the President was the appointing authority, but he made appointments on the recommendation of the Parliamentary Council and thus there were checks and balances in place. Minority Members of Parliament could express their dissent and their views would be taken into account.

26. **Ms. Aidoo** asked whether a nomination would be referred to Parliament once it had been vetted by the Parliamentary Council and before it was transmitted to the President.

27. **Mr. Fernando** said that the Parliamentary Council had an advisory role but the matter could be debated in Parliament.

28. **Mr. Nawaz** said that, as a result of the involvement of the Parliamentary Council, the process had been simplified.

29. **Mr. Citarella** noted that, according to the Statutes of the National Human Rights Commission, its President was to be appointed by the President of the Republic. He was concerned that it would be difficult for such appointees to remain independent.

30. **Mr. Fernando** (Sri Lanka) said that it was the case within the United Nations system that candidates were nominated by countries, yet once appointed, they exercised their functions in a completely independent manner. Similar systems of appointment by the Head of State were applied in many jurisdictions and the appointments did not give rise to a lack of independence on the part of appointees.

31. The Ombudsman was a post established under the Constitution to which citizens had direct access in order to take their complaints, including complaints concerning human rights violations. Members of Parliament could also receive complaints from members of the public and submit them to the Ombudsman. The Ombudsman was authorized to make

recommendations and to receive a written reply in return confirming either that the recommended action had been taken or giving reasons why it had not.

32. **Mr. Guráň** asked about the relationship between the Ombudsman and the National Human Rights Commission.

33. **Mr. Fernando** (Sri Lanka) said that the two institutions were completely independent and that they had almost parallel jurisdictions. The Human Rights Commission had wider powers than the Ombudsman and it could make recommendations to the Government concerning changes to legislation.

34. **Mr. Nawaz** (Sri Lanka) said that the Human Rights Commission had studied the Convention and had disseminated information concerning it throughout the country.

35. **Mr. Fernando** (Sri Lanka) said that victim and witness protection, including for child soldiers, was not currently part of the criminal justice system in Sri Lanka. With the introduction of the Bill on Assistance and Protection to Victims of Crime, protection would become retrospective.

36. **The Chairperson**, speaking in her capacity as Country Rapporteur for OPAC, said that she wished to know specifically whether child witnesses who testified against their recruiters or against others within the military would be provided with full protection.

37. **Mr. Nawaz** (Sri Lanka) said that under the proposed Bill on Assistance and Protection to Victims of Crime, assistance would be provided to witnesses, including child victims. A victim of crime was defined as any person who had suffered harm due to an offence committed against them. The Bill was wide-ranging: it would allow victims to participate in criminal proceedings and cover issues such as assistance for the next of kin of victims of crime and compensation.

38. **Ms. Wijemanne** (Sri Lanka), in response to the questions concerning the recruitment and re-recruitment of child soldiers set out in paragraphs 2 and 3 of the list of issues to which the Chairperson, speaking in her capacity as Country Rapporteur for OPAC, had referred, said that the matter had been investigated by the special police unit of the National Child Protection Authority and in partnership with UNICEF.

39. **Ms. Dissanayake** (Sri Lanka) said that an investigation had been undertaken in the Eastern Province and one child under the age of 18 years, who met the relevant criteria, had been discovered: efforts were being made to locate his parents who lived in another part of the country.

40. **Mr. Ranasinghe** (Sri Lanka), turning to an earlier question concerning protective accommodation and rehabilitation, said that child victims of war had been housed in two centres, with those requesting a formal education being placed in a leading school in Colombo, while the remainder of over 16-year olds who did not wish to continue with formal education had been provided with vocational training. All of the children had been offered psychological counselling and extracurricular programmes of dancing and music. The protection centres housed 363 boys and 131 girls. All the children had been handed back to their parents by May 2010, one year after the end of the war. No legal action had been taken against any of the children. UNICEF had monitored the protection centres which had been run by male and female schoolteachers.

41. **The Chairperson** said that she believed that two of the centres were managed by the military and not civilian police.

42. **Ms. Wijemanne** (Sri Lanka) said that the schoolteacher administrators worked inside the centres but that police forces were deployed outside the buildings in order to protect the children. No military forces had been used.

43. **Mr. Ranasinghe** (Sri Lanka), turning to the subject of missing children, said that a sensitization programme had been started and thousands of parents had been invited to participate. Some 10,000 people had come forward with different complaints concerning missing children. The parents had been advised to make a declaration at the local police station and an administrative procedure had been put in place to pay compensation. Concerning the military schools, there were none in Sri Lanka: military academies were open to those aged over 18 who had chosen a career in the armed forces.
44. **Ms. Al-Asmar** said that it was her understanding from the State party's written replies (CRC/C/OPAC/LKA/Q/1/Add.1) that military training was available from the age of 16.
45. **Mr. Ranasinghe** (Sri Lanka) said that the military training referred to was provided within a school cadet corps and was of a kind that existed throughout the world.
46. **The Chairperson**, speaking in her capacity as Country Rapporteur for OPAC, acknowledged that it was legitimate for training to be provided within the context of a cadet corps, but the Committee had received reports to the effect that there had been small arms training in the schools.
47. **Ms. Al-Asmar** said that paragraph 3 of the State party's replies to the list of issues mentioned that firearms were used in march pasts.
48. **Mr. Ranasinghe** (Sri Lanka) explained that "drill purposes rifles", which contained no working parts and were intended for ceremonial occasions, were used in march pasts.
49. **The Chairperson**, speaking in her capacity as Country Rapporteur for OPAC, said that it was the strong recommendation of the Committee that no military exercises should be conducted in schools and that included exercises for drill purposes.
50. **Ms. Wijemanne** said that the drills dated from the colonial period at a time when terrorism and violence had not existed on the present scale. She accepted that, as part of the effort to build peace, the type of military exercises practised in schools should be reviewed.
51. **Ms. Ortiz** said that, despite the fact that the war had ended, Sri Lanka continued to maintain a large defence budget. There had been an increase in the defence budget in 2010 while the education budget had been reduced. It was understandable that military spending had remained high during the years of conflict but at present funds were needed for peacetime activities, including school reintegration programmes and community services.
52. **Mr. Fernando** (Sri Lanka) said that, in addition to direct military expenditure, the defence budget was used to pay for military and civilian staff salaries, equipment and vehicles, compensation to victims of the conflict, clearance of conflict zones and landmine removal. Similarly, the education budget was used for indirect expenses such as teachers' salaries and for administrative costs incurred in dividing the Ministry of Education into two ministries, one for higher education and the other for schools.
53. **Ms. Aidoo** asked whether follow-up systems had been established for children who had been reintegrated in their families after leaving rehabilitation centres and for those placed in schools or provided with vocational training. Were the children stigmatized by other schoolchildren? She requested further information on State party efforts to search for missing children and on whether its family tracing system was working successfully. She asked if the National Child Protection Authority was fully operational in the conflict-affected areas in the Eastern and Northern Provinces.
54. **Mr. Ranasinghe** (Sri Lanka) said that 65 of the 296 children placed in a leading school in Colombo had chosen to return to that school and had been provided with hostel accommodation, while their families had been offered free transportation to visit them. Children were able to choose a school and they and their parents remained in contact with

the Office of the Commissioner-General of Rehabilitation. UNICEF was working with children in the Eastern and Northern Provinces, in close cooperation with Government officials, probation officers and National Child Protection Authority officials.

55. The measures in place to trace missing children included visiting the areas concerned, making announcements via the media, following up on children reported missing by their families, and taking appropriate action with regard to children placed in orphanages after the end of the conflict.

56. **Mr. Abeygunawardhana** (Sri Lanka) said that the Department of Probation and Child Care Services and the provincial authorities were working together to trace missing children. To date, 700 unaccompanied children had been placed in institutions and every effort was being made to trace their families or guardians. Almost 300 children had been reintegrated in their families; some of them had been placed in schools while others were undergoing vocational training.

57. **Ms. Dissanayake** (Sri Lanka) said that the National Child Protection Authority had appointed district coordinators and psychosocial counsellors in the Eastern and Northern Provinces, who were working alongside child rights promotion officers to ensure the protection of children in conflict-affected areas. UNICEF had provided funds to appoint more officers to expand operations.

58. **Ms. Aidoo** expressed her appreciation for the considerable support of UNICEF and other humanitarian organizations but emphasized that the State party itself should invest in a sustainable programme, including training for local, permanent staff, to ensure continuous provision of social support services for children. She stressed that the Government should allow non-governmental organizations (NGOs) unrestricted access to all areas where children were in need of support and protection.

59. **Ms. Dissanayake** (Sri Lanka) said that UNICEF and a number of NGOs provided initial support to the conflict-affected areas in the north and east but their activities had to be monitored to ensure that they were in line with Government policy and the National Child Protection Authority's agenda. Support was provided until permanent staff were recruited, but the National Child Protection Authority would be responsible for developing a long-term programme.

60. **Ms. Wijemanne** (Sri Lanka) said that under the Government's budget system it took two to three years to approve new staff and therefore makeshift arrangements with NGOs to provide services for children in the conflict-affected areas would remain in place in the short term.

61. **The Chairperson**, speaking in her capacity as Country Rapporteur for OPAC, said that there should be sustainable follow-up and provision of long-term psychosocial services for rehabilitated children reintegrated in their families. She echoed the concern of other Committee members that access to conflict-affected areas was being restricted for humanitarian organizations, as they had the skills and capacity to provide vital psychosocial services in addition to food and equipment.

62. **Ms. Wijemanne** (Sri Lanka) said that 21 national and international humanitarian agencies had been granted access and were already working in the east and north and another 31 NGOs were working in the Northern Province. The Government had established a simple registration system in 2005 that required NGOs to link up with the relevant line ministry because, after the tsunami, Sri Lanka had been flooded with NGOs operating and travelling freely around the country, which had caused confusion. The system was in the best interests of children, maximized resources and was advantageous for NGOs as long as they were willing to work within the system.



63. **Mr. Fernando** (Sri Lanka) said that the Ministry of Defence was in charge of NGO registrations because security clearance was involved and there had been a problem in the past with NGOs coming for one purpose but instead promoting unconstitutional ideas. The previous registration procedure had involved several ministries, depending on the purpose of the NGO's work, with the Ministry of Defence giving final security clearance. It had been deemed to be too lengthy and complicated and the Ministry of Defence now handled the entire registration process. Sri Lanka valued the work of NGOs but, after 30 years of conflict, national security could not be compromised.

64. **Ms. Aidoo** said that the Committee respected the State party's right to protect national security but was anxious to ensure that NGOs were able to cooperate in the best interests of children. She requested clarification on reports that some NGOs were registering as companies under the Companies Act to avoid the new registration procedure. She asked whether the procedure applied to NGOs not currently operating in the emergency areas.

65. **Ms. Wijemanne** (Sri Lanka) said that the registration procedure applied to all NGOs.

66. **Mr. Nawaz** (Sri Lanka), referring to the question on the ratification of the Rome Statute of the International Criminal Court, said that Sri Lanka considered it unnecessary to ratify the Statute, as its domestic legislation dealt with war crimes, including offences against children.

67. **Mr. Nawaz** (Sri Lanka), referring to the question on extraterritorial jurisdiction for offences committed abroad, said that such jurisdiction was recognized under domestic legislation and that the State party had ratified the relevant Geneva Conventions.

68. **Mr. Fernando** (Sri Lanka) said that the main concern of Sri Lanka and its neighbours was that the Rome Statute failed to cover terrorism-related offences adequately. Sri Lanka had proposed that such offences should be added to the Statute and awaited the outcome of the review process before making a decision on ratification.

69. **Mr. Nawaz** (Sri Lanka) said that the review process had taken place in Kampala in May 2010 but no decision had been made on the addition of terrorism-related offences and so Sri Lanka's decision on ratifying the Rome Statute was still under consideration.

70. **Mr. Kotrane** said that the States that had ratified the Rome Statute also had all legal guarantees available in their domestic legislation, but the Statute was complementary and enhanced those guarantees, demonstrating the willingness of States to cooperate with other States in prosecuting war criminals. He requested clarification as to whether offences committed against children abroad could be prosecuted under the State party's legislation on extraterritorial jurisdiction.

71. **Mr. Fernando** (Sri Lanka), responding to an earlier question on terrorism-related laws, said that, in addition to its Prevention of Terrorism Act, Sri Lanka had enacted legislation to suppress acts of international terrorism, in accordance with United Nations Security Council resolution 1373 (2001). As to whether children could be prosecuted under domestic laws, he said that, in the absence of any specific reference to children, they would apply to everyone, regardless of age. However, as a matter of policy, the State did not prosecute persons under 16, and even persons aged 18 and over were not prosecuted for crimes they had committed as children.

72. **The Chairperson**, speaking in her capacity as Country Rapporteur for OPAC, asked whether children could be, or were currently, held in custody under domestic terrorism-related laws.

73. **Mr. Fernando** (Sri Lanka) said that, in the past, persons under 18 apprehended and confessing to acts of terrorism had had their age taken into consideration.

74. **The Chairperson**, speaking in her capacity as Country Rapporteur for OPAC, expressed concern at a recent statement by the former Sri Lankan ambassador to the European Union, Mr. Godage, to the effect that up to 2,000 young persons were still being held in custody under the Prevention of Terrorism Act in Sri Lanka.

75. **Mr. Fernando** (Sri Lanka) said that he had not heard or seen the statement but pointed out that under the Children and Young Persons Ordinance, “young persons” were defined as being aged up to 21.

76. **Mr. Citarella** asked whether specific agreements had been signed with other parties to end the conflict in Sri Lanka and, if so, whether any such agreement took into account the status of children. Was there a risk that children forcibly recruited into armed groups might be prosecuted for crimes that they had committed during the conflict, or were they granted immunity from prosecution?

77. **Mr. Fernando** (Sri Lanka) said that no truce or pact to end the conflict had been signed; the terrorists had been militarily defeated. No person would not be prosecuted for crimes they might have committed as children.

78. **Ms. Wijemanne** (Sri Lanka) said that the 2006 Official Gazette dealing with combatants had made no specific mention of children and adults, and so another Official Gazette had been issued to make a distinction between the two, based on the Paris Principles. It stated that children who had been forcibly recruited into armed groups would not be prosecuted. The Convention Relating to the Status of Refugees had not been ratified by Sri Lanka. Responding to questions on data collection, she said that a central body to collect data on children did not exist but the relevant ministries worked in close cooperation with UNICEF and NGOs to collect data relating to their field of competence.

79. **Ms. Aidoo**, supported by **Mr. Guráň**, suggested that Sri Lanka should develop a national data-collection system in which all institutions adopted the same approach, including the disaggregation of data according to such variables as age, sex, ethnic background and geographic location. Ideally, the system would be managed by a central bureau of statistics, which would guide the collection efforts of public institutions so that when it came to reporting, the State party would have a reliable picture of inequalities and disparities at the national, regional and local levels. That, in turn, would serve as a basis for formulating children’s policies and monitoring their implementation.

80. **Ms. Wijemanne** (Sri Lanka) said that, although Sri Lanka was in favour of such a data-collection system for children, it was a very poor developing country that had been at war for 30 of its 60 years of independence. Nonetheless, there was no doubt that data collection was an important area in which to invest both internal and external resources. Sri Lanka had conducted a census every 10 years for a long period prior to the war, but that pattern had been interrupted in 1981 when census-takers had not been allowed access to areas controlled by the Liberation Tigers of Tamil Eelan (LTTE). The Government was planning to conduct a census in July 2011, and it was hoped that its results would help to build a more reliable database for the formulation of children’s policies.

81. **Mr. Guráň** said that the planning for the 2011 census provided a good opportunity for the Department of Census and Statistics to consider introducing a new system of common indicators for data-collection purposes.

82. **The Chairperson**, speaking in her capacity as Country Rapporteur for OPAC, asked whether she had understood correctly that, under the Sri Lankan criminal justice system, persons who had been children at the time of their association with armed groups and who had committed offences at that time could not be prosecuted for those offences.

83. **Mr. Fernando** (Sri Lanka) said that it was legally possible to charge them with an offence, but owing to the recognition that most of the individuals concerned had been forcibly recruited, as children, into armed groups, the Government had decided to refrain from charging or prosecuting them for those offences.

84. **Mr. Ranasinghe** (Sri Lanka) said that the military had carried out extensive search and clear operations in order to locate all munitions and explosives. If not in a fragile state, they were collected, taken into custody and forwarded to the appropriate agency for investigation. Explosives in a fragile state were destroyed on site. While the majority of munitions had already been removed, mine clearance operations were still in progress; however, they were expected to be completed in the near future.

85. **The Chairperson**, speaking in her capacity as Country Rapporteur for OPAC, asked for additional information in relation to paragraph 5 of the list of issues prepared by the Committee (CRC/C/OPAC/LKA/Q/1), in view of the fact that a 2006 amendment to the Criminal Code allowed for the prosecution of persons who had recruited or used children in armed conflict. She asked whether the Government had charged or prosecuted any individuals for those crimes.

86. **Mr. Fernando** (Sri Lanka) said that he was not aware of any cases of prosecutions or, for that matter, complaints. In order to seize the Sri Lankan criminal justice system, it was necessary for a formal complaint to be lodged with the police. When such a complaint was received, it was investigated and the findings were transmitted to the Attorney General, who, on that basis, decided whether officially to charge and prosecute.

87. **Mr. Kotrane** said that, when it came to acts as serious as recruiting children in armed conflict, in most legal systems comparable to that of Sri Lanka, the procedure was not to wait for the victim to lodge a complaint — since he or she was usually in a vulnerable state — but rather, for the public prosecutor's office to initiate proceedings of its own motion. The same procedure applied in the case of murder or other serious offences. The delegation should comment on what measures the State party planned to take in order to overcome the inertia in its system and to enable the Attorney General's Department to initiate proceedings of its own motion against perpetrators of the serious offences defined in the Optional Protocol and in the State party's own legislation.

88. **The Chairperson**, speaking in her capacity as Country Rapporteur for OPAC, said that the State party's written reply to paragraph 5 of the list of issues, indicating that its investigations had not disclosed persons directly responsible for the recruitment of young persons for military purposes, was inconsistent with its response to a report of the Commission of the European Communities entitled "Observations of the Government of Sri Lanka in respect of the Report on the findings of the investigation with respect to the effective implementation of certain human rights conventions in Sri Lanka". In paragraph 65 of that report, the Government indicated that two persons had been arrested on suspicion of recruitment and use of children in armed conflict, which had enabled the commencement of judicial proceedings against them.

89. **Mr. Nawaz** (Sri Lanka) said that the threshold of evidence required to arrest a person was reasonable suspicion. The threshold of evidence required for initiating a prosecution was the existence of a prima facie case. A conviction required proof beyond a reasonable doubt. Thus, not every arrest led to a prosecution, and not every prosecution led to a conviction.

90. **The Chairperson**, speaking in her capacity as Country Rapporteur for OPAC, said that it was difficult to understand why the Government had not initiated proceedings against the leaders of certain armed groups, who were known by the Government and the international community to have recruited children during the armed conflict, simply because no one had lodged a complaint with the police.

91. **Mr. Fernando** (Sri Lanka) said that, according to the Code of Criminal Procedure, the Attorney General, who was the chief legal officer of the State responsible for prosecutions, had no powers of investigation. Therefore, he could not of his own motion initiate an investigation.

92. **Mr. Citarella** asked whether the Attorney General had the power to order an investigation for crimes such as homicide. If he did not, it meant that he merely received information from the police but that it was up to the police to investigate. During the civil war, hundreds of children had been recruited for the purposes of armed conflict, implying that there were potentially hundreds of persons who could be tried for that offence. The Optional Protocol imposed the same obligations on armed groups in Sri Lanka as it did on the State; such groups therefore bore equal responsibility for failing to meet those obligations.

93. **Mr. Fernando** (Sri Lanka) reiterated that investigations were conducted solely by the police. It was a known fact that children had mainly been recruited by the LTTE. Notwithstanding, the State had not received a single complaint that would allow it to investigate and prosecute any LTTE member for that offence.

94. **Mr. Kotrane** said that the question was not whether the Attorney General's Department could carry out investigations directly, but rather whether it could order an investigation or the commencement of proceedings of its own motion. If there had been no prosecutions in Sri Lanka because there had been no police investigations into the offences of recruitment of children, then the same would apply to other offences, such as sex tourism and all violations of children's rights. Such a system led to impunity for crimes against children. It was essential for someone in the criminal justice system to have the discretion to order the commencement of proceedings in certain cases in the absence of an individual complaint.

95. **The Chairperson**, speaking in her capacity as Country Rapporteur for OPAC, said that the potential for future child recruitment in Sri Lanka was high, given the apparent impunity attaching to such offences. While there was no room for complacency on the part of the international community, it was the Government of Sri Lanka that should be most concerned about the thousands of children who had died or who were at risk of being recruited into armed groups.

96. **Mr. Fernando** (Sri Lanka) said that, in the Sri Lankan criminal justice system, there was a clear division between investigatory and prosecutorial functions. Those attributed to the Attorney General were clearly specified in statute as prosecutorial.

97. **Mr. Nawaz** (Sri Lanka) said that the Government had established a mechanism of accountability, namely the Commission on Lessons Learned and Reconciliation. The terms of reference of the Commission included fact-finding and the identification of perpetrators in order to hold them accountable for their actions. Any individual who believed that a child or a group of children had been recruited in armed conflict had the possibility of lodging a complaint with the Commission, which was a multi-ethnic and multireligious body. The Commission would subsequently present any evidence to the Attorney General and ask him to exercise the public right of action. He asked the Committee not to prejudge the Commission and not to classify the situation in Sri Lanka as one of impunity.

98. **The Chairperson**, speaking in her capacity as Country Rapporteur for OPAC, said that the Committee would fully respect the State party's request. While she agreed that it was too early to evaluate the work of the Commission, she hoped that the truth would eventually be revealed and that those responsible would be brought to justice, as that was the only way to strengthen the nation and build a brighter future for the children of Sri Lanka.

99. **Mr. Nawaz** (Sri Lanka) said that the Attorney General had stated on several occasions that if even an iota of evidence was found implicating any perpetrator, he would not refrain from prosecution.

100. **The Chairperson**, speaking in her capacity as Country Rapporteur for OPAC, said that it was her understanding that the Attorney General already possessed ample evidence implicating individuals who were known to have recruited children.

101. **Ms. Wijemanne** (Sri Lanka) said that the Commission on Lessons Learned and Reconciliation was concerned not only with finding facts but also with moving society forward. Perhaps part of the problem lay in the fact that Sri Lanka's legal system had not been upgraded to deal with terrorism. With regard to the ceasefire agreement of 2002, for example, the Government had not managed to ensure compliance with one of its conditions for the ceasefire, namely, the demobilization or release of all children, and many children had suffered as a result.

102. **The Chairperson**, speaking in her capacity as Country Rapporteur for OPAC, said that, in October 2009, the Government had formulated an action plan aimed at the reintegration of ex-combatants; however, as at July 2010, that action plan had not received Cabinet approval and had therefore not been implemented. She enquired about the current status of the action plan.

103. **Mr. Fernando** (Sri Lanka) said that another national action plan had received approval from the Cabinet, and the President had appointed a subcommittee of ministers to implement it. The plan included measures for children's welfare and recognized all the provisions of the Convention. He would circulate a copy of the plan for the benefit of Committee members.

104. **The Chairperson**, speaking in her capacity as Country Rapporteur for OPAC, said that the State party should promptly prosecute individuals responsible for the recruitment and use of children in armed conflict; carry out family tracing procedures in order to ascertain the whereabouts of children listed as missing; lift restrictions on the activities of humanitarian organizations; carry out investigations with a view to identifying children who were being detained under security legislation; and review the legal framework applicable to the rehabilitation and reintegration of children. The Committee would recommend that children accused of crimes should be treated in accordance with the Convention and other international standards. It would urge the State party to continue to cooperate with the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Children's Fund (UNICEF), NGOs and the Special Representative of the Secretary-General for Children and Armed Conflict (SRSG). The Committee would further urge the State party to cooperate with the Secretary-General's panel of experts to advise on accountability for possible rights violations during the Sri Lanka conflict, which would seek to assist the Commission on Lessons Learned and Reconciliation.

105. Speaking as Chairperson and concluding the meeting discussion on the State party's initial report under the Optional Protocol on the involvement of children in armed conflict, she asked, in relation to the implementation of the Convention itself, whether the chairperson of the National Child Protection Authority had the authority to intervene in the event of failure on the part of children's homes to comply with relevant laws.

106. **Ms. Dissanayake** (Sri Lanka) said that, in her capacity as chairperson of the National Child Protection Authority, she monitored children's homes and made recommendations to provincial commissioners and to the commissioner of the Department of Probation and Child Care services. If children's homes did not implement the recommendations of her office, legal proceedings could be taken against them.

107. **Mr. Jauhar** (Sri Lanka) said that Sri Lanka was one of several countries where the scope for prosecution was circumscribed by the existing legal system. With regard to the Secretary-General's panel of experts, to which the Chairperson had referred, the Government had made its position clear and did not consider it necessary to comment any further on the issue.

108. **The Chairperson** thanked the delegation for its participation in the Committee's proceedings.

*The meeting rose at 12.55 p.m.*