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Covenant

Sri Lanka* **

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Abbreviations

APRC	All Party Representative Committee
BOI	Board of Investment
CCHA	Consultative Committee on Humanitarian Assistance
CFA	Ceasefire Agreement
CGES	Commissioner General of Essential Services
CHA	Consortium of Humanitarian Agencies
CRC	Convention on the Rights of the Child
DF	Development Framework
EC	Employees' Councils
ECHO	European Commission's Humanitarian Aid Office
EPZ	Household Income and Expenditure Survey
GDP	Gross Domestic Product
HIES	Household Income and Expenditure Survey
HRCSL	Human Rights Commission of Sri Lanka
ICRC	International Committee of the Red Cross
IDPs	Internally Displaced Persons
ILO	International Labour Organization
INGOs	International non-governmental organizations
IPEC	International Programme on the Elimination of Child Labour
LTTE	Liberation Tigers of Tamil Eelam
MDGs	Millennium Development Goals
MIGA	Multilateral Investment Guaranty Agency
NCPA	The National Child Protection Authority
NDDCB	The National Dangerous Drugs Control Board
NDS	National Development Strategy
NGOs	Non- governmental organizations
NLR	New Law Reports
OCHA	UN Office for the Coordination of Humanitarian Affairs
OHCHR	Office of the High Commissioner for Human Rights
PNB	The Police Narcotics Bureau
SCOPP	Secretariat for Coordinating the Peace Process
SLBFE	Sri Lanka Bureau of Foreign Employment
SLMM	Sri Lanka Monitoring Mission
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
WFP	World Food Programme

I. Introduction

1. The policy of Sri Lanka on economic, social and cultural rights is derived from fundamental consideration that promotion, fostering and protection of human rights is an obligation devolving on the State by virtue of the fact that Sri Lanka is a State party to 16 major international human rights conventions, including the International Covenant on Economic, Social and Cultural Rights.

2. In keeping with its policy on human rights, Sri Lanka has made sustained and determined efforts on a broad front, encompassing national and international means, to promote and protect human rights.

3. The Government of Sri Lanka ratified the Covenant on 11 June 1980. The initial report under articles 16 and 17 of the Covenant was submitted on 5 March 1996 and considered by the Committee at its 3rd to 5th meetings held on 28 and 29 April 1998. The present report responds in detail to the conclusions and recommendations of the Committee.

4. In addition, it should be noted that in 2006 in its candidature to the Human Rights Council, Sri Lanka pledged to promote treaty body reform. Sri Lanka's Aide Memoire contained the following pledge: "to work with like minded countries to assist the Office of the High Commissioner for Human Rights (OHCHR) to formulate proposals for treaty body reform with a view to strengthening and making the United Nations treaty body system more effective and in line with present day requirements of member States".¹ Accordingly, the Government of Sri Lanka prepared the Common Core Document, which contains all relevant general information and statistics pertaining to the country and submitted it to the OHCHR in April 2008. This present periodic report should therefore be read along with the Core Document.

5. In Sri Lanka, important economic and social measures have been sustained which have ensured a high quality of life for all its citizens. These include the availability of basic food items, health services, educational facilities, housing and other essentials. These are not conceived purely as measures of social welfare. In their totality, they have helped citizens of the country to realize their full personality consistent with the political and civil rights they enjoy. All these measures are interrelated and have contributed in sum to the practical realization of the rights enshrined in the International Covenant on Economic, Social and Cultural Rights. Special programmes such as the Samurdhi Movement have enhanced the quality of life of even those Sri Lankans who may have, relatively speaking, been in less advantageous circumstances, giving them encouragement and the means to participate productively in the country's development process. State policies have also helped to reduce income disparities between different economic sectors and among different social groups in the country.

6. The realization of the rights embodied in the Covenant has been facilitated in Sri Lanka by a multiparty democratic system where Governments are voted into power through the regular exercise of universal adult franchise. Since independence in 1948, successive Governments also followed a consistent policy of promoting social welfare among the population. The nature of the benefits of social welfare programmes in Sri Lanka have been analyzed and quantified and are reflected in consistent improvements in key indicators such as under-five mortality rate, maternal mortality, higher life expectancy at birth for both men and women, high levels of literacy, school enrolment etc.² It could be said that broadly

¹ Aide Memoire for the Candidature of Sri Lanka to the Human Rights Council 2006.

² See Central Bank Annual Report 2007 (www.cbsl.gov.lk).

speaking the provision of comprehensive national free education and health is now regarded by the people as a fundamental human right.

Main contemporary challenges

7. For nearly 25 years, Sri Lanka has been compelled to combat terrorism unleashed by a separatist terrorist organization – the Liberation Tigers of Tamil Eelam (LTTE). The LTTE has been designated as a terrorist organization by many UN member States including the 27 countries of the European Union, India, USA, and Canada and is considered to be one of the most ruthless terrorist organizations in the world. The LTTE has been fighting for a separate state in the northern and eastern parts of the country. In July 2007, the Government eliminated the presence of this terrorist group from the entirety of the Eastern Province, and is now taking steps to harmonise the economic, social and political life of people who have lived in a conflict affected environment for over two decades. These efforts include reestablishment of civil administration, short-term and long-term economic development activity and infrastructure development to sustain economic progress. Political structures at the local level are being reinvigorated in order that the democratic rights of people of the East can be safeguarded and advanced. Direct fallouts of the conflict include: death and destruction of personal and collective property, internal displacement of persons and refugees, impeded economic development and strain on limited economic resources, psycho-social trauma, the need for rehabilitation and reintegration of ex-combatants including child soldiers, and a climate of insecurity and fear due to threats posed by terrorist activity.

8. In December 2004, the Indian Ocean tsunami devastated approximately two-thirds of Sri Lanka's coastline actuating heavy loss to life and property from which the country is still recovering. Despite the terrorist conflict and the destruction caused by the tsunami, the Government's commitment to human rights has remained steadfast; the Government has taken steps to promote and protect the human rights of all – irrespective of religion, ethnicity or language.

II. Responses to the concluding observations and recommendations of the Committee after consideration of Sri Lanka's initial report

9. The submissions made hereunder are in addition to the submissions made by the delegation of the Government of Sri Lanka to the Committee on Economic, Social and Cultural Rights at the time of the consideration of its initial report in 1998, and the submissions made in response to the queries raised by several members of the Committee at the said meeting.

10. Additional information on national strategies, collated statistics and analysis of conformity of Sri Lankan law with key international instruments on human rights and labour rights to which Sri Lanka is a State party, in accordance with the guidelines for reporting by States parties, is contained in the Common Core Document submitted by Sri Lanka in April 2008.

11. The Government of Sri Lanka wishes to reaffirm its commitment to continue and maintain the constructive dialogue with the Committee and to answer all questions and queries to the best of its ability and to consider adopting the recommendations made by the Committee. In this report, the Government of Sri Lanka will respond to the conclusions and recommendations of the Committee (E/C.12/1/Add.24).

12. The Government of Sri Lanka notes and acknowledges the satisfaction of the Committee and the positive comments listed in paragraphs 2 to 3 of the Committee's concluding observations.

13. The Government of Sri Lanka wishes to make the following submissions in response to paragraphs 6 to 30 of the Committee's concluding observations.

Ceasefire Agreement, root causes of the armed conflict, and finding a peaceful settlement to the ethnic conflict

14. A Ceasefire Agreement (CFA) was signed between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE) in February 2002. Direct talks between the Government and LTTE with Norwegian facilitation began in October 2002 following the formal ceasefire. Six rounds of negotiations were held between the Government and the LTTE. The Government has remained committed to a negotiated settlement despite the LTTE's walking away from talks in April 2003.

15. Despite the LTTE launching a wave of attacks against the security forces only 14 days after the assumption of office by President Mahinda Rajapaksa in November 2005, every effort was made by the new Government to engage in political negotiations with the LTTE, which had unilaterally pulled out of the peace process in April 2003. This included two rounds of talks held in Geneva and technical talks scheduled in Oslo. In fact, in Oslo, the LTTE delegation having arrived in the city, refused to show-up for negotiations, once again underlying its lack of commitment to the Peace Process. The LTTE spurned all opportunities for discussing the core issues aimed at arriving at a political settlement, and continued its duplicitous action of escalating the violations of the CFA.

16. Notwithstanding LTTE attacks on the Army Commander, the Secretary to the Defence Ministry and the assassination of Major General Parami Kulatunge, the third highest ranking officer in the Sri Lanka Army, the Deputy Secretary General of the Government Peace Secretariat Ketheshwaran Loganathan and numerous attacks targeting innocent civilians including bus bombings in Kebitigollawa, Nittambuwa, Seenigama and Cheddikulam, the Government of President Mahinda Rajapaksa remained steadfast in its efforts to seek an honourable peace with the LTTE, even as it pursued negotiations on a political settlement with all political parties represented in the Parliament (the APRC process).

17. It should be noted that it was only following the LTTE blocking of water supply to the East at the Mavilaru sluice gate, that the Government was compelled to undertake military operations against the LTTE in order to protect the civilian population and vital strategic assets including the Trincomalee Port.

18. It must be noted that throughout the period of the CFA, protestations by the Government to the Norwegian Government as well as to the Sri Lanka Monitoring Mission (SLMM), about the increased illegal activities of the LTTE under the cloak of the CFA including development of its air wing and unabated child recruitment amounting to 1743 cases as ruled by the SLMM as at 30 April 2007, were to go unheeded.

19. In addition to the LTTE's thousands of ceasefire violations already committed by its stepping up of deliberate and indiscriminate targeting of civilians including women and children including bomb blasts in Nugegoda, Kebitigollawa, Slave Island as well as the killing of UNP Parliamentarian T. Maheswaran on the first day of 2008 and the failed assassination attempt using a paraplegic female suicide cadre on Social Services and Social Welfare Minister Douglas Devananda in December 2007, it became obvious that the LTTE sought to continue to engage in provocative activities that could create unrest in the South, making mockery of the CFA.

20. In view of the above, the Government of Sri Lanka on 2 January 2008 formally notified the Royal Norwegian Government of its decision to terminate the CFA.
21. The decision of the Government to terminate the Ceasefire Agreement has been taken after very careful consideration of all relevant facts.
22. Firstly, it must be underlined that this Agreement with the LTTE was seriously flawed from the very inception. It was entered into without proper consultation by the Government of the day, with even the Cabinet of Ministers not being privy to its contents. Legitimate concerns of the security forces had not even been taken into account. It had the effect of alienating the democratic Tamil political forces and focused solely on the LTTE. However, notwithstanding these shortcomings evidently made in the hope that sustainable peace could be achieved, at no stage in its six rounds of talks from September 2002 – March 2003 with the then Government did the LTTE seek to engage in any substantive political discussion aimed at moving towards a political settlement.
23. On the contrary, under the cover of the CFA, the LTTE continued to take strategic advantage on the ground as they had in all previous peace processes, seeking to dominate areas such as Sampur in the Eastern Province, as well as continuing to smuggle in large hauls of lethal arms, explosives and ammunition. It must be noted that it was during this period of ceasefire the LTTE most brazenly assassinated among others, the serving Foreign Minister, moderate Tamil Member of Parliament, Lakshman Kadirgamar on 12 August 2005 and eliminated many of Sri Lanka's intelligence officers through attacks including in Kiribathgoda, Dehiwala, Bambalapitiya (in the Western Province) and Jaffna (in the Northern Province).
24. Honourable Rohitha Bogollagama Minister of Foreign Affairs addressing the Diplomatic Corps on 4 January 2008 stated that "the termination of the CFA does not in anyway hamper the process of moving towards a negotiated political settlement. In fact, it gives us broader space to pursue this goal in a manner that involves all sections of the Sri Lankan polity, which remained sidelined due to the CFA, an agreement solely between the Government and the LTTE. As stated by His Excellency the President Mahinda Rajapaksa on 26 December 2007 in Matara, the doors remain open for the LTTE to join this process. It should be recalled that the Thimpu Talks of 1985, the Indo-Sri Lanka Agreement of 1987, the 1990 talks between President Premadasa and the LTTE, as well as talks between President Kumaratunga's administration and the LTTE in 1994, were not done with the presence of a CFA. The Government of Sri Lanka will, while dealing militarily to eliminate the scourge of terrorism from our land, will spare no effort in our bid to arrive at a practical and sustainable political settlement. In doing so, our Government is conscious that the 13th Amendment to the Constitution signed following the Indo-Sri Lanka Agreement of 1987 itself, is yet to be fully implemented". The Government has expressed its appreciation of the Norwegian facilitators and the SLMM as well as the role played by the Co-chairs³ in their efforts to assist the peace process in Sri Lanka.
25. Sri Lanka reiterated its sincere commitment to a negotiated political settlement through an inclusive process which includes all minority groups and looked to the support of the international community, in working towards securing a sustainable peace.
26. The Government of Sri Lanka clearly stated and reiterated on numerous occasions that it was committed to a negotiated political settlement of the conflict and that its aim is to move the country forward to the realization of a just and honourable peace. The Government adopted an inclusive approach to this goal and taken a number of initiatives to facilitate the realization of a negotiated settlement. Significant among them were the

³ EU, Japan, Norway, and USA.

initiatives to reach a political consensus, the human rights initiatives, humanitarian assistance initiatives as well as the continued efforts to fulfil all essential supplies, facilities and infrastructure requirements of the people in the North and the East. The Government has simultaneously given priority to developing the North and the East.

27. Since April 2006, the Government of Sri Lanka has taken a number of initiatives for the realization of a negotiated settlement to resolve the national problem. Significant among them is the endeavour to develop constitutional proposals with a view to find a “home grown solution” to end decades of initial strife and enable all people to live in dignity and peace in Sri Lanka. The aim of the All Party Representative Committee (APRC) was to engage the various political parties, discuss their different approaches and through their deliberations arrive at a broad framework that would generate consensus.

28. President Mahinda Rajapaksa on 23 January 2008 received from Minister Tissa Vitharana, Chairman of the APRC, the proposals to address the reasons for the conflict. These include full implementation of the relevant provisions of the present Constitution. The APRC will continue to explore additional proposals. The present proposals have sought to identify a course of action to achieve maximum and effective devolution of power to the Provinces to meet the aspirations of the minorities, including the Tamil speaking peoples, as well as other communities, especially those living in the North and the East. What is most important is that this could be done most expeditiously within the framework of the present Constitution. It is a new approach, and a pragmatic way forward following a series of failed attempts at bringing about constitutional reforms. It is envisaged that the momentum generated by working together on the basis of these proposals will enable all communities to build trust that is a pre-requisite to embark on greater reforms.

29. The ceasefire should have ideally created conditions for the rapid development of all parts of the country. However, the LTTE dominance in some areas of the North and the East prevented this, depriving the people of benefits of such development. The East, since it was liberated by the security forces by July 2007, has been earmarked for rapid economic development including with the assistance of the international donor community and United Nations and International non- governmental organizations (INGOs).

30. It is a little known fact that throughout the years of conflict, humanitarian and developmental needs of the civilian population of the North and the East, including in conflict areas were continuously met by the Government of Sri Lanka together with some assistance from the donor community. The administrative machinery including the free national health, education and infrastructure facilities in conflict areas are continuing to be maintained by the Government despite the fact that the LTTE siphons off such funding for its own illegal purposes.

31. State hospitals and State run health-care centres provide a totally free service, both preventative and curative and are funded by the Government. The State meets the recurrent costs of doctors, nurses and minor employees’ salaries, drugs, equipment and maintenance of hospitals. In the North and the East, there are over 53 hospital institutions with more than 4427 hospital beds providing free curative healthcare.

32. The State also funds the education system, including schools, non-formal education institutions, and technical colleges and provides free education. The salaries of teachers, administrative, clerical and elementary staff are met by state funds. There are no private schools in operation in Kilinochchi, Mannar, Vavuniya, Ampara and Trincomalee Districts. School children in these areas are entirely dependent on Government run schools for their primary and secondary education, which the Government continues to provide.

33. There are an estimated 1848 functioning State funded schools with over 700,000 students in the North and the East. These schools include 411 in Jaffna, 94 in Kilinochchi, 93 in Mannar, 187 in Vavuniya, 102 in Mullativu, 314 in Batticaloa, 388 in Ampara and

259 in Trincomalee. Thus 18.9 per cent of the schools administered by the Ministry of Education are located in the North and the East. The scope of the Government provision of education is apparent for instance, in the latest report of the Office of the United Nations High Commissioner for Refugees (UNHCR) on Welfare Centres in Jaffna, which indicates that 1251 of 1252 Primary Level children are in school even from these centres, and 1434 out of 1716 secondary school children.

34. The Government of Sri Lanka is presently taking all steps to provide the essential services that people need in the uncleared areas. In fact, even today the Government Agents in Kilinochchi and Mullaitivu LTTE dominated districts are actively delivering all essential services. The salaries and pensions and other expenses of these services are fully met by the Government, and the Government also monitors these activities to ensure that the services reach the people as extensively as possible. However, given the hazardous ground conditions that prevail in these areas it is necessary for the LTTE to cooperate to ensure that these efforts are made more effectively. Already, massive programmes for housing, roads, bridges, electrification, livelihood development, hospitals, and schools have been planned. The completed projects and other projects in progress and in the pipeline are valued at approximately US\$ 1,250 million. This is a massive sum, and the investment of such an amount would need stable ground and safe conditions that are essential for the effective realization of the benefits of this vast investment.

35. Private investment has played a vital role in the development of the South of Sri Lanka and it is hoped that it will contribute to the development of the conflict affected areas of the country. The Government is making every effort to attract both foreign and local private capital into the conflict affected areas to spread the economic benefits of private investment. The Government has sought the assistance of the Multilateral Investment Guaranty Agency (MIGA) of the World Bank Group in developing and implementing an initiative to make available insurance cover for private investors in these areas.

36. Government's policy in encouraging private investment in the North and the East is aimed at creating job opportunities for the youth in these regions which would in turn enable them to realise life's higher aspirations – a better life for them and their families. Development of the North and the East offers an alternative pathway to lives which are otherwise marred by violence and destruction.

37. The Government is committed to promote an investment drive in the North and the East not only among local investors but also among the diaspora, which is already investing substantially in Colombo. Diaspora funds could play a critical role in changing the lives of the people in the North and the East.

38. The Government has identified the need to focus on developing regional infrastructure facilities in order to stimulate economic activities in the regions as well as to quickly distribute the gains of higher economic growth to the people who are living in remote areas. The ongoing "Maga Neguma" (Road Development), "Gama Neguma" (Development of the Village), "Jathika Saviya" (National Empowerment) and "Neganahira Navodaya" (Renaissance of the East) programmes are particularly aimed at fulfilling this need.

39. The Government has taken a number of steps to address the humanitarian concerns and needs of the people in the Jaffna peninsula since the temporary closure of the Muhamalai checkpoint on the A9 highway following the massive attack by the LTTE on Government positions on 11 August 2006. The Government has supplied adequate food and medicine and other essential items through the sea route and ensuring free movement of people from the peninsula to other parts of the country. There was a shortage in supplies to the Jaffna peninsula following LTTE attacks on supply ships, but supplies and prices have

rapidly improved since February 2007 and staples are available and affordable as the UNHCR statistics indicate.

40. The road northward into uncleared areas was open only three days a week on the recommendation of the ICRC, which had not obtained the required security guarantees to keep it open. Following a request made by the Government at a meeting of the Consultative Committee on Humanitarian Assistance (CCHA), the International Committee of the Red Cross (ICRC) was able to get the required guarantees, and open the road for six days a week, which facilitates still further the provision of supplies by the Government, private sector and Non Governmental Organizations (NGOs) to those areas. Prices of goods have remained relatively stable in those areas and goods are generally available.

41. This is despite the LTTE refusal to guarantee the safety of supply and passenger ships and the attacks on civilian vessels carrying supplies and passengers. The ICRC and the United Nations have both offered to assist the Government in ferrying supplies if the LTTE were to assure their safety. The LTTE continues to refuse this basic humanitarian assurance. Arrangements have been put in place to facilitate passenger transfer on charter vessels from Jaffna to Trincomalee; to airlift civilians in need of urgent medical treatment; to facilitate domestic flights which operate to Jaffna, and to ease fishing restrictions in the lagoons off the Peninsula.

Displaced persons and facilitation of humanitarian assistance

42. The Government of Sri Lanka takes note of the grave concern expressed by the Committee about displaced persons due to the armed conflict. The internally displaced in Sri Lanka is the result of the conflict as well as the unprecedented tsunami disaster of December 2004. The Government has a clear resettlement plan for the Internally Displaced Persons (IDPs). A Resettlement Authority has been established by Act No. 9 of 2007.

43. The 2004 tsunami claimed 35,322 lives, displaced over 500,000 persons and damaged or destroyed 114,000 homes. It resulted in over 150,000 persons losing their livelihood. The cost of tsunami damage to the economy has been estimated at around 4.5 per cent of Gross Domestic Product (GDP) and amounted to over Rs. 100 billion (or US\$ 1 billion), including outputs from fisheries, agriculture, tourism, and small enterprises, as well as livelihoods in those sectors. In Sri Lanka, the additional poverty figure is estimated at 287,000. Around 79,000 houses have been completely destroyed and another 41,000 damaged, rendering between 500,000 to 600,000 people homeless. Although the overall impact on macroeconomic growth was not as significant as feared, the Government is still struggling to overcome the tsunami's devastating impacts. The estimated loss of output in 2005 and 2006 was US\$ 330 million and the loss of employment as much as 275,000. Though the tsunami damage was enormous, the reconstruction process presented opportunities to improve on the status quo ante. Progress on reconstruction has been slower in conflict affected areas but the Government is committed to completing all development projects. Hospitals and schools damaged during this period have been restored. Livelihood restoration has been initiated via cash grants, asset replacement and micro-finance schemes.

44. On an invitation extended by the Government of Sri Lanka, Prof. Walter Kaelin, Special Representative of the United Nations Secretary-General on the Human Rights of Internally Displaced Persons, visited Sri Lanka from 14–22 December 2007. He expressed his appreciation for the Government's cooperation and facilitation of his visit and further stated that he was encouraged by the willingness of officials to acknowledge existing problems as well as their readiness to take up his recommendations on key issues. The Government is taking measures to implement Professor Kaelin's recommendations.

Eastern Province

45. Mahinda Chinthana (Vision of the Government) firmly stipulates solutions to the problem of IDPs. The proposals contained therein led to the establishment of a Resettlement Authority. After the Government took full control of the Eastern Province, resettlement of the IDPs in the Province was expedited. The Government has launched a massive programme to restore normalcy in this area with the assistance of United Nations agencies such as UNHCR, which are fully involved in the voluntary return process. While proactively engaging in the return of IDPs to their homes in the East, the Government is not coercing them to return. In the Sri Lankan culture people are reluctant to leave their homes and those who had left would return at the first opportunity. The settlement of IDPs back in their homes has been a voluntary process and it has been undertaken according to international standards. This has been acknowledged by the international community including the UNHCR and the World Food Programme (WFP). UNHCR staff monitoring the situation on the ground had confirmed that majority of people were eager to return home, the returns are voluntary and in line with international protection standards.

46. With the restoration of peace and order, the main task of the Government is to resettle the IDPs in their place of origin in a dignified manner. After displacement when they are in the welfare centres, they are protected and provided with immediate relief assistance such as food, non-food items etc.

47. The re-settlement process begins when the area is certified as clear of mines by a United Nations Development Programme (UNDP) clarification. In the resettlement process, an identity card has been issued to each displaced person by registering his/her particulars and transport facilities were also provided to travel to the place of origin. Action is being taken to issue dry rations for two weeks, clothing and kitchen utensils for each family. Further action is being taken to clean and reconstruct common places including wells and the places of essential services such as hospitals, schools and highways.

48. The Government has already taken steps to restore the livelihood of IDPs. Fishing gear is being provided to fishermen while agricultural equipment is being provided to farmers. Projects are underway to enhance the private sector participation in the development process. Bank loans are also being arranged through the Bank of Ceylon and the People's Bank. The Government is also making an assessment of damaged houses in order to pay compensation.

49. Immediate attention is being focused on provision of shelters as houses were fully and partly damaged during the conflict. In order to restart their economic life, livelihood assistance of Rs 25,000/= each is being given for the resettled families. Due to the shortage of funds, this coverage is not complete. United Nations agencies and the INGOs complement the livelihood assistance programmes. Similarly education and health needs are being addressed, and the restoration of places of worship is being given priority in order to enable the resettled people to enjoy their religious and cultural rights.

50. The re-settlement process in certain areas has been slow due to LTTE landmines. Only once all the landmines are cleared and the UNDP has certified this, can the re-settlement be completed.

51. The Government has, in partnership with UNHCR, developed a comprehensive strategy on confidence-building and stabilisation measures which will assist in overcoming challenges in the post-return phase in the East and will ensure sustainability of resettlement by restoring confidence amongst and between former displaced and host communities. The focus for the immediate future will be on economic recovery, safety and security, livelihood development and infrastructure. The Government has successfully resettled nearly 120,000 IDPs as of end of 2007 and, with further de-mining of 23 per cent of uncleared land in Batticaloa District, will be able to resettle the remaining IDPs. The drafting of a

comprehensive Bill on the rights of the internally displaced and returnees to supplement and complement other relevant legislation such as the Resettlement Authority Act (2007) is an initiative which has been undertaken by the IDP Unit of the Human Rights Commission of Sri Lanka (HRCSL) with the assistance of the UNHCR under the aegis of the National Protection and Durable Solution for IDPs Project.

52. A manifestation of the Government's success in restoring normalcy in the Eastern Province was the holding of the local government election after 14 years in Batticaloa on 10th March 2008 which witnessed a voter turn out of 57 per cent and was considered free and fair by independent monitors.

Jaffna

53. Food Security in Jaffna is at a satisfactory level and there are ample stocks of essential items. There is no shortage of food or other commodities in Jaffna as the Government has taken every possible step to send essential items to normalise food storage. Since the land routes are sealed off, the Jaffna Peninsula depends entirely on sea transportation where ten ships are in operation in transporting goods as a joint effort by the Government and the private sector. Food distribution is done through Co-operative outlets but over 4000 private traders, who had temporarily stopped their business after LTTE threats are now actively engaged in business. At the time of compiling the present report, Jaffna had a stock of over 2000 metric tonnes of wheat flour, 6887 metric tonnes of rice, 1697 metric tonnes of sugar, 775 metric tonnes of red dhal, 95 metric tonnes of soaps and other laundry products.⁴ There is no shortage of petroleum products in Jaffna. Fuel is freely available. Two ships are carrying petrol, diesel and kerosene to Jaffna. The Government is committed to send pesticides, seed paddy and fertiliser in time to the farmers in Jaffna. Arrangements have also been set up to open a grape wine factory in Jaffna with the help of the UNDP to facilitate these farmers and also to encourage them to continue cultivation.

54. In Puttalam, of around 15,000 families, of Muslim IDPs evicted from Jaffna by the LTTE in 1991, 7885 families will be provided with new houses and assistance to repair the partly damaged houses under a World Bank assisted project. Action is being pursued to provide housing assistance to the remaining families. It is noteworthy that the Muslim community in Sri Lanka has suffered disproportionately due to the conflict. The LTTE was responsible for evicting about 90,000 Muslims from the Jaffna peninsula in 1991 who have not been able to return to their original homes since then.

Consultative Committee on Humanitarian Assistance (CCHA)

55. A decision was made in October 2006, following H.E. the President's meeting with the Ambassadors of the Co-Chair countries, that a CCHA be chaired by Hon. Mahinda Samarasinghe, Minister of Disaster Management and Human Rights and meet once a month to discuss issues concerning humanitarian assistance.

56. The CCHA deals with important policy issues and its membership is limited. Secretaries from the following Ministries are represented: Defence; Foreign Affairs; Nation Building and Estate Infrastructure Development; and Resettlement and Disaster Relief Services. Senior Presidential Advisor, Commissioner General of Essential Services (CGES), and Secretary-General of the Secretariat for Coordinating the Peace Process also attend, as well as the Government Agents/District Secretaries of the areas concerned.

57. The international community is represented by the Heads of Mission of the Co-chair countries, United Nations resident coordinator/humanitarian coordinator/designated official

⁴ See SCOPP (www.peaceinsrilanka.org).

and United Nations country team (UN RC/HC); Representative of UNHCR; Head of the United Nations Office for the Coordination of Humanitarian Affairs (OCHA); European Commission's Humanitarian Aid Office (ECHO) Head of Office; ICRC Head of Delegation, and Consortium of Humanitarian Agencies (CHA). Five sub-committees have been formed under the apex body of the CCHA. These sub-committees are co-chaired by a representative of the Government and a United Nations agency, and address the following areas:

- Logistics and Essential Services (co-chairs: CGES and WFP)
- IDPs, Resettlement and Welfare (co-chairs: Ministry of Resettlement and Disaster Relief Services and UNHCR)
- Livelihoods (co-chairs: Ministry of Fisheries and Aquatic Resources and ILO)
- Education (co-chairs: Ministry of Education and UNICEF)
- Health (co-chairs: Ministry of Health and WHO)

58. The sub-committees meet regularly, discuss and resolve all operational issues that fall within their respective area, and submit a monthly report to the CCHA indicating policy areas that the CCHA needs to address as well as any issues that cannot be implemented by the respective sub-committee.

59. The CCHA has been instrumental in gaining access and providing humanitarian assistance to IDPs in the north and the east of Sri Lanka. It provides a forum for key decisions to be made and implemented as all relevant stakeholders attend the meeting. Moreover, the sub-committees established under the CCHA allow for broader consultation with specialised agencies.

60. Though the National Coordination Meeting on IDPs and the Consultative Committee on Humanitarian Assistance focus on providing assistance to recently displaced persons; both have been used as a platform to lobby for tsunami related activities and long-term development projects.

Mode of operations for all stakeholders involved in humanitarian and development work in Sri Lanka (a committee established under the CCHA)

61. A sixth sub-committee, has been established under the CCHA consisting of Government, donor, United Nations and INGO representatives was convened in order to agree on and draft the terms of reference [highlighting the scope, and laying the framework] for the development of a Mode of Operations for all stakeholders involved in humanitarian and development work in Sri Lanka. The Mode of Operations is currently being drafted.

Citizenship Act, Tamils of Indian origin living in Sri Lanka

62. The Government, considering that it was in the national interest to conclusively resolve the problem of citizenship for the residue of persons of Indian origin not covered by the bilateral agreements between Sri Lanka and India, enacted legislation in 2003 (*Grant of Citizenship to Persons of Indian Origin (Amendment) Act No. 35 of 2003*) whereby every person who had been a permanent resident of Sri Lanka since October 30, 1964 or was a descendent resident of Sri Lanka since October 30, 1964 was granted the status of a citizen of Sri Lanka with effect from the date of coming into operation of that legislation and was guaranteed economic, social and cultural rights and privileges to which a citizen of Sri Lanka is entitled by law. Thus the Government ensured that there would be absolutely no discrimination and that they would have the same rights, privileges, and entitlements to which a citizen was entitled.

Disparities between statutory law and customary law, children born out of wedlock, and minimum age of marriage

63. The Government of Sri Lanka takes note of the serious concern expressed by the Committee about the existence of disparities between statutory law and customary law.

64. Sri Lanka has been subject to centuries of Portuguese, Dutch and British domination. The legal system of Sri Lanka has over the years developed into a rich, varied complex system comprising a mixture of Roman Dutch law which is the Common Law, the English Law which applies in commercial matters, and personal laws namely Muslim Law, Kandyan Law, and Thesavalamai Law (applicable to Jaffna Tamil community). The basis of Criminal Law and procedure is the English Law included in statutory provisions; Sri Lanka has an adversarial system of justice. The Attorney-General is the principal law officer of the State. *Sir Richard Ottley*, in 1830 answering a question addressed to him by a Royal Commission of Inquiry said that “*the laws, in the Island are multifarious*”. In *Casim v. Dingihamy* (1906) 9 NLR at p. 274, Middleton PJ, it was mentioned that “*Ceylon is a polygenous country with diverse systems of law*”. In any such legal system there are bound to be some disparities in the interplay of different legal principles and values.

65. In 1997, the Government introduced legislation to the effect that no marriage will be valid unless both parties to the marriage have completed 18 years of age. However, the provision regarding consent to the marriage of a minor was not changed. Courts have interpreted the law to effect an absolute prohibition on the marriage of any person who has not completed the age of 18 years. The National Child Protection Authority (NCPA) forwards complaints regarding under age marriages to the Registrar General aimed at taking action against Registrars of marriage who solemnize such marriage. The Registrar General has issued a circular to all Registrars of Marriages to check the intended partners’ identity cards or birth certificates to ascertain the age (Age of Majority (Amendment) Act No. 17 of 1989). Thus no person under the age of 18 years can contract a legal marriage even with the consent of the parents or guardians. This has given rise to some social problems since there are instances where girls and boys under the age of 18 have sexual intercourse with the consent of both parties, sometimes resulting in pregnancy.

66. Sri Lankan law decrees that a man who has sexual intercourse with a woman with or without her consent when she is under 16 years of age commits rape, unless the woman is his wife who is over 12 years of age and is not judicially separated from him. The reference to 12 years here is a result of the Muslim Customary Law which allows a woman of 12 years to contract a legal marriage.

67. Under the Muslim Marriage and Divorce Act, which is a codification of customary Muslim laws and practices, it is not necessary to obtain in writing the consent of a Muslim bride.

68. Therefore though the law conforms to international standards regarding the minimum age for marriage except in the case of Muslims, there are attendant problems that call for considered action and resolution, while taking into account the sensitivities of particular ethnic or religious groups.

69. The Sri Lankan legal system has long recognized the equality of married women being able to enjoy the status of an equal partner (*femme sole*) in terms of full rights relating to ownership of property independent of their spouses and also independent capacity to contract. Non-discrimination on the grounds of sex is a seminal principle underlying the *corpus* of human rights law in Sri Lanka. In the area of inheritance, some discrimination against women still exists in certain personal laws, entrenched in the customs, traditions and culture of the various ethnic groups of Sri Lanka. Several initiatives taken by the Government to create awareness on the subject as a prelude to changing the personal law has met with resistance from those very ethnic groups.

Anti-discrimination mechanisms in the area of employment with regard to women and minority groups

70. The Constitution embodies provisions on equality and non-discrimination in article 12 which further states that nothing in this article shall prevent special provisions being made by law, subordinate legislation or executive action for the advancement of women, children or disabled persons.

71. In order to give a justifiable safeguard against gender discrimination, article 12 (2) of the Constitution provides that “no citizen shall be discriminated against on grounds of race, religion, language, caste, sex, political opinion, place of birth or any such grounds”. Further, article 12 (3) by stating “no person shall, on the grounds of race, religion, language, caste, sex or any one of such grounds, be subject to any disability, liability, restriction or condition with regard to access to shops, public restaurants, hotels, places of public entertainment and places of public worship of his own religion”, seeks to extend the protection against gender discrimination to the realm of acts done by private individuals. These provisions are reinforced by the Directive Principles of State Policy and Fundamental Duties, which enunciate the duty of the state to ensure the equality of opportunity to citizens regardless of race, religion, language, caste, sex and political opinion.

72. Male and female employees of the private sector establishments are equally covered by the labour laws in Sri Lanka. There is an implied commitment on the part of the employers and the society at large to ensure fair treatment to women in the field of employment. Although there are no specific provisions under the labour laws mainly focusing on discrimination against women, special protections are afforded to women on employment conditions, and safety and health. Employment of Females in Mines Ordinance No. 13 of 1937 prohibits employment of women on underground work; the Factories Ordinance No. 45 of 1942, Employment of Women Young Persons and Children’s Act No. 47 of 1956 and the Shop and Office Employees (Regulation of Employment and a Remuneration) Act No. 19 of 1954 restrict employment of women on excessive over time work and night work. The Maternity Benefits Ordinance No. 32 of 1939 provides for the payment of Maternity Benefits and protection for other matters incidental to the employment of women before and after their confinement. Any dispute arising out of discrimination could be brought to the notice of the Commissioner of Labour in order to settle by way of conciliation or arbitration under the Industrial Disputes Act No. 43 of 1950.

73. The National Human Rights Commission is vested with powers to conduct inquiries and investigations in relation to fundamental rights. An aggrieved party can make complaints to the National Human Rights Commission against discrimination in employment in the public sector. It is observed that the Commission’s recommendations on women and minority groups have been implemented by the State authorities. As sexual harassment is an aspect of discrimination, the Commission has introduced ‘Sexual Harassment Policy: Guidelines for State Sector Institutions.’ These Guidelines recommend that all State sector institutions adopt a policy of eradicating sexual harassment in the workplace and provide remedies to victims.

Implementation of laws in respect of children

74. The Government of Sri Lanka has taken several measures to combat the problem of exploitation and abuse of children. Sequel to the ratification of International Labour Organization (ILO) Convention 138 (1973) on Minimum Age for Admission to Employment on 11 February 2000, the Employment of Women Young Persons and Children’s Act No. 47 of 1956, and the Minimum Wage (Indian Labour) Ordinance No. 27 of 1927 were amended imposing a total prohibition of employment of children under the

age of 14 years. The penal provisions of the Employment of Women Young Persons and Children's Act No. 47 of 1956 were amended by its Amendment Act No. 08 of 2003 enhancing the maximum limits of the fines from Rs. 1,000 to Rs. 10,000, and maximum imprisonment period from six months to twelve months. Additional provisions have been made under each section to enable the judiciary to order compensation for the child victim. One important feature of these provisions is that, the judiciary is empowered to assess the compensation at its discretion and on the merit of the case.

75. In 1995, the Government enacted legislation incorporating several new offences relating to the abuse of children. Thus the Government incorporated the offences of obscene publications, exploitation of children, cruelty to children, procurement, sexual exploitation of children and trafficking.

76. In 1998, the Government further expanded the offence of obscene publications relating to children to provide that a developer of photographs or films who discovers any indecent or obscene photograph or film of a child has a duty to inform the police. Failure to do so would attract a heavy penalty.

77. In 1998, Government enacted legislation creating the offences of causing or procuring children to beg, hiring or employing children to trafficking in restricted articles.

78. In 2006, the Government enacted legislation further enlarging the scope and ambit of the offences relating to children thus:

(a) A person who provides a service by use of computer was required to take all necessary measures to prevent such computer being used for the commission of an act constituting the sexual abuse of a child;

(b) A person who has the charge, care, control or possession of any premises and who has knowledge that such premises is being used for the commission of an act constituting the abuse of a child was required to inform the officer in charge of the nearest police station of such fact;

(c) The recruiting of a child for use in armed conflict was prohibited;

(d) The scope and ambit of acts which constitute offences relating to adoption was enlarged;

(e) Soliciting a child was made an offence.

Violation of the law carried with it stringent punishment

79. The 2006 legislation also awards compensation to victims for the psychological or mental trauma in addition to the penalties attaching to such offences (Penal Code (Amendment) Acts, Nos. 22 of 1995, 29 of 1998 and 16 of 2006).

80. In January 2008, a free child helpline called Child Helpline Sri Lanka was established by the Ministry of Child Development and Women's Empowerment – a nationwide effort to prevent and protect children from abuse, as advertised widely in print and other media. Anyone can access this helpline by calling the free phone number 1929.

81. The Ministry of Child Development and Women's Empowerment has established a National Child Development Fund in 2007. Any deserving child from any part of the country can obtain financial assistance/educational scholarship from this Fund up to General Certificate of Education (Advanced /Level).

82. The Ministry has also established a Task Force on Children Affected by the Armed Conflict for the purpose of focusing on both the monitoring and reporting of incidents in relation to children affected by conflict. Other than the Ministry, the NCPA, Department of Probation and Child Care Services, Police Department (Women's and Children's Bureau),

Secretariat for Coordinating the Peace Process (SCOPP), National Human Rights Commission, the United Nations Children's Fund (UNICEF) and some other experts are members of this Task Force.

83. The institutional framework in investigating, addressing and monitoring of worst forms of child labour constitute:

- The National Child Protection Authority (NCPA)
- The Department of Labour
- The Department of Police
- The Department of Probation and Child Care Services

84. The relevant authorities have taken steps to obtain recent data from a Child Activity survey conducted in 1999 which revealed that around 19,000 children were employed as child domestic workers. Awareness programmes are being carried out by the NCPA to strengthen legal enforcement of the child labour laws. For obvious reasons it is difficult to obtain reliable data on child prostitution. However, the figures mentioned by the Committee on ESCR appear exaggerated and unfounded.

The National Child Protection Authority (NCPA)

85. The Government established the National Child Protection Authority in 1998 by the National Child Protection Authority Act, No. 50 of 1998 as a response to growing concerns regarding the escalation of child abuse cases and in recognition of the need to provide a central authority to deal with the problem. Included in the functions of the Authority is the duty to advise the Government in the formulation of a national policy on the prevention of child abuse and the protection and treatment of children who are victims of such abuse. The Authority also has an obligation to create awareness on the rights of the child to be protected from abuse and on the methods of preventing child abuse. Its mandate empowers it, inter alia:

(a) To recommend all measures necessary for the purpose of preventing child abuse and for protecting and safeguarding the interest of victims of such abuse in consultation with relevant Provisional and local authorities and with Government officials at regional and district levels as well as public and private organizations;

(b) To recommend measures to address the humanitarian concerns relating to children affected by armed conflict and the protection of such children including measures for their mental and physical well being and their reintegration into society;

(c) To supervise and monitor all religious and charitable institutions which provide child care services to children, in consultation with the relevant Ministries and other authorities;

(d) To take measures in order to minimize the opportunities for child abuse in consultation with all actors in the tourism sector.

86. The members of the Authority include Senior Psychiatrists, Senior Pediatrician, Medical Practitioners engaged in the field of forensic medicine, Senior Psychologist and senior officer of the Attorney General's Department, Department of Police and other persons who have wide experience and recognition in law, child welfare, education or any related field. The Commissioner of Probation and Child Care, the Commissioner of Labour, the Chairperson of the National Committee established by the Children's Charter on the Rights of the Child for the purpose of implementing the provisions of that Charter, serve on the Board as ex-officio members.

87. The Authority has wide powers to authorize its officers to enter and search premises including any institution by which child care services are provided, and any hospital or maternity home where the Authority has any reason to believe that illegal adoption are being facilitated. The authorized officer may also examine books, registers or records maintained by such institution, hospital or maternity home and make extracts or copies there from and interrogate any person in any such premises. Stringent punishments are provided for obstructing or resisting such officers. The authorized officers also have the power to seize any article by means of or in relation to which the offence has been committed and to seize books, registered records or other documents which in his opinion may constitute evidence in relation to the prosecution of any person for any such offence.

88. The NCPA enlightens the police on issues relating to child abuse, and educates children on the laws of the country, especially on laws pertaining to child protection and child rights through the establishment of child protection committee in schools.

89. The Authority also conducts awareness programmes on child labour. Training programmes are conducted to develop the skills of the officials dealing with the victims of child labour, i.e. the Police, Labour and Probation and Child Care Services.

90. Public awareness programmes are also conducted to sensitize the general public and to instill in them the need to provide information on child labour.

91. A cyber surveillance unit was set up to monitor activities on the internet relating to the sexual exploitation of children. Awareness programmes are conducted for children on safe cyber surfing, and skills development programmes are conducted for police officers on new legal amendments on cyber related crime.

92. The NCPA is a member of the Committee chaired by Commissioner General of Rehabilitation established for rehabilitation and reintegration of children who have been used as child soldiers and who have voluntarily surrendered. That Committee has formulated a National Policy which will be submitted to the Cabinet of Ministers for approval.

The Department of Labour

93. The Department of Labour is the Government body dealing with all matters pertaining to child labour. The Department of Labour has also taken measures to strengthen the enforcement of the Employment of Women, Young Persons, and Children's Act by making the officers of the Probation and Child Care Services as authorized officers under that Act. The Department has a network of 12 Zonal offices, 37 district offices and 18 sub-offices all over the country including in un-cleared areas⁵ in the North. It has an inspectorate of around 400 persons who visits workplaces on inspections as routine visits or on complaints to ensure compliance with labour laws including laws pertaining to child labour. The persons violating the provisions of the labour laws are subject to prosecution. The Department of Labour also carries out programmes for creating awareness among the school children, general public and other stakeholders using different methodology such as in-house educational programmes, seminars, workshops, different competitions, development of posters, educational films, the use of mass media and printed material.

94. A separate division, namely, Women and Children's Affairs Division, has been set up in the Department of Labour to deal with employment of women and children. The division functions as the focal point of the International Programme on the Elimination of Child Labour (IPEC) of the ILO. The IPEC implements programmes for elimination of

⁵ Areas where LTTE dominates.

child labour with the assistance of the stakeholders. The activities of the IPEC are monitored by a committee of stakeholders chaired by the Secretary, Ministry of Labour Relations and Manpower of which the Department of Labour functions as the implementation arm.

The Police Department

95. Please see the official website of the Sri Lanka Police Service — www.police.lk — for a comprehensive introduction to the activities of the Sri Lanka Police, including its history, organizational chart, crime statistics, and information on its Human Rights Division, Women and Child Bureau etc.

96. The Sri Lanka Police has placed great emphasis in recent years on striving to enhance capacity building and the professionalism of the Service. The importance of Policing in any Peace Process is widely acknowledged.

97. Swedish Assistance was sought and a programme to enhance capacity in civilian policing, crime scene investigation and related areas was initiated in 2005. Training in human rights and professionalism is given high priority. Another important area of focus is Community Policing and training in aspects of community policing has been undertaken in the United Kingdom.

98. In January 2008, a newly built child-friendly District Head Office for the Children and Women's Bureau in Anuradhapura was handed over to the Police. It will become the coordinating head office of the Children and Women Desks of 23 police stations in the District. It was built with NGO assistance involving all stake-holders.

Childcare services

99. The Department of Probation and Child Care Services is responsible for childcare and protection. The Department deals with all cases requiring the care and protection of victims and child offenders. Officers of this Department assist the officers of the Department of Labour for investigating the complaints on child labour.

100. The Government has also appointed a Commissioner General of Rehabilitation who is in charge of the rehabilitation of child surrendeers (children who had been recruited for armed conflict and who have voluntarily surrendered). A rehabilitation centre has been set up with educational and all other facilities necessary to prepare the children for reintegration into society. New regulations are presently being drafted incorporating child friendly procedures for the care, rehabilitation and reintegration of child surrendeers.

101. In 2005, the Government also enacted the Prevention of Domestic Violence Act whereby an aggrieved person can obtain a Protection Order by application made to Magistrate's Court. The Act also makes provision for obtaining an interim Protection Order until the conclusion of the inquiry into the application. An aggrieved person is a person in respect of whom an act of domestic violence has been, is, or is likely to be committed. Domestic Violence has been defined to mean an act, which constitutes an offence, specified in Schedule 1 to the Act as well as any emotional abuse. Where a child is the aggrieved person the application can be made on behalf of such child by:

- (a) A parent or guardian of such child;
- (b) A person with whom the child resides;
- (c) A person authorized in writing by the NCPA. (Prevention of Domestic Violence Act, No. 34 of 2005).

Sexual exploitation of Sri Lankan children by foreign tourists

102. The Government of Sri Lanka has a number of laws on child protection and the prevention of child abuse, including having ratified the Convention on the Rights of the Child in 1991. In 2006 the Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was ratified and the ILO Convention No. 182 (1999) on the Worst Forms of Child Labour was ratified in 2002 (additional information is provided in paragraphs 58–67 above).

103. The law prohibits the use of children in exploitative labour or illegal activities. The penalties for sexual exploitation and child trafficking range from an unspecified fine to 5–20 years of imprisonment. Procurers and those who knowingly allow a child to be abused on their premises also face the same sentences as those directly abusing a child. The NCPA also operates a Cyber Surveillance Unit, which contains a database of suspected sex offenders. The Tourism Ministry is conducting a special awareness campaign in this regard and also mobilizes its Tourism Police Units to counter such illegal activities.

Negative impact of migration by women workers on their children

104. As Sri Lanka is concerned with the welfare of its expatriates, Sri Lanka ratified the Convention on the Protection of Rights of All Migrant Workers and Members of their Families (CMW) on 11 March 1996.

105. While the Government is concerned about the plight of some migrant women who work abroad as domestic helpers and their exploitation, it is important to recognize that migrant remittances would have contributed substantially to family incomes and improvements in living standards.

106. In the pre-departure training programmes conducted by the Ministry of Foreign Employment Promotion and Welfare for the prospective women migrant workers, a session was introduced to discuss the family security, including the protection of children and their education etc. while the mother is abroad, to emphasize on the importance of ensuring the well-being of children, well before the mother's departure. The Ministry also provides guidance for obtaining different services needed for the children of migrant workers through specially trained officers at village level. Providing scholarships and school material for the children of migrant workers have also been implemented as regular programmes.

107. A study was conducted by the Human Rights Commission in 2005/2006 which made several recommendations to the Sri Lanka Bureau of Foreign Employment (SLBFE) for implementation. The Cabinet of Ministers adopted a decision in 2006 to discourage mothers with children below five years from proceeding abroad as migrant workers. However this met with strong objections from human rights activists. The SLBFE is conducting awareness programmes in this regard.

Suicide among youth

108. The Government of Sri Lanka takes note of the concern expressed by the Committee on suicide among youth. In this regard, the Government through the Presidential Task Force issued a series of recommendations in 1996⁶ to address the problem. Some 450 Samurdhi Officers drawn from all parts of the country too were trained to fulfill this objective.

⁶ See annex III.

Drug and alcohol dependence

109. The Police Narcotics Bureau (PNB) being the principal agency in representing Sri Lanka Police to combat the drug problem of the country has been very successful in its performance throughout 2006.

110. The PNB has adopted a three way method as its strategy to combat the drug problem namely prevention, detection and prosecution. To achieve its goal with success it conducted drug law enforcement training programmes at police stations island-wide. Simultaneously, the PNB also conducts awareness programmes on the drug menace for citizens at various levels. The public is now fully enlightened on the negative effects of drug trafficking and drug addiction and are also supportive than ever before in providing information to the Police for easy detection.

111. The National Dangerous Drugs Control Board (NDDCB) which is a policy based organization that acts in an advisory manner to the Government on drug law enforcement, associates very closely with the PNB providing advice, resources and other requirements. The 'Mathata Thitha', the anti-drug programme launched by H.E. Mahinda Rajapaksa, President of Sri Lanka, has proven to be successful.

112. The existing legislative framework on drug law enforcement was enhanced in 2006 providing vital assistance to disrupt the networks of drug traffickers through the new law on prevention of money laundering (Prevention of Money Laundering Act, 2006). The law enforcement agencies in the year 2006 were able to arrest 12551 offenders in 11656 cases having seized 65 Kg, 002 Gm, 980 Mg of Heroin and arrests of 34728 offenders in 32886 cases having seized 18219 Kg, 455 Gm, 572 Mg of Cannabis. There has been a significant increase of detections in the year 2006 over the previous year.

113. Due to the stepping up of operations initiated by the PNB with the assistance of the other agencies, drug trafficking has been curtailed with the availability of Heroin in particular, having dropped by 50 per cent at street level.

114. In 2006, it was again demonstrated that the LTTE has been engaged in drug trafficking to raise funds for their criminal and terrorist activities.

Poverty reduction measures

115. A number of poverty alleviation and social welfare programmes have been implemented by the Government of Sri Lanka aiming at reducing poverty in the country. The Government of Sri Lanka has prepared a Poverty Reduction and Growth Strategy in May 2005.

116. Sri Lanka articulated a poverty reduction strategy in 2003, which focused on restoring peace and economic growth in the country. Its main pillars are:

- (a) Strengthening the economy;
- (b) Reducing poverty caused by conflict;
- (c) Creating opportunities for the poor to participate in economic growth;
- (d) Investing in people;
- (e) Empowering the poor and strengthening governance;
- (f) Implementing an effective monitoring and evaluation system.

117. The Government has also been working since early 2006 on a National Development Strategy (NDS), now referred to as the Ten Year Horizon Development Framework (DF) 2006-16. The DF is expected to translate into strategic and programmatic terms the vision of the President of Sri Lanka H.E. Mahinda Rajapaksa — spelled — out in

the Mahinda Chintana (Policy Vision). Mahinda Chintana stresses poverty reduction as one of the policy goals to be achieved through action in sectors like agriculture, industrial development, education, health and others. It recognizes the reduction of poverty as a goal that is intricately linked to the establishment of peace. The DF attempts to translate this vision into priorities and targets.

118. Progress towards Millennium Development Goals (MDG) targets in terms of selected indicators is summarized in annex IV and a brief overview of the status of achievement of Sri Lanka with respect to each goal is given below:

(a) The first Goal is poverty eradication. While all MDG goals are inter related, a main determinant of other MDGs is poverty. Poverty permeates all sectors and holds back progress. There are two targets set for this Goal. Target 1 is to halve, between 1990 and 2015, the proportion of people below the poverty line. For international comparison, the poverty line is set at 1 US \$ a day. However, the national government also sets official poverty lines. The proportion of population whose income is less than the national poverty threshold is known as the poverty headcount ratio figures of which are provided below:

(i) According to the latest Household Income and Expenditure Survey (HIES) conducted by the Department of Census and Statistics, the average monthly household income in Sri Lanka in 2006/2007 was Rs. 26,286. The HIES 2006/2007 recorded that housing stock and access to utilities, such as electricity, gas, telephones, safe water and sanitation had improved further and that the poverty head count had declined from 23 per cent to 15 per cent of the population since 2002.

(ii) The HIES 2006/2007 reveals that poverty headcount ratios in most districts had declined to 15 per cent or lower, but in the 4 districts in the Uva and Sabaragamuwa Provinces and the Nuwara Eliya district, the headcount ratios were 20 per cent–34 per cent, indicating pockets of deprivation, particularly in landlocked, mountainous, less accessible regions. This has been brought to the attention of policy makers for better policy implementation.

(b) Halving, between 1990 and 2015, the proportion of people who suffer from hunger is the second target of Goal 1. Prevalence of underweight in children under five years of age is the indicator for monitoring progress. The percentage of the underweight population has declined from 37.7 per cent in 1993 to 29.4 per cent in 2000. Continuation of this trend will result in a rate of just under 12 per cent by 2015 which is considerably lower than the target 19 per cent and is therefore well on track to reach this target;

(c) Goal 2 of the Millennium Declaration is to achieve universal primary education. The target set for this goal is to ensure that, by 2015, children everywhere, boys and girls alike will be able to complete a full course of primary schooling. Achieving universal education is also a strategy to reduce poverty and expand the options available to both girls and boys. Four indicators are used to track progress: net enrolment ratio in primary education, proportion of pupils starting grade 1 who reach grade 5, primary completion rate and literacy rate of 15-24 year olds. Sri Lanka has already made much progress in terms of all these indicators. Net primary school enrolment ratio for both boys and girls is over 95 per cent, and the proportion reaching grade 5 has exceeded 95 per cent, and the literacy rate for 15 to 24 year olds is over 95 per cent for both males and females. Sri Lanka is on track to reaching universal primary education well in advance of 2015;

(d) Promoting gender equality and empowering women is the third Millennium Development Goal. The target for this goal is to eliminate gender disparity in primary and secondary education preferably by 2005 and in all levels of education no later than 2015. Two indicators related to education for monitoring progress of Goal 3 are ratio of girls to boys in primary school, secondary and tertiary education and ratio of literate women to men 15-24 years old. Access to education and the ability to read and write are the essence of

empowerment. Sri Lanka has already eliminated gender disparity in both primary and junior secondary education, the parity index being nearly 100 per cent in 2002. In senior secondary and tertiary levels share of women is even higher than that of boys. There is no disparity in literacy between men and women, the parity being 100.9 per cent as far back as 2001;

(e) Goals 4 and 5 are to reduce child mortality and maternal mortality respectively. The targets are to reduce the under-five mortality rate by two-thirds and the maternal mortality rate by three quarters. The indicators for child mortality are the infant mortality rate, the under-five mortality rate and the measles immunization coverage. The indicators for maternal mortality are the maternal mortality rate and the percentage of births attended by skilled health personnel. Child mortality and maternal mortality in Sri Lanka have recorded considerable reductions to levels which are the lowest among South Asian countries, and comparable to those obtained in some developed countries. Immunization coverage has reached over 80 per cent. About 96 per cent of births occur in health institutions and are attended by skilled personnel. The country continues to make progress in reducing child mortality and improving maternal health. The current trends indicate that Sri Lanka is on track to achieving child and maternal mortality goals.

(f) The sixth goal of the Millennium Declaration is combating HIV/AIDS, malaria and other diseases. Two targets are set. One is to have halted and begun to reverse the spread of HIV/AIDS by 2015. One of the proxy indicators used for this goal and for which data are available is the contraceptive prevalence rate for women 15–49 years of age. By the year 2000, the contraceptive prevalence rate in Sri Lanka had risen to 70 per cent from a level of 66 per cent in 1993;

(g) Ensuring environmental sustainability is the seventh Goal. One target of this goal is to integrate the principles of sustainable development into national policies and programmes and reverse the loss of environmental resources. While there are several indicators for this target, one for which data are available in Sri Lanka is the proportion of population using solid fuels. A very high percentage (80 per cent) of the population in Sri Lanka still uses solid fuels. According to the data available for 2001, use of solid fuels is significantly higher in rural (86 per cent) and estate areas (96 per cent) compared to urban areas (35 per cent);

(h) The second target of this goal is to halve, by 2015, the proportion of people without access to safe drinking water and basic sanitation. The two indicators for monitoring progress are the population with sustainable access to an improved water source, urban and rural and the proportion of urban and rural population with improved sanitation. A considerably high percentage of households in Sri Lanka have access to a source of safe drinking water. According to the Census of Population and Housing, 2001, 82 per cent of the households in Sri Lanka have access to a safe source of drinking water. According to the same source of data, about 66 per cent of the households have access to improved sanitation and further actions need to be taken to improve the situation. There are significant differences between urban and rural areas;

(i) The final goal of the Millennium Declaration is developing a global partnership for development. Seven targets are set under this goal with 17 indicators. Data are available for this report for three of them: unemployment rate, personal computers in use per 100 population and Internet users per 100 population. The unemployment rate has been brought down from 32 per cent in 1996 to 28 per cent in 2002⁷ and has been declining

⁷ Millennium Development Goals in Sri Lanka: A Statistical Review – 2006, Department of Census and Statistics, Sri Lanka.

further. According to a study conducted in 2004, there are computers in use in only 3.8 per cent of households. Internet use is also very low and according to the same study only 2.8 per cent of the people use Internet.

119. The MDGs now constitute a central focus of national development. The country is potentially on track on most of the indicators described here. Among the key achievements are access to safe drinking water, equitable primary education, literacy, child and maternal health. A significant achievement is that there is no gender disparity in these achievements. However, there remain considerable challenges, particularly in meeting regional disparities.

Promoting awareness among women of their human rights

120. The Women's Bureau of Ministry of Child Development and Women's Empowerment and the Human Rights Commission conduct numerous awareness programmes through seminars and workshops to empower women on their rights.

Right to strike and restrictions on the right to form trade unions

121. The right to freedom of assembly is ensured under article 14 (1) (b) of the Constitution of Sri Lanka, which states that every citizen is entitled to the freedom of peaceful assembly. It further stipulates that the restrictions under this right must be prescribed by law in the interest of racial and religious harmony [art. 15 (3)], national security, public order etc [art. 15 (7)].

122. The beginning of a working class movement in Sri Lanka could be traced to the 1890s; the first collective action was reported in 1893. In the course of time, a strong tradition of trade unionism evolved in the country – a tradition which is inextricably linked with the significant role played by trade unions in the independence movement of Sri Lanka.

123. During the early 20th Century, the Ceylon Workers' Welfare League and the Ceylon National Congress adopted resolutions which demanded, inter-alia, the grant of the right of association to workers; the fixing and regulation of minimum wages and hours of work; the abolition of child labour; and the ensuring of good working and living conditions. Some of the earliest trade unions were formed between 1923 and 1928. The All Ceylon Trade Union Congress was established in 1928. From around 1923 onwards, the left-wing socialist parties entered the political arena and espoused the cause of workers' rights.

124. The above developments culminated in the enactment of several important labour laws which included the Trade Union Ordinance of 1935 that gave recognition to the rights of the workers to join and form a trade union of their choice. This was followed by a series of labour legislation: the Workmen's Compensation Ordinance of 1935 which provided for the payment of compensation to workmen who sustained physical injuries in the course of employment; the Employment of Females in Mines Ordinance of 1937; the Employment of Women and Young Persons Act of 1956; the Maternity Benefits Ordinance of 1939 which made it compulsory for employers to make payments by way of cash benefits and leave benefits to women workers during confinement and to ensure the safety and health of the mother and child before and after confinement; the Wages Board Ordinance of 1941 which provided for the regulation of terms and conditions of employees and stipulation of minimum wages; the Shop and Office Employees (Regulation of Employment and Remuneration) Act of 1954; the Factories Ordinance of 1942 which provided for ensuring the safety and health of workers employed in the factories.

125. The Industrial Disputes Act of 1950 was landmark legislation with regard to the promotion of labour relations and industrial peace in the country. This Act provided for the prevention, investigation, settlement of industrial disputes, and promotion of collective bargaining with a view to maintaining a better employee- employer relationship. The

efficacy of this legislation was enhanced by an amendment brought about in 1999. This amendment sought to protect employees from being victimised by employers for their trade union activities.

126. Sri Lanka is also a party to two fundamental Conventions of the ILO, namely the Convention on Right to Organise and Collective Bargaining No. 98 (1949) and the Convention on Freedom of Association and Protection of Right to Organise No. 87 (1948). Sri Lanka ratified these instruments on 13 December 1972 and 15 November 1995 respectively.

127. The First Republican Constitution of Sri Lanka (1972) incorporated a chapter on fundamental rights and freedoms, which enabled trade unions to function effectively. Under article 18 {(1) (f) and (g)} of the 1972 Constitution, all citizens have the right to freedom of peaceful assembly and of association, and every citizen has the right to freedom of speech and expression, including publication.

128. The Freedom of Association and the freedom to form and join a union are basic rights enshrined in the Second Republican Constitution of 1978. Article 14{(1) (c) and (d)} guarantees freedom of association and the right to form and join a TU to every citizen of Sri Lanka. However, under Article 15 freedom of association can be restricted by law in the interest of racial and religious harmony, and in the interest of national security.

129. The Courts of Sri Lanka have not been hesitant to uphold the constitutional right to freedom of association. In the case of *K. A. D. A. Goonaratne v. Peoples' Bank*, a case instituted under the 1972 Constitution, the Supreme Court held that a restriction by the employer that an employee should resign from the membership of a particular trade union before being eligible for promotion and that he should not hold membership of such trade unions while holding a post in a particular grade was obnoxious to the fundamental right to the freedom of association guaranteed by the Constitution. The Supreme Court made the following observations in regard to the right of membership of a trade union:

“The right of all employees (except a few prescribed categories) to voluntarily form unions is part of the law of this land. It exists both in the Constitution and in statute form. No employer can take away this statutory right by imposing a term to the contrary in a contract of employment. But of course where the State considers a restriction of this right is necessary for good cause; it is enabled to do so by Section 18 (2) of the 1972 Constitution. Such a restriction can be imposed only by law and only for grounds set out in Section 18 (2) and no other.”

130. The Supreme Court interpreting the provisions which guarantee the freedom of association under the present Constitution has defined it as an “indispensable means of preserving liberties concerned with a wide variety of political, social, economic, educational, religious and cultural ends”. Further, Judge M.D.H. Fernando in *Bandara v. Premachandra*, stated “Article 14(1)(c) is of general application to all forms of associations, including trade unions; and not only to the initial act of forming or joining an association, but to continuing membership and participation in the lawful activities of the association”.

131. The Trade Union Ordinance No. 14 of 1935 (as amended) defines a Trade Union as any association or combination of workmen or employers, whether temporary or permanent, having among its objects one or more of the following objects:

- The regulation of relations between workmen and employers or between workmen and workmen or between employers
- The imposing of restrictive conditions on the conduct of any trade or business
- The representation of either workmen or employers in trade disputes or

- The promotion or organization or financing of strikes or lockouts in any trade or industry or the provision of pay or other benefits for its members during a strike or lockout, and includes any federation of two or more trade unions

132. A workman is defined very widely in the Ordinance as a person who has entered into or works under a contract with an employer in any capacity whether the contract is expressed or implied, oral or in writing and whether it is a contract of service or apprenticeship or a contract personally to execute any work or labour and includes any person ordinarily employed under such contract, whether such person is or is not in employment at any particular time. The Ordinance also contains provisions intended to create a legal environment for trade unions to function freely in the attainment of their objectives.

133. The Ordinance however precludes judicial officers, members of the armed forces, police officers, prison officers and members of the Agricultural Corps established under the Agricultural Corps Ordinance from forming trade unions.

134. As indicated earlier, the Labour Laws of Sri Lanka apply in their entirety to the whole of the island. Thus, the Export Processing Zones (EPZ) are not excluded, and there is no legislation preventing the workers in the zones from being members of a trade union. However, the unionisation rate is very low. This is not an outcome attributed to the prevention of workers from joining trade unions, but to other factors such as the predominance of female employees (around 80 per cent) working in the Zones and their reluctance to join trade unions and the inability of the trade unions to penetrate into these areas. However, there are instances where some of the EPZ workers have joined trade unions and other worker organizations operating outside the Zones.

135. In the EPZ the option the workers have for trade unions is the Employees' Councils (EC). Currently around 125 Employees' Councils are functioning in EPZs. Each EC comprises 5–15 elected workers. The Department of Labour conducts elections for the ECs. The Board of Investment (BOI) officials constantly monitor the activities of the ECs. The main tasks of the ECs are grievance handling and worker welfare. When disputes occur and the management fails to resolve it, attempts are made by the BOI officials to bring about an amicable settlement. The prevailing consultative process between the workers, the management and the BOI has proved to be very effective.

136. In the event the management and the workers find it difficult to settle a dispute amicably, the dispute would be referred to the Department of Labour in terms of the Industrial Disputes Act to settle by way of conciliation or arbitration. With regard to termination of employment of workers, the workers could make an application direct to the Labour Tribunals seeking redress. The Department of Labour has also set up offices within the main EPZs to facilitate prevention and settlement of disputes by way of mediation.

137. The ILO has recognized the coexistence of trade unions and ECs in workplaces, and the right for ECs to enter into "collective bargaining" with the management when the trade union does not have a membership of 40 per cent of the workers in the workplace on behalf of whom the trade union wishes to bargain.

Issue of determining minimum wages

138. The minimum wages of Sri Lanka are determined by the Wages Boards established under the Wages Boards Ordinance No. 27 of 1941. The Wages Boards functions on a tripartite basis with representatives nominated by the Minister in-charge of the subject of Labour and representatives of workers and employers organizations. The Wages Boards determine minimum wages and other terms and conditions of employment of different trades. Currently, 43 Wages Boards are functioning. Also action is being taken to establish new wages boards for different trades.

139. Except the Wages Boards of two trades, namely, the Hotel trade and the Wholesale and Retail trade in all other trades the minimum wages law apply irrespective of the size of the workplace.

140. However, wider coverage is given under this law within definition of the term “trade” where trade has been defined as follows.

Section 64: “Trade includes any industry, business, undertaking, occupation, profession, or calling carried out , performed or exercised by an employer or worker and any branch of , or any function or process in any trade.”

141. The trade as defined in the section includes the trade of the employer and that of the worker. Accordingly, the Wages Boards Ordinance is wide enough to cover not only the employer’s trade but also the worker’s trade. Hence there is a wide coverage of workers under the wages boards.

142. Besides, a large number of employees are covered by the Shop and Office (Regulation of employment and Remuneration) Act No. 19 of 1954 where contract of employment between the employer and employee is mandatory and thereby payment of salaries that are prevalent in the labour market is ensured.

Distinction between “citizens” and “non-citizens”

142. Article 12 (1) of the Constitution provides that all persons are equal before the law and are entitled to equal protection under the law. The Supreme Court has interpreted this Article to mean that all persons situated in similar circumstances be treated in a like manner while allowing for inequalities and disabilities whether natural, social or economic to be taken into account in the interest of justice and fairness in making decisions. In other words the Court has stated that equal protection entails a doctrine of classification done on a clear and intelligible basis with a rational relationship to the object sought to be achieved. Further, the Court has also enumerated the concept of equality to include the maintenance of honesty, openness and transparency in respect of executive and administrative acts. Similarly, article 12(1) was also held to be concerned with the safeguards based on the rule of law, which militate against the arbitrary and unreasonable exercise of discretion.

Demolition of houses and illegal settlements

143. Both the Municipal Councils Ordinance and the Urban Development Authority law contain provisions enabling the demolition of illegal houses and settlements after filing action in a court of law and obtaining a court order in that behalf.

144. Such demolition is only carried out in accordance with prevailing relevant legislation. On humanitarian grounds, compensation or alternative accommodation is often provided, taking into consideration also the recommendations of the Human Rights Commission wherever applicable.

Data disaggregated by all factors including gender, age, ethnicity and nationality which may help identify vulnerable groups in the society

145. Please see the latest HIES 2006/2007⁸ conducted by the Department of Census and Statistics.

⁸ See Department of Census and Statistics (www.statistics.gov.lk).