



Convention on the Rights of the Child

Distr.: General
2 April 2019

English only

Committee on the Rights of the Child

Eighty-first session

13–31 May 2019

Item 4 of the provisional agenda

Consideration of reports of States parties

List of issues in relation to the report submitted by Sri Lanka under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

Addendum

Replies of Sri Lanka to the list of issues*

[Date received: 28 March 2019]

* The present document is being issued without formal editing.



Introduction

1. This report provides information in relation to the List of Issues (LoI) raised by the Committee on the Rights of the Child pertaining to the report submitted by the Government of Sri Lanka under article 12, paragraph 1 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. The responses are provided in the order set out in the document of List of Issues.

Issue 1

Statistical data

2. The Government of Sri Lanka is committed to maintain data on matters related to children. All government institutions mandated with child-related affairs are required to maintain data relating to the relevant subject:

(a) Cases related to sale of children, child prostitution and child phonography as well as other forms of violence are reported to Sri Lanka Police, National Child Protection Authority (NCPA) and Sri Lanka Computer Emergency Readiness Team (SLCERT), and if the case is related to child labour, the same is referred to the Department of Labour. The Crime Division of police specially provides its services to persons who become victim of cybercrime, through their dedicated Cybercrimes Unit. Facilities for lodging complaints are available at all the institutions that deal with cases and investigations are carried out by Sri Lanka Police through its separate division. Matters related to children are referred to the division of Police Women and Child Abuse Prevention Bureau established at 42 police divisions across the country. Databases on reported cases are maintained at the central station of the Women and Children's Bureau. The data provided by Sri Lanka Police on concerned matters are as follows:

<i>Offences</i>	<i>2016 Reported</i>	<i>2017 Reported</i>	<i>2018 Reported</i>
Sale of Children	-	-	-
Offence of Child Prostitution	-	-	-
Child Rape	1 599	1 374	1 384
Obscene Publication, exhibition &c. relating to children (Child Pornography)	7	7	9
Procuration	4	4	7
Sexual Exploitation of Children	37	28	27
Offence of Unnatural Acts	23	28	8
Trafficking in Children	4	2	5
Grave Sexual Abuse	614	525	670
Offence of Incest	36	29	28
Sexual Harassment	1 361	1 225	1 332
Publication of Matter relating to certain Offences	2	5	2
Child sex tourism	-	-	-
Causing or procuring children to beg	9	6	9
Child labour	Nil	1	Nil
Illegal adoption	-	-	-
Child Marriage	-	-	-

(b) The Department of Labour in Sri Lanka is vested with the responsibility of assisting persons who become victims of labour law violations including child labour. This government institution provides opportunity for the public to lodge their complaints, and

provides legal assistance when and where necessary. Cases related to child labour are investigated with the support of officers of the Sri Lanka Police, the relevant Probation Officers and Labour Officers. Findings of the investigations and any follow-up action taken are then reported to the Commissioner of Labour (Women and Children's Affairs) of the Department of Labour. Accordingly, the data available at the Department of Labour are as follows:

- (i) 127 (in 2018) and 37 (in 2019) child labour complaints have been investigated during the period 01.01.2018 to 01.03.2019;

Number of investigations completed on Child Labour complaints during the period	102
Number of Ongoing Investigations	62
Number of investigations identified as Child Labour (at the initial inspections)	03
Number of investigations that were not identified as child labour	99

- (ii) Number of Prosecutions Initiated: (period – 01.01.2018 to 01.03.2019);

Number of Ongoing Court Cases	14
Number of Cases Initiated in 2018	03
Number of Completed Court Cases during the period	03

(c) No. of Child Victims: The total number of children detained in Safe Places during Pretrial is given below. These children include both child victims and child suspects. Child victims figures provided below comprise not only the children coming under the optional protocol but also victims of child abuse and the children who do not have guardians. The detention period is 14 days and after that they are referred to alternative care centers or correctional centers for institutional care.

Number of Children (Child Victims and Suspects) admitted to Places of Safety in 2015 & 2016

<i>Year</i>	<i>No. of Admissions</i>
2015	1 155
2016	1 331

Number of Children (Child Victims and Suspects) admitted to Places of Safety in 2017

<i>Year</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>
2017	880	568	1 448

Number of Children (Child Victims and Suspects) admitted to Places of Safety in 2015 & 2016 by Age group

<i>Year</i>	<i>Below 7</i>	<i>8 to 10</i>	<i>11 to 16</i>	<i>over 16</i>	<i>Total</i>
2015	34	102	756	263	1 155
2016	12	79	910	330	1 331

Number of Children (Child Victims and Suspects) admitted to Places of Safety by Age group in 2017

Year	Below 7 years		7 to 10 years		11 to 16 years		Over 16 years		Total		Grand total
	M	F	M	F	M	F	M	F	M	F	
2017	11	10	27	25	617	399	225	134	880	568	1 448

3. Child victims and accused are referred to certified schools for correctional or therapeutic services on court orders for a maximum period of three years. The number of children admitted to certified schools during the period between 2015 and 2017 are given below. The inmates of certified schools are given non-formal education, vocational training, therapeutic treatment and programs on character building during their stay. They are re-integrated into society after the expiry of the court orders:

Children admitted to Certified Schools for Rehabilitation

Year	No. of Admissions
2015	350
2016	466

Children admitted to Certified Schools for Rehabilitation in 2017

Year	Male	Female	Total
2017	166	54	220

Number of Children admitted to Certified Schools for Rehabilitation

Year	Convicted	Victims	Total
2015	299	51	350
2016	376	90	466
2017	116	104	220

Issue 2

Defining and criminalization of sale of children

4. Sri Lanka has recognized the need for addressing legal gaps that may impede the prosecution of cases of sale of children under section 360 (C) of the Penal Code Measures have been taken to define and criminalize sale of children as follows through the Penal Code (Amendment) Act (No. 16 of 2006) – Sect: 9:

(a) Insertion of new Sections 360 D and 360 E to the principal enactment: the following new sections are hereby inserted immediately after section 360 C of the principal enactment of Penal Code and shall have effect as Sections 360 D and 360 E of that enactment:

360 D. Whoever, for the purpose of placing any person in adoption:

- (i) Arrange for, or assists, a child to travel to a foreign country without the consent of his or her parent or lawful guardian;
- (ii) Obtains the consent, whether written or oral of a pregnant woman, for money or any other consideration, for the adoption of the unborn child of such woman;
- (iii) Recruits a woman or a couple to bear children;

(iv) Being a person concerned with the registration of births, knowingly permits the falsification of any register used for the registration of births of any birth record contained in any such register;

(v) Engages in procuring children from hospitals, shelters for women, clinics, nurseries, day care centers or other child care institutions or welfare centers, for money or other consideration or procures a child for adoption from any such institution or center, by intimidation of the mother or any other person; or

(vi) Impersonates the mother or assists in such impersonation, shall be guilty of an offence and shall on conviction be punished with imprisonment of either description for a term not exceeding twenty years or to a fine or to both such imprisonment and fine;

(b) Sale of children, child prostitution, and child pornography come under Section 360 (c) Trafficking, Section 360(E) Soliciting a Child, and Section 360(B) Sexual Exploitation of Children, under the Penal Code (Amendment) Act No 16 of 2006. There is a special unit in the Sri Lanka Police to inquire into complaints relating to child trafficking. The National Anti-Human Trafficking Task Force (NAHTTF) established in the Ministry of Justice with representatives from all relevant government agencies following Sri Lanka accession to the UN Palermo Protocol in 2015, continued to implement its five-year (2015–2019) Strategic Plan and conducted regular meetings to monitor progress. It strengthened coordination among key government stakeholders to increase victim identification, prosecutions, and improve victim protection. Both the Minister of Foreign Affairs (MFA) and the Minister of Justice (MoJ) chaired NAHTTF meetings. NAHTTF members also shared information and best practices among themselves at regular meetings.

Issue 3

Application of penalties

5. As mentioned in paragraph 3, appropriate penalties should be charged against the offence of child sexual exploitation and trafficking as per the Penal Code sections 360C, 360D and 360E. Section 360 B states “whoever ... commits the offence of sexual exploitation of children and shall on conviction be punished with imprisonment of either description for a term not less than five years and not exceeding twenty years and may also be punished with not exceeding twenty years and may also be punished with fine”. As per the reports of the Department of Labour, the following case studies can be provided as examples regarding the existing practice of application of the penalties:

- Hatton Magistrate Court – Case Number 9514 – The respondent has pleaded guilty and the court has ordered Rs.10,000/= as a fine and court procedures has been concluded;
- Negombo Magistrate Court – Case Number 31225L-The respondent had employed Two Children in this case and he has pleaded guilty before the court. The magistrate has ordered Rs.5000/= each as compensation for Two Children and Rs.2,000/= as a fine and court procedures has been concluded;
- Homagama Magistrate Court – Case Number HO/LT/MC/Add1/54/2018/EWYCA – The respondent has pleaded guilty and the court has ordered Rs.10,000/= as a fine and court procedures has been concluded.

Issue 4

Age of sexual consent

6. Sri Lanka notes the concerns about the age of sexual consent for children. Age of sexual consent for children has been identified as 16 years whereas the legal age of

marriage is 18 years. Considering social dialogues and the parties' considerations, no decision has been taken to revise the age of sexual consent of the child or align it with the age of legal marriage. Consequently, the Government of Sri Lanka has initiated and implements programs to harmonize this situation in the different contexts. Accordingly, children are provided with guaranteed 13 years of free education ensuring their right to education until they reach their adulthood (age of majority) at 18 years of age. In this context, the following provisions are made available to ensure that children are given the required time and space to attain the total physical and reproductive development required at the age of majority:

(a) Provisions to make education compulsory and to provide continuous education:

(i) The age for compulsory education for children in Sri Lanka was raised to 16 years in 2016 through an amendment to the regulations of the Education Ordinance. This corresponds to the current age of sexual consent in Sri Lanka and ensures the attendance of all children below this age to formal educational institutions. As per the earlier regulations, school education was mandatory for children between 5 and 14 years;

(ii) Regulations have also been issued to each Education Division to have a compulsory School Attendance Monitoring Committee which will work with the Zonal Director of Education and the Provincial Director of Education;

(iii) All children in Sri Lanka are guaranteed free education for thirteen years and access to upper secondary levels (Grade 12 and 13), and until 2017, students entered Grade 12 under six streams of study, provided that they successfully completed the Ordinary Level examinations at the end of Grade 11. The introduction of the Vocational Stream as the seventh stream of study of upper secondary levels in 2017 provided further educational access to students in this stream irrespective of their failure or success at the Ordinary Level examinations, thus guaranteeing thirteen years of education for all children. Students completing their thirteenth school year in the Sri Lankan formal education system are above 18 years of age. This corresponds to the minimum legal age of marriage in Sri Lanka;

(b) Empowering children by providing them knowledge and counseling services to make positive sexual decisions:

(i) Sexual and reproductive health education is provided through the subjects of Health and Science from Grade 6 (approximately at age 11). Curricula seek to systematically introduce the reproductive system to children and inculcate competencies to maintain reproductive health for one's wellbeing (Grade 07) guide children on how to spend a safe, healthy and efficient life while avoiding challenges related to reproductive health (Grade 8), and empower children to face such challenges successfully in a responsible manner (Grade 9). The Curricula also provide students guidance with regard to changes relating to puberty in adolescent girls and boys;

(ii) With a view to expanding counseling services for students, a room for counseling has been included in the technology units of Nearest School Best School Project initiated in 2016 and 2753 teachers have been recruited for counseling and while the training of 1039 existing teachers in counseling has also commenced;

(iii) The Parliament Sectorial Oversight Committee on Women and Gender has also focused its attention on the matter of age appropriate reproductive health education in order to harmonize the practice of sexual consent of children while ensuring the best interest of the child. In this regard, a special module on age appropriate reproductive health has been developed, and after conducting a pilot phase, teachers have been trained. Guidance has also been provided in the form of a book; "Teaching Reproductive Health and Sexual Education – A Handbook for Students and Teachers" and training of selected teachers to provide psychological first aid has been initiated under a special programme "Helping Students in Crisis Situations";

(iv) The Family Health Bureau maintains the database of identified child mothers and support services are being provided to them. Especially teenage mothers are educated on reproductive health and counselling is also given to the teenage mothers as needed through school health units. Data available on teenage mothers are as follows:

<i>Pregnant mothers registered (age less than 16y)</i>		<i>Pregnant mothers registered (age 16 to 17y)</i>		<i>Pregnant mothers registered (age 18 to 19y)</i>	
<i>2017</i>	<i>2018</i>	<i>2017</i>	<i>2018</i>	<i>2017</i>	<i>2018</i>
332	325	3 123	2 947	13 251	12 878
0.47	0.46	17.85	16.84	75.72	73.59

*Rate is given for 1000 live births.

Issue 5

Adoption of National Child Protection Policy and related action plans

7. Protection of children from all forms of violence is a primary concern of the Government of Sri Lanka. Sale of children, child sexual exploitation and pornography are critical issues, and protection of children against them is being ensured through systematic approaches:

(a) National Child Protection Policy, drafted by National Child Protection Authority, has been finalized and is being reviewed by the panel established under section 16 of National Child Protection Act of no 50 of 1998. It is envisaged that, following receipt of Cabinet approval and the Policy will be implemented beginning from end of 2019;

(b) The National Plan of Action for Children 2016-2020 is a multi-disciplinary Action Plan developed by the Ministry of Women and Child Affairs and Dry Zone Development. Currently, the Plan of Action is being implemented successfully. The Plan also proposed a specific monitoring mechanism to oversee the progress of its implementation. Accordingly, a national level monitoring committee has been setup representing the key government stakeholders under the leadership of the Ministry of Women and Child Affairs. This committee is responsible for reviewing progress quarterly and annually and for making recommendations to overcome any obstacles and streamline the implementation of the Plan to ensure better results. Furthermore, this Action Plan is aligned with the national plan prepared by the Department of Planning, and the government has ensured budget allocations for the period 2016-2020 for its implementation;

(c) Path Finder Country to the Global Partnership to End Violence against Children: the Ministry of Women and Child Affairs has initiated the establishment of a Secretariat for the implementation of strategies to end violence against children at the national level in collaboration with UNICEF and other non-governmental organizations. The National Action Plan for National Partnership to End Violence against Children (NEPVAC) has been drafted and is to be validated during this year. The National Plan covers Corporal punishment, Child Abuse and Exploitation, and Online Safety, Save the Children and National Child Protection Authority lead the Action Plan for the Thematic Issue of Online Safety;

(d) National Action Plan on Child Sexual Abuse, Exploitation including Online Safety: as a member country to the South Asia Initiative to End Violence Against Children (SAIEVAC), the Ministry of Women and Child Affairs and Dry Zone Development initiated the preparation of the Action Plan for Child Abuse, Sexual Exploitation including Online Safety which was directed by the SAIEVAC regional action plan. Accordingly, an expert review meeting was held recently and is in the process of the formulating the final draft. Below mentioned strategic approaches were identified in the proposed National Action Plan:

- (i) Legislative and Policy Framework;
- (ii) Protective Measures and Assistance to Victims;
- (iii) Prevention;
- (iv) Corporate Sector/Industry;
- (v) Capacity and Skills Development;
- (vi) Partnerships;

(e) Institutional annual action plans: Ministry of Women and Child Affairs and Dry Zone Development, National Child Protection Authority and the Department of Probation and Child Care Services implement specific programs to ensure the protection and wellbeing of children. In the context, special programs were implemented to prevent child abuse, sexual exploitation and child pornography. Department of Probation and Child Care Services developed the National Alternative Care Policy and cabinet approval has been granted for the same. The Department intends to disseminate the policy and train officials as the next step. The Department of Probation and Child Care Services takes measures to prevent sexual abuse and exploitation through preparation of care plans for vulnerable children according to the National Case Management Guideline for Prevention of all Forms of Violence against Children of Sri Lanka;

(f) Child Offenders Registry: ensuring the rights of child offenders, the Penal Code and the Code of Criminal Procedure Act were amended in 2018 to:

- (i) Raise the minimum age of criminal responsibility from 8 to 12;
- (ii) Require a medical examination in case of an offence alleged to have been committed by a child of or above twelve years of age and under fourteen in order to obtain a report whether such child has attained sufficient maturity of understanding which enables the Magistrate having jurisdiction in the case to decide (a) the degree of responsibility of such child, taking into consideration the nature and consequences of the alleged offence; and (b) whether the child is in need of any therapeutic intervention;

(g) The Crime Division of Sri Lanka Police is mandated to maintain a general registry on cases related to Re-convicted Criminals (RC) and Island Re-convicted Criminals (IRC). In this registry, matters related to children are also recorded.

Issue 6

Responsibility of coordination of the implementation of the OP

8. Ministry of Women and Child Affairs and Dry Zone Development in collaboration with the UNICEF has conducted a functional mapping survey (2016 and 2017) to determine the functional gaps. Accordingly, duty bearers' responsibility has been clearly defined in the job description of assigned officers:

(a) The Department of Probation and Child Care Services works from grass-root level to national level to ensure child rights. National Child Protection Authority has the responsibility of protection of children from all forms of violence including matters related to sale of children, child sexual exploitation and pornography. Thus at the Provincial Level, Provincial Probation and Child Care Services Departments cater to children through the Probation Officers recruited at the provincial department. Though the implementation of activities in relation to UNCRC and OP is carried out by other government organizations as well, the coordination of matters related to United Nations Convention on the Rights of Child and Optional Protocol I and II is the primary responsibility of the Ministry of Women and Child Affairs and Dry Zone Development;

(b) Following section 40 of the Children's Charter, prepared based on the CRC, the Ministry of Women and Child Affairs has established a national level coordination mechanism for child rights, comprising of three tiers of government and civil society

representatives. The National Monitoring Committee on Rights of the Child (NMC), which is the topmost voluntary authority to make collaborative decisions for the realization of children's rights, is chaired by Secretary to the Ministry of Women and Child Affairs and Dry Zone Development. Six members appointed by the President of Sri Lanka and Secretaries/Heads of Departments of 17 Ministries and Government agencies with a child rights mandate comprise the committee. At the next level, the Ministry convenes a working group/coordination forum of focal points from each ministry and department that is represented at the NMC. The role of this group is to coordinate directly with the MOWCA to monitor and report on the situation of child rights and measures taken to improve children's lives within their mandates. The third tier is a technical working group of government and non-governmental actors which provides technical guidance and support to the MOWCA for the improvement and implementation of this process;

(c) Resource Allocation: Financial allocations provided by the government to the Ministry of Women and Child Affairs and Dry Zone Development through its national annual budget are as follows. Save the Children also has provided financial resources for last three consecutive years through Social Protection Project.

Financial Resources allocation from government budget

No	Organization	Year (Financial Resource Allocation – Mn. LKR)			
		2016	2017	2018	2019
01	Ministry of Women and Child Affairs	7 169.2	7 355.6	8 259	8 350
02	Department of Probation and Child Care Services	304.7	303	350	373
03	National Child Protection Authority	29.9	281.4	330	330

Financial Resource from Social Protection Project

No	Organization	Year (Financial Resource Allocation – Mn. LKR)			
		2016	2017	2018	2019
01	Ministry of Women and Child Affairs	27	85	120	34

9. In addition to above mentioned resource allocation, allocations are also granted via the local government system.

Issue 7

Measures taken to prevent offences in relation to boys in the travel and tourism industry

10. In the context of immigration, visa applications of foreigners are screened closely by the Department of Immigration and Emigration of Sri Lanka. This intervention directly contributes to the prevention of offenders entering the country and it helps prevent incidents/offences under the Optional protocol, especially in relation to vulnerable children in travel and tourism:

(a) Department of Immigration and Emigration is maintaining lists of visa applicants under three categories as Red, Amber and Green. The red list represents perpetrators warranted by a court for any kind of crime. The lists are updated according to inputs received from diplomatic sources and through State Intelligence Service. Applications lodged by tourists for visa are screened via SRS online system as well as the system established at the Department of Immigration and Emigration Sri Lanka. Apart from above, the worldwide INTERPOL system is also in place at the International Airports;

(b) A number of measures are underway to protect children from all forms of violence. National Child Protection Authority commenced a project in 2016 to address issues related to child sex tourism, child labour and vulnerable children in coastal area, which is being implemented island-wide. A holistic approach has been taken to establish community based safety nets for children, and the program has suggested to lobby the need for care and protection for children who are exposed to violence. The project covered Gampaha, Kalutara, Galle, Hambanthota, Puttalama, Jaffna, Mullaithivu, Kilinochchi, Trincomalee, Mannar, Batticaloa, Ampara and Matara districts effectively;

(c) During the month of June 2018, a series of island-wide group inspections were conducted by the Department of Labour to identify Child labour/ hazardous Child labour. The 100 investigations covered all sectors but did not identify any child victim. Parallely, awareness raising programmes have been conducted among the public and institutions about the importance of eliminating child labour/hazardous child labour.

(d) Sri Lanka Computer Emergency Readiness Team (SLCERT) is mandated with raising awareness among the community and officials on computer violence and preventive mechanisms.

Issue 8

Clarification of “agencies” in the state parties report (CRC/C/OPSC/LKA/1)

11. In the 2nd paragraph of the state parties report (CRC/C/OPSC/LKA/1), the institutions with the facility of lodging complaints related to cyber-crimes have been referred as the “agencies”. These agencies are the Sri Lanka Police, Sri Lanka CERT and Police Women and Child Abuse Prevention Bureau.

Issue 11

Assistance to and protection of victims of crime and witnesses act

12. The National Authority to Protect Victims of Crime and Witnesses has been established under section 11 of the “Assistance to and Protection of Victims of Crime and Witnesses Act no 4 of 2015”:

(a) Several members in the staff of the Authority have undergone multidisciplinary workshops in 2018 to enhance the capabilities. The Policy and programme division of the Authority conducted several awareness programmes among the officers who assist in the Criminal Justice System:

- Officers In Charge (OICs) and Head Quarter Inspectors (HQIs) in Police Stations island-wide;
- Lawyers of Bar Association and Legal Aid Commission;
- Judicial Medical Officers of Sri Lanka;
- Prison Commissioners and Superintends;
- Child Protection Officers of NCPA;

(b) 86 complaints have been received by the Law and Law Enforcement division of the Authority during the period from 1st of January to 31st December 2018 by public and governmental institutes. The progress of the complaints handled by the Authority is as follows:

<i>Progress of the Complaints handled</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>
Total Complaints	12	49	86
Closed Complaints	8	32	24
Complaints suspended	2	2	3
Providing Protection	1	1	5
Ongoing Investigation	1	5	38
Files referred to the AG by Police Department	-	3	-
Providing Legal Assistance	-	3	4
Referred to the other institutions	-	1	11
Inquiries fixed under Section 16	-	2	1
Orders sent from the Commissioners	-	1	-
Closed orders under Section 24	-	1	-

(c) While public awareness is also continuously taking place, 1985 toll free line has been established to receive complaints.

Issue 12

(i) Child victims are not treated as perpetrators; Child victims mentioned in the Optional Protocol are treated as victims of offences under the Penal Code of Sri Lanka and they are not considered as perpetrators under any circumstances;

(ii) Detention of child victims: When child victims are taken in to police custody they are not detained at adult detention centres. If the family environment is conducive and a guardian is available, the victim is handed over to the family by a court order. If not, such victims are sent to places of safety under the Department of Probation and Child Care Services. There are 17 such safety places throughout the country;

(iii) Capacity Building of local staff: The field officers of various institutions have been trained to identify the victims referred to in Optional Protocol. Further, several Training of Trainers programs (TOT) were conducted by the Trafficking Task Force in identified locations with the support of the International Migration Organization (IMO). A training module for identification of victims has been prepared for use by trainers. All police officers of the Women and Child Desk were trained to enable them to identify child victims;

(iv) A public awareness media campaign with distribution of hand bills was carried out with a view to identifying victims and refer them to the relevant centres.