



**Convention on the  
Rights of the Child**

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**COMMITTEE ON THE RIGHTS OF THE CHILD**

**Thirty-third session**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 44 OF THE CONVENTION**

**Concluding observations: Sri Lanka**

1. The Committee considered the second periodic report of Sri Lanka (CRC/C/70/Add.17) at its 871st and 872nd meetings (see CRC/C/SR.871 and 872), held on 23 May 2003, and adopted at the 889th meeting (CRC/C/SR.889), held on 6 June 2003, the following concluding observations.

**A. Introduction**

2. The Committee welcomes the submission of the State party's second periodic report, as well as the detailed written replies to its list of issues (CRC/C/Q/SRI/2), which gave a clearer understanding of the situation of children in the State party. It further notes with appreciation the high-level delegation sent by the State party and welcomes the frank dialogue and the positive reactions to the suggestions and recommendations made during the discussion.

**B. Follow-up measures undertaken and progress achieved by the State party**

3. The Committee is greatly encouraged by the ongoing peace process and the inclusion of human rights issues, including the human rights of children, in the peace talks.

4. The Committee welcomes the information provided by the delegation during the dialogue that the state of emergency has been lifted and the Prevention of Terrorism Act has been suspended.

5. The Committee notes with satisfaction the ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 8 September 2000.
6. The Committee welcomes the various legislative measures aimed at improving the protection of children from domestic violence, child labour and commercial sexual exploitation.
7. The Committee welcomes the various mechanisms and programmes aimed at protecting and promoting the rights of children such as:
  - (a) The establishment of the National Human Rights Commission in 1997;
  - (b) The establishment of the National Child Protection Authority in 1999 and provincial level committees to address problems of child abuse and sexual exploitation;
  - (c) The dissemination of materials, including audiovisual materials, publications and posters, to raise awareness about the Convention and child rights.

### **C. Factors and difficulties impeding the implementation of the Convention**

8. The Committee recognizes that the armed conflict and the challenges of reconstruction, particularly in the north and east, pose difficulties to the full implementation of the Convention in the State party.

### **D. Principal areas of concern and recommendations**

#### **1. General measures of implementation**

##### **The Committee's previous recommendations**

9. The Committee notes with satisfaction that various concerns expressed and recommendations made upon the consideration of the State party's initial report (CRC/C/15/Add.40 of 21 June 1995) have been addressed through legislative measures and policies. However, recommendations regarding, inter alia, harmonization of legislation (para. 25), coordination of the implementation of the Convention (para. 29), child participation (para. 31) and juvenile justice (para. 40) have not been given sufficient follow-up. The Committee notes that those concerns and recommendations are reiterated in the present document.
10. **The Committee urges the State party to make every effort to address the recommendations contained in the concluding observations on the initial report that have not yet been implemented and to address the list of concerns contained in the present concluding observations on the second periodic report.**

## Legislation

11. The Committee, acknowledging the various legislative measures taken to implement the Convention, is concerned at the lack of a comprehensive and systematic review of existing laws, including the different sets of personal laws, with the aim of bringing them into conformity with the Convention.

**12. The Committee recommends that the State party undertake a systematic review of all existing laws in order to bring them into conformity with the Convention and to consult with the different ethnic communities regarding the inclusion of their personal laws in this process of reform.**

## Coordination

13. Although encouraged by the establishment of mechanisms such as the National Monitoring Committee (NMC) and the National Child Protection Authority (NCPA) and their respective monitoring and child protection committees at the provincial and district level, the Committee is concerned that these bodies and others like the Department for Probation and Child Care Services (DPCCS) do not provide effective coordination of the implementation of the Convention. It is further concerned that the roles of these bodies are not clearly defined, which may contribute to duplication of efforts and a lack of effective cooperation.

**14. The Committee recommends that the State party:**

**(a) Establish one effective and identifiable governmental body for the coordination of all activities regarding the implementation of the Convention and which has adequate power and sufficient human and financial resources to carry out its coordinating role effectively;**

**(b) Clearly define the role of the NMC and NCPA and the various committees at the provincial and district levels in order to avoid duplication of their efforts and to facilitate cooperation between them, and provide these bodies with the necessary human and financial resources.**

## Independent monitoring

15. The Committee welcomes the establishment of the National Human Rights Commission in 1997, which also accepts and investigates complaints regarding the violation of children's rights. However, the Committee is concerned that the Commission has insufficient human and material resources to deal effectively with its volume of work.

**16. The Committee recommends that the State party, in accordance with the Committee's general comment No. 2 on national human rights institutions:**

**(a) Ensure that the National Human Rights Commission is provided with sufficient resources to carry out its responsibilities effectively;**

**(b) Consider establishing a bureau for children's rights within the Commission in order to centralize its work on children's rights;**

**(c) Ensure its accessibility to children, in particular by raising awareness of its power to receive, investigate and address complaints by children, in particular those affected by conflict.**

### **Resources for children**

17. The Committee notes with great concern that the expenditures for education and health as a percentage of the country's GDP decreased between 1998 and 2001. The Committee is further concerned at the lack of disaggregated data on budgetary allocations for the implementation of children's rights at the national and district levels.

18. **The Committee recommends that the State party:**

**(a) Pay particular attention to the full implementation of article 4 of the Convention by prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children, in particular those in conflict-affected areas, "to the maximum extent of ... available resources and, where needed, within the framework of international cooperation";**

**(b) Prioritize the provision of services to children in loan and structural adjustment negotiations with international donors;**

**(c) Collect, and include in the regular budget, disaggregated data on the expenditures for children according to the various areas of the Convention, such as foster care, institutional care, primary and adolescent health care, pre-school, primary and secondary education and juvenile justice.**

### **Data collection**

19. The Committee regrets the lack of comprehensive and up-to-date statistical data in the State party's report.

20. **The Committee recommends that the State party continue to upgrade its system of data collection to cover all areas of the Convention and ensure that all data and indicators are used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention. The State party should consider seeking technical assistance from, among others, UNICEF and UNFPA.**

## **2. Definition of the child**

21. The Committee notes the plan for constitutional reform in which the child is defined as a person below the age of 18 and that the NCPA and others are applying this definition. Yet, it is concerned that there are various legal minimum ages which seem to be discriminatory or are too low.

22. **The Committee recommends that the State party enact, as soon as possible, a clear legal definition of the child applicable throughout the country and review existing age limits in various areas, including marriage, child labour and the Penal Code provisions on child sexual abuse, in order to bring them into compliance with international standards.**

### 3. General principles

23. The Committee is concerned that the general principles of non-discrimination (art. 2 of the Convention), best interests of the child (art. 3), the right to life, survival and development of the child (art. 6) and respect for the views of the child (art. 12) are not fully reflected in the State party's legislation and administrative and judicial decisions, as well as in policies and programmes relevant to children at federal, provincial and local levels and conflict-affected areas.

24. **The Committee recommends that the State party:**

**(a) Integrate, in an appropriate manner, the general principles of the Convention, namely articles 2, 3, 6 and 12, in all relevant legislation concerning children;**

**(b) Apply them in all political, judicial and administrative decisions, as well as in programmes, services and reconstruction activities which have an impact on all children.**

#### **Non-discrimination**

25. The Committee notes with concern that societal discrimination persists against vulnerable groups of children, including children with disabilities, adopted children, children displaced by conflict, children infected with and affected by HIV/AIDS, and children of ethnic and religious groups.

26. **The Committee recommends that the State party amend its legislation and increase its efforts to ensure the implementation of existing laws guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and to adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups.**

27. **The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of general comment No. 1 on article 29 (1) of the Convention (aims of education).**

### 4. Civil rights and freedoms

#### **Corporal punishment**

28. The Committee is deeply concerned that male child offenders can be sentenced to whipping or caning under the Corporal Punishment Ordinance of 1889, and that the Education Ordinance of 1939 permits corporal punishment to be used as a disciplinary measure for boys and girls in schools and that many teachers and principals consider corporal punishment to be an acceptable form of discipline.

29. **The Committee reiterates its previous recommendation that the State party repeal the Corporal Punishment Ordinance of 1889 and amend the Education Ordinance of 1939 to prohibit all forms of corporal punishment. Furthermore, the Committee recommends that the State party undertake well-targeted public awareness campaigns on the negative impact corporal punishment has on children, and provide teacher training on non-violent forms of discipline as an alternative to corporal punishment.**

#### **5. Family environment and alternative care**

30. The Committee notes the new programme for children of migrant workers undertaken by the Bureau of Foreign Employment, yet it is concerned that families of migrant workers receive little or no assistance with their child-rearing responsibilities while they are working abroad.

31. **The Committee recommends that the State party develop a comprehensive policy to support the families and caregivers of children of migrant workers in their child-rearing responsibilities and limit the institutionalization of children of migrant workers to measures of last resort, while promoting the placement of all children in need of alternative care with their extended families or other family types of care whenever possible.**

#### **Alternative care**

32. The Committee welcomes the increasing emphasis on foster placements, yet it remains concerned that there is no monitoring mechanism for either registered and unregistered institutions or voluntary homes.

33. **The Committee recommends that the State party proceed with its intention to amend the Orphanages Ordinance No. 22 of 1941 to criminalize running an orphanage without a licence, and establish a uniform set of standards for public and private institutions and voluntary homes and monitor them regularly.**

#### **Abuse and neglect**

34. The Committee notes that the Domestic Violence Act is under consideration, but is concerned that, although there are limited data available, the problem of abuse within the family and in institutions appears widespread. The Committee is further concerned that victims of abuse do not receive adequate assistance and support for their recovery, and that the practice of institutionalizing victims while their case is being processed is common.

35. **The Committee recommends that the State party**

**(a) Expand current efforts to address the problem of child abuse, including through the adoption and implementation of the Domestic Violence Act, and ensure that there is an effective national system for receiving, monitoring and investigating complaints and, when necessary, prosecuting cases, in a manner which is child-sensitive and ensures the victims' privacy;**

**(b) Ensure that all victims of violence have access to counselling and assistance with recovery and reintegration,**

(c) **Provide adequate protection to child victims of abuse in their homes, whenever possible, through restraining and removal orders against the alleged perpetrator in cases where the removal of the child is necessary, preference should be given to foster care or similar family-type settings and institutionalization should only be resorted to in exceptional cases.**

## **6. Basic health and welfare**

### **Children with disabilities**

36. The Committee is concerned that a significant number of children with disabilities, in particular girls, are not able to attend school and that not all special schools managed by non-governmental organizations are registered by the Ministry of Education, and they are concentrated in the more developed and urbanized Western Province.

37. **In light of the recommendations of the Committee's day of general discussion on the private sector as service provider and its role in implementing child rights in 2002 (see CRC/C/121), the Committee recommends that the State party:**

(a) **Ensure that all children with disabilities, particularly girls, have access to education by increasing spending and expanding special education programmes, including non-formal special education in rural areas, and by training teachers in mainstream education about special needs;**

(b) **Register and monitor all special schools run by non-State actors;**

(c) **Take all necessary measures to integrate children with disabilities into society and include them in cultural and leisure activities.**

### **Basic health and health services**

38. While acknowledging the improvements in mortality rates and immunization coverage, the Committee remains concerned at the high levels of child malnutrition, the significant proportion of children born with low birth weight, the prevalence of mosquito-borne diseases, including malaria, and the lack of access to safe drinking water and sanitation, particularly in conflict-affected areas.

39. **The Committee recommends that the State party:**

(a) **Ensure universal access to maternal and child health-care services and facilities throughout the country with special attention to conflict-affected areas;**

(b) **Prioritize the provision of drinking water and sanitation services in reconstruction activities;**

**(c) Strengthen ongoing efforts to prevent malnutrition, malaria and other mosquito-borne diseases and continue to promote exclusive breastfeeding for an infant's first six months, and extend these programmes to all conflict-affected areas;**

**(d) Seek technical assistance, from, among others, UNICEF.**

### **Adolescent health**

40. The Committee notes the establishment of Presidential Task Forces to deal with the problems of suicide and alcohol, drug and tobacco use by adolescents, and the subsequent improvement in the rate of youth suicide. Nevertheless, the Committee is concerned that these issues remain a problem for adolescents and that an organized system of reproductive health counselling and services for youth, as well as education on HIV/AIDS and STDs, does not yet exist.

41. **The Committee recommends that the State party continue to strengthen its efforts to address youth suicide, drug abuse, alcoholism and tobacco use and develop a comprehensive policy on adolescent health which, inter alia, supports the implementation of the recommendations of the Presidential Task Forces, promotes collaboration between State agencies and NGOs in order to establish a system of formal and informal education on HIV/AIDS and STDs, and ensures access to reproductive health counselling and services for all adolescents. The State party should make use of the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37) and the Committee's general comment No. 3 on HIV/AIDS and the rights of the child, in order to promote and protect the rights of children infected with and affected by HIV/AIDS.**

### **7. Education, leisure and cultural activities**

42. The Committee is encouraged by the education reforms initiated by the State party in 1999, which focus on improving the quality of education and also emphasize early childhood development. At the same time, the Committee is concerned that all principals, teachers and parents, particularly in rural areas, are not fully aware of the objective of these reforms, that their implementation is not uniform across all regions and that there is no mechanism for monitoring and evaluating their implementation.

43. **In light of articles 28, 29 and 31 of the Convention, as well as general comment No. 1 on the aims of education, the Committee recommends that the State party:**

**(a) Ensure that primary education is in fact free and compulsory for all children;**

**(b) Provide additional information on the reforms and adequate material resources for their implementation to principals, teachers and parents in rural and conflict-affected areas;**

**(c) Establish a participatory mechanism for monitoring and evaluating the implementation of the education reforms which involves principals, teachers, parents and students;**



**(d) Ensure that there is a sufficient number of trained teachers in rural and conflict-affected areas;**

**(e) Include human rights education as part of the curriculum.**

## **8. Special protection measures**

### **Children affected by armed conflict**

44. Almost 20 years of civil conflict has had an extremely negative impact on the implementation of the Convention in the State party. While recognizing that children will greatly benefit from the peace process, the Committee is concerned that during the transition to peace and the reconstruction process, children who have been affected by the conflict remain a particularly vulnerable group.

45. **The Committee recommends that the State party implement the plan of action for the respect of the rights of children during the reconstruction process (2003). In particular, the Committee recommends that the State party:**

**(a) Prioritize the demobilization and reintegration of all combatants under 18 and ensure that all armed groups reintegrated into the national armed forces adhere to the minimum age of recruitment of 18 years;**

**(b) Develop, in collaboration with NGOs and international organizations, a comprehensive system of psychosocial support and assistance for children affected by the conflict, in particular child combatants, unaccompanied internally displaced persons and refugees, returnees and landmine survivors, which also ensures their privacy;**

**(c) Take effective measures to ensure that children affected by conflict can be reintegrated into the education system, including through the provision of non-formal education programmes and by prioritizing the rehabilitation of school buildings and facilities and the provision of water, sanitation and electricity in conflict-affected areas;**

**(d) Seek in this regard technical assistance from, among others, UNICEF.**

46. **The Committee reiterates its request to the State party for additional information on child combatants and child prisoners of war, to be included in its initial report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.**

### **Sexual exploitation**

47. The Committee welcomes the Penal Code (Amendment) Act No. 22 of 1995, which seeks to protect children from sexual exploitation. However, it is concerned that existing legislation is not effectively enforced and that child victims of sexual exploitation do not always receive adequate recovery assistance.

48. **The Committee recommends that the State party:**

(a) **Develop a National Plan of Action on Commercial Sexual Exploitation of Children as agreed at the first and second World Congresses against Commercial Sexual Exploitation of Children in 1996 and 2001;**

(b) **Train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute complaints in a child-sensitive manner that respects the privacy of the victim;**

(c) **Prioritize recovery assistance and ensure that education and training as well as psychosocial assistance and counselling are provided to victims, and ensure that victims who cannot return to their families are not institutionalized;**

(d) **Seek technical assistance from, among others, UNICEF.**

### **Economic exploitation**

49. The Committee welcomes the State party's ratification of ILO Conventions Nos. 138 and 182 in 2000 and 2001, respectively. Nevertheless, it remains concerned at the high proportion of children, including very young children, working as domestic servants, in the plantation sector, on the street and in other parts of the informal sector.

50. **The Committee recommends that the State party continue its efforts to eliminate child labour, in particular by addressing the root causes of child economic exploitation through poverty eradication and access to education, as well as by developing a comprehensive child labour monitoring system in collaboration with NGOs, community-based organizations, law enforcement personnel, labour inspectors and ILO/IPEC.**

### **Juvenile justice**

51. The Committee reiterates its serious concern that the minimum age of criminal responsibility, set at 8 years, is too low and that children between the ages of 16 and 18 are considered by penal law as adults.

52. **The Committee recommends that the State party:**

(a) **Ensure the full implementation of juvenile justice standards and in particular articles 37, 39 and 40 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), and in the light of the Committee's 1995 day of general discussion on the administration of juvenile justice (CRC/C/46, chap. III, sect. C);**

(b) **Amend the Children and Young Person's Ordinance (1939) to raise the minimum age of criminal responsibility to an internationally acceptable level and to ensure that all offenders under 18 are treated as children;**

- (c) **Set up a system of juvenile courts across the country;**
- (d) **Ensure that deprivation of liberty is used only as a last resort and for the shortest appropriate time period;**
- (e) **Take effective measures, including, where appropriate, the enactment of legislation, to implement the recommendations of the Law Commission on the juvenile justice system, in particular those regarding access to legal assistance, training of professionals working with children, separation of children in conflict with the law from adults at all stages of the legal process and development of alternative non-custodial methods of rehabilitation.**

#### **9. Optional Protocols to the Convention on the Rights of the Child and amendment to article 43 (2) of the Convention**

53. The Committee notes that the State party has signed but not ratified the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

54. **The Committee recommends that the State party ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.**

#### **10. Dissemination of documents**

55. Finally, in light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned NGOs.

#### **11. Next report**

56. **The Committee, aware of the delay in the State party's reporting, wishes to underline the importance of a reporting practice which is in full compliance with the rules set out in article 44 of the Convention. Children have the right for the committee in charge of regularly examining the progress made in the implementation of their rights to have the opportunity to do so. In this regard, regular and timely reporting by State parties is crucial. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its third and fourth reports in one consolidated report by 10 August 2008, the due date for the submission of the fourth report. The consolidated report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.**

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