



Convention on the Rights of the Child

Distr.: General
19 October 2010

Original: English

Committee on the Rights of the Child

Fifty-fifth session

13 September – 1 October 2010

Consideration of reports submitted by States parties under article 44 of the convention

Concluding observations: Sri Lanka

1. The Committee considered the combined third and fourth periodic report of Sri Lanka (CRC/C/LKA/3-4) at its 1567th, 1569th and 1571st meetings (see CRC/C/SR.1567, 1569 and 1571), held on 23 and 24 September 2010, and adopted, at its 1583rd meeting (CRC/C/SR.1583), held on 1 October 2010, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined third and fourth periodic report, which is analytical and self-critical, as well as the written replies to its list of issues (CRC/C/LKA/Q/3-4/Add.1), which allow a better understanding of the situation of children in the State party. The Committee also appreciates the constructive interactive dialogue with the multisectoral delegation of the State party.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with its concluding observations on the State party's initial report under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/LKA/CO/1), adopted on 1 October 2010.

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

4. The Committee notes with appreciation the positive developments related to the implementation of the Convention, such as the adoption of:

(a) The Penal Code (Amendment) Act No. 16 of 2006 which, inter alia, makes it a penal offence to engage and recruit a child for use in armed conflict and in child labour, child trafficking and child pornography;

(b) The Prevention of Domestic Violence Act No. 34 of 2005, which provides protection orders to safeguard both children and women;

(c) The Employment of Women, Young Persons and Children (Amendment) Act No. 8 of 2003, which increases the minimum age of employment from 12 to 14 years and enhances penalties for violations;

(d) The National Plan of Action for Children (2010-2015).

5. The Committee welcomes the ratification by the State party of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography on 22 September 2006.

C. Factors or difficulties impeding the implementation of the Convention

6. The Committee regrets that the nearly 30 years of civil war and armed conflict that ended in May 2009 and the catastrophic tsunami of December 2004 continue to have negative impacts on the situation of children, especially in the affected regions, and hamper progress in the implementation of the rights of all children under the Convention.

D. Main areas of concern and recommendations

1. General measures of implementation (arts. 4, 42 and 44, para. 6, of the Convention)

The Committee's previous recommendations

7. The Committee welcomes efforts by the State party to implement the Committee's concluding observations on the second periodic report of the State party (CRC/C/15/Add.207). Nevertheless, the Committee regrets that some of its concerns and recommendations have been insufficiently or only partly addressed, including those related to data collection (para. 20), the definition of the child (para. 22), children of migrant mothers (para. 31), alternative care (para. 33), children with disabilities (para. 37), the quality of education (para. 43) and the minimum age of criminal responsibility (para. 52 (b)).

8. The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations on the second periodic report that have not yet been implemented or sufficiently implemented and to provide adequate follow-up to the recommendations contained in the present concluding observations on the combined third and fourth periodic report.

Legislation

9. While welcoming the steps taken by the State party to identify inconsistencies in its legislation and harmonize it with the principles and provisions of the Convention as previously recommended, the Committee nevertheless notes with concern that the Convention has still not been fully domesticated in national legislation, as was done in Act No. 56 of 2007 for the International Covenant on Civil and Political Rights, to make it applicable in the State party. The Committee is also concerned that the enjoyment of child rights continues to be negatively affected by the application of emergency regulations and the three different sources of law: national laws, Kandyan laws and Muslim laws.

10. The Committee urges the State party to ensure the domestication of the Convention on the Rights of the Child in its national legislation so that all of the principles and provisions of the Convention can be applied in courts. The Committee

also urges the State party to ensure that all existing domestic laws, including any local or customary law, are brought into compliance with the Convention. The Committee reminds the State party that the conditions for declaring an emergency and enacting emergency laws are strictly and narrowly defined and limited to exceptional circumstances. The Committee therefore urges the State party to review without delay its existing emergency laws and to urgently repeal those incompatible with the State party's international obligations, in particular those related to juvenile justice.

Coordination

11. The Committee notes that the Ministry of Child Development and Women's Empowerment created in 2006 (now called the Ministry of Child Development and Women's Affairs) has the responsibility for coordinating the implementation of the Convention in the State party. However, it is concerned that this coordination remains inadequate due mainly to the low priority accorded by the State party to children's issues, the inadequate funding of the coordinating Ministry and the multiplicity of other bodies with coordination functions, including the National Committee on Child Rights, the National Monitoring Committee and the National Child Protection Authority.

12. **The Committee urges the State party to take the necessary measures:**

(a) **To ensure respect for children's rights across the State party and at all levels of government - national, provincial and district;**

(b) **To reinforce the coordination role of the Ministry of Child Development and Women's Affairs by ensuring that the Ministry has high status, sufficient authority and adequate human, technical and financial resources to effectively coordinate actions for children's rights across different sectors and from the national to the provincial and district levels;**

(c) **To strengthen the role and leadership of the Ministry in advocacy for child rights, policy formulation, monitoring of implementation of programmes and mobilization of resources for children;**

(d) **To rationalize the work of the various child rights bodies and provide them with the necessary human and financial resources to carry out their role with efficiency.**

National plan of action

13. The Committee welcomes as positive the importance accorded by the new National Plan of Action for Children (2010-2015), *inter alia*, to addressing geographical disparities and meeting the care and protection needs of children in conflict-affected areas, and also welcomes the efforts made by the State party to improve the overall coordinating mechanism of the plan by involving the National Planning Department of the Ministry of Finance and Planning. The Committee encourages the State party to strengthen its efforts to provide specific budget allocation, adequate coordination and follow-up mechanisms for the full and effective implementation of the Plan of Action, including its monitoring and evaluation.

Independent monitoring

14. The Committee notes with concern that the National Human Rights Commission was downgraded from an A to a B status by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights in December 2007 because of concerns relating to the appointment procedure of commissioners and its lack of independence from political influence. The Committee is concerned that the National

Human Rights Commission lacks the necessary human, technical and financial resources to carry out its responsibilities effectively. The Committee further regrets that its recommendation to the State party to consider the establishment of a bureau for children's rights within the Commission to enhance access for children has not been followed up.

15. The Committee urges the State party to take the necessary measures to ensure the independence of the National Human Rights Commission in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). Drawing attention to its general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child, the Committee also calls upon the State party to ensure that the National Human Rights Commission is provided with the necessary human, financial and technical resources to carry out its responsibilities effectively. It further urges the State party to consider establishing either a bureau for children's rights within the Commission or an ombudsman for children. The State party should ensure that the bureau or the ombudsman for children has adequate human, technical and financial resources, is accessible to all children and has the power to receive, investigate and address complaints by children, in particular those affected by conflict.

Allocation of resources

16. While taking note of the process initiated in 2007 to collect disaggregated data on expenditure for children, the Committee regrets that the system is not yet functional and that insufficient information has been provided to enable the Committee to properly assess the allocation of resources for children in line with article 4 of the Convention. The Committee also notes with concern that:

- (a) Only 2 per cent of the total social protection budget is dedicated to children;
- (b) The State party has not yet conducted an assessment of the budget needs in relation to establishment of social services in the districts affected by armed conflict and the tsunami;
- (c) Corruption remains prevalent in the public sector, notably in education, due mainly to a lack of transparency in public financing and weak parliamentary oversight, which affects the efficiency of resources allocated and services provided for children.

17. The Committee urges the State party, taking into account article 4 of the Convention and the Committee's recommendations during its day of general discussion in 2007 on "Resources for the rights of the child - responsibility of States":

- (a) To utilize a child rights' approach in the elaboration of the State budget by implementing a tracking system for the allocation and the use of resources for children throughout the budget, thus providing visibility to the investment on children. The Committee also urges that this tracking system be used for impact assessments on how investments in any sector may serve "the best interests of the child", ensuring that the differential impact of such investment on girls and boys and children of different ethnic groups is measured;**
- (b) When possible, to shift to a budgeting-by-results model to monitor and assess the effectiveness of resource allocation and, if necessary, seek international cooperation to this effect;**
- (c) To conduct a comprehensive assessment of the budget needs related to the establishment of social services in the districts affected by armed conflict and the tsunami and establish clear allocations for such areas that progressively address the disparities in indicators related to children's rights;**

(d) To ensure transparent and participatory budgeting through public dialogue and participation, especially of children, and proper accountability by local authorities;

(e) To define strategic budgetary lines for the most disadvantaged children and for those situations that may require affirmative social measures (such as birth registration and nutrition of disadvantaged children) and make sure that those budgetary lines are protected even in situations of economic crisis, natural disasters or other emergencies;

(f) To take all the necessary measures to prevent and prosecute acts of corruption and, to this aim, proceed as a matter of urgency to empower the Permanent Commission to Investigate Allegations of Bribery and Corruption and other independent oversight bodies to carry out their work effectively.

Child rights and the business sector

18. The Committee expresses its concern about the potential negative impact of private foreign and domestic business and industries, including in the tea plantations and textile industries, on the safety, well-being and development of children.

19. **The Committee recommends that the State party undertake efforts to establish the necessary policies and regulatory framework for business and industry to ensure that they respect and protect the rights of children and operate in a socially and environmentally responsible way to safeguard the well-being of children and their families.**

Data collection

20. The Committee takes note of the initiatives for data collection currently being developed, primarily in the field of child protection. It also welcomes the indication given by the State party during the interactive dialogue that a general census of the population will be conducted in July 2011. The Committee is however concerned that there is no comprehensive data collection system covering all areas of the Convention and no adequate policy to protect the privacy of children who have been registered in the existing databases.

21. **The Committee encourages the State party to set up a comprehensive data collection system with the support of its partners and to analyse the data collected as a basis for assessing progress achieved in the realization of child rights and to help design policies and programmes to implement the Convention. The data collected should be disaggregated by, inter alia, age, sex, ethnicity, geographic location and socio-economic background to facilitate analysis of the situation of all children. The State party should ensure that information collected contains up-to-date data on a wide range of children in vulnerable situations, including children living with disabilities, in poverty and in street situations. The Committee urges the State party to develop and implement a policy to protect the privacy of all children who have been registered in the national databases.**

Dissemination and awareness-raising

22. The Committee expresses concern that insufficient efforts have been made to disseminate and raise awareness of the Convention in the general public and among professionals, as reflected by the absence of information in the State party's report in this regard.

23. **The Committee urges the State party to ensure that all the principles and provisions of the Convention are widely known and understood by adults and children**

and, to this aim, carry out in a systematic manner targeted activities to disseminate and raise awareness of the Convention. In this context, the Committee encourages the State party to prepare and widely disseminate child-friendly versions of the Convention in all national languages for use by children. The Committee requests the State party to include specific information on dissemination and awareness-raising activities in its next periodic report.

Training

24. While noting that some training activities on child rights have been carried out, notably by the National Human Rights Commission, the Committee is concerned that training activities do not adequately include all the principles and provisions of the Convention and are not offered to all professionals working for and with children. The Committee also reiterates its concern that human rights education including children's rights is still not part of school curricula.

25. The Committee encourages the State party to undertake systematic education and training programmes on the principles and the provisions of the Convention for children, parents and all professional groups working for and with children, including judges, lawyers, law enforcement officials, teachers, health-care personnel, social workers and media personnel. The Committee calls upon the State party to incorporate human rights education, including children's rights, in the curricula of all levels of education.

Cooperation with civil society

26. The Committee expresses serious concern at the reported growing pattern of intimidation of non-governmental organizations (NGOs) in the State party, including threats, harassment, physical attacks and arrests, and at restrictions placed on their work which greatly restrict their capacity to monitor the situation of children and to provide children with support services, especially in conflict-affected areas. The Committee also expresses concern that the NGO Secretariat responsible for the registration of NGOs has been placed under the authority of the Ministry of Defence, with stringent regulations which may not be conducive to NGO participation in humanitarian work. It is further concerned at the views expressed by the State party in its written replies and reiterated by the State party delegation during the dialogue that NGOs do not have any barrier to their work as long as they adhere to Government policies.

27. Underlining the crucial role played by civil society organizations in the promotion and protection of child rights, the Committee urges the State party to take concrete steps to facilitate and give legitimate recognition to human rights defenders and their work, including those who report child rights violations for appropriate State party action, to ensure that NGOs can safely carry out their functions in a manner consistent with the principles of a democratic society. To this aim, the Committee further urges the State party to remove unnecessary barriers and control over the work of non-governmental organizations in favour of children. The Committee further urges the State party to systematically involve community, civil society and children's organizations throughout all stages of implementation of the Convention.

2. General principles (arts. 2, 3, 6 and 12 of the Convention)

Non-discrimination

28. The Committee expresses concern at the persistent discrimination against children belonging to the Veddha, Muslim and Tamil communities, among whom those living in tea plantations are in a particularly disadvantaged situation. The Committee is concerned that discrimination also persists against girls, rural children, refugee and internally displaced children, children of overseas workers, children in institutional care and children with disabilities. The Committee expresses further concern about caste discrimination, which affects 20 to 30 per cent of the Sri Lankan population and contributes to their poor living conditions, rejection and marginalization.

29. **The Committee urges the State party to closely monitor the situation of children, in particular those belonging to the above-mentioned disadvantaged groups, who are exposed to discrimination. The State party should develop, on the basis of the results of this monitoring, a comprehensive strategy containing specific and well-targeted actions, including affirmative social actions, aimed at eliminating all forms of discrimination against them. The Committee further calls upon the State party to investigate caste-based discrimination and to mobilize communities and government employees against such discrimination through awareness-raising programmes.**

Best interests of the child

30. The Committee notes with concern that the principle of the best interests of the child as defined in article 3 of the Convention and recalled in other provisions of the Convention has not been consistently applied in legislative, administrative and judicial proceedings, nor in policies and programmes relating to children.

31. **The Committee recommends that the State party ensure that the principle of the best interests of the child is applied consistently in all its legislative, administrative and judicial proceedings, as well as in policies and programmes relating to children, and that all professional groups working with and for children, including judges, lawyers and personnel in the education, health and social welfare sectors are fully sensitized on this principle.**

Right to life, survival and development

32. The Committee expresses serious concern that insufficient efforts have been made by the State party to investigate the death of hundreds of children during the final five months of the conflict in 2009 as a result, in particular, of alleged shelling and aerial bombardments of civilians, hospitals, schools and humanitarian operations and deliberate deprivation of food, medical care and humanitarian assistance. The Committee is also concerned that high levels of malnutrition and poverty undermine the right to survival and development of many children in the State party, especially in the conflict-affected and disadvantaged areas.

33. **The Committee strongly urges the State party:**

(a) **To ensure that prompt, independent and impartial investigations are conducted and that those responsible for the killings of children are duly prosecuted and sanctioned with appropriate penalties;**

(b) **To take the necessary measures to fight the deprivations of malnutrition and poverty which impact on the life, survival and full development of children.**

Respect for the views of the child

34. The Committee reiterates its concern that the general principle of the right of the child to be heard (art. 12) is still absent from most of the legislations concerning children and is not applied in legislative administrative and judicial proceedings or in family, school and community settings.

35. **The Committee, drawing attention to its general comment No. 12 (2009) on the right of the child to be heard and recalling its previous recommendations (CRC/C/15/Add.207, para. 24), recommends that the State party:**

(a) **Integrate, in an appropriate manner, the general principles of the Convention in all relevant legislation concerning children;**

(b) **Apply the general principle of the right of the child to be heard in all legislative, judicial and administrative proceedings and ensure that it is respected in family, school and community settings.**

4. Civil rights and freedoms (arts. 7, 8, 13-17, 19 and 37 (a) of the Convention)**Birth registration**

36. While noting that almost all children are registered at birth, the Committee expresses concern over the low rates of registration among refugee/returnee children and children of families living in the street. It is also concerned that a significant percentage of Gypsy children, Veddha children and children living on plantations remain unregistered. While noting the measures taken by the State party to improve access to school for children without birth certificates, the Committee is concerned that the absence of birth certificates may still prevent some children from being enrolled in the State party's schools.

37. **The Committee calls upon the State party to take all the necessary measures to ensure that children from the most disadvantaged groups are properly registered at birth and to provide information on the outcome of the ongoing Universal Registration Programme in its next periodic report. The Committee also encourages the State party to intensify its efforts in public education to raise awareness and disseminate information on the importance of birth registration, especially among disadvantaged communities.**

Protection of privacy

38. The Committee expresses concern that the right to privacy of child victims of exploitation and abuse, children in conflict with the law and children formerly involved in armed conflict are not always respected by the media. The Committee is also concerned that insufficient measures have been taken by the State party to protect the right to privacy of such children.

39. **The Committee urges the State party to establish mechanisms in cooperation with the private sector to ensure that all materials broadcast in the media respect children's right to privacy, including the adoption of a code of conduct and/or self-regulation by the media. The State party should ensure that appropriate human rights training, including on child rights, is given to media personnel and all professionals dealing with child victims and offenders, with particular attention to children's right to privacy. The Committee further urges the State party to ensure that child victims and children in conflict with the law accompanied by uniformed officers are no longer transported by public transport to courts.**

Corporal punishment

40. While commending the abrogation of the Corporal Punishment Ordinance of 1889 and the issuance by the Ministry of Education on 11 May 2005 of Circular No. 2005/17, which prohibits physical assault or corporal punishment in the school system by any adult on a child, the Committee expresses concern that the Education Ordinance of 1939 permitting corporal punishment in schools has not been abrogated and that corporal punishment therefore remains lawful in schools as well as in the home and in alternative care settings.

41. **The Committee, recalling its previous recommendation (CRC/C/15/Add.207, para. 29), draws the attention of the State party to its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment and urges that it:**

(a) **Prohibit unequivocally by law and without any further delay corporal punishment in the family, schools and alternative care institutions;**

(b) **Ensure that laws prohibiting corporal punishment are effectively implemented and that legal proceedings are systematically initiated against those responsible of mistreating children;**

(c) **Introduce sustained public education, awareness-raising and social mobilization programmes, involving children, families, community and religious leaders, on the harmful effects of corporal punishment with a view to changing the general attitude towards this practice and promote positive, non-violent, participatory forms of child-rearing and discipline as an alternative to corporal punishment.**

42. The Committee also recommends that the State party take all the necessary measures to ensure the involvement and participation of the whole society, including children, in the design and implementation of preventive strategies against violence and other forms of abuse.

Follow-up to the United Nations study on violence against children

43. **The Committee encourages the State party to prioritize elimination of all forms of violence against children. With reference to the United Nations study on violence against children (A/61/299), the Committee recommends that the State party:**

(a) **Take all necessary measures to implement recommendations of the United Nations study on violence against children, taking into account the outcome and recommendations of the Regional Consultations for South Asia (held in Islamabad, 19 and 20 May 2005). The Committee recommends that the State party pay particular attention to the following recommendations:**

(i) **Prohibit all forms of violence against children;**

(ii) **Strengthen national and local commitment and action;**

(iii) **Promote non-violent values and awareness-raising;**

(iv) **Enhance the capacity of all who work with and for children;**

(v) **Ensure accountability and end impunity;**

(b) **Use the recommendations of the study as a tool for action, in partnership with civil society and in particular with the involvement of children, to ensure that every child is protected from all forms of physical, sexual and psychological violence and to gain momentum for concrete and time-bound actions to prevent and respond to such violence and abuse;**

(c) Seek technical cooperation in this respect from the Special Representative of the Secretary-General on Violence against Children, the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Children’s Fund (UNICEF) and the World Health Organization (WHO), and other relevant agencies, inter alia, the International Labour Organization (ILO), the United Nations Educational, Scientific and Cultural Organization, the Office of the United Nations High Commissioner for Refugees, the United Nations Office on Drugs and Crime (UNODC), as well as NGO partners.

5. Family environment and alternative care (arts. 5, 18 (paras. 1-2), 9-11, 19-21, 25, 27 (para. 4) and 39 of the Convention)

Family environment

44. The Committee reiterates its deep concern about the physical, psychological and social impact that massive labour migrations of women have on the rights and well-being of children, as most of the over one million women migrants leave behind children, half of whom are under 6 years old. The Committee is also concerned that insufficient efforts have been made to create alternative working opportunities for women who have often no choice but to migrate to support their families, and to address problems faced by children whose mothers are working abroad. While it welcomes the efforts to formulate a comprehensive policy to support the families and caregivers of children of migrant workers and the plans to collect details about children of migrant mothers at the international airport, the Committee remains concerned over the inconsistent implementation of protective safety net programmes and the insufficient coordination amongst childcare authorities to monitor the well-being of children of migrant mothers.

45. **The Committee urges the State party to strengthen efforts to provide disadvantaged families and families at risk with necessary support by, inter alia, increasing budget allocations for financial and other assistance, including counselling and empowerment of these families and the development of work opportunities for women in the State party. The Committee also recommends that the State party, while formulating its policy to support the families and caregivers of children of migrant workers:**

(a) **Promptly set up the “special desk” to register details of children of migrant mothers at the international airport;**

(b) **Create a database at the level of the Foreign Employment Bureau that includes detailed data on the children and family situation of women migrant workers;**

(c) **Set up programmes to determine, prior to the departure of migrant mothers, the childcare support required and the adequacy of provisions made for the children left behind;**

(d) **Ensure that primary caregivers are well informed and assisted in ensuring the rights and addressing the needs of children under their care;**

(e) **Set up family support systems in collaboration with community leaders and community-based organizations;**

(f) **Use the institutionalization of children of migrant workers only as a measure of last resort and only for limited time periods;**

(g) **Conduct research urgently on the multiple impacts of migration on children in the State party to further inform policy, strategy and programme development.**

Children deprived of a family environment

46. The Committee is seriously concerned that the State Party has not formulated a coherent national policy on the deinstitutionalization of children and continues to put emphasis on the placement of children in institutions even though a large number of institutions remain unregistered and/or not adequately regulated and monitored, with the effect that:

(a) Mechanisms to deinstitutionalize and/or reintegrate children into their families are not in place in most of these institutions and many children often do not maintain relationships with their families;

(b) Large numbers of children in conflict with the law, child victims of abuse and neglect, children with disabilities and, increasingly, children living in poverty continue to be institutionalized and for long periods of time;

(c) Unacceptable conditions prevail in many institutions which are unable to provide children with basic necessities such as sanitation facilities, sleeping space, medical care and clothing;

(d) Children's emotional well-being is seriously affected in the institutions and the situation is aggravated by the fact that most of the caregivers are untrained and not adequately paid and by a high turnover of staff;

(e) Institutionalized children are often deprived of vocational training, counselling and other alternative educational opportunities;

(f) The situation of institutionalized children is not regularly assessed.

47. **Drawing attention to the Guidelines for the Alternative Care of Children, contained in General Assembly resolution 64/142 adopted on 18 December 2009, the Committee calls upon the State party to urgently formulate a coherent national policy on deinstitutionalization, and in particular:**

(a) **Promptly make the necessary amendments to the Orphanage Ordinance so as to enforce a mandatory registration requirement for childcare institutions, criminalize running an institution without a license and establish a uniform set of standards for public and private institutions and voluntary homes and monitor them regularly as previously recommended;**

(b) **Implement mechanisms to expand and stimulate the reintegration of children into their families;**

(c) **Develop comprehensive admission criteria and strategies to reduce the number of children living in care institutions, including through policies to strengthen and support families, and ensure that the placement of children in institutions is used only as a last resort;**

(d) **Urgently improve the facilities within institutions for children and allocate the necessary resources for the effective functioning and monitoring of child care institutions;**

(e) **Establish criteria to select childcare workers and ensure that they are adequately trained and remunerated;**

(f) **Develop individual childcare plans from the time the child enters the institution and strengthen inclusive education policies and practices.**

Abuse and neglect

48. The Committee, while welcoming the adoption in 2005 of the Prevention of Domestic Violence Act No. 34, remains seriously concerned about widespread and growing child abuse and neglect in the State party, including child sexual abuse in the home and community. In addition, the Committee expresses concern that:

(a) Knowledge, in particular on the part of the police, of the provisions of the new law is insufficient, and protection orders are rarely issued;

(b) In the absence of temporary shelters for women and child victims of domestic violence, cases of domestic violence remain unreported;

(c) High numbers of children placed in institutions continue to be victims of abuse and perpetrators often enjoy impunity in the absence of a formal mechanism to report such cases;

(d) Trials in cases of abuse and neglect of children take up to six to seven years after an offence has been committed.

49. **The Committee urges the State party to consider formulating a comprehensive national strategy to prevent, combat and punish domestic violence and other forms of child abuse and neglect and in particular:**

(a) **To undertake broad awareness-raising programmes and training on domestic violence and the provisions of the new law for officials (law enforcement agencies, judges, lawyers, teachers and social workers) who are in direct contact with the victims and for the public at large;**

(b) **Open as a matter of urgency throughout the State party State-sponsored temporary shelters exclusively for child and women victims of domestic violence;**

(c) **Establish a complaints mechanism available and accessible to all children placed in institutions and ensure effective supervision of childcare workers;**

(d) **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 be resorted to only in exceptional cases;**

(e) **Reduce the duration of investigation into child abuse and neglect and consider holding special court sessions to hear those cases in order to speed up the trials.**

6. Basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1-3) of the Convention)

Children with disabilities

50. The Committee welcomes the adoption of a National Policy on Disability in 2003 which promotes an inclusive approach to education for children with disabilities. It is however concerned that a high number of children with disabilities, most of them girls, remain deprived of any type of education and that opportunities for children with some

types of disabilities, such as autism, and hearing, speech and vision impairments, are almost non-existent. The Committee further expresses concern that:

- (a) Social stigma, fears and misconceptions surrounding disabilities remain strong in society, leading to the marginalization and alienation of children with disabilities;
- (b) No survey has been conducted in the State party on children with disabilities, which hinders the formulation of proper strategies and programmes;
- (c) A proper detection system and early intervention services are lacking, due in particular to the dearth of specialized health professionals;
- (d) Confusion and overlapping of powers and functions among the different ministries dealing with disability issues negatively affect the coordination of actions for children with disabilities;
- (e) Few children are included in mainstream children's programmes;
- (f) Special schools assisted by the Government are not adequately registered and monitored and children with disabilities are still institutionalized in State or voluntary institutions which are not equipped to accommodate such children.

51. **The Committee recommends that the State party strengthen its efforts to fully implement the 2003 National Policy on Disabilities in order to ensure that all children with disabilities, in particular girls, have access to education. To this aim, the Committee reiterates its previous recommendations on the measures to be taken regarding special and mainstream education and the registration of special schools (CRC/C/15/Add.207, para. 37 (b)) and also urges the State party:**

- (a) **To sensitize and educate the public at large and persons working with children with disabilities on the rights of children with disabilities in order to eliminate the stigma and marginalization of these children;**
- (b) **To ensure that reliable statistics on children with disabilities are collected during the 2011 population census;**
- (c) **To improve early intervention services for children with disabilities by training more health specialists and conducting mobile clinics offering their services, especially in rural areas;**
- (d) **To designate a single body to coordinate actions and strategies for children with disabilities;**
- (e) **To allocate the necessary human and financial resources to improve the quality of mainstream and special education, and further develop non-formal education programmes as well as comprehensive and regular teacher trainings adapted to the different types of disabilities;**
- (f) **To remove children with disabilities from institutions which are unable to fulfil their rights and meet their needs and establish a special care system with specialized facilities and trained personnel;**
- (g) **To take into account the Convention on the Rights of Persons with Disabilities and the Committee's general comment No. 9 (2006) on the rights of children with disabilities.**

Health and health services

52. While noting the State party's remarkable achievements in reducing infant, child and maternal mortality and continuous efforts to provide universal access to maternal and child health-care services, the Committee expresses concern that the proportion of gross domestic

product devoted to health has been decreasing since 2007. The Committee also notes with concern that although the State party suffers no significant food shortages and provides extensive, free maternal and child health services, maternal undernutrition continues to be a major challenge, malnutrition affects nearly one third of children and 14 per cent of children under 5 suffer from acute malnutrition due mainly to the unequal distribution of services in the regions. The Committee is further concerned by the considerable variations in children's health status depending on the regions where they live, with children living in the plantation sector or in conflict-affected areas being particularly disadvantaged.

53. **The Committee recommends the State party to continue:**

(a) **To prioritize the allocation of financial and human resources to the health sector with a special emphasis on primary health care, in order to ensure equal access to quality health services by all children, including children living in the plantation sector and conflict affected areas;**

(b) **To strengthen its efforts to improve the health situation of all children, including through the implementation of the Integrated Nutrition Programme throughout the State party and the establishment of a national nutrition committee to coordinate nutritional interventions at all levels;**

(c) **To improve the quality of nutritional education and counselling services and determine the particular regions, districts and groups of children for priority intervention;**

(d) **To seek technical cooperation from UNICEF and WHO.**

Adolescent health

54. While noting the formulation of a National Policy on the Health of Adolescents and the creation of youth-friendly health services in 2005, the Committee notes with concern the limited knowledge among adolescents about reproductive health, persistent problems of youth suicides, and alcohol, drug and tobacco use by adolescents in the State party. The Committee also expresses serious concern at the high level of teenage pregnancies, especially in less developed and conflict-affected areas, and the high level of abortions in the State party, which represent a significant proportion of maternal deaths.

55. **Referring to its general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, the Committee urges the State party to increase the availability of confidential and youth-friendly health services throughout the country, to enhance the availability of contraceptive services and to promote sex education targeted at adolescent girls and boys, with special attention to the prevention of early pregnancies and sexually transmitted diseases. The Committee also urges the State party to review its legislation on abortion, with a view, in particular, to guaranteeing the best interests of pregnant teenagers. It further calls upon the State party to strengthen its efforts to address youth suicides, drug abuse, alcoholism and tobacco use as previously recommended.**

Harmful traditional practices

56. The Committee expresses serious concern that Muslim personal laws allow girls under the age of 12 to be married. While the Committee notes the creation of a special committee to study a possible revision of personal laws, it is however concerned that the State party considers that any reform of the personal laws should come from the affected communities themselves.

57. **The Committee reminds the State party of its responsibility to take immediate measures to prohibit early and forced marriages and to raise the age of marriage to 18**

years for both boys and girls in accordance with its national legislation. The Committee urges the State party to develop sensitization and educational programmes involving religious and community leaders and society at large, including children themselves, to curb the practices of early and forced marriages, which have a negative effect on the development of children, especially girls. In line with general comment No. 28 (2000) of the Human Rights Committee on the equality of rights between men and women, the Committee also reminds the State party that freedom of religion may not be invoked to justify discrimination against girls and practices such as forced and early marriages.

HIV/AIDS

58. The Committee notes that although the State party is categorized as a low HIV/AIDS prevalence nation, several factors, notably internal and external migration, past armed conflicts, tourism, low use of condoms and increase in commercial sex put the country at risk of the spread of HIV. The Committee is also concerned that only 17.3 per cent of young women have comprehensive knowledge of HIV/AIDS.

59. **In the light of its general comment No. 3 (2003) on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights, the Committee urges the State party to strengthen its efforts to prevent the spread of HIV/AIDS by, in particular, increasing awareness about HIV/AIDS among adolescents, especially among the most disadvantaged groups. The Committee also recommends that children be actively involved in the formulation of HIV-prevention strategies.**

Right to an adequate standard of living

60. While noting the existence of a large number of social protection systems to support poor families and the fact that overall poverty has declined in recent years, the Committee nevertheless expresses concern that a large proportion of the State party's families and children continue to live in extreme poverty, especially in rural areas and tea plantations, which undermines their development. The Committee is also concerned that disadvantaged families are excluded from poverty alleviation programmes due to shortcomings in their management and coordination. It is further concerned that those programmes rarely meet the needs of children and families who require them most, as such families often have no knowledge of the existing support programmes and services. While noting that programmes are being implemented to address water supply needs, the Committee expresses concern that access to safe water and sanitation for slum dwellers, internally displaced persons (IDPs) and marginalized populations still has to be addressed.

61. **The Committee recommends that the State party ensure that poverty alleviation and social protection programmes are adequately targeted to the poorest families and implemented in a more child-centred and equitable manner, with special attention to the most disadvantaged groups, including children and families living in rural areas, child workers and children in single-parent households. Special efforts should be made to inform families living in poverty and those caring for the children of migrant mothers of the available support programmes and services in order to increase their access. The Committee further recommends that the State party strengthen its efforts to address the water supply needs in the conflict-affected districts.**

7. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)

Education, including vocational training and guidance

62. The Committee commends the State party for the significant progress achieved over the years in the areas of school enrolment, literacy and gender equality. The Committee also welcomes the adoption of the Education Sector Development Framework and Programme (2006-2010), which focuses mainly on improving equity in access to education and the quality of education, and the National Policy on Early Childhood Care and Education adopted in 2005. Nevertheless, the Committee is concerned that:

(a) Despite the need for school infrastructure, especially in conflict-affected areas where schooling has been disrupted for thousands of displaced children, public investment in education is at a relatively modest level and lower than the South Asian average;

(b) Significant disparities in accessing education persist between provinces, affecting, in particular, the Uva, Northern, North Central and Eastern provinces and the most vulnerable and marginalized children;

(c) School fees continue to be charged despite the constitutional guarantee of free education, introducing discrimination against children from poor families and facilitating corruption in school admissions;

(d) The National Policy on Early Childhood Care and Education is not funded or implemented, leaving most early childhood development programmes in private hands;

(e) One out of five children drop out of school before completing the compulsory nine-year cycle and that a high level of absenteeism and repetition persists, due mainly to the low quality of education, especially in the most remote areas where unqualified teachers continue to work;

(f) Children have few opportunities to be involved in decision-making in educational settings;

(g) Insufficient efforts have been made to include human rights and peace education in the school curricula.

63. **The Committee recommends that the State party, taking into account its general comment No. 1 (2001) on the aims of education:**

(a) **Ensure adequate funding of the public education system and urgently develop a comprehensive education plan for conflict-affected areas in the north and east of the country with clear budgetary allocations for its full implementation and monitoring;**

(b) **Strengthen efforts to reduce disparities among provinces and districts in access to and full enjoyment of the right to education and, in particular, inequalities in the distribution of resources to schools, including the distribution of teachers, and provide the required resources and appropriate incentives for teachers to work in disadvantaged areas;**

(c) **Take the necessary measures to effectively abolish school fees throughout the State party, ensuring that no child is refused admission to school, and take measures to prosecute perpetrators of corruption in schools;**

(d) Take steps to fund the National Policy on Early Childhood Care and Education and ensure a holistic early childhood development programme for all children within the State party;

(e) Improve the quality of education and ensure that children complete their schooling by taking concrete action to address the reasons behind non-completion of schooling and ensure, through a comprehensive teacher-education system, that teachers are well-trained and fully qualified;

(f) Provide suitable vocational or second-chance education for dropouts, especially in conflict-affected areas;

(g) Develop child-friendly approaches in schools and ensure effective child and community participation in decision-making and management of schools;

(h) Provide human rights education and, in particular, education in peace, tolerance and reconciliation for all children in school and train teachers on the promotion of these values in children's education.

8. Special protection measures (arts. 22, 30, 32-36, 38-40, and 37 (b) and (d) of the Convention)

Internally displaced children

64. The Committee expresses deep concern over the poor living conditions of children, among them unaccompanied children and children with disabilities, who have been kept for months in IDP camps in the Vavuniya and Jaffna districts and at Menik Farm, as well as those of children currently living in transit and return areas. The Committee expresses serious concern that internally displaced children who have suffered trauma through multiple forced displacements and separation from families and who have experienced the denial of essential basic services are prevented from receiving assistance due to inadequate support from the State party and the restrictions placed since June 2010 on the activities of international and national humanitarian agencies.

The Committee urges the State party:

(a) To allow international and national humanitarian agencies and organizations immediate access to IDP camps and transit and resettlement areas to offer needed assistance to the affected children and their families;

(b) To address critical funding shortfalls to ensure that the basic life-saving needs of IDPs are met;

(c) To refrain from initiating resettlement movements of children and their families that result in further displacement.

Economic exploitation, including child labour

65. The Committee expresses concern that considerable numbers of children are economically active; a quarter of them are not attending school or any other educational institutions. The Committee also expresses concern that most of the working children reside in rural areas and 60 per cent of them work as agricultural workers. The Committee is also concerned at the absence of legislation implementing the prohibition of the 49 occupations considered to be hazardous by the State party. It further reiterates its concern as to the situation of children used as domestic servants, who remain unprotected in spite of their high vulnerability to abuse and violence.

66. The Committee also urges the State party to take more active measures to prevent children from being economically exploited, and in particular to establish a strong component of the labour inspectorate responsible for monitoring child labour cases. The Committee also calls upon the State party to adopt and implement legislation prohibiting the employment of children in hazardous work. The Committee further urges the State party to ensure that those who economically exploit children and abuse domestic workers are duly brought to justice.

Children in street situations

67. The Committee is concerned at the lack of information in the State party's report on children in street situations, as numerous children are known to work in the streets and are exposed to multiple forms of abuse and exploitation.

68. **The Committee therefore recommends that the State party:**

(a) **Undertake a systematic assessment of the conditions of children in street situations in order to obtain an accurate picture of the root causes and magnitude and to provide the Committee with information in its next report;**

(b) **Develop and implement, with the active involvement of the children concerned themselves, a comprehensive policy which should address the root causes in order to prevent and reduce this occurrence;**

(c) **In coordination with NGOs, provide children in street situations with the necessary protection, adequate health-care services, education and other social services and with adequate information on how to protect themselves, and on how to lodge complaints against those who exploit them.**

(d) **Support family reunification programmes, when it is in the best interests of the child.**

Sexual exploitation and abuse

69. The Committee is concerned that in spite of the magnitude of child sexual exploitation and abuse in the State party, and notably the high incidence of incest and the exploitation of approximately 40,000 children as prostitutes:

(a) Legislation does not adequately protect all children from sexual exploitation; and on the contrary certain provisions may be used to penalize children used in prostitution;

(b) Children have been placed in remand for being used in prostitution, with relatively few persons being identified, arrested and prosecuted for the commercial sexual exploitation of children;

(c) The Supreme Court ruled in 2008 that it could exercise its discretionary power notwithstanding the minimum mandatory jail sentence of 10 years for raping a child;

(d) There is no comprehensive data available on child sexual exploitation and abuse and no central body to monitor the investigation and prosecution of child sexual exploitation cases;

(e) There is a lack of shelters and trained professionals to meet the recovery, rehabilitation and social reintegration needs of child victims of sexual abuse and exploitation.

70. **The Committee urges the State party:**

(a) **To review all the penal laws that relate to the different forms of child sexual exploitation and abuse and ensure that all boys and girls under 18 years of age**

who are victims of sexual exploitation are duly protected and supported in denouncing sexual abuse and exploitation and can no longer be penalized;

(b) To ensure that those who perpetrate sexual offences against children are duly sanctioned with adequate penalties for such crimes;

(c) To give the responsibility of coordinating all actions against child sexual exploitation to a single body and provide it with the necessary human technical and financial resources to carry out its role with efficiency, including with respect to the collection of accurate data, and adopt time-bound measures for the removal of children from prostitution;

(d) To take immediate steps to establish shelters for child victims of sexual abuse and exploitation where children are provided with rehabilitation and social reintegration services;

(e) To continue to implement appropriate policies and programmes for prevention, recovery and social reintegration of child victims, in accordance with the outcomes of the 1996, 2001 and 2008 World Congresses against Sexual Exploitation of Children and the outcomes of other international conferences on this issue;

(f) To seek assistance, if necessary, from specialized international organizations in this regard, in particular the ILO and UNICEF.

Child sex tourism

71. The Committee welcomes the adoption in 2006 of a national plan of action to combat child sex tourism. It is however concerned that the State party remains a common destination for child sex tourism, with a high number of boys being sexually abused and exploited by foreign nationals. The Committee is also concerned that the police still lack the necessary technical expertise to combat child sex tourism and that the CyberWatch programme to monitor the Internet for child pornography and crimes related to child sex tourism was discontinued and the Cyber Crimes Unit closed due to lack of funding.

72. **The Committee urges the State party to strengthen its efforts to implement the national plan of action to combat child sex tourism. The Committee also urges the State party to organize training for the police on investigative and computer evidence gathering techniques to identify child sex tourists and chat room paedophiles and ensure that perpetrators of child sex tourism are brought to justice. The Committee also encourages the State party to re-establish the CyberWatch programme.**

Sale, trafficking and abduction

73. The Committee takes note of the 2006 amendment of the Penal Code to address child trafficking specifically. However, it expresses concern that while children are trafficked internationally and internally, the legislation still provides for very low penalties for trafficking in children and that the State party still has not ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000). The Committee is also concerned that investigations into cases of human trafficking are rarely followed by prosecutions or convictions and that efforts to prevent trafficking and to protect victims of trafficking have been limited. The Committee further notes that the anti-trafficking unit of the National Child Protection Authority no longer exists and that the plans begun in 2007 to develop an inter-agency anti-trafficking task force have not yet been realized.

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

(a) **Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000) and amend its legislation on the minimum penalty applicable to trafficking in women and children;**

(b) **Ensure proper investigation of cases of child trafficking, prosecute the perpetrators and impose adequate sentences for such crimes;**

(c) **Apply a child-sensitive and multisectoral approach to provide essential social services to children and women victims of violence, including sexual abuse and trafficking;**

(d) **Establish a coordinated regional prevention and response mechanism, including comprehensive data collection;**

(e) **Undertake awareness-raising and educational measures to prevent and eliminate trafficking in women and children in cooperation with non-governmental organizations engaged in these efforts;**

(f) **Provide further resources to support physical and psychological recovery for all child victims of sale or trafficking;**

Child helpline

75. The Committee welcomes the creation in 2008 of a national child helpline. However, the Committee is concerned that the child helpline is understaffed, not properly equipped and opens only during school hours and is therefore rarely used by children.

76. **The Committee urges the State party to strengthen the child helpline by providing it with greater human and financial resources to enable it to open 24 hours a day and to adequately respond to children's complaints.**

Administration of juvenile justice

77. The Committee notes the establishment of one juvenile court in Colombo and the training provided to judges on the provisions of the Convention. The Committee, however, expresses its serious concern that:

(a) The legal minimum age of criminal responsibility remains very low (8 years), and that the draft juvenile justice procedure code currently under review raises it to 10 years only, which is still well below internationally accepted standards;

(b) Children over 16 years old are excluded from the protection of the Children and Young Persons Ordinance;

(c) The pretrial detention periods are long, children are often ill-treated by the police and often appear before a court for either extremely minor offences and remain in remand homes for months, or years in a few cases, against the legal period of 28 days, with no access to education and at the risk of being abused;

(d) The separation between children and adults is not always guaranteed in relation to transport to and from court;

(e) Juvenile courts have not been established throughout the State party to hear cases involving children and children are rarely provided with legal assistance when appearing before court;

(f) Sentencing remains severe and disproportionate, with the systematic use of three-year sentences for minor offences such as petty theft and affects disproportionately children from poor families that cannot afford a lawyer or pay for bail;

(g) Community-based alternatives are limited and institutionalization is frequently used.

78. The Committee reiterates its previous recommendation (CRC/C/15/Add.207, para 52 (a)) that the State party bring the system of juvenile justice fully into line with the Convention, in particular articles 37, 39 and 40, and with other relevant standards, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), the Vienna Guidelines for Action on Children in the Criminal Justice System; and the Committee's general comment No. 10 (2007) on children's rights in juvenile justice. In this regard, the Committee recommends that the State party:

(a) Raise the legal age of criminal responsibility to an internationally acceptable level;

(b) Accord protection of juvenile justice provisions to all children under 18 years and amend the Children and Young Persons Ordinance accordingly;

(c) Ensure that children are held in detention only as a last resort and for as short a time as possible, that detention is carried out in compliance with the law and respects the rights of the child, including the 10-hour time limitation for custody of children, that children are separated from adults both in detention and in transportation to court, that children are not ill-treated in detention and that the conditions in detention facilities meet international minimum standards;

(d) Ensure that sentencing and detention take into consideration the best interests of the child, that they be the lowest possible and that they be periodically reviewed;

(e) Take the necessary measures to extend specialized juvenile courts across the country, to train juvenile justice judges and develop a comprehensive training programme for police brigades, judges and social workers to strengthen technical capacity and knowledge on juvenile justice systems and alternatives to detention;

(f) Make use of the technical assistance tools developed by the Interagency Panel on Juvenile Justice and its members, which include UNODC, UNICEF, OHCHR and NGOs, and seek technical assistance in the area of juvenile justice from members of the Panel.

Protection of witnesses and victims of crimes

79. The Committee recommends that the State party ensure, through adequate legal provisions and regulations, that all child victims and/or witnesses of crimes, for example child victims of abuse, domestic violence, sexual and economic exploitation, abduction and trafficking and witnesses of such crimes, are provided with the protection required by the Convention and that it take fully into account the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20, annex).

9. Ratification of international and regional human rights instruments

80. The Committee welcomes the ratification by the State party of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

81. The Committee calls upon the State party to promptly submit its initial report under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. It also encourages the State party to accede to all core human rights instruments, including the Convention on the Rights of Persons with Disabilities and its Optional Protocol, the International Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and ensure prompt compliance, implementation and reporting requirements in order to promote and improve the overall protection of human rights.

10. Follow-up and dissemination

Follow-up

82. The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented by, *inter alia*, transmitting them to the Head of State, members of the Government, Parliament, Supreme Court, the provincial councils and to other local governments, when applicable, for appropriate consideration and further action.

Dissemination

83. The Committee further recommends that the combined third and fourth periodic report and written replies submitted by the State party and the related recommendations (concluding observations) be made widely available in the languages of the country, including (but not exclusively) through the Internet, to the public at large, civil society organizations, media, youth groups, professional groups and children, in order to generate debate and awareness of the Convention, its implementation and monitoring.

11. Next report

84. The Committee invites the State party to submit its combined fifth and sixth periodic report by 1 October 2015. The Committee draws attention to its harmonized treaty-specific reporting guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2) and reminds the State party that future reports should be in compliance with the guidelines and not exceed 60 pages. The Committee urges the State party to submit its report in accordance with the guidelines. In the event a report exceeding the page limitations is submitted, the State party will be asked to review and resubmit the report in accordance with the above-mentioned guidelines. The Committee reminds the State party that if it is not in a position to review and resubmit the report, then translation of the report for purposes of examination by the treaty body cannot be guaranteed.

85. The Committee also invites the State party to submit an updated core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, approved by the fifth inter-committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3). The treaty-specific report and the common core document together constitute the harmonized reporting obligation under the Convention.