



Convention on the Rights of the Child

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Summary record of the 2384th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 21 May 2019, at 3 p.m.

Chair: Mr. Pedernera Reyna

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The meeting was called to order at 3.05 p.m.

Consideration of reports of States parties (*continued*)

Initial report of Sri Lanka on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/LKA/1; CRC/C/OPSC/LKA/Q/1 and CRC/C/OPSC/LKA/Q/1/Add.1)

1. *At the invitation of the Chair, the delegation of Sri Lanka took places at the Committee table.*
2. **Ms. Senanayake** (Sri Lanka), introducing the initial report of Sri Lanka on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/LKA/1), said that she wished to thank all stakeholders, including government officials and representatives of international organizations such as the United Nations Children's Fund (UNICEF), and members of local and international civil society, for their help in preparing the review of her country's implementation of the Optional Protocol. She was also grateful to the Human Rights Commission of Sri Lanka for its help in preparing the 2017–2021 National Human Rights Action Plan, which contained a separate chapter on children's rights, and the National Action Plan on the Elimination of Child Sexual Abuse and Exploitation, including Online Safety.
3. Sri Lanka had begun to address the problems of the sale of children, child abuse and child pornography even before becoming a party to the Optional Protocol, but following its ratification of the Protocol, it had ensured that its legislation covered all offences dealt with in that instrument by introducing amendments that supplemented section 360 of the Penal Code, which defined the criminal offences of the sale of children, child prostitution and child sexual exploitation, and section 286 of the Code, on child pornography.
4. In addition, the National Plan of Action on Children and the Policy Framework and National Plan of Action to Address Sexual and Gender-based Violence 2016–2020 had been drawn up to strengthen efforts to combat sexual abuse and exploitation. Under the Global Partnership to End Violence against Children, the Ministry of Women and Child Affairs and Dry Zone Development had developed the National Action Partnership to End Violence against Children. These action plans were coordinated by the Ministry's National Monitoring Committee on the Rights of the Child, which had a cascading structure comprising provincial, district, divisional and village-level committees.
5. At the regional level, her country was a member of the South Asia Initiative to End Violence Against Children and was involved in implementing the Initiative's workplans on child sexual abuse prevention and online safety. It was also a member of the South Asian Association for Regional Cooperation (SAARC) and a party to the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. At the international level, Sri Lanka had recently ratified the Protocol of 2014 to the International Labour Organization (ILO) Forced Labour Convention, 1930.
6. A robust institutional mechanism encompassing all government stakeholders and law enforcement authorities had been put in place to ensure implementation of the country's laws and policies on the protection of children. Each of the country's 490 police stations had a women and children's desk, and a trilingual 24-hour toll-free hotline was in operation. Victims could use either of those mechanisms to lodge confidential complaints concerning the infringement of children's rights. The police were required to respond to complaints within a maximum of 48 hours, and there was an island-wide network of divisional child rights officers who dealt with certain aspects of complaints of this sort. The Attorney General's Department had a special unit that dealt exclusively with cases relating to children, and officers had been given special training in the investigation of such cases and in working in a child-friendly manner.
7. The 2017–2020 strategic plan for the tourism industry was a preventive initiative aimed at forestalling child prostitution and child pornography in that sector. Other

preventive measures included awareness-raising activities, collaboration with foreign intelligence and law enforcement agencies and economic empowerment programmes.

8. **Mr. Mezmur** (Country Rapporteur) said that, in the light of the head of delegation's reference to women and children's desks at 490 police stations nationwide, he would welcome clarification concerning the coverage of the Women and Child Abuse Prevention Bureaux, which, according to the Government's written replies ([CRC/C/OPSC/LKA/Q/1/Add.1](#)), had been established in 42 police divisions across the country. He would also like to know how accessible those offices were for victims and their families.

9. He would be interested to learn how the data collected by the police that were presented in the statistical tables included in the written replies were used. Were those statistics used to inform policy development and interventions on behalf of victims, or were they primarily employed in prevention efforts? He noted that the rows in the table relating to child sex tourism, illegal adoption and child marriage were blank. Did that mean that no cases had been reported or that there had been no developments in those areas? In relation to the sexual exploitation of children in connection with travel and tourism, he would welcome any statistics the delegation could provide, particularly with regard to the exploitation of boys and specifically those often referred to as "beach boys".

10. According to the State party's report, although Sri Lankan legislation did not use the same terminology as the Optional Protocol, it nonetheless conformed to the definitions given in the Protocol. It would be appreciated if the delegation could provide examples of case law in which the provision in section 360 C of the Penal Code on the sale of children had been applied specifically to the offence of the sale of children. He had noted that additional examples were given in the replies to the list of issues, but they mainly concerned child labour.

11. According to section 360 A of the Penal Code, procurement carried a penalty of from 2 to 10 years' imprisonment. However, such cases generally came before magistrates, who were empowered to hand down prison sentences of no more than 2 years. He would like to know how the State party struck an appropriate balance between the gravity of the offence and the severity of the corresponding penalty. He had also noted that certain cases had attracted penalties of a fine and a suspended sentence. Did the delegation believe that penalties of that nature were commensurate with the seriousness of such offences against children?

12. Since several of the State's action plans and other measures would be drawing to a close over the next year, he wondered what steps had been taken to evaluate their impact. He would welcome updated information on the status of the Child Protection Policy and would be interested to hear the delegation's views concerning the extent to which that policy would help the State party to address the core issues raised by the Optional Protocol.

13. Information received by the Committee indicated that meetings of the action plan monitoring committee had had to be cancelled owing to a lack of funds. He wondered what the practical implications of such difficulties were. Did that mean that some of the planned child protection work was not being carried out? He would also like to know how the Government ensured that resource constraints did not adversely impact the National Child Protection Authority's work.

14. The strategic plan for the tourism industry was ambitious, aiming as it did to eliminate the various forms of exploitation of children in the context of tourism by 2020. Clearly, in reality the problem extended over several sectors, and he would like to know how efforts in those areas were being coordinated so as to support the Tourism Development Authority and ensure that the plan's goals were achievable.

15. There were concerns in some quarters that training for the judiciary and for professionals working for and with children was not sufficient. He would like to know what plans the State party had to ensure progress in that regard.

16. In the area of prevention, he wished to know what practical steps the State party was taking to suppress printed matter and Internet content that referred openly to the availability of child sex in the country. The fact that the State party had signed memorandums of

understanding with some Middle Eastern countries with a view to improving cooperation in prevention efforts made him wonder whether any moves had been made to conclude similar agreements with the countries from which the majority of tourists originated.

17. Lastly, he would like to know if progress had been made towards amending the Muslim Marriage and Divorce Act, under which children under the age of 18 could marry with the permission of a Muslim judge (*quazi*).

18. **Ms. Otani** (Country Rapporteur) said that she wished to express her deepest sympathy and condolences to the families of the many victims, including children, of the recent attacks in Sri Lanka.

19. Notwithstanding the State party's attempts to amend its legislation to ensure that all the acts and activities dealt with in the Optional Protocol were covered, gaps in the law persisted. The current dialogue would be a good opportunity to determine what remained to be done in order to bring existing laws into line with article 3 of the Protocol. Under that article, States parties were required to impose penalties that took into account the grave nature of the offences. As Sri Lankan law permitted the imposition of fines as well as prison sentences, she wished to know whether a fine might be the only penalty imposed on the perpetrator of such an offence. In reference to paragraph 37 of the report, she would welcome an explanation of the reasons behind the varying prison terms specified for the offences of the sale of children, child prostitution and child pornography. She was particularly concerned about the penalization of the offence of child pornography, whose effects on a child could be particularly long-lasting if images were posted online.

20. It was difficult to understand the disparity between the Government's statistics on reported cases and the number of actual investigations, prosecutions and convictions. It would be helpful to have statistics on the specific penalties handed down in respect of the offences covered by the Optional Protocol.

21. She wished to know whether resource shortages were interfering with the role played in investigation and victim support by the Women and Child Desks and wondered how often children themselves made use of the helplines that had been made available. Were children generally aware that they could use those helplines to report offences? While it was beneficial that some police officers had undergone child sensitivity training, there was also a need for gender sensitivity training, particularly in the case of boy victims.

22. Given the Government's policy of promoting tourism and the importance of the tourism business sector to the country, it would be helpful to know whether there were plans to establish the liability of legal persons. If not, was that because the State party regarded such a measure as unnecessary or because it needed support for the implementation of such a plan?

23. **Ms. Khazova** said that, in the light of the increasing tendency for non-nationals to make arrangements for women in Sri Lanka to serve as surrogate mothers, and given that surrogacy was completely unregulated in the country, she wondered whether the Government planned to introduce regulations designed to prevent its use as a means of selling children. It would be helpful to know whether there were plans to introduce mandatory licensing requirements for childcare institutions that handled adoptions as a means of preventing violations of the Optional Protocol, including the sale of children.

24. **Mr. Gudbrandsson** said that it was unclear whether the staff of child-protection services had a legal obligation to report any suspicions to the police as a means of preventing children's revictimization; if so, how were such reports handled? He would be interested to hear more about the child-friendly courts that were mentioned in the report, and he would be particularly interested in obtaining more information about the treatment and support provided for child victims. It was unclear to him whether there was a system for monitoring serial sex offenders in order to prevent the revictimization of poor, vulnerable children, and he would appreciate clarification on that score.

The meeting was suspended at 3:55 and resumed at 4:20.2

25. **Ms. Senanayake** (Sri Lanka) said that she wished to thank Ms. Otani for her expression of sympathy and condolences on behalf of the Committee. The attacks had

caused the deaths of almost 50 children and had left many more injured. The Ministry of Women and Child Affairs was working alongside the United Nations Children's Fund and numerous non-governmental organizations to provide support.

26. **Ms. Karunanayake** (Sri Lanka) said that, even long before Sri Lanka had ratified the Optional Protocol in 2006, the three offences covered therein were offences under Sri Lankan law. However, having understood the need to provide greater protection for the children of the country, the Government had proceeded to introduce numerous amendments to various ordinances and other laws, notably the Penal Code. There were thus no legal gaps impeding the prosecution of cases involving the sale of children. Although there was no specific provision containing the exact words "sale of children", section 360 C of the Penal Code, which covered the broader offence of trafficking in persons, encompassed all aspects of the offence of the sale of children, including any transaction whatsoever that put a child into an exploitative or abusive situation. Those offences formed an integral part of the offence of trafficking. When the offence involved a child, the law also provided for a more severe mandatory sentence, which ranged from a minimum of 3 years' up to a maximum of 20 years' incarceration. It should also be pointed out that the law was gender-neutral and so protected boys as well as girls. Nonetheless, while there were no legal gaps as such, the country did face a number of practical difficulties in the prosecution of cases of child abuse, and the Government was committed to taking the necessary steps to resolve those difficulties.

27. The Government would soon be enacting the new Obscene Publications Bill to replace the old colonial-era legislation. That bill included harsher sentences for offences relating to child pornography and the solicitation of children to engage in sexual activities. The bill also defined new offences involving pornography-related acts that entailed the use of modern technology, such as livestreaming. The new bill also covered pornography involving individuals who appeared to be children and included specific provisions on extradition, among other procedural matters. Other aspects of child pornography were adequately covered in section 286 of the Penal Code and numerous other laws, such as Children and Young Persons (Harmful Publications) Act No. 48 of 1956.

28. As outlined in paragraph 29 of the report, the Government considered that sections 360 A and B of the Penal Code adequately covered crimes relating to prostitution, including child prostitution. The latter section covered all possible means of involving children in prostitution or otherwise sexually exploiting them.

29. Over the years, various amendments to the Penal Code had introduced more severe punishments for all sexual offences, which included mandatory minimum sentences, such as, for example, a minimum sentence of 5 years' imprisonment for the sexual exploitation of children. In cases where a judge had ignored the mandatory minimum sentence of imprisonment and had handed down a suspended sentence, the Attorney General's Department had appealed and had the sentence increased. While it was true that fines were sometimes imposed, they were always in addition to a custodial sentence, rather than taking its place.

30. **Mr. Jaffé** said that he wished to know how children considered to have ancillary criminal liability for an offence involving sexual abuse were treated and how that treatment might vary if the child was, for example, 13, 15 or 17 years of age. Regarding a point made earlier by Mr. Gudbrandsson, it was unclear whether a distinction was made between child victims and children accused of offences. In some cases, it appeared that they were held in the same facilities. Clarification in that regard would be appreciated.

31. **Ms. Ayoubi Idrissi** asked whether the possession of child pornography, as such, was a criminal offence.

32. **Ms. Skelton** asked whether children who had taken photographs of themselves and sent them to someone else might be subject to severe penalties for the possession of child pornography.

33. **Ms. Karunanayake** (Sri Lanka) said that, under the Penal Code, the possession of sexual images of children was a criminal offence. If a child were found to be in possession

of child pornography, the courts would be responsible for deciding on a case-by-case basis whether he or she should be held criminally liable.

34. **Mr. Azeez** (Sri Lanka) said that the Government had concluded agreements on mutual legal assistance and extradition with a number of the countries of origin of significant numbers of tourists who visited Sri Lanka. The Committee might help the Government to identify additional areas in which memorandums of understanding were required.

35. Several sector-specific national human rights plans had been drawn up, and most of them were reviewed regularly, although that varied by sector. The National Action Plan for the Protection and Promotion of Human Rights 2017–2021 was particularly well monitored, as it came under the oversight of a national coordination mechanism involving the Prime Minister, ministry representatives and civil society. The Government recognized that implementation of some of the plans needed to be assessed more regularly, however.

36. A great deal of progress had been made in promoting gender sensitivity and child sensitivity and in achieving a gender balance, in particular in the context of efforts to attain the Sustainable Development Goals. The draft Sustainable Sri Lanka Vision 2030 and Strategic Path, for example, incorporated a gender perspective in various areas, including economic, social and environmental activities. The approach taken to the achievement of the Sustainable Development Goals was based on rights, responsibilities and stakeholder engagement.

37. Although the phenomenon of Sri Lankan women serving as paid surrogates for foreign nationals had not been identified as a particular risk, paid surrogacy and a range of similar activities were criminal offences under the Penal Code.

38. **Ms. Sigera** (Sri Lanka) said that the Government had established a number of mechanisms for monitoring sex offenders. The Department of Immigration and Emigration screened all visa and passport applications and checked them against the International Criminal Police Organization (INTERPOL) databases and its own watch list. All foreign passports were also checked against the INTERPOL databases upon visitors' entry into the country. The Sri Lanka Tourism Development Authority had a zero-tolerance policy on sex tourism, and it encouraged tourists to report suspicious activities, either via the 24-hour childline maintained by the National Child Protection Authority or to the staff at their hotel.

39. Adoption of Children Ordinance No. 24 of 1941, amended in 1992, regulated intercountry adoption in Sri Lanka. In addition, in 1994 Sri Lanka had acceded to the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. The Department of Probation and Childcare Services was an accredited intercountry adoption agency; it had handled over 2,000 adoptions in 2018, of which only 12 had been intercountry adoptions. Local private adoptions were also possible and were regulated by the country's provincial probation departments.

40. National guidelines for dealing with cases of child abuse had been developed in collaboration with various stakeholders, including the health services and probation departments. Meetings on institutional and clinical cases were held with rehabilitation professionals, child rights officers, national child protection officers, medical administrators, paediatricians and psychiatrists with a view to preventing the revictimization of children. In addition, national case management guidelines for preventing violence against children had been approved, and the first round of training on their implementation had been completed. The National Policy for Alternative Care of Children in Sri Lanka and the Children and Young Persons Ordinance both provided a range of options for avoiding revictimization, such as conditional discharge and community service orders. Furthermore, cases involving children could be submitted to the Mediation Boards rather than the courts, and the police officer in charge of the station to which a suspected child offender was brought had the authority to release the child on bail to allow the parties to have their dispute arbitrated.

41. **Ms. Khazova** said that she wished to know whether childcare institutions were legally obliged to obtain a licence and, if so, what steps were taken if such an institution were found to be operating without a licence.

42. **Ms. Otani** said that she wondered whether the lack of any increase or, in some cases, a decrease in the number of cases involving offences under the Optional Protocol was the result of underreporting, and she therefore wished to know what measures were in place to help medical personnel, social workers, teachers and other professionals to identify potential victims and report suspected cases. She also wished to know whether they were legally required to file reports if such situations came to their attention.

43. The State party's response to issue No. 12 on the list of issues had made it clear that child victims were not treated as perpetrators, but the Committee had nonetheless received information that suggested that there might have been cases in which child victims had been arrested or detained. Any clarification in that connection would be appreciated. The Committee had some concerns regarding the fact that, according to the State party's written replies, child victims and child offenders were admitted to the same safe houses, since such an arrangement might create difficulties for the victims. Were any support services for victims made available in those facilities? On the subject of international cooperation, she would like to know whether there were any judicial service commissions in Sri Lanka that might play a role in facilitating judicial reform.

44. **Mr. Rodríguez Reyes** asked how many persons had been prosecuted and convicted for acts that were offences under the Optional Protocol and what sources of legal assistance and aid were available to child victims.

45. **Mr. Mezmur** said that he wished to know how the Government had avoided a duplication of effort between the Presidential Task Force for the Protection of Children and the national monitoring committee responsible for coordinating the implementation of the Charter on the Rights of the Child, as any such duplication could weaken the ability of the National Child Protection Authority to implement the Optional Protocol. He was aware that training and awareness-raising activities had been carried out, but he was interested in learning to what extent they had focused on the legislative framework applying to offences under the Optional Protocol, as opposed to the social stigmatization associated with the commission of such acts. Lastly, on the subject of research from a preventive perspective, he would like to know whether any progress had been made in understanding the root causes of such behaviours with a view to helping to avoid placing children in situations where they would be at risk.

46. **Ms. Sigera** (Sri Lanka) said that Sri Lanka had 39 State-owned homes for children and more than 300 children's homes that, although not owned by the State, were registered with the provincial authorities. There were 28 homes that had been given time to comply with licensing and registration requirements. The mandate of the National Child Protection Authority was to oversee all the children's homes in the country, and it worked in coordination with the Department of Probation and Childcare Services in that connection. Further information on training, licensing and other requirements would be provided in writing.

47. **Ms. Senanayake** (Sri Lanka) said that in 2017 the Ministry of Women and Child Affairs had established a mechanism for coordinating the work of the Government and civil society in the area of children's rights. She chaired the national-level committee that was responsible for overseeing the mechanism's operation. Committees that worked to combat offences under the Optional Protocol were also active at the local level. Work in that area could be said to proceed from the bottom up, and care was taken to avoid any duplication of effort. As the Ministry's focal point for children's rights, she raised relevant issues at meetings of the presidential task force on children's rights, of which she was a member.

48. **Ms. Kulathunga** (Sri Lanka) said that a call for comments on the draft National Child Protection Policy had appeared in the press and elicited a strong response. The National Child Protection Authority was taking steps to coordinate its work with the line ministries that would be involved in the implementation of that policy. Cabinet approval of the policy, which would be used to inform the formulation of future legislation, was expected by late October 2019.

49. **Ms. Welikala** (Sri Lanka) said that the committee established to look into drafting an amendment that would introduce a minimum age for marriage under Muslim law had submitted its recommendations to the Ministry of Justice in February 2018, and those

recommendations were currently being discussed by stakeholders. As part of the National Human Rights Action Plan 2017–2021, the Government had undertaken to review article 16 of the Constitution. It had also undertaken to ensure that the country's Penal Code was compatible with international human rights standards. In addition, the Ministry of Women and Child Affairs continued to formulate recommendations concerning relevant legislative amendments.

50. Workshops on the Muslim Marriage and Divorce Act had been held with rights activists, religious leaders and others. A report containing the recommendations made at those workshops had been submitted to the Cabinet subcommittee responsible for proposing amendments to the Act.

51. The Children and Young Persons Ordinance provided for the establishment of a specialized juvenile justice system and alternative sentencing options. For years, Sri Lanka had had two children's courts, one in Bambalapitiya, a suburb of Colombo, and the other in Jaffna. More recently, child-friendly courts had been established in Ampara, Anuradhapura and Monaragala. Training modules on juvenile justice were being developed, and the Judicial Service Commission had issued a circular which stated that proceedings involving children should be conducted in camera.

52. **Ms. Senanayake** (Sri Lanka) said that collecting island-wide data related to the Convention and the Optional Protocol on the sale of children, child prostitution and child pornography had been identified as a key priority. The police, and their Women and Child Abuse Prevention Bureaux, in particular, had begun collecting data on offences under the Optional Protocol. In addition, other State institutions, including the Ministry of Women and Child Affairs, were working to build up their data-collection capacity. The process had been slow, however, and the Government would welcome any relevant technical advice that the Committee could provide.

53. **Ms. Manatunga** (Sri Lanka) said that the reason why spaces had been left blank in the table in the replies to the list of issues ([CRC/C/OPSC/LKA/Q/1/Add.1](#), para. 2) showing the number and kinds of offences under the Optional Protocol that had been reported in Sri Lanka in the period 2016–2018 was not because no offences had been reported, but because some offences listed in the table had been reported or categorized as other types of offences. Cases of child marriage and child sex tourism, for instance, were generally categorized as statutory rape.

54. The police worked with the Ministry of Women and Child Affairs and other agencies to combat child prostitution and the exploitation of children. As part of that effort, they worked together to collect data which were then shared with other agencies and used to inform public action plans and policies.

55. **Ms. Amarasena** (Sri Lanka) said that the first of the police force's bureaux for the prevention of abuse of children and women had been established in 1979 in Colombo. The country's 42 police divisions currently had 42 divisional Women and Child Abuse Prevention Bureaux and approximately 10 times as many station-level bureaux. Those bureaux processed reports of harassment and abuse targeting women and children, conducted awareness-raising programmes, operated helplines, maintained a database and referred victims to the appropriate service providers. Complaints from women and girls were taken by female police officers and, as a rule, the bureaux's premises were located apart from the rest of the police station.

56. **Ms. Karunanayake** (Sri Lanka) said that, in view of the gravity of the offence of child prostitution, the Attorney General made sure that charges involving the procurement of children for purposes of sexual exploitation were never filed with the country's magistrate's courts, which heard cases involving offences punishable by no more than 2 years in prison, but instead with courts having the authority to impose longer sentences of imprisonment.

57. **Mr. Azeez** (Sri Lanka) said that the disastrous Easter bombings had hindered efforts to collect information in preparation for the delegation's appearance before the Committee. Additional information would therefore be submitted in writing. The Government's policy of constructive engagement with all the human rights treaty bodies made it possible, among

other things, to identify areas – capacity-building, for instance – to which priority should be given.

58. **Ms. Otani** said that the Committee welcomed the openness and constructive spirit shown by the delegation. In recent years, a number of treaty bodies, including the Committee on the Elimination of Discrimination against Women, had provided Sri Lanka with their concluding observations, which contained a number of recommendations. It was of crucial importance for Sri Lanka, as it emerged from its long civil war, to give effect to those recommendations.

59. **Ms. Senanayake** (Sri Lanka) said that her Government welcomed the Committee's constructive comments, which would help it work towards its goals with renewed vigour.

The meeting rose at 5.55 p.m.