

ADVANCE UNEDITED VERSIONDistr.: General
31 May 2019Arabic, Chinese, English, French,
Russian and Spanish only**Committee on the Rights of the Child****Concluding observations on the report submitted by Sri Lanka under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*****I. Introduction**

1. The Committee considered the report of Sri Lanka (CRC/C/OPSC/SRI/1) at its 2384th meeting (see CRC/C/SR.2384), held on 21 May 2019, and adopted the present concluding observations at its 2400th meeting, held on 31 May 2019.
2. The Committee welcomes the submission of the report of the State party and the written replies to the list of issues (CRC/C/OPSC/LKA/Q/1/Add.1). The Committee expresses appreciation for the constructive dialogue held 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 the concluding observations on the combined fifth and sixth periodic reports submitted by the State party under the Convention (CRC/C/LKA/CO/5-6), adopted on 2 February 2018.

II. General observations**Positive aspects**

4. The Committee notes with appreciation the State party's ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children ("Palermo Protocol"), supplementing the United Nations Convention against Transnational Organized Crime, on 15 June 2015.
5. The Committee further welcomes the various measures taken by the State party in areas relevant to the implementation of the Optional Protocol, including the adoption of the Act No.4 on the Assistance to and Protection of Victims of Crimes and Witnesses, in 2015, and the amendment thereto enabling the State party's diplomatic missions to record evidence and take statements from victims and witnesses abroad, in November 2017.
6. The Committee further notes with appreciation the progress achieved in the establishment of institutions and the adoption of national plans and programmes that facilitate the implementation of the Optional Protocol:
 - (a) the adoption of the National Action Plan for the protection and Promotion of Human Rights (2017-2021);

* Adopted by the Committee at its eighty-first session (13-31 May 2019).



- (b) the adoption of the National Plan of Action for Children of Sri Lanka (2016-2020);
- (c) the adoption of the Policy Framework and the National Plan of Action to address Sexual and Gender-based Violence (2016-2020);
- (d) the adoption of the National Strategic Plan to Monitor and Combat Human Trafficking (2015-2019);
- (e) the adoption of the National Policy on Elimination of Child Labour (2016), and the Road Map 2016 on the Elimination of the worst forms of child labour;
- (f) the establishment of Children's and Women's Bureaux at 42 police divisions and 492 police stations country-wide to consider complaints pertaining to children;
- (g) the creation of the National Authority to Protect Victims of Crime and Witnesses, in 2015;
- (h) the establishment of the National Human Trafficking Task Force, in 2010.

III. Data

Data collection

7. The Committee notes that databases on reported complaints are maintained by the National Child Protection Authority and the Police Women and Children's Bureau. It is concerned, however, that the State party lacks a centralised and adequately disaggregated data collection system in relation to the offences under the Optional Protocol and therefore faces difficulties to assess the magnitude of the problem. The Committee is also concerned that the lack of data affects the State party's ability to prevent such offences and to protect and rehabilitate child victims through the appropriate laws, policies and necessary services.

8. **The Committee recommends that the State party develop and implement a comprehensive, coordinated and effective system for disaggregated data collection, analysis, monitoring and impact assessment on all areas covered by the Optional Protocol, including on the sale of children, child prostitution and child pornography. In particular, the Committee recommends that the State party:**

- (a) **Disaggregate data by, inter alia, sex, age, nationality and ethnic origin, geographic location, type of offence, and socioeconomic status;**
- (b) **Collect data on how children access and use digital and social media and their impact on children's lives and safety, and on factors that affect children's resilience to online risks as they access and use information and communications technology;**
- (c) **Collect data on the number of cases reported, on prosecutions, convictions and on redress provided to child victims, disaggregated by the type of offence, including with regard to online and offline activity, details regarding the perpetrator and the sex, age, nationality and ethnic origin, geographic location and socioeconomic status of the victims;**
- (d) **Collect, analyse and store data with due respect for children's right to privacy;**
- (e) **Analyse the data collected and use it as a basis for designing policies and strategies to implement the Optional Protocol while assessing progress achieved towards that objective.**

IV. General measures of implementation

Legislation

9. The Committee welcomes that various provisions of the Convention and the Optional Protocol were integrated into the Children's Charter (1992) and that the Penal Code (1883)

was subsequently amended to prohibit several offences under the Optional Protocol. However, the Committee is concerned that the Penal Code does not effectively address all offences covered under articles 2 and 3 of the Optional Protocol. It is particularly concerned that:

- (a) Sale of children, a concept similar, but not identical, to trafficking in children, is not explicitly defined and criminalised;
- (b) Child prostitution and child pornography are not explicitly defined and not all acts and activities of these offences are criminalised;
- (c) Sexual exploitation of children in travel and tourism is not addressed in the national legislation.

10. The Committee urges the State party to ensure that all acts and activities listed in the Optional Protocol are fully covered under domestic criminal law, including all forms of sale of children, child prostitution and pornography and sexual exploitation of children in travel and tourism.

Comprehensive policy and strategy

11. The Committee notes that the National Plan of Action on Children (2016-2020), the National Plan of Action for the Protection and Promotion of Human Rights (2017-2021) and the National Plan of Action and Policy Framework on Sexual Gender Base Violence (2016–2020) include provisions relating to sexual exploitation of children. It also notes that, as confirmed during the dialogue, the State party is at the final stages of developing a National Child Protection Policy, and also has a draft National Action Plan for National Partnership to End Violence against Children and a draft National Action Plan on Child Abuse and Sexual Exploitation including Online Safety. It also notes that the State party was recognized as a pathfinder country to the Global Partnership to End Violence against Children. Nevertheless, the Committee is concerned that a comprehensive plan to address all issues covered under the Optional Protocol is missing.

12. The Committee recommends that the State party:

- (a) **Develop a national plan of action aimed at addressing specifically all issues covered under the Optional Protocol and provide adequate human and financial resources for its implementation, monitoring and evaluation. In doing so, the State party should pay particular attention to the implementation of all provisions of the Optional Protocol taking into account the outcomes of the World Congresses against Commercial Sexual Exploitation of Children;**
- (b) **Adopt and implement without further delay the pending policy initiatives, ensuring their compliance with the Convention and the Optional Protocol, and allocate the necessary resources to their implementation.**

Coordination

13. The Committee notes that the National Child Protection Authority under the purview of the Ministry of Women and Child Affairs and Dry Zone Development is responsible for coordination of activities in relation to the Convention and its Optional Protocols. However, the Committee regrets the reportedly limited resources and coordination capacity of the Authority. It is also concerned that the establishment of the National Monitoring Committee to coordinate the implementation of the national Children’s Charter and of the Presidential Taskforce for the Protection of Children may lead to overlaps and the duplication of functions and further weaken the mandate of the National Child Protection Authority in relation to the Optional Protocol.

14. With reference to paragraph 7 of its concluding observations under the Convention (CRC/C/LKA/CO/5-6), the Committee recommends that the State party strengthen the National Child Protection Authority, including by allocating adequate resources thereto, with a view to ensuring that it provides leadership and effective general oversight for the monitoring and evaluation of activities on children’s rights

under the Convention and its Optional Protocols across sectoral ministries and from the central to local government levels.

Dissemination, awareness-raising and training

15. While noting various awareness-raising activities by the State party and other stakeholders, the Committee regrets that they are sometimes not coordinated, sufficiently systematic and sustainable as to raise public awareness on the issues under the Optional Protocol. It is also concerned at the very limited awareness of the Optional Protocol among the judiciary and the limited information about training on issues under the Optional Protocol for professionals working for and with children.

16. The Committee recommends that the State party intensify its efforts to disseminate and raise public awareness of the provisions of the Optional Protocol, including among children, in cooperation with civil society and other stakeholders. It also recommends that the State party establish systematic, multidisciplinary and mandatory training programmes on the Optional Protocol for all professionals working with and for children, including judges, prosecutors, law enforcement and immigration officials, healthcare and social workers, ICT specialists and those working in the tourism and travel sector.

Allocation of resources

17. While noting the information about resources allocated to the Ministry of Women and Child Affairs and Dry Zone Development, its Department of Probation and Child Care Services and the National Child Protection Authority, the Committee regrets the lack of information as to whether these allocations were specific to the implementation of the Optional Protocol. It is also concerned at the reportedly very limited funding available to the National Child Protection Authority.

18. The Committee recommends that the State party ensure the allocation of adequate financial and human resources specifically for the implementation of the Optional Protocol to cover the critical areas of data collection and analysis, policy and strategy development, awareness raising and training, prevention, prosecution and protection.

V. Prevention of the sale of children, child prostitution and child pornography ((art. 9 (1) and (2))

Measures adopted to prevent offences prohibited under the Protocol

19. The Committee notes the measures taken to prevent sexual exploitation of children. However, it is seriously concerned about:

(a) A high number of children, including boys, who are sexually exploited, including by foreigners, while the scope of sexual exploitation of children is unknown due to a lack of disaggregated data and a standard data gathering system;

(b) Reported cases of sale of boys by their families for sexual exploitation and cases of parents encouraging children, particularly girls, to enter the sex industry;

(c) Insufficient regulation of the communications technology sector by the State party in the light of increased access to internet that is reportedly contributing to prevailing online child pornography;

(d) Persistent involvement of children in forced labour, including through trafficking;

(e) The fact that current policies and programmes do not effectively address the underlying root causes of the sale of children, child prostitution and child pornography, particularly poverty and social pressure; and

(f) The absence of mechanisms to detect, identify and monitor children at risk of becoming victims of the offences covered by the Optional Protocol.

20. **The Committee urges the State party to adopt a comprehensive approach to address the root causes of offences under the Optional Protocol and to target families and children in the most vulnerable situations. In particular, the Committee recommends that the State party:**

(a) **Undertake research on the root causes and extent of sexual exploitation of boys and girls, including in the context of travel and tourism, sale of children, child prostitution and pornography, including online, to identify children at risk, assess the extent of the problem and develop targeted policies and programmes. In this regard, protective measures to combat child sexual exploitation should be closely linked with poverty reduction interventions and awareness-raising activities;**

(b) **Strengthen its poverty reduction strategies and supportive social protection measures for families in disadvantaged and marginalized situations, including child-centred early intervention programmes to support parents in better performing their care and protection responsibilities towards children;**

(c) **Intensify its awareness-raising activities to change attitudes about sexual exploitation of children and alert the general public, in particular children and families, on the dangers of online sexual exploitation and pornography;**

(d) **Strengthen its regulation and engagement with the communications technology sector to prevent and respond to online child sexual exploitation;**

(e) **Further strengthen its efforts to eliminate child labour; and**

(f) **Establish a mechanism to effectively identify, monitor and support children who are at risk of becoming victims, or are victims, of offences covered by the Optional Protocol and their families.**

Child marriage

21. The Committee is seriously concerned that, despite the legally-set minimum marriage age of 18 years, child marriage remains prevalent in the State party and may in some circumstances be tantamount to sale of children.

22. **With reference to paragraph 15 of its concluding observations under the Convention (CRC/C/LKA/5-6), the Committee urges the State party to completely prohibit in law marriage under the age of 18 without any exceptions.**

Sexual exploitation of children in travel and tourism

23. The Committee welcomes the State party's commitment to eradicate sexual exploitation of children in travel and tourism by 2020. It also notes the State party's initiatives to address sexual exploitation of children in travel and tourism, in particular national consultations on advancing responsible business practices in this connection and "zero tolerance" programmes for foreigners in the areas of Bentota and Kalutara. However, the Committee is seriously concerned that:

(a) There are allegations that boys are increasingly victims of this form of sexual abuse and exploitation;

(b) The State party has not sufficiently engaged with and regulated the private sector, especially the travel, hotel and tourism industry, to prevent and combat child sex tourism, including in prevention, monitoring and reporting of cases of sexual exploitation of children;

(c) There is a lack of data to assess the scope of sexual exploitation of children in travel and tourism, and the level of impunity of perpetrators.

24. **The Committee urges the State party to conduct advocacy with the tourism industry on the harmful effects of the sexual exploitation of children in travel and tourism, widely disseminate the UNWTO Global Code of Ethics for Tourism among travel agents and tourism agencies, and encourage these enterprises to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism. It also urges the State party to:**

(a) Undertake measures to identify children who are especially at risk of becoming victims of sexual exploitation in travel and tourism, such as boys affected by poverty and social pressure, to assess the scope of the phenomenon and to link these measures to inform time-bound child protection programmes, poverty reduction strategies and awareness-raising activities;

(b) Strengthen its knowledge, screening and monitoring of the flow of foreign nationals and its surveillance of unregistered tourist accommodation;

(c) Regulate and engage with the private sector, particularly the tourism industry, in prevention, monitoring and reporting cases of sexual exploitation of children to relevant authorities. The State party should also ensure that the compliance of tourist accommodation, travel and tour agencies and operators with child protection policies, including in relation to the prohibition of sexual exploitation of children in travel and tourism, is regularly monitored; and

(d) Encourage the reporting of cases of sexual exploitation of children, effectively prosecute the perpetrators and impose penalties commensurate with the gravity of the offences.

Measures to prevent and address online child sexual exploitation and abuse

25. While noting the measures taken by the State party, such as cyber safety programmes for children and bans on accessing some child pornography websites, the Committee is concerned at:

(a) The reported prevalence of online child sexual exploitation and abuse, especially by foreigners;

(b) Insufficient data to assess the extent of the problem;

(c) The lack of a systematic and sustainable approach to address online sexual exploitation of children and inadequate implementation of the measures taken;

(d) The State party's limited engagement and regulation of the communications technology sector to prevent and combat sexual exploitation of children.

26. With reference to Human Rights Council resolution 31/7 on the rights of the child, which addresses information and communications technologies and child sexual exploitation, and to the outcomes of the 2014 London and 2015 Abu Dhabi "We Protect" summits, the Committee recommends that the State party adopt a national response for preventing and addressing online child sexual exploitation and abuse, in close collaboration with relevant industries and organizations, consisting at a minimum of:

(a) A national policy to prevent and respond to online child sexual exploitation and abuse through an appropriate legal framework, a dedicated coordination and oversight entity, and specific analysis, research and monitoring capabilities;

(b) A strategy for preventing online child sexual exploitation and abuse, including a public education programme to raise awareness, mandatory school education on online behaviour and safety, and knowledge and reporting of online child sexual exploitation and abuse offences; child participation in the development of policies and practices; industry engagement to block and remove online child sexual exploitation and abuse content, to report violations to law enforcement authorities and to develop innovative solutions; close cooperation with organizations working to end child sexual exploitation online; and ethical and informed media reporting;

(c) Appropriate support services for child victims, including integrated services during investigation, prosecution and aftercare; training for professionals working with and for children; and child-friendly, confidential and accessible procedures for complaints, compensation and remedies;

(d) A dedicated, proactive, responsive and victim-focused criminal justice system with a trained police force, prosecution and judiciary; management of offenders

to prevent reoffending, nationally and internationally; and a national database linked to the INTERPOL database.

VI. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3, 4 (2) and (3) and 5-7)

Criminal or penal laws and regulations in force

27. The Committee notes that the amended Penal Code prohibits sexual exploitation of children, child pornography, procurement of children for prostitution, trafficking in children and inducing consent for the adoption of a child. However, the Committee is concerned at the confusion of the offences under the Optional Protocol with trafficking and the remaining gap in criminalising all the offences. In particular, the Committee is concerned that:

- (a) While not explicitly defined, sale of children, a concept similar, but not identical, to trafficking in children, is nonetheless criminalised as trafficking;
- (b) Offering, delivering and accepting a child for forced labour or the removal of organs are criminalised as trafficking, but not as sale of children;
- (c) Child prostitution and child pornography have not been criminalised as defined in articles 2 and 3 of the Optional Protocol;
- (d) Section 360A of the Penal Code (Procurement) and section 365 of the Penal Code (Unnatural offence) only protect children up to the age of 16 from being procured for prostitution and from being involved in same-sex activity, with or without consent.

28. **The Committee urges the State party to review its Penal Code with a view to bringing it into full compliance with the Optional Protocol. In particular, the State party should:**

- (a) **Define and criminalise the offences of sale of children, child prostitution and child pornography to cover all the acts and activities under articles 2 and 3 of the Optional Protocol, as well as an attempt to commit any of such acts and complicity or participation in any of such acts;**
- (b) **Prohibit child and forced marriage;**
- (c) **Ensure that all boys and girls under the age of 18 are fully protected from all forms of sexual exploitation, including prostitution.**

Impunity

29. The Committee welcomes the establishment of toll-free hotlines for children to lodge complaints and notes that offences under the Optional Protocol are punishable with imprisonment between six months and twenty years and may also be punished with a fine. However, the Committee is concerned at:

- (a) A lack of enforcement of laws pertaining to sexual exploitation of children;
- (b) Underreporting of offences under the Optional Protocol, in particular in relation to sexual exploitation of boys, due to social stigma, criminalisation of homosexuality and corruption;
- (c) Inadequate capacity and resources to duly investigate and prosecute offences under the Optional Protocol;
- (d) Low prosecution rates and a high number of pending cases of various offences under the Optional Protocol;
- (e) Reports of official complicity, protracted proceedings and extensive application of bail, fines and suspended sentences in relation to cases of sale of children, child prostitution and child pornography;

(f) Reports that cases of sale and trafficking of children are prosecuted for procuration of prostitution under Section 360A but not under Section 360C of the Penal Code;

(g) Explanations by the State Party during the constructive dialogue that while minimum sentences are provided for most of the offences, in some instances the judiciary deviates from the minimum sentences resulting in penalties that do not reflect the gravity of the offence and that are appealed to a higher court by the Attorney General's Office;

(h) Inconsistent information about the number of reported cases and a lack of data on their outcome, including the number of perpetrators who have been prosecuted and criminally sentenced.

30. The Committee urges the State party to:

(a) **Ensure that laws pertaining to sexual exploitation of children are duly enforced, including by establishing monitoring and evaluation mechanisms and using the results for informing future policies and legislative amendments;**

(b) **Take all necessary measures to encourage the general public, including boys and girls, to report offences under the Optional Protocol;**

(c) **Ensure that reported violations under the Optional Protocol are expeditiously investigated and that perpetrators are prosecuted and punished for offences under the Optional Protocol with appropriate sanctions commensurate with the gravity of their crimes;**

(d) **Continue to address, including through appeals, penalties applied outside of the minimum sentences regime for offences under the Optional Protocol;**

(e) **Build the capacity of, and allocate adequate resources to, the law enforcement authorities, prosecutors and the judiciary to effectively investigate and prosecute the offences under the Optional Protocol and end impunity;**

(f) **Effectively prevent and combat corruption and official complicity and prosecute the officials concerned; and**

(g) **Collect gender-disaggregated data on investigations, prosecutions and convictions of perpetrators of such offences.**

Liability of legal persons

31. Noting the reportedly high prevalence of sexual exploitation of children, including boys, in travel and tourism, and in view of the growing tourism industry based on the State party's policy to promote tourism, the Committee is concerned that the liability of legal persons for the offences under the Optional Protocol has not been established or envisaged.

32. In the light of article 3 (4) of the Optional Protocol, the Committee recommends that the State party, without delay, establish criminal, civil or administrative liability of legal persons for the offences covered by the Optional Protocol.

Extraterritorial jurisdiction

33. The Committee notes that Section 2(2) of the Penal Code establishes the State party's extraterritorial jurisdiction for offences under the Optional Protocol committed by its nationals. It regrets that the State party does not extend this provision to a person who has habitual residence in the territory of the State party.

34. The Committee recommends that the State party revise its Penal Code in line with article 4(2) of the Optional Protocol, with a view to extending its extraterritorial jurisdiction over the offences under the Optional Protocol to habitual residents in its territory.

Extradition

35. The Committee notes that the national legislation requires a treaty for extradition, except in respect of Commonwealth countries. It also regrets that in both situations, extradition is subject to the requirement of double criminality and minimum gravity (one year

imprisonment) and that extradition to the Commonwealth countries is furthermore subject to the inclusion of the offence in the Schedule to the law.

36. **The Committee recommends that the State party remove the requirements of double criminality, minimum gravity and inclusion of the offences in the Schedule to the law for extradition in respect of the offences covered by the Optional Protocol. It also recommends that the State party consider the Optional Protocol to be a legal basis for extradition in respect of offences covered by the Optional Protocol to non-Commonwealth countries which are States parties to the Optional Protocol in the absence of an extradition treaty.**

VII. Protection of the rights of child victims (arts. 8 and 9 (3) and (4))

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

37. The Committee notes as positive that the Assistance to and Protection of Victims of Crimes Act (2015) contains provisions to ensure the best interests of child victims of crime or witnesses and established a National Authority for the Protection of Victims of Crime and Witnesses. However, it is concerned that the system in place for identifying victims of the offences under the Optional Protocol is inadequate and inefficient.

38. **In the light of article 9 of the Optional Protocol, the Committee recommends that the State party:**

(a) **Strengthen its mechanism for the early identification of child victims of offences under the Optional Protocol, including by issuing guidelines on the implementation of standard operating procedures and by providing training to the authorities concerned;**

(b) **Adopt and implement the draft National Guidelines for Treatment, Reparation, Restitution and Rehabilitation of all crime victims;**

(c) **Ensure that child victims of offences under the Optional Protocol are not subject to treatment or sanctions as offenders and are given appropriate support;**

(d) **Provide all children with free legal aid and the support of specialised child psychologists and social workers, and ensure they have access to child- and gender-sensitive complaint mechanisms and appropriate procedures for seeking, without discrimination, compensation and redress.**

Recovery and reintegration of victims

39. While noting the development of the National Guideline for the Management of Child Abuse and Neglect (2014) and the existence of “places of safety” for children, the Committee is concerned that such institutions accommodate both child victims and child suspects and do not provide tailored services to child victims of offences under the Optional Protocol.

40. **The Committee urges the State party to establish an effective mechanism to ensure that child victims of the offences under the Optional Protocol are separated from child suspects and are provided with appropriate assistance, including special shelters and tailored services for their full social reintegration and physical and psychological recovery.**

Helpline

41. The Committee notes the existence of several toll free helplines, including a childline operated by the National Child Protection Authority to lodge complaints related to violence against children and a generic helpline operated by the Police. However, the Committee regrets the absence of information on the functioning of these helplines, their staff, services

provided and referrals made and the allocation of resources to ensure the quality and permanence of these helplines.

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

(a) **Allocate sufficient resources to ensure the quality of the existing helplines and ensure that these are fully accessible and known to all children;**

(b) **Conduct systematic training for professionals operating the helplines to effectively prevent and respond to cases of sale of children, child prostitution and child pornography;**

(c) **Establish a regular and effective monitoring mechanism to ensure the quality of the helpline support and advice provided.**

VIII. International assistance and cooperation (art. 10)

Multilateral, bilateral and regional agreements

43. **In the light of article 10 (1) of the Optional Protocol, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring countries, including by strengthening procedures for and mechanisms to coordinate the implementation of such arrangements, with a view to improving prevention, detection, investigation, prosecution and punishment of those responsible for any of the offences covered under the Optional Protocol.**

IX. Ratification of the Optional Protocol on a Communications Procedure

44. **The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (OPIC).**

X. Implementation and reporting

A. Follow-up and dissemination

45. **The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented, including by transmitting them to the National Child Protection Authority for appropriate consideration and further action.**

46. **The Committee recommends that the report and the written replies to the list of issues submitted by the State party and the present concluding observations be made widely available, including through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate on and awareness of the Optional Protocol and its implementation and monitoring.**

B. Next periodic report

47. **In accordance with article 12 (2) of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in its next periodic report to be submitted in accordance with article 44 of the Convention**