



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

Pre-sessional working group

25–28 May 2010

### Implementation of the International Covenant on Economic, Social and Cultural Rights

**List of issues to be taken up in connection with the consideration of the combined, second, third and fourth periodic reports of Sri Lanka concerning articles 1 to 15 of the International Covenant on Economic, Social and Cultural Rights (E/C.12/LKA/2-4)**

#### I. General information

1. Please provide any additional and updated information on the specific measures, legislative or otherwise, that the State party has undertaken to implement the suggestions and recommendations contained in the Committee's previous concluding observations.
2. Please clarify the status of the Covenant in the domestic legal system. Please indicate whether all economic, social and cultural are justiciable before the Supreme Court (HRI/CORE/LKA/2008, paras. 121 and 122). Have the rights contained in the Covenant been invoked by national courts, either as a ground for a case or as interpretative guidance for legal norms? What steps have been taken to ensure that victims of violations of economic, social and cultural rights have access to effective judicial remedies?
3. Please indicate why the national human rights institution was downgraded to "B" status in December 2007 and what measures have been taken by the State party to restore its "A" status. Please indicate whether the mandate of the National Human Rights Commission includes the protection and promotion of economic, social and cultural rights. If so, please provide updated information on the number and content of petitions it has received and dealt with alleging violations of economic, social and cultural rights by public authorities
4. Please comment on reports that human rights defenders, journalists and civil society actors are facing a range of acts of violence and intimidation, including assassination, assault, arrest and negative media campaigns, and inform the Committee of any measures taken or planned to protect them.

## **II. Issues relating to the general provisions of the Covenant (arts. 1–5)**

### **Article 2, paragraph 1**

5. Please indicate whether the mandate of the Commission for the Investigation of Allegations of Bribery or Corruption, which expired on 26 March 2010, was extended and, if not, which entity was given the responsibility to deal with the thousands of cases pending before the Commission. Please also inform the Committee of any measures taken to strengthen the budgetary and institutional independence of bodies exercising control or monitoring functions. Please also indicate the measures taken to combat and prevent corruption at all levels of Government, including among the judiciary and in the educational system.

### **Article 2, paragraph 2**

6. Please indicate whether all Tamils of Indian origin are entitled to citizenship following the Grant of Citizenship to Persons of Indian Origin (Amendment) Act No. 35 of 2003 and whether they all have been provided with identity documents. Please also provide more specific information on the targeted measures adopted to enable Tamils of Indian origin to fully enjoy their economic, social and cultural rights.

7. Please provide information on the implementation of the legislation and policies adopted by the State party to combat all forms of discrimination against persons with disabilities. Does the State party intend to ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol?

### **Article 3**

8. In addition to awareness-raising measures quoted in paragraph 69 of the report, please provide information on the measures taken, legislative or otherwise, to repeal personal laws that continue to discriminate against women; in particular those related to marriage, divorce and devolution of property (Land Development Ordinance). When is the women's rights bill expected to be adopted and will it equally protect women and girls from all communities against early and forced marriage? Please also inform the Committee of the measures taken to prevent the marriage of Muslims girls as young as 12 years old.

9. Given that the unemployment rate of women doubled over recent decades and that employment of women remains concentrated in only a few sectors of the economy and most women perform low-skilled and low-paid occupations, please indicate the measures taken to overcome stereotyped traditions and attitudes with respect to the role of women and their role in society which contribute to occupational sex segregation. Please provide practical examples of measures taken to ensure opportunities for the promotion and advancement of women in the workplace.

10. Please indicate the measures taken to increase equal participation of women in public life and decision-making at all levels and to fully involve them in the peace and reconstruction process.

### **III. Issues relating to the specific provisions of the Covenant (arts. 6–15)**

#### **Article 6**

11. Please describe the steps taken to fulfil the right to work by increasing employment opportunities including for disadvantaged and marginalized individuals and groups, in particular young persons and persons with disabilities, including technical and professional training programmes provided in urban and rural areas.

12. Please indicate whether the emergency regulations allowing the President to have recourse to compulsory labour in circumstances which would endanger the existence and well-being of the whole or part of the population have been repealed.

13. Please indicate whether a strategy is in place in the State party to create alternative working opportunities for women who have no choice but to migrate to feed their families. Has any study been conducted into the social impact of these massive labour migrations by women?

#### **Article 7**

14. Please indicate whether national labour law prohibits and prevents sexual harassment in the workplace. Please inform the Committee of measures taken or planned to address the high incidence of sexual harassment in workplaces, in particular on tea plantations.

15. Please inform the Committee of any step taken to adopt legislation explicitly prohibiting direct and indirect discrimination in employment and occupation on the grounds enumerated in International Labour Organization (ILO) Convention No. 111 concerning Discrimination in Respect of Employment and Occupation and reflecting the principle of equal remuneration for men and women for work of equal value.

16. Please explain how the State party ensures that the minimum wages set by wage boards provide for an adequate standard of living for a worker and her/his family. What measures are taken by the State party to address differential minimum daily wage rates for men and women, as is the case notably in the cinnamon and tobacco trades? Does the State party envisage setting a national minimum wage? Please also indicate the practical measures taken to eradicate the significant disparities in wages between women and men and to ensure that women are not deprived of payments in kind which certain employers provide to men workers.

#### **Article 8**

17. Please indicate the steps taken to lower the representational requirements for collective bargaining contained in section 32A(g) of the Industrial Disputes Act No. 43, in line with ILO recommendations.

18. Please inform the Committee of any measures, legislative or otherwise, taken to revise the broad and unrestricted definition of essential services under the 2006 amendment of the Emergency Regulations No. 01 of 2005, which could apply to all sectors of the economy.

19. What measures have been taken to ensure effective protection of trade unions from discrimination? Has the State party increased penalties to provide deterrence for such acts of anti-union discrimination?

20. Has any investigation been conducted into allegations that union activity has always been discouraged in the export processing zones, notably by suspending, demoting, dismissing and assaulting union members and warning new workers not to join unions? Please also explain why female employees are reluctant to join trade unions in such zones, where they represent 80 per cent of the work force, and why trade unions are unable to enter such zones (para. 134 of the report).

## **Article 9**

21. Please provide information on the problems arising from the current structure of the social security system. Please provide disaggregated data on the proportion of the working population – both in the formal and informal economy – covered by social security schemes.

22. Please comment on the information that when aged tea workers stop working, the little welfare support provided by the State and the company stops immediately.

23. Have any steps been taken by the State party to negotiate social security agreements with receiving countries with a view to enabling Sri Lankan migrant workers to claim pensions and other security benefits from receiving countries in which they have worked, as recommended by the Committee on Migrant Workers in 2009? Please provide data on the families of migrant women who benefit from State support programmes such as the protective safety net programmes.

## **Article 10**

24. Please indicate whether the State party has adopted specific legislation to criminalize domestic violence and whether it intends to amend its Criminal Code in order to ensure that marital rape is considered an offence, even when spouses do not live under judicial separation? Please provide information on the implementation of the Prevention of Domestic Violence Act of 2005 (para. 101 of the report), in particular on the number of protection orders issued and prosecutions, convictions and penalties applied. Please also indicate what measures the State party has adopted to raise awareness among judges, law enforcement agents and other officials on this new law.

25. Please provide information on the results of measures adopted by the State party to combat the worst forms of child labour. Please also provide detailed information on the number of prosecutions and convictions and on the sanctions imposed on people responsible for child labour exploitation (para. 93 of the report).

26. Given the extent of child sexual exploitation and abuse in the State party, in particular the phenomenon of child sex tourism, please inform the Committee of the measures taken to ensure that the legislation no longer excludes from its scope girls over the age of 16 years and boys, and that child victims of sexual abuse and child prostitutes are no longer placed in detention. Please provide information on measures taken or planned to increase the number of shelters and trained professionals to meet the recovery and rehabilitation needs of children victims of sexual abuse and exploitation.

27. Please provide detailed information on criminal proceedings initiated against those responsible for the recruitment and use of child soldiers and the sentences handed down.

## Article 11

28. Please provide information on the measures taken by the State party to address the high rate of poverty in the State party and to overcome the regional disparities between the Western province and the rest of the State party. In particular, please inform the Committee of targeted measures adopted to increase access to safe drinking water, sanitation facilities, infrastructure and basic services in the most disadvantaged parts of the State party, namely the estate sector and the north-east province. Does the 2005 Poverty Reduction and Growth Strategy (para. 115) integrate economic, social and cultural rights, in line with the statement on poverty adopted by the Committee on 4 May 2001 (E/C.12/2001/10)?

29. Please provide updated information on the number of internally displaced persons in the State party, especially those who remain in camps for the internally displaced, and on their living conditions. Please update the Committee on the findings of the Task Force on Monitoring and Reporting concerning the attacks against schools and hospitals and the denial of access to vital humanitarian assistance, including access to food, water and health care to people held in camps for the internally displaced, which has been the subject of several urgent appeals and allegation letters by United Nations special procedures.

30. Please provide information on the process for compensating land owners whose land has been occupied by military installations or rendered inaccessible due to their location in either formally declared or undeclared high security zones. How does the State party ensure that the ongoing land acquisition processes used for major reconstruction projects in the north and east are conducted in compliance with relevant international standards, in particular as concerns the consultation of local political leaders and communities, and taking into consideration general comments Nos. 4 and 7 of the Committee? Please also provide information on the number of women who have been granted State land and the number of evictions conducted over the reporting period.

31. Please indicate the measures taken to address acute overcrowding in prisons, maltreatment of prisoners and the high rate of sexual violence in detention facilities, as observed notably by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, during his 2007 visit to the country. Please also indicate whether full access to all detention facilities, including those operated by military intelligence has been made available to the International Committee of the Red Cross and other humanitarian agencies. Do international agencies have unrestricted access to rehabilitation centres for former child soldiers?

## Article 12

32. Please indicate the measures taken to ensure access to good-quality health-care services, including for the most disadvantaged and marginalized groups living in the estate sectors and the north-east provinces. In particular, what measures have been taken to redeploy medical staff concentrated in urban centres and address the shortage of nurses and paramedical personnel?

33. Please provide information on the availability of sexual and reproductive health services and educational and awareness programmes, especially for adolescents and youths throughout the State party. Please indicate the measures taken to address the high level of illegal abortions in the State party which reportedly cause 10 per cent of maternal deaths.

34. Has a comprehensive mental health plan been developed and integrated into the State party's post-war rehabilitation strategy in order to address war-related post-traumatic mental disorders and other serious war-related health problems?

### **Articles 13 and 14**

35. Please provide information on the measures taken to improve the quality of education provided to children belonging to the most disadvantaged and marginalized groups, in particular internally displaced children and therefore reduce the high percentage of those who drop-out of schools before completing the nine-year compulsory cycle. Does the Government envisage increasing public expenditure devoted to education? What measures have been taken to address the serious shortage of teachers in certain parts of the State party, and to improve teachers' professional training and standard of living?

36. Please provide information on whether school curricula and textbooks for primary and secondary schools contain sufficient information on the history and culture of the different ethnic and religious groups present in the territory of the State party. Please provide detailed information on measures taken in the field of education to combat racial prejudices and to promote tolerance and friendship among ethnic and religious groups.

37. Please inform the Committee on measures taken to ensure that children with disabilities, especially girls, are not deprived of education.

### **Article 15**

38. Please provide information on the situation of the Veddhas people in the State party. Please also indicate the measures taken or planned to restore the land rights they have been deprived of since the conversion in 1983 of their traditional land into a national park and to promote and protect their cultural rights. Does the State party envisage ratifying the ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries?

39. Please provide disaggregated data on the measures taken by the State party to ensure enjoyment of the right to everyone to take part in cultural life throughout the State party including the measures to alleviate the impact of the armed conflict on the practice and enjoyment of this right.

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