



**Convention on the
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD

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

Second periodic reports of States parties due in 1998

SRI LANKA*

* For the initial report submitted by the Government of Sri Lanka, see CRC/C/8/Add.13 for its consideration by the Committee, see documents CRC/C/SR.228-230 and CRC/C/15/Add.40.

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Introduction

1. Under article 44 of the Convention on the Rights of the Child, Sri Lanka has undertaken to submit to the Committee on the Rights of the Child periodic reports on the measures it has adopted to give effect to the rights recognized in the Convention.
2. Accordingly, in February 1994, the Government of Sri Lanka submitted its initial report (CRC/C/8/Add.13) which outlined how obligations under the Convention were met, including issues and challenges. The Committee considered the initial report of Sri Lanka at its 228th to 230th meetings (CRC/C/SR.228-230), held in Geneva on 5 and 6 June 1995.
3. The Committee in its concluding observations (CRC/C/15/Add.40) noted with appreciation the institutional mechanisms established in Sri Lanka to monitor the implementation of child rights, develop a national action plan for children and maintain a constructive dialogue between the Government and non-governmental organizations. The Committee made a number of concluding observations, which are being addressed in the second periodic report.
4. Since Sri Lanka's initial report dealt at length with the historical, socio-economic and political context of the country, the present report focuses only on information relevant to the period between February 1994 and July 1999. It also attempts to provide updated information in respect of the concerns expressed and issues commented on by the Committee in its concluding observations on the initial report.
5. Accordingly, this report provides information on the following areas:
 - (a) Changes that have been made in legislation;
 - (b) Accession to bilateral and multilateral agreements in the field of children's rights;
 - (c) Mechanisms and structures instituted to coordinate and monitor national activities for implementing the Convention;
 - (d) Sectoral policies, programmes and services developed to implement the Convention;
 - (e) Progress achieved in the enforcement of children's rights;
 - (f) Constraints and difficulties encountered in the implementation of rights set forth in the Convention and on steps taken to overcome them;
 - (g) Plans envisaged for further improvement and realization of the rights of the child.
6. While detailed statistical information as appropriate is provided in the text, for purposes of convenience and for comparison with the situation prevailing at the time of the initial report, the annex gives a picture of the principal social, health and economic indicators, reflecting the socio-economic situation in Sri Lanka pertaining to the years 1994 and 1998.

I. GENERAL MEASURES OF IMPLEMENTATION

A. Constitutional provisions

7. Chapter Three of Sri Lanka's Constitution, which deals with fundamental rights, guarantees to all citizens, including children, specific rights and freedoms. Furthermore, article 12 (4) provides for the enactment of legislation or the initiation of executive action for the advancement of women, children or disabled persons. The Government, having considered, among others, the representations made by the National Monitoring Committee under the Children's Charter, has included in its proposed constitutional reforms special clauses relating to the rights of children. A child is now defined as a person under the age of 18 years. Hence, this can be regarded as the first time that children have been accorded special constitutional rights.

8. There is an ongoing process of review of legislation to ensure compatibility with the Convention on key issues relating to children. In 1998, the Ministry of Justice took action to amend the Penal Code and the Code of Criminal Procedure Act in order to strengthen the child rights protection mechanism. In pursuance of the recommendations of the Presidential Task Force on the Prevention and Control of Child Abuse, amendments were made in 1995 to the 100-year-old Penal Code in order to protect children from sexual exploitation. A bill to convert the Task Force into a Child Protection Authority was passed by Parliament in January 1999 and was endorsed by both the ruling political party and the opposition.

B. The National Monitoring Committee under the Sri Lanka Children's Charter

9. The National Monitoring Committee (NMC) is a permanent body, which has been established by Her Excellency the President. Sri Lanka's Children's Charter has made provision for its establishment and its membership includes representatives of key sectors relevant to child rights as well as child activists. Monthly meetings are held to monitor and coordinate the implementation of children's rights. This Committee undertakes the preparation of the monitoring report. The Secretary, Ministry of Social Services, chairs the Committee, which makes policy-related recommendations and decisions. Since NMC functions at the central level, provincial-level monitoring committees, which deal more closely with the child rights issue at the provincial, district and divisional level, have also been set up. Provincial committees are headed by the Chief Secretaries of the provinces. The provincial committees participate in NMC meetings on specific issues and programmes.

10. The provincial-level monitoring committees link up with NMC when the provincial authorities attend its meetings. Reports on activities undertaken at the local level are made available periodically to the national committee. However, the channels of communication need to be further strengthened and improved to provide for a more frequent flow of information from the provincial committees to NMC.

11. NMC should be invested with more powers, and a mechanism should be established to deal with follow-up and communication activities of the Committee. However, there are resource constraints, which need to be overcome in order to achieve these objectives.

12. Far-reaching recommendations have been made to reform the current system of juvenile justice. At the request of NMC, an expert in July 1997 prepared a report entitled "The Abused Child and the Legal Process of Sri Lanka". Issues raised in the report are receiving due consideration by the Government.

C. Data and information

13. While NMC has achieved a degree of success in implementing certain legal and policy changes relating to children, there are some drawbacks, which need to be addressed. There is a need to develop a comprehensive and multisectoral assessment of the needs and problems of children to enable the Committee to undertake more effective monitoring of the Convention. At present, issues tend to be raised on an ad hoc basis. Although information on indicators such as infant, under-five and maternal mortality is available, there is a delay in obtaining confirmed data. Generally, the information is 5 to 6 years old. However, owing to recent efforts of the Registrar General's office, there is an improvement in the quality of mortality data and the promptness of data supply. This improvement came about as a result of streamlining the process of receiving death registration returns by the head office. A modern system of computerized data processing, including an information system, has now been established in order to improve data availability. Up-to-date mortality information up to 1996 has been processed.

14. New processes have also been established to obtain infant, under-five and maternal mortality data by gender and cause of death from sources at the divisional level. This will help to identify more disadvantaged areas and to reduce disparities. Information on nutrition is comprehensive and up to date; and health data on immunizeable diseases, diarrhoea and malaria are available. Data on education are in the process of being improved both in terms of quality and quantity. A review of data collection and analysis has been undertaken with a view to improving reporting processes. An improved education information system with mapping as one of its elements has been established. The School Census of 1997 has been completed. A Study on Learning Achievements was completed in July 1999.

15. Information on protection issues relating to such matters as child domestic labour, child abuse, street children, sexual exploitation of children, as well as the situation of children affected by the armed conflict is unfortunately, inadequate. At present, only survey data are available for certain areas, collected and analysed by individual researchers. A Child Activity Survey is currently in progress as part of a Labour Force Survey, which identifies critical child labour issues.

16. Up-to-date and comprehensive information relating to all aspects of the Convention on the Rights of the Child is not available. How the available data should be fed into a regular surveillance system has to be determined. Such a system should be linked to the monitoring committee and policy-formulation and decision-making processes at all levels of the Government. The available data are mainly used for planning purposes at the sectoral level by individual ministries and departments. Such sectoral interventions have an impact on children. For example, it was the 1994 Learning Achievement Study which led to reform of the education system. Similarly, studies on child abuse, which received media publicity, led to the formation

of a Presidential Task Force and a Child Protection Authority. At present, there is no system of impact analysis of measures taken for the protection of children to provide a basis for policy formulation and decision-making by the Government. A parliamentary mechanism to ensure appropriate scrutiny and debate relating to the implementation of the Convention would be most useful, though there is no regular reporting to Parliament on it. An informal grouping of parliamentarians has been set up and this could be the nucleus of a more formal structure in the future. It is a positive development, which needs to be supported.

D. NGO involvement

17. NGOs are involved in monitoring the implementation of the Convention at all levels of the society. There is an NGO Forum, which undertakes monitoring, in addition to a Child Rights Group within the Consortium of Humanitarian Agencies. There is no Ombudsman/Commissioner for Children. However, the National Child Protection Authority (NCPA) is performing a monitoring role where child abuse is concerned. NCPA is also involved in following up individual complaints. Provincial-level child protection committees operate with local NGO participation - an exercise which has proved useful. NGOs are also represented on NMC.

E. Basic social services

18. The Government undertook a study on basic services which have a direct impact on children. A review of the study led to the conclusion that total government spending on basic social services, although lower than the targeted level of 20 per cent of overall expenditure, has remained relatively high during the past two decades, with significant high variations observed in the level of spending on nutritional subsidies. In spite of considerable resources being absorbed by the conflict, the aggregate spending level in recent years has averaged approximately 12-16 per cent of total government spending, with basic health accounting for 4-5 per cent, basic education 3-4 per cent, nutrition 4-6 per cent, and water and sanitation 1-2 per cent. With the exception of water and sanitation infrastructure, basic social services account for a higher proportion of recurrent government expenditure.

19. Donor expenditure on basic social services, while somewhat higher proportionally than government expenditure, still falls below the targeted level of 20 per cent. Unlike government expenditure, donor expenditure levels show considerable fluctuation from year to year, as a consequence of the project-driven nature of donor assistance and the reluctance of most donors to support recurrent expenditure.

20. While overall expenditure on basic social services may be relatively low, there is wide coverage of services, particularly with respect to basic health and education. Universal access to basic services is largely achieved despite below-average expenditure levels. Three reasons account for this. The first is the relatively low cost of production of basic services. Health services appear to be delivered at unit costs far lower than those observed elsewhere. Primary education unit costs are also relatively low. The reasons for low costs include a high degree of utilization of resources and a relatively efficient allocation of inputs.

21. The second reason is the relative equity of distribution and allocation of resources in the health and education sectors. Although the decentralization of power through Provincial Councils was undertaken in the early 1990s, the geographical distribution of resources and expenditure did not indicate gross inequities. The utilization of basic health and education services is either relatively equal across all income groups or substantially weighted towards the poorer households. The pro-poor distribution of health and education spending is due to two factors, namely, near universal access and the lack or modest level of user charges for basic services. The strong government commitment and the belief that these services are the right of all citizens have combined to create universal access. When government financial resources are limited, social sector funding has been protected in the government budget, even at the expense of critical areas of economic investment.

22. The third reason is the fact that the Government has continued to allocate a high level of its social sector funding to basic services and has refrained from providing substantial allocations to higher-level tertiary services. More than 80 per cent of the total health budget is devoted to basic health services and more than 35 per cent of the education budget is allocated to primary education.

F. Expenditure pattern

23. So far, Sri Lanka has not experienced a fiscal crisis. Though economic growth in the past decade has been modest, real per capita expenditure on social services has in fact increased. Nevertheless, significant increases in budgetary allocations to basic social services in the next three to six years are unlikely, as available discretionary funding is limited. The ongoing internal conflict (and an earlier insurgency during 1987-1990) has resulted in increased expenditure on defence.

24. A fundamental obligation of the State to the people is to ensure their security. Hence, the current level of defence expenditure is unlikely to diminish until after the cessation of the conflict. Even after the end of the conflict, immediate fiscal savings are unlikely, as demobilized personnel will have to be found alternative avenues of employment to provide them with an income. A large proportion of rural households are dependent on salaries paid to armed forces. In addition, expenditure on reconstruction and rehabilitation will have to increase substantially in order to secure peace and provide the means for economic activity to restart in the currently war-afflicted areas. The Government of Sri Lanka has been urged to bring the war to an end through peace negotiations. However, the Liberation Tigers of Tamil Eelam (LTTE), which is waging a war against a democratically elected Government in Sri Lanka in order to create a mono-ethnic separate state in Sri Lanka, seems unwilling to join the democratic process and engage in negotiations aimed at finding a political solution to the conflict. Their goals are in direct contradiction to the country's sovereignty.

25. The direct cost of the internal conflict has necessitated the reduction of expenditure in other sectors. However, the expenditure on basic social services has largely been protected in the budgetary allocation process. Further, expenditure on reconstruction and rehabilitation will have to be substantially increased in order to provide the means for economic activity in the war-afflicted areas.

G. National Plan of Action for Children

26. A National Plan of Action for Children was prepared 1991. Funds were allocated for specific areas of need, particularly in the health and education sectors, based on needs identified by provincial authorities. A review will be undertaken to determine how these funds will be utilized and their impact, as well as future directions.

II. CIVIL RIGHTS AND FREEDOMS

A. Constitutional provisions

27. The Constitution of Sri Lanka (1978) recognizes a number of fundamental rights and freedoms, which are justifiable. The rights and freedoms recognized under the Constitution are guaranteed to all citizens, including children. Furthermore, article 12 (4) provides for the enactment of legislation or the initiation of executive action for the advancement of women, children or disabled persons.

28. The Supreme Court, which is the highest court in the country, is vested with the power to hear and determine any questions relating to the infringement or imminent infringement, by executive or administrative action, of any fundamental right declared and recognized by the Constitution.

29. In 1981, legislation was enacted to provide for the appointment of a Parliamentary Commissioner for Administration (Ombudsman). The Ombudsman is vested with the power to inquire into allegations of infringement of fundamental rights or other injustices committed by public officers.

30. With the enactment of legislation in 1996 for the establishment of a National Human Rights Commission, another redress mechanism was provided for obtaining relief from the effects of violations of fundamental rights by executive or administrative action. The Human Rights Commission Act No. 21 of 1996 provides for the establishment of a permanent Human Rights Commission with powers to inquire into and, where appropriate, attempt conciliation or mediation in respect of violations of fundamental rights enshrined in the Constitution. Where an investigation conducted by the Human Rights Commission discloses the infringement or imminent infringement of a fundamental right, the Commission is empowered to recommend prosecution against the violator or to refer the matter to the Supreme Court for determination with a view to preventing or remedying such infringement or its continuation.

31. On 8 September 1998, Parliament passed the National Child Protection Authority (NCPA) Act No. 50 of 1998. NCPA was appointed by the President in June 1999 and is functioning effectively in monitoring child abuse. It acts as a coordinating mechanism between governmental and non-governmental organizations concerned with issues relating to prevention of child abuse and the protection and treatment of victims of such abuse. For the purposes of the National Child Protection Authority Act, child abuse is defined to mean all acts of sexual violence against children, trafficking in children, cruelty to children and the use of children in obscene publications and exploitative labour. It also has a bearing on compulsory education and the involvement of children in armed conflicts.

32. Sri Lankan courts have permitted persons who claim violations of their rights to petition court by letter, e.g. the Boosa detainees' applications, 1990-1992. Removal of procedural barriers would enable victims to have wider access to justice. There have also been instances where the Supreme Court has directed organizations such as the Bar Association of Sri Lanka to provide legal aid to petitioners (e.g. the Boosa cases).

33. In 1994, the Police Department established Women's and Children's Desks in 33 main police stations with a view to facilitating complaint procedures in respect of violence against women and children. The Desks have been assessed in terms of effectiveness. Several programmes have been identified to strengthen these units for their more effective functioning. A Police Hot Line has been established to receive complaints of abuse. A handbook for police personnel was produced and distributed. The Attorney-General's Department has recently established a special unit within the Department to deal with child abuse prosecutions. During the past few years, the Sri Lankan judicial, investigative and prosecution authorities have been providing mutual legal assistance in cases where Sri Lankan children have been abused by foreigners, thereby enabling foreign courts to dispense justice more effectively.

34. The People's Alliance (PA) Government, which was elected to office through multi-party elections on 16 August 1994, has declared its commitment to the promotion and protection of human rights as a matter of the highest priority. One of the principal pledges of the PA Government was the framing and adoption of a new Constitution. Government proposals for constitutional reform seek, inter alia, to recognize the special rights of children. These rights (to which reference is made elsewhere in this report) are an addition to other fundamental rights to be enshrined in the proposed Constitution.

35. The constitutional provisions already available or proposed to meet the requirements of the Convention are given below.

B. Non-discrimination (article 2 of Convention)

36. Article 12 of the Constitution of Sri Lanka guarantees to all citizens the right to equality before the law, irrespective of race, religion, language, caste, sex, political opinion, place of birth, or any one of such grounds. It further provides for the enactment of legislation or the initiation of executive action for the advancement of women, children or disabled persons.

37. Sri Lanka, being a multi-ethnic, multireligious society, has certain personal laws which are applicable only to specified ethnic and religious groups and which defer from the general law. The minimum age of marriage under the general law is 18 years. The personal laws applicable to Kandyans have been amended to raise the minimum age of marriage to 18 years. The personal laws applicable to Muslims do not specify a minimum age of marriage. In the context of the Sri Lankan society, uniformity in personal laws has to be achieved through demands originating in the relevant communities themselves.

38. Heads of school have to adhere strictly to approved criteria in the matter of admission of children, and any deviation is regarded as discrimination amounting to violation of a fundamental right. In recent years, the Supreme Court has granted relief to children who have alleged discriminations in regard to school admission.

39. Sri Lanka's Maintenance Law of 1889, which had remained without major amendments in the past, was replaced in July 1999 with a new Maintenance Act No. 37 of 1999. Every attempt is made in the new Act to enhance the duty of parents to support their children. In fact, the long title of the new Act states that, among other objectives, the Act ensures compliance of the law relating to maintenance in accordance with the United Nations Convention on the Rights of the Child. One of the significant features in relation to children contained in the Act is that there is no discrimination between an adopted offspring and a biological offspring.

40. Under the Maintenance Act there is provision permitting a maintenance application to be made on behalf of a person who is incapable of doing so. References to "illegitimate child" are replaced by "non-marital offspring". The time limit of 12 months within which an application on behalf of a non-marital child was required to be made under the old law is not retained, thus removing that discriminatory feature despite agitation from certain groups for its retention. The Minister of Justice, in introducing the Maintenance Bill in Parliament on 7 July 1999, stated that "the United Nations Convention on the Rights of the Child specifically lays down that there should be no discrimination of any kind between legitimate and illegitimate children in respect of their status at the time of birth ... that a woman's action [claiming maintenance in relation to a non-marital child] will not be entertained after 12 months is wholly inconsistent with the core obligations devolving upon Sri Lanka in terms of the Convention on the Rights of the Child which we have ratified. So, I have adopted that point of view and removed from the content of the law this anomalous restriction, which has found its way into our statute books only because of certain outdated values and ideas with regard to the status of women and the relationship between husband and wife."

41. In terms of the present Constitution, existing written and unwritten laws are declared valid, irrespective of their inconsistency with the fundamental rights recognized by the Constitution. The proposed Constitution provides for the establishment by the President within three months of its enactment, a commission to examine all existing written and unwritten laws and report as to whether any such laws are inconsistent with the fundamental rights recognized by the Constitution.

C. Name and nationality (article 7 of Convention)

42. Although the present Constitution does not refer to the right of a child to a name from birth, it has been proposed to include this right in the proposed Constitution.

43. The Registrar General of births, deaths and marriages, in collaboration with NMC, has initiated a programme of action to ensure that all children are able to obtain a birth certificate. An initial step in that programme is a house-to-house survey at divisional level followed by contact with the parents of children who do not have birth certificates. Special mobile teams will be deployed in areas where there are relatively large numbers of such children. It is estimated that at least 80 per cent of births are registered, as over 93 per cent of births take place in government institutions where birth registration facilities are available.

44. Under the National Immunization Programme conducted in 1999, nearly 1.8 million children under the age of 5 were given polio drops at 10,000 centres. This programme was also used to assess birth registration status and facilitate the issuance of birth certificates for those who did not possess them.

45. The Sri Lankan law on citizenship distinguishes between citizenship by birth and descent and citizenship by registration. In the case of marital children, citizenship by descent is only through the paternal line. In the case of non-marital children, it is through the mother. However, proof is required that the child's maternal grandfather and maternal great grandfather were born in Sri Lanka. Citizenship by registration can be acquired by children born to both married and unmarried parents, if the mother is a citizen by descent and she can satisfy certain stipulated requirements.

46. The inability to gain Sri Lankan citizenship through the maternal line has received constant attention and at present a committee appointed by the Ministry of Defence is examining the matter with a view to formulating a policy decision.

47. It would be of interest to note that Sri Lankan citizenship laws provide for a foreign man or woman to apply for Sri Lankan citizenship by registration upon marriage to a Sri Lankan. Although there is no discriminatory statutory provision, guidelines formulated for granting citizenship to foreign spouses of Sri Lankan citizens vary. Foreign wives of Sri Lankan citizens have not experienced any problems in this regard as yet. However, the position is different in the case of foreign husbands. In 1996, a Sri Lankan woman filed a fundamental rights application in the Supreme Court alleging a violation of her right to equality when her foreign husband was denied a residence visa. Three judges of the Supreme Court made an order that so long as the Sri Lankan wife is married to the foreign husband, the Controller of Immigration and Emigration should issue a residence visa to the husband with the right to work in Sri Lanka. The Attorney-General subsequently informed the Controller that the existing guidelines on visa applications were discriminatory against a female spouse and were contrary to equality clauses in the Constitution (SC Application No. 712/96). Similarly, a marital child of a Sri Lankan woman married to a foreign national will not acquire Sri Lankan nationality by birth as of right.

D. Freedom of expression (article 13 of Convention)

48. Article 14 (1) (a) of the Constitution of Sri Lanka recognizes freedom of speech and expression, including publication, as a fundamental right guaranteed to every citizen. The Constitution permits restriction by law to this right in the interest of racial and religious harmony or in relation to parliamentary privilege, contempt of court, defamation, incitement to an offence, national security, public order, the protection of public health morality, or securing of due recognition and respect for the rights and freedoms of others and meeting the just requirements of the general welfare of a democratic society.

49. A child's right to participation involves the traditional civil rights such as freedom of thought, conscience, expression and association, thus recognizing the right to be heard and to participate in the decision-making process where it has an impact on a child's life. This is an area in which activities take place in some schools and under some programmes implemented by NGOs. However, further work is needed to foster greater participation of children.

E. Best interests of the child (article 3 of Convention)

50. In guardianship and custody issues, the Sri Lankan courts have applied the concept of “best interests of the child”. Despite initial emphasis on the paternal right to custody, a mother’s right in the “best interest of the child” has been recognized even under the personal laws. From a very early date, the Sri Lankan courts, acting as the higher guardian of a child, have recognized that a child should be given a central place in such issues.

51. The application of the “best interests” principle reflects the recognition of the child as a person with an identity and whose needs and interests merit consideration.

52. The Sri Lankan legal system has accepted 16 years and 14 years as the ages of discretion for boys and girls respectively, without reference to the maturity of Sri Lankan children. Accordingly, a girl of 16 years has been judicially considered to be free to decide whether she wishes to sever all connections with her parents and reside in a place of her choice. The Sri Lankan law recognizes the concept of tacit emancipation, according to which permission granted by a parent to a minor child to carry on a business and live on his/her own confers legal capacity for certain purposes and contractual capacity and liability. Considering the importance of education, the Sri Lankan courts have refused to consider the age of puberty as relevant for making it obligatory for a Muslim child to take employment to relieve the father of his legal duty to support (*Burhan v. Ismail* (1978-1979) 2 SLR, p. 218).

53. Under Sri Lankan law a child over 10 years can be adopted only with the child’s consent.

54. A 1999 amendment to the Law of Evidence in Sri Lanka permits, in cases of child abuse, the reception of videotaped evidence of the preliminary interview of a child victim or witness. This will prevent a child being further harmed by a formal legal process, which a child very often finds difficult to endure in view of his/her tender years. The new procedure will be less traumatic and will enhance a child’s freedom of expression in court proceedings.

55. A child’s right to express himself/herself has been recognized in a recent case where five children petitioned the Supreme Court on violation of their fundamental rights. The subject matter of the case was the operation of the generator of a thermal power plant by the Ceylon Electricity Board (the respondent). The respondent agreed to discontinue the operation of the plant and to make an ex gratia payment to the petitioners (*Harindra and Others v. The Ceylon Electricity Board and Others*, SC Application No. 323/97).

F. Freedom of thought, conscience and religion (article 14 of Convention)

56. Article 10 of the Constitution of Sri Lanka guarantees to every person freedom of thought, conscience and religion. This right is not subject to any restriction.

57. The Sri Lankan courts have upheld the rights of children to adopt a particular mode of dress consistent with religious practice. A case in point is the right of a Muslim girl to cover her head even though it does not conform to the dress code of the educational institution she attends.

58. The operation of article 10 of the Constitution may in some instances erode a child's right to inheritance. Such an instance was illustrated by a Supreme Court determination in *Ghouse v. Ghouse*. In this case, the Supreme Court held that the Muslims who could adopt children under a uniform Adoption Statute could nevertheless rely on Islamic principles of inheritance and deny an adopted child's right to succeed to his adoptive parents' wealth and property if they died intestate.

G. Freedom of association and peaceful assembly (article 15 of Convention)

59. Articles 14 (1) (b) and 14 (1) (c) of the Constitution respectively guarantee to all citizens freedom of peaceful assembly and freedom of association. These rights are subject to restrictions that may be prescribed by law in the interests of racial and religious harmony or national economy.

60. There are many organizations such as the Girl Guides and the Boy Scouts which enable children within the school system to organize and engage themselves in such areas as social welfare and environmental campaigns.

61. In Sri Lanka, the Trade Unions Ordinance of 1935 permits persons under the age of 21 but above the age of 16 to be members of trade unions unless the rules of any union provide to the contrary. Subject to the rules of a trade union, such members may enjoy all the rights of members but may not be executive members or trustees of the trade union.

H. Protection of privacy (article 16 of Convention)

62. The present Constitution is silent on the question of the right to privacy. The existing law provides for the institution of proceedings against civil and criminal defamation. The proposed constitutional reforms seek to elevate a person's right to privacy as a fundamental right in order to protect him or her from unlawful interference with his or her private and family life, home, correspondence or communications, as well as attacks on his or her honour and reputation.

63. The right to privacy is sought to be restricted only in the interest of national security, public order, national economy, protection of public health, public morality, securing due recognition and respect for the rights and freedoms of others, or in the enforcement of a judgement of a competent court.

64. Article 106 of the Constitution empowers a court to use its discretion to conduct in camera hearings in proceedings relating to family relations or sexual matters.

65. In terms of the Penal Code, as amended in 1995, it is an offence to publish any matter relating to sexual offences. This provision was introduced with a view to preventing the identification of victims in such cases. This offence carries a term of imprisonment of up to two years.

I. Access to appropriate information (article 17 of Convention)

66. While the present Constitution does not recognize the right to information as set out in the Convention, the proposed constitutional reforms seek to recognize the right to seek, receive and impart information and ideas orally, in writing, and in the form of art or through any other medium.

J. Right not to be subjected to torture or to other cruel, inhuman or degrading treatment or punishment (article 37 (a) of Convention)

67. In terms of article 11 of the Constitution of Sri Lanka, no person shall be subjected to torture or to cruel, Inhuman or degrading treatment or punishment. This right cannot be restricted.

68. Sri Lanka became a State party to the Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment on 3 January 1994. On 25 November 1999 the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Act, No. 22 of 1994, was passed by Parliament to give effect to the Convention against Torture. This Act prescribes a mandatory minimum jail term of seven years for offences under the Act. The enactment of such legislation further reinforces Sri Lanka's commitment to uphold the right to freedom from torture.

69. Corporal punishment is permitted in school for disciplinary purposes, subject, however, to strict limitations. Regulations made under the Education Ordinance of 1939 permit corporal punishment only for grave misconduct or habitual idleness and only when other methods of punishment have been tried without effect. It can be inflicted only by headmasters and, in the case of girls, by a female assistant. Corporal punishment can be inflicted with a cane on the palm of the hand, and the number of cuts must never exceed four. It is further regulated that children must never be struck with the hand or tied up.

70. As to whether corporal punishment in school violates article 11 of the Constitution is yet to be judicially determined. Both NMC and NCPA advocate a repeal of this regulation. Discussions are being held with the Ministry of Education to replace corporal punishment with alternatives as principals and teachers wish some disciplinary measures to be made available to them.

71. In a case where a 17-year-old schoolboy was assaulted during school hours by a deputy principal and some other staff members, the Supreme Court decided that in view of the seriousness of the dereliction and the issues involved, it could not accept the claim of the respondents that the impugned acts involved disciplinary action not violative of fundamental rights. The deputy principal admitted that he slapped the petitioner once for a disciplinary infraction. The Court, in awarding compensation to the victim, observed that the Court, by granting appropriate relief, must reassure the victim that the humiliation inflicted on him had been removed and thus in some way guarantee his future mental health, which was vital to his advancement in life (*Douglas Bandara v. Wickramasinghe*, SC Application No. 190/94).

72. As for allegations of torture, the normal cases filed in the Supreme Court relate to assaults causing physical impairment. However, in *Kumarasena v. Sub-Inspector Sriyantha and Others* (SC Application 257/93), even though there was no allegation of physical violence, the court yet held that there was a violation of the fundamental right guaranteed under article 11. This was a case where a young girl who had been arrested without reasonable grounds and detained at a police station alleged that during the time of her detention, several police officers had touched her body, squeezed her breasts, questioned her as to whether she wore underwear and invited her to go out with one of them. The Court held that the words and actions of the police officers were capable of humiliating the victim and amounted to degrading treatment.

73. As regards whipping as a form of punishment, the Corporal Punishment Ordinance of 1889 permits male child offenders to be sentenced to whipping, specifying the number of strokes to be administered according to the age of the child. Corporal punishment cannot be imposed on females. According to the Ordinance, in the case of children above 16 years, corporal punishment is inflicted with a cane and in the case of children under 16 with a light cane. This punishment is required to be inflicted in the presence of a medical officer.

K. Constitutional reforms with regard to special rights of children

74. In addition to the specific rights referred to above and to all other rights to which a citizen is entitled in terms of the Constitution, the proposed constitutional reforms also seek to recognize special rights of children. The envisaged special rights, which recognize a child as a person under the age of 18 years, are as follows:

- (a) The right to be protected from maltreatment, neglect, abuse or degradation;
- (b) The right to have an attorney-at-law assigned to the child by the State, and at State expense, in criminal proceedings affecting the child, if substantial injustice would otherwise result;
- (c) The right to family care or parental care or appropriate alternative care when removed from the family environment;
- (d) The right to basic nutrition, shelter, basic health care and social services;
- (e) The right to grow up in an environment protected from the negative consequences of the consumption of addictive substances harmful to the health of the child and, to the extent possible, from the promotion of such substances;
- (f) The right of access to free education provided by the State for children between the ages of 5 and 14;
- (g) The right not to be employed in hazardous activity.

75. It is further provided that the State shall take reasonable legislative and other measures within available resources with a view to achieving the progressive realization of the rights to care, nutrition, shelter, health care and social services.

76. The proposed reforms require that in all matters concerning children, whether undertaken by public or private social welfare institutions, courts, administrative authorities or legislative bodies, the best interests of the child shall be of paramount importance.

L. Recent legislative amendments relating to the prevention of child abuse

1. Penal Code (Amendment) Act, No. 22 of 1995

77. The Penal Code (Amendment) Act, No. 22 of 1995 came into operation on 21 October 1995. The Act deals primarily with sexual offences and offences against children. The amendments have been drafted having regard to the representations received from various organizations concerned with the protection of women and children and also taking into consideration the recommendations made by official committees appointed for the purpose as well as proposals formulated at recent seminars on the subject. The amended Act contains provision to strengthen the law relating to the following offences:

1. Use of children in obscene publications, exhibition, etc.
2. Cruelty to children.
3. Grievous hurt.
4. Sexual harassment.
5. Procurement.
6. Sexual exploitation of children.
7. Trafficking in persons.
8. Rape.
9. Incest.
10. Unnatural offences.
11. Gross indecency.
12. Grave sexual abuse.
13. Publication of matters relating to sexual offences.

78. In these reforms a significant feature is the creation of certain new offences and the prescribing of minimum mandatory penalties for such offences. Given below is a summary of the amendments to the Penal Code, as well as the former position.

Offence	Former position	Amendment
1	<p>Sects. 285-287</p> <p>Sale, distribution, import, print for sale or hire, exhibition to public view, any obscene publication; possession of such publication.</p> <p>Imprisonment extending to 3 months or a fine or both.</p> <p>(Similar provision is found in the Obscene Publications Ordinance, the penalty being imprisonment extended to 3 months or a fine not exceeding Rs 1,000 or both.)</p> <p>There was no provision dealing with the use of children in such publications, exhibitions, etc.</p>	<p>Using children for obscene publications, exhibitions, etc.</p> <p>Mandatory minimum penalty of 2 years' imprisonment (not exceeding 10 years) and a fine at the discretion of court.</p> <p>10 years and a fine at the discretion of court.</p>
2	<p>Cruelty to children was an offence under the Children and Young Persons' Ordinance with a penalty of imprisonment extending to 3 years or a fine of up to Rs 1,000 or both.</p>	<p>Cruelty to Children (sect. 308 A)</p> <p>Mandatory minimum sentence of 2 years' imprisonment (not exceeding 10 years) with a fine and compensation if court so determines.</p>
3	<p>Sect. 311</p> <p>Grievous hurt</p>	<p>Recognition of new categories of grievous hurt.</p>
4	<p>Sect. 345</p> <p>Assault or use of criminal force on a woman with intent to outrage her modesty.</p> <p>Imprisonment extending to 2 years or a fine or both and whipping.</p>	<p>Replaced with sexual harassment of a male or a female (including in a place of work).</p> <p>Imprisonment extending to 5 years or a fine or both and compensation if court so determines.</p>

Offence	Former position	Amendment
5	<p>Sect. 360 A</p> <p>Procurement of a girl or a woman.</p> <p>Imprisonment extending to 2 years and if the offender is a male, whipping.</p>	<p>Procurement of a male or a female.</p> <p>A mandatory minimum sentence of 2 years' imprisonment (not exceeding 10 years) and a fine at discretion of court.</p>
6	<p>Sect. 360 A</p> <p>Causing children to be involved in Prostitution was an offence under the Children and Young Person's Ordinance, but the definition of the offence was not sufficient to deal with the perpetrators effectively. It did not deal with other forms of sexual abuse.</p>	<p>Sexual Exploitation of Children (sect. 360).</p> <p>A mandatory minimum sentence of 5 years' imprisonment (not exceeding 20 years) with a fine at discretion of court.</p>
7	<p>Slavery was the offence recognized. The provisions repealed referred to slavery and created the offence of trafficking in persons.</p>	<p>Trafficking in Persons (sect. 360 C).</p> <p>A mandatory minimum penalty of 2 years' imprisonment (not exceeding 20 years); a mandatory minimum penalty of 5 years (not exceeding 20 years), in the case of children and a fine at discretion of court.</p>
8	<p>Sect. 363</p> <p>Rape</p> <p>Imprisonment which may extend to 20 years and a fine.</p> <p>Marital rape was not an offence. Age of statutory rape was 12 years.</p>	<p>Recognition of marital rape where spouses are judicially separated.</p> <p>The age of statutory rape is increased to 16 years (unless the woman is his wife who is over 12 years of age).</p> <p>There is specific provision that evidence of physical injury is not essential to prove a lack of consent.</p> <p>A mandatory minimum sentence of 7 years' imprisonment.</p>

Offence	Former position	Amendment
8 (cont'd)	<p data-bbox="392 1037 544 1070">Sect. 364 A</p> <p data-bbox="392 1111 847 1178">Defilement of girls between 12 and 14 years.</p> <p data-bbox="392 1218 874 1323">Imprisonment which may extend to 2 years and whipping at discretion of court.</p>	<p data-bbox="927 264 1465 369">For the following, a mandatory minimum sentence of 10 years' imprisonment (not exceeding 20 years) is provided:</p> <ul style="list-style-type: none"> <li data-bbox="983 412 1238 445">(a) Custodial rape; <li data-bbox="983 465 1398 499">(b) Rape of a pregnant woman; <li data-bbox="927 519 1350 586">(c) Rape of a woman under 18 years; <li data-bbox="927 607 1366 674">(d) Rape of a woman who is mentally or physically disabled; <li data-bbox="983 694 1182 728">(e) Gang rape. <p data-bbox="927 779 1445 992">The court is vested with discretion to impose a lesser term of imprisonment in the case of an offender under 18 years and where the victim is under 16 years and has consented to the act of intercourse.</p> <p data-bbox="927 1111 1382 1178">Replaced under grave sexual abuse (see new sect. 365).</p>
9	<p data-bbox="392 1368 895 1435">Prior to the amendment, incest was an offence only under the Marriage Laws.</p>	<p data-bbox="927 1368 1445 1435">New section 364 A relates to offence of incest.</p> <p data-bbox="927 1473 1445 1579">A mandatory minimum sentence of 7 years' imprisonment (not exceeding 20 years) and a fine could be prescribed.</p> <p data-bbox="927 1619 1461 1877">Where the victim is under 16 years, a mandatory minimum sentence of 15 years' imprisonment (not exceeding 20 years) and a fine. There is provision that prosecution for incest shall commence only with the written sanction of the Attorney-General.</p>

Offence	Former position	Amendment
10	Sect. 365 A Unnatural offence. Imprisonment which may extend to 2 years.	A mandatory minimum sentence of 10 years' imprisonment (not exceeding 20 years) a fine and compensation, where the offender is over 18 years and the victim is under 18 years.
11	Sect. 366 A Acts of gross indecency between male persons. Imprisonment which may extend to 2 years or a fine or both and whipping.	Applicable to both sexes. Punishment as in the case of unnatural offences referred to above.
12	There was no offence of grave sexual abuse.	Grave sexual abuse (sect. 365 B) A mandatory minimum sentence of 7 years' imprisonment (not exceeding 20 years) and a fine and compensation. Where the victim is under 18 years, the mandatory minimum sentence is 10 years.
13	There was no offence of publication of material relating to sexual offences.	Publication of material relating to sexual offences (sect. 365 C). The offences are sexual harassment, incest, rape, grave sexual abuse, sexual exploitation, procurement, unnatural offences or gross indecency between persons where such publication may identify the person against whom such offence is committed. Imprisonment which may extend to 2 years or a fine, or both.

79. In December 1996, Her Excellency the President appointed a committee to draw up an Action Plan for the Prevention of Child Abuse. The committee examined the subject from three broad perspectives, namely, legal reform, counselling and awareness raising.

80. In order to implement some of the recommendations of the Presidential Committee as accepted by Her Excellency, amendments were introduced to the following enactments in 1998:

Judicature Act, No. 2 of 1978;

Code of Criminal Procedure Act, No. 15 of 1979;

Penal Code of 1889;

Evidence Laws of 1895.

A summary of the amendments as contained in the amending legislation is given below.

2. Judicature (Amendment) Act, No. 27 of 1998

81. The purpose of this amendment is to dispense with the requirement of a non-summary inquiry in the case of the offence of statutory rape. In the case of the offences of murder, culpable homicide not amounting to murder, attempted murder, rape and certain offences under the Offensive Weapons Act, there was the requirement of a non-summary inquiry being conducted by a magistrate's court preceding the filing of an indictment in the High Court. This often becomes a protracted inquiry and is not conducive to the expeditious conclusion of the trial itself. It was, therefore, enacted that the requirement of conducting a non-summary inquiry be dispensed with in the case of statutory rape (i.e. where the victim is under 16 years of age and consent to sexual intercourse is immaterial). While speedy trial would be in the interest of the welfare of such a victim, such an amendment would also prevent a child from being exposed twice to a traumatic court procedure which a child of tender years would find difficult to withstand and also help avoid the adverse long-term effects it could have on his/her emotional development.

3. Code of Criminal Procedure (Amendment) Act, No. 28 of 1998

82. Persons arrested without a warrant cannot, in terms of section 37 of the Code of Criminal Procedure Act, be detained in police custody for more than 24 hours. As regards persons arrested without a warrant in respect of child abuse, the Act empowers a magistrate to order the detention of such persons in police custody for a period not exceeding three days for purposes of investigation. Such an order may be made upon a certificate being filed by a police officer (not below the rank of Superintendent of Police) to the effect that such detention is necessary for purposes of investigation. Such special provision was enacted to facilitate the investigation process and assist its speedy conclusion in the interest of child victims who are very often placed in vulnerable situations.

83. This amendment also contains provisions which require that cases of child abuse be given priority as a measure of enhancing the right of a child to protection. It also prescribes a form for referring victims of child abuse to Institutes of Care and Protection pending trial. Prior to the amendment, there was no prescribed form for this purpose and there were instances where even remand warrants were used. This situation was unsatisfactory since a victim of child abuse then tends to be treated like an offender rather than a victim.

4. Penal Code (Amendment) Act, No. 29 of 1998

84. This amendment prohibits the use of persons under 18 years for the following purposes:

Begging;

Procuring persons for sexual intercourse;

Trafficking in restricted articles.

85. The amendment also imposes a legal obligation on developers of films and photographs to inform the police of indecent or obscene material in relation to children received by such persons for developing. Failure to do so attracts a jail term which may extend to two years and/or fines.

5. Evidence (Special Provisions) Act, No. 32 of 1999

86. This Act, passed by Parliament on 7 July 1999, enhances the right of child victims of abuse to protection. It permits, in child abuse cases, the reception of videotaped evidence of the preliminary interview with a child victim or witness, which, in addition to protecting the child, also prevents cases being prejudiced by lapses of memory.

III. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Family environment

87. Changes in the lifestyles of Sri Lankan families have profoundly affected the manner of providing parental guidance and fulfilment of parental responsibilities. During the period under review, the structure and functions of the family as a basic social unit have undergone significant changes. The extended family is being replaced by the nuclear family consisting of father, mother and unmarried children. The extended family, which was part of Sri Lankan tradition, particularly in the rural areas, is changing, mainly due to social factors such as urbanization, higher levels of education, economic hardship of young couples which makes the maintenance of the extended family a heavy burden, and internal mobility of the population. There are also now more truncated, nuclear families or single-parent families, which comprise mother and children or father and children or widows living alone. Such family units probably amount to a considerable number, although exact figures are not available. There are many reasons for their existence. One cause is the migration of young married women to the Middle East for employment since the early 1980s. These women are usually between the ages of 20 to 35 years. The number of women migrant workers abroad is estimated at 600,000-800,000. Exact numbers are not known as many go abroad through unregistered job agencies, in spite of the steps taken by the Foreign Employment Bureau. There is anecdotal evidence of alcoholism, drug abuse and child abuse which subject the truncated nuclear families to traumatic experiences. Another reason for the rising number of families experiencing trauma is the conflict in the country and the increasing numbers of war widows.

88. Unfortunately, there is a dearth of reliable data on the changing patterns of the Sri Lankan family. However, case studies done by ethnographic researchers, anecdotal evidence and incidents reported to relief distribution authorities provide data from which inferences can be drawn regarding the changing patterns among families. Numbers receiving assistance as displaced families from the World Food Programme increased from 48,194 in 1994 to 54,100 in 1998.

89. The Government recognizes the importance of the family as the basic social unit for the growth and development of children. The Government uses social welfare programmes as one of the ways for strengthening the family. Such an intervention is provided by the Samurdhi (Prosperity) programme. It is the major poverty alleviation programme the Government introduced in 1995. The programme supports 1,973,183 low-income families and its annual expenditure is 8 billion rupees. The programme is aimed at implementing family-based economic development projects identified on the basis of specific needs, skills, assets and other capacities of each family. Youth are given a special place in the projects and both economic development and social welfare activities are encouraged through cooperative and joint ventures. The Samurdhi programme ensures a reliable means of earning an income by providing technical know-how, capital requirements, advisory services, marketing facilities and managerial skills for the benefit of poor families. In addition, there are a few other small-scale programmes to provide a safety net for needy families.

90. Over the last few years, there have been efforts targeted at mothers to promote better parenting. Programmes focused on health and nutrition issues are implemented by the Family Health Workers under the Ministry of Health to promote better parenting. Better parenting is also promoted by the Children's Secretariat and community-based NGOs through their early childhood care and development (ECCD) programmes. These programmes indicate that there is a trend for young fathers to be more involved in the care of their children.

B. Alternative care

91. Despite the assistance extended to strengthen and prevent disintegration of families as social units through welfare programmes of the Government, a considerable number of children are separated from families due to family dysfunctions. These children have become destitute and unprotected, directly due to their separation from their families. Abject poverty, loss of breadwinners, family disputes and separation and abandonment are some of the reasons why many children seek refuge in institutions that provide relief to children in distress. Children in conflict with the law, although relatively few in number, also require institutional care.

92. The Children's and Young Person's Ordinance, No. 48 of 1939, which provided for the principal legislative, judicial and administrative measures, has now been amended.

C. Institutional care

93. The Department of Probation and Childcare Services continues to be the central agency for providing institutional care as a temporary measure to unprotected children who cannot otherwise be provided with care and protection within the family. Such children are placed in State-managed homes and homes registered with the Government. Some are managed by

voluntary organizations with assistance from the Government. The Government has a State Receiving Home in each of the eight provinces. Details of admission of children to these homes are given in table 1.

Table 1. Children in State homes

Year	No. of children
1994	318
1995	216
1996	209
1997	239
1998	297

Source: The Department of Probation and Childcare Services.

1. Source - Department of Social Services.
2. Source - Central Bank of Sri Lanka, Annual Report, 1998.

94. The State Receiving Homes function as transit centres and children admitted to them are kept till they are considered physically and mentally fit and are ready for suitable placement elsewhere.

95. Children who need temporary institutional care are placed in the homes usually run by voluntary organizations (Voluntary Children's Homes). Initially, such placements are for a period of three years. During that period children are given formal education and their family situation is periodically monitored to assess the possibility of reintegrating them with their families. The following details show the number of children placed in Voluntary Children's Homes.

Table 2. Children in Voluntary Children's Homes

Year	No. of children
1994	6 562
1995	6 325
1996	6 717
1997	7 001
1998	8 037

Source: The Department of Probation and Childcare Services.

96. Parents and guardians are encouraged to take their children home from these centres whenever possible in order to help avoid a situation in which prolonged institutionalization would have a negative impact on them. However, it has been observed that there is an increase in the number of children seeking admission to such institutions.

D. Children of migrant women

97. Information collected through law enforcement authorities and community workers indicates that an increasing number of girl children of migrant women remain unprotected and become victims of abuse. This is a direct result of the absence of maternal protection. These children need temporary institutional care until their mothers return. In view of this demand, the Government decided in 1996 to establish hostels for such children. The construction of two hostel complexes, one in the Southern Province and the other in the North-Western Province, is nearing completion. Each hostel can accommodate 100 children.

E. Children in conflict with the law

98. As shown below in tables 3-5, the number of children who were in conflict with the law and who were provided with institutional care during the period under consideration does not indicate a downward trend. The Government provided improved institutional care facilities for those who were placed in remand homes, detention homes and correctional institutions. Children in the institutions referred to were provided with both formal education and vocational training during their stay in the centres.

Table 3. Children in remand homes

Year	No. of children
1994	1 110
1995	1 654
1996	1 379
1997	1 652
1998	1 711

Source: The Department of Probation and Childcare Services.

99. There is only one detention centre meant for both boys and girls from 5 to 16 years of age, which is located in the Southern Province.

Table 4. Children in detention centres

Year	No. of children
1994	138
1995	165
1996	109
1997	95
1998	141

Source: The Department of Probation and Childcare Services.

100. Four certified schools, one for girls and three for boys, and one approved school continue to provide correctional services to children referred to them by courts of law. The number of children admitted during the relevant period is given in table 5.

Table 5. Children in correctional institutions

Year	No. of children
1994	293
1995	250
1996	205
1997	212
1998	219

Source: The Department of Probation and Childcare Services.

F. Adoption

101. Adoption of children monitored by the Commissioner of Probation and Childcare has been recognized and encouraged as the next best alternative to a child's own family. Childless families and families with only one child are given preference in adoption procedures. The demand for children for adoption is high among middle-aged married couples who have not been able to have children of their own. However, local applicants tend to be particular in the selection of children for adoption. A child's health, complexion and birth time are some of the criteria used in the selection. The privacy of the adoption process is a primary consideration for almost all applicants, as adopted children are not recognized as being equal to others in society. These criteria are not followed by foreign nationals who apply for adoption. Table 6 shows the number of children adopted by locals and foreign nationals during the period 1994-1998.

Table 6. Adoptions

Year	Local adoption	Foreign adoption
1994	549	194
1995	540	105
1996	613	37
1997	618	25
1998	623	32

Source: The Department of Probation and Childcare Services.

G. Foster parents' schemes

102. There are several foster parents' schemes run by both the Government and NGOs. These mainly focus on financial support for children, particularly to enable them to pursue education while living with their parents or guardians. The programmes are implemented by NGOs. They are small in scale. Information is not available to assess the actual number of beneficiaries. The Government has two programmes, namely the Sevana Sarana Foster Parents Scheme and the Foster Parents Programme of the Department of Probation and Childcare Services. The Sevana Sarana programme is funded by donations from foster families. Children between 5 and 15 years of age are entitled to benefits from the programme. Children are supported for a period of five years with a minimum grant of Rs 100 a month. The departmental programme has the

same operational procedure but grants come from the Government and well-wishers. The minimum monthly payment to a child is Rs 200 and each child is entitled to receive assistance for a period of three years. Children of poor families benefit from these programmes to a great extent. The following table gives details of the two programmes.

Table 7. Sevana Sarana Foster Parents' Scheme

Year	No. of children	Amount paid (Rs)
1994	13 786	17 748 000
1995	15 321	18 385 200
1996	15 766	18 919 200
1997	15 882	19 058 400
1998	15 994	22 909 536

Source: The Department of Probation and Childcare Services.

Table 8. The Foster Parents' Programme of the Department of Probation and Childcare Services

Year	No. of children	Amount paid (Rs)
1994	480	1 142 200
1995	509	1 209 314
1996	469	1 161 226
1997	441	1 103 770
1998	420	1 165 000

Source: The Department of Probation and Childcare Services.

103. The Foster Parents' Programme functions as a safety net for needy children, providing financial support for them to remain with their parents/guardians and emphasizing the need for them to continue with their education.

IV. BASIC HEALTH AND WELFARE

A. Health status of infants and pre-school children

104. Sri Lankan newborns have had an increasing opportunity to survive as evidenced by the continuation of a decline in both infant and under-five mortality rates observed during the past several decades. In 1995, the infant mortality rate was 16.5 per 1,000 live births and the neonatal mortality rate was 12.9 per 1,000. Factors contributing to this decline include a high level of institutional deliveries with trained care (92 per cent of all births), access to emergency obstetric care and referral facilities, and the network of maternal and child health (MCH) clinics and family health workers who provide antenatal care services. The child mortality rate in 1995 was 4.3 per 1,000 under-five population. Programmes such as universal child immunization (UCI) and oral rehydration therapy (ORT) continued to be successful, contributing to a decline in the

number of deaths of children under 5 years of age. However, low birth weight is a persistent phenomenon caused by maternal undernutrition, particularly anaemia and inadequate weight gain in pregnancy. According to birth weight surveillance data from medical institutions, 17.6 per cent of babies are born with low birth weight (less than 2.5 kg).

B. Achievements

105. Much progress has been achieved in the control of most communicable diseases. In 1996, the percentage of infants immunized with BCG (against tuberculosis) was 89.1, with DPT3 (against diphtheria) 91.7, with OPV3 (polio) 91.7, and against measles, 89.5. The percentage of mothers who received the TT2 (tetanus) and booster was 83.7. Sri Lanka has not had a confirmed case of polio since 1993 and has reached a stage close to the goal of polio eradication. All vaccines for immunization are imported by the Government and provided free to children. Deaths of children from diarrhoeal diseases have drastically declined due to the wide practice of ORT and the free availability and use of the local oral rehydration salts. However, acute respiratory illnesses (ARI) still remain a leading cause of mortality and morbidity. Nearly half of childhood deaths are related to respiratory causes. Other infections affecting children include malaria, dengue haemorrhagic fever and Japanese B encephalitis.

C. State interventions

106. The Government, while sustaining programmes critical for child health such as immunization and ORT, is focusing on the implementation of national programmes on the control of ARI. This is implemented by the Epidemiological Unit of the Ministry of Health in collaboration with provincial and district-level primary health-care staff. A principal component of the programme is the training of all primary health-care staff in the control of ARI and health education of mothers.

107. Malaria has been highlighted as a serious disease affecting children, particularly in the north and the east where a conflict situation exists. The conflict has contributed to the spread of malaria due to a breakdown of control measures. One of the strategies being planned and which is currently in the process of being implemented is the use of bed nets impregnated with repellents for pregnant mothers and children, who are a specially vulnerable group of the population.

108. The spread of dengue haemorrhagic fever has been of concern, particularly as it has caused several deaths in recent times. Seventy-four per cent of those affected by this disease are under the age of 14 years. Control measures are being implemented to destroy the breeding places of the mosquito transmitting the disease, but public cooperation is needed to make the control measures more effective.

109. Since Japanese B encephalitis affects 36.4 per cent of children under 10 years, the Government imports anti-Japanese B encephalitis vaccine and provides it free to children in the target age group in areas with a high incidence of the disease. Immunization begins just before the outbreak of the disease predicted through surveillance data.

110. The Government has also made a policy decision to provide rubella vaccine for schoolgirls (who are prospective mothers) as a strategy to control German measles and thereby prevent congenital deformities.

D. Malnutrition

111. The prevalence of malnutrition among infants and young children has been a persistent problem. This includes stunting, wasting, being underweight, as well as having micronutrient deficiencies, particularly of vitamin A, iron and iodine. According to a 1994 survey of three-month-old infants conducted by the Ministry of Policy Planning and National Integration, 21 per cent were stunted, 13 per cent were wasted and 34 per cent were underweight. There was no reported gender disparity, although there were inter- and intra-provincial and district disparities.

112. The percentage of schoolchildren suffering from goitre ranges from 6.5 to 30.2 in different areas of the country. The percentage of pregnant women who suffer from mild, moderate and severe iron deficiency leading to anaemia is 65. Though iron supplements are provided free through MCH clinics, there are dietary inadequacies due to poverty. Vitamin A deficiency has now been proved to be a significant problem of public health. Since malnutrition has a multifactorial basis, which includes household food security, home level care, control of infection, as well as the underlying problems of poverty, strategies to reduce malnutrition will take time. The Government is implementing interventions both through the health sector as well as other relevant ministries and departments. Recently, a presidential task force was appointed to improve coordination and facilitate the convergence of nutrition-related interventions.

113. The Government has launched a successful programme to universalize the consumption of iodized salt to combat iodine deficiency disorders. There is a policy that all salt should be iodized. Mothers are given routine oral iron folate supplementation through MCH clinics, as iron-deficiency anaemia has been particularly high during pregnancy. The extent of anaemia in infants and pre-school children is yet to be determined. The extent of vitamin A deficiency was not determined until recently. A study has been completed by the Medical Research Institute of the Ministry of Health which confirms its prevalence as a public health problem. Strategies and interventions are being formulated at present to address vitamin A deficiency.

114. There has been a policy decision to fulfil the right of all infants to breast milk as it has relevance to nutritional well-being and the incidence of infections. Breastfeeding practices continue to be threatened by infant formula and full-cream milk companies which use unethical advertising strategies to promote their products to the detriment of the nutritional status of infants and pre-school children. The Government has taken steps to review the national code for the promotion of breastfeeding and marketing of breast milk substitutes and related products with a view to tightening loopholes and improving the monitoring aspects. The Government also embarked on the promotion of breastfeeding in all government hospitals with maternity services through an intervention known as the Baby Friendly Hospital Initiative. A monitoring system has also been established.

E. Health status of older children and adolescents

115. There is increasing recognition of the importance of adolescent health by the Ministry of Health, and many programmes are being implemented to promote healthy lifestyles. Critical concerns include HIV/AIDS and sexually transmitted diseases (STDs), tobacco, alcohol and drug use. The National HIV/AIDS Campaign has targeted young children and adolescents as a special group to be enlightened on the subject. This includes the establishment of School Health Clubs through the Health Education Bureau of the Ministry of Health as well as introduction of HIV/AIDS messages into the curriculum, textbooks and supplementary readers as well as teacher training programmes. Substance abuse was recognized by the Government as a special area of concern and a presidential task force was established to deal with it. Following its recommendations, all tobacco and alcohol advertisements were banned, particularly through the mass media. There are increasing numbers of local NGOs collaborating with the Government in the prevention and control of substance abuse among schoolchildren and adolescents. The extent of teenage pregnancies is not known, although there is some anecdotal evidence to suggest that it is a potential problem area among disadvantaged families. This also has relevance to the practice of abortions which is illegal in Sri Lanka.

116. An important component of education reform is the promotion of healthy lifestyles. This is being introduced to schools under Life Skills Programmes.

117. There is a growing concern about the high rate of deaths due to violence and suicide, particularly among young people. According to 1995 Ministry of Health data, of the total number in that category, 23 per cent of deaths were due to suicides, 25 per cent to homicides or injuries, and a further 13 per cent to other forms of violence.

118. A Presidential Task Force on Suicides was set up and its recommendations are being implemented. They include reducing access to insecticides (which is used by youths to commit suicide) as well as introducing life skills to prevent youngsters from resorting to suicide as the only solution to their problems. Programmes are being implemented now through schools to assist young children and youths to resolve problems more rationally without giving in to impulses.

119. There is also a presidential task force set up to prevent and control the use of alcohol, drugs and tobacco. The measures taken by the task force include the introduction of a ban on the advertising and promotion of sales of these products. This is a measure designed to counteract the efforts of the tobacco industry which targets young people and children.

F. Women's health

120. Women's health, particularly maternal health, has been an area of priority concern for several decades. Sri Lanka, over the past two decades, has developed a widespread maternal and child health infrastructure through which antenatal and post-natal services are provided at home and at the institutional level. Family health workers provide maternal care at peripheral level, and there is a well-developed system of referral service for secondary and tertiary care.

Over 86.3 per cent of deliveries take place in government institutions free of charge and 92 per cent of mothers receive trained care at delivery. There are 445 institutions which provide such services and there has been a steady decline in maternal mortality even in rural areas of the country.

G. Access to health care

121. There is access to free health care for all pregnant mothers. Over the past several years maternal health has been preserved through the Safe Motherhood Programme which aims at ensuring the right of every woman to a safe pregnancy and delivery. It also includes the care of the newborn. This is particularly relevant to Sri Lanka where the major proportion of infant deaths occur during the neonatal period, particularly in the first week of life. At present the maternal mortality rate is 2.4 per 10,000 live births (1995). Over 80 per cent of infants are registered by Family Health Workers and 90 per cent of children are brought to MCH clinics for immunization. One health issue that still needs to be effectively dealt with is maternal undernutrition, particularly inadequate weight gain in pregnancy and anaemia.

122. Children have easy access to free primary health-care services established by the Ministry of Health. Services are offered free of charge through a network of 17,000 MCH clinics to 0- to 5-year-olds, and through the School of Health Services for older children. The smallest health institution, which is a peripheral unit, usually has a paediatric ward. There are over 6,000 Family Health Workers who register all pregnant women and infants in their areas, each covering a population of approximately 3,000-4,000. They maintain birth and immunization registers for each child. Each child is also provided with a child health development chart. This not only monitors weight for age, but also other health factors such as immunization status. Health workers, although aware of child rights regarding health, have yet to receive organized training on the subject.

H. Access to reproductive health

123. A programme has been started recently to provide more accurate and explicit information to adolescents on reproductive health, including HIV/AIDS and sexuality. It is being carried out by the Curriculum Development Unit of the National Institute of Education through NGOs and State agencies such as the Sri Lanka Family Planning Association and through the Health Education Bureau of the Ministry of Health. Educational materials in local languages have been produced and distributed free to adolescents and youth. However, they have yet to come up with an organized network of counselling services on reproductive health to address the needs of adolescents and youth. At present only a few NGOs conduct such programmes and those are mainly in urban areas, such as Colombo. There are deep-rooted cultural and traditional factors and beliefs which act as barriers to setting up such systems, including a reluctance on the part of people to communicate clear messages related to sexuality. In recent times some NGOs and the media have shown an interest in awareness creation on this issue, but there are cultural barriers which preclude the use of explicit messages, particularly on HIV/AIDS prevention.

I. Disabled children

124. The Government is implementing a programme of community-based rehabilitation which includes children. At present, these activities are implemented only in a few areas due to financial resource constraints. There are, however, plans to extend such activities island wide. The programme is implemented through the Ministry of Social Services, in collaboration with provincial and district authorities.

125. Mentally and physically retarded children also have access to schools where special education services are available. However, as such schools are limited, some children are unable to benefit from special education. It is also not possible to send such children to regular schools which have no special education facilities.

V. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. National policies

126. National policies on education are underpinned by the Constitution and legislative enactments. The right to education is enshrined in the Constitution. Article 27 (2) of the Constitution commits the State to “complete eradication of illiteracy and assurance to all persons of the right to universal and equal access to education at all levels”.

127. The mother tongue (Sinhala/Tamil) was adopted as the language of instruction in schools progressively from 1945 to 1960 with the recognition of the right of a child to be taught his/her religion along with a protective conscience clause. The provision of free tuition, free textbooks for children in State and State-assisted schools, and the provision of free midday meals and subsidized transport for children in State schools have considerably lessened the burden of the cost of education on parents.

128. The distribution of schools by language of instruction reflects the outcome of the above policies adopted during the post-independence period: 72.1 per cent and 20.7 per cent of the State schools provide instruction in Sinhala and Tamil, respectively. The Muslim schools, amounting to 7.2 per cent of schools, teach in Tamil; some of the Muslim schools (less than 1 per cent) also have Sinhala classes. Of the 10,093 schools in the country, 96.6 per cent are financed and administered by the State. Less than 3 per cent of the school-going population are in private schools. Though the achievements in the areas of universal primary education, literacy and equal opportunity are significant, there are still intra-district disparities caused by a multiplicity of factors. These factors include poverty, social costs of structural adjustment programmes, and the drain of human and material resources caused by the ethnic conflict.

B. Educational reforms

129. A National Education Commission (NEC) was appointed in 1991 to advise the President and the Government on educational policy. The Commission studied the findings of a number of studies conducted by a number of local and foreign organizations as well as the representations made by eminent educationists and teachers' unions in the country. One of the studies considered by the Commission was on “Learning Achievements” by UNICEF/UNESCO.

NEC published its proposals with a view to improving the quality of education. The President appointed three task forces to draw up plans for the implementation of the reform proposals. The Task Force on General Education submitted its recommendations in 1997. The recommendations focus on:

1. Implementation of new-style GCE Advanced Level courses.
2. Reorganization of schools.
3. Equality of opportunity for primary education.
4. Strengthening opportunities for teaching English in schools and facilitating access to knowledge.
5. Continuous assessments of student achievement.
6. Career guidance and counselling.
7. Compulsory education.
8. Teacher education.
9. Quality improvement in education.

130. The implementation of these reforms on a pilot scale commenced in one district in 1997. The importance attached to the implementation of reforms is evidenced by the fact that the Government declared the year 1997 as the year of "Education Reforms". The year 1999 witnessed the commencement of implementation of the reforms on an island-wide scale.

C. Introduction of compulsory education legislation

131. Though the Education Ordinance provided for the introduction of regulations for making education compulsory for children between specified age limits, this provision was not brought into operation until recently. The impact of the ratification of the Convention on the Rights of the Child by the Government and the recommendations made by the President's Task Force referred to earlier culminated in the introduction of the compulsory school attendance regulation in 1988. The compulsory attendance regulations were promulgated by a Gazette Notification under the name and authority of the Minister of Education and Higher Education. According to the Gazette Notification every parent is required to send his/her child to a school if the child is not less than 5 and not more than 14 years. Every parent contravening the regulation will be guilty of an offence. It is envisaged that the upper age limit will eventually be extended to 16 years. Two committees have been appointed in each local administrative unit to ensure the implementation of compulsory attendance regulations.

132. Non-attendance at school is due to a variety of factors, which include a lack of family resources, childcare responsibility of parents, and administrative procedures with regard to the admission of children to schools. Measures have been proposed to address these problems.

As a transitional measure, the non-formal literacy centres of the Ministry of Education are being strengthened to provide a bridge to the formal education system. Enforcement of compulsory education will eliminate early dropouts and reduce the incidence of child labour and sexual exploitation.

D. Early childhood development and pre-schools

133. For the first time, early childhood development (ECD) was accorded priority in the new education reforms. A Presidential task force was established to deal with this subject and a national resource group was set up to strengthen ECD activities. These would be undertaken both through pre-school as well as home-based programmes. There are many NGOs implementing home-based programmes.

134. The provision of pre-school education facilities is the responsibility of the provincial education authorities. The central Government has assumed responsibility for regulating standards, training teachers, developing curricula and learning-teaching materials for pre-school teachers, mothers and other caregivers, and monitoring various processes. Local government councils and several NGOs have shown interest in the subject and are planning and developing programmes. The Open University of Sri Lanka started a training course for teachers engaged in pre-school education in August 1999.

E. Current situation

135. Despite positive achievements over the years, progress in education, particularly the quality aspects, have been adversely affected by poverty, the impact of structural adjustment programmes, and the political and ethnic violence that prevails in the country. In consequence urban-rural and inter-district disparities still continue.

136. Equality in educational opportunities continues to be limited by the interplay of socio-economic backwardness of parents, poor quality of school facilities and low performance of pupils in deprived areas. As indicated earlier, the widest disparities are at the senior secondary level where there is a pronounced urban bias. Over 40 per cent of the schools provide only primary education while 15 per cent of schools are small one- or two-teacher schools.

137. Enrolment rates reached a plateau in the 1980s. Urban-rural disparities are minimal in terms of participation and gender disparities hardly exist. In fact, more boys tend to drop out than girls, except in small rural Muslim communities and on the plantations, which have had a history of educational backwardness as a sector. Consequently, there are more girls than boys in senior secondary classes (57 per cent in grades 12 and 13). Non-school-going rates are relatively high in low-income urban neighbourhoods, economically backward villages and plantations.

138. Performance in education tends to reflect quality problems related to both teachers and equipment. Studies have indicated that performance levels in language and number are low at the end of the primary level (grade 5). There are wide district-wide disparities in performance at grade 5 and GCE ("O" Level) examinations. Gender disparities are minuscule at entry competency level at grade 1, grade 5 and grade 11 (GCE "O" Level).

139. There is a teaching force of around 190,000 teachers, of whom 68 per cent are women. In the early 1990s there was a policy decision to recruit large numbers of untrained teachers. The recruitment of large numbers of untrained teachers and the factors referred to earlier have contributed to the persistence of quality issues. As a result, about 30 per cent of teachers had to be trained through distance education modes, which were not up to standard.

F. Corporal punishment

140. The situation with regard to corporal punishment in schools is described in some detail above. Much effort has been exercised by NMC to promote the abolition of corporal punishment in schools. This issue has also been taken up by NCPA to add weight to the current advocacy by NMC of non-recourse to corporal punishment.

G. Literacy

141. Sri Lanka has a relatively high literacy rate. The Demographic Survey of 1994 gives an overall literacy rate of 90.1 per cent (92.6 per cent male literacy and 87.9 per cent female literacy). Urban and rural literacy rates are 93.2 per cent and 89.5 per cent respectively. Gender disparities have been eliminated in the younger age groups. The male population has over 80 per cent literacy, but the literacy rate of women over 60 years of age ranges between 57 per cent and 70 per cent among the districts.

H. Technical and vocational education

142. The common exit points from the school system are grades 5, 8, 11 and 13. Some of the school leavers are dropouts who leave school mainly due to socio-economic circumstances. School-leavers and school dropouts seek entry to vocational training centres or the labour market. The available vocational training facilities are sufficient to cater for the needs of only about 50 per cent of the school-leavers. The Presidential Task Force on Technical and Vocational Education and the Tertiary and Vocational Education Commission are currently addressing the problem. Training centres are being opened and the private sector has pledged its support to them.

I. Special education

143. Special education is provided for children suffering from mental and physical impairments. The State has two approaches for dealing with disabled children:

(a) Children with minor disabilities are integrated within the general education system;

(b) Special units and schools cater for those who need special treatment. Efforts are being made currently by the Ministry of Social Services to facilitate the entry of these students into the labour market.

J. Resource allocation

144. Education provided in State institutions is financed almost wholly by allocations/grants provided by the central Government. Educational expenditure as a proportion of GDP declined from 4.5 per cent in 1960 to 2.3 per cent in the mid-1980s as a result of structural adjustment programmes. However, it has now increased to 2.9 per cent of GDP (current rate).

K. Leisure, recreation and cultural activity

145. Children have access to leisure and recreation both at home and at school. However, most rural children, particularly those in poverty groups, assist their families in economic activities after school.

146. The education system that currently prevails is heavily exam oriented. Most children now spend their out-of-school hours in private tuition classes to have a “head start” in a competitive environment. This situation prevails at all levels, from primary to senior secondary. Parents from both rural and urban families tend to foster this competitiveness in children.

147. Studies indicate that co-curricular activities tend to receive low priority in many schools due to lack of facilities and/or time. Non-availability of sufficient time could partly be the result of the “exam culture”. Sports is perhaps the most popular activity with both boys and girls. Dance, drama and art are also promoted in many schools. However, the goals of parents are academically oriented and their attitudes reflect a diminished enthusiasm in relation to co-curricular activities.

148. Generally, at home children spend their leisure time watching television or listening to the radio.

VI. SPECIAL PROTECTION MEASURES*

Children affected by terrorism

A. Background

149. The estimated 14,000-strong Liberation Tigers of Tamil Eelam (LTTE) employs adults and children, men and women, in its terrorist campaign for a separate mono-ethnic State covering the Northern and the Eastern Provinces of the island. International intelligence sources have assessed LTTE as the deadliest terrorist group in the world today. Their violent campaign has directly and indirectly affected the lives of children, particularly those living in the Northern and the Eastern Provinces. It also impacts on children living in threatened villages of the districts of Puttalam, Anuradhapura and Polonnaruwa. Children living even in the southern areas

* This chapter also deals with the request made by the Committee on the Rights of the Child for additional information on the effects of armed conflict on children (see CRC/C/15/Add.40, para. 44).

have also been affected when there were incidents of terrorist bombing targeting civilians. An estimated population of about 2 million is affected in different ways by this terrorist campaign. Many children have been killed, disabled and orphaned; more have been subjected to the trauma of witnessing extreme forms of brutality and violence unleashed by terrorism. Being rendered homeless or separated from families is often compounded by grief at the loss of loved ones. Children of all ethnic communities - Sinhala, Tamil and Muslim - have been affected. The acts of terrorism carried out by LTTE and their continued refusal to discuss a political solution other than a mono-ethnic separate State are the chief barriers to future progress in human development.

150. Several categories of children are directly affected. These include child combatants between the ages of 9 and 18 who have been forcibly recruited by LTTE, children of displaced families or those who witness and experience violence, and children of armed forces personnel killed in action. In the light of the Convention on the Rights of the Child, the plight of all children affected by the conflict needs to be addressed.

151. Sri Lanka's generally favourable achievements in the fields of health and education are being jeopardized by a "regime" of terror inflicted on the Vanni (northern) area by LTTE in order to mobilize pockets of the population for its violent campaign.

152. In spite of the financial and other resource constraints, and the fact that LTTE siphons away a substantial part of the free government supplies for its cadres, the Government has continued to provide basic food rations, free health services and education to affected families, to the extent possible. The Special Representative of the Secretary-General on internally displaced persons, Mr. Francis Deng, who was invited by the Government of Sri Lanka to visit Sri Lanka described this situation as follows:

"On the whole, there is a general positive assessment regarding the Government's response to the problem of internally displaced persons. The Government has assumed full responsibility for its displaced and returnee population and works closely with international agencies and organizations. Relief assistance is considered to reach most groups satisfactorily. Sri Lanka presents the unusual situation of a central Government providing relief aid to persons under the control of the main opposition group. In a world replete with examples of Governments and rebel groups using food as a weapon against civilian populations, the situation in Sri Lanka is one that deserves closer attention if not more publicity as an important precedent" (E/CN.4/1994/44/Add.1, para. 67).

153. A multi-billion-rupee effort is mounted by the Government each year to sustain this supply effort. The International Committee of the Red Cross (ICRC), the Office of the United Nations High Commissioner for Refugees (UNHCR), the World Food Programme (WFP) and NGOs present in the area assist in the distribution of the government supplies.

154. The free health services and education through State-run health facilities and schools continue to be provided in the areas affected by the conflict. Salaries and other allowances to personnel employed in the health and education sectors are being paid by the Government.

155. Most of the areas affected have a health, education and administrative infrastructure through which basic services have been delivered without interruption. The administrative functions of the Government are carried out by Government Agents (GAs) at the District level and by Assistant Government Agents (AGAs) at the Division level. Dry rations and relief supplies are provided to displaced families through the GAs and AGAs. Social Services officers are also involved in the provision of services, particularly to those in welfare camps. The GAs act as focal points for the coordination of relief supplies and basic services. International agencies and NGOs actively participate in and use the Government's administrative infrastructure to extend their services to the affected areas. Organizations thus involved are ICRC, UNHCR, UNICEF, WFP, UNDP, Medecins sans frontières, Oxfam, Care, Save the Children, Sarvodaya and many others.

B. International and domestic law

156. Sri Lanka is painfully aware of the fact that violence and terrorism violate the rights of the child - the right to life, the right to be with family and community, the right to health, the right to the development of personality and the right to be nurtured and protected. The country is committed to the adoption of all measures within its means to ensure that the rights of citizens enshrined in its Constitution are protected. The new Constitution being proposed incorporates even stronger provisions, directly deriving from the provisions of the Convention. On the particular issue of incorporating the elements of the Convention and the International Covenant on Economic, Social and Cultural Rights in the new Constitution, there is absolute bipartisan consensus among all the legislators.

157. The Geneva Conventions of 1949 and the Convention on the Rights of the Child relate to humane treatment of persons taking no part in armed hostilities and to the care of the wounded and the sick. The Government of Sri Lanka has taken all possible measures to ensure these humanitarian standards, even under the most extraordinary security conditions brought about by LTTE's fanatic suicide bombings, indiscriminate attacks on civilians and civilian targets, hijacking and fire bombing of civilian and cargo ships, bombing of aircraft, etc. To further ensure humanitarian standards, the Government of Sri Lanka has voluntarily invited humanitarian agencies like ICRC, MSF and UNHCR to function freely on the sovereign territory of Sri Lanka. When conducting essential counter-insurgency activity, the armed forces are required to take into account these humanitarian aspects. The United States Department of State report on human rights 1999 states the following on this:

“The fact the Government was planning an offence to open a land route to Jaffna was widely publicized well before it began allowing civilians time to vacate the probable area of military operations. Civilian casualties were reduced due to the relatively slow and methodical manner in which the government security forces pushed forward, enabling the relatively few civilians remaining in the area to flee well in advance of troop movements. In addition, the military issued warnings via public radio before commencing major operations, instructing civilians to congregate at safe zones around churches and temples. In the past, the military has dropped leaflets instructing civilians to avoid LTTE instructions.”

158. The Machel report was well received by Sri Lanka and the country has committed itself to implementing its recommendations. In fact, many recommendations contained in the report are already in the process of being implemented. The invitation to the Special Representative of the Secretary-General on Children and Armed Conflict, Olara Otunnu, in mid-1998 demonstrated the Government's commitment to ensuring respect for international instruments relating to rights, welfare and protection of children in armed conflict (articles 38 and 39 of the Convention). However, commitments given by LTTE to Mr. Otunnu were violated by that group soon after his departure from Sri Lanka.

159. Sri Lanka declared "Days of Tranquillity" for the immunization of children in 1995, 1996 and 1997. This enabled children living in these areas to obtain oral polio vaccine. This was done in cooperation with UNICEF.

160. In October 1998 a Presidential Task Force for Human Disaster Management was established. It functions under the Presidential Secretariat and is developing policies, plans and programmes to help families affected by terrorism and violence. The primary focus of the Task Force is on the rehabilitation of people who have been psychologically traumatized and distressed. In order to achieve this goal, the Task Force formed seven subcommittees. One deals with issues relevant to women and children. The Subcommittee on Women and Children's Issues addresses problems that are peculiar to war widows, orphans, wives and children of disabled personnel, women in villages under threat by LTTE and internally displaced families. This subcommittee intends to measure the basic needs of women and children in welfare centres and villages threatened by war. It also assesses infant, child and maternal morbidity, mortality, nutritional status, access to health care, housing, water and sanitation. Another subcommittee of the Task Force is concerned with psychological issues. This subcommittee focuses on pre-impact and post-impact issues and seeks to identify measures that will minimize the effects of sustained psychological trauma. The subcommittee also addresses the issues of training of counsellors, emergency teams for rapid deployment, community workers, social workers and other volunteers, while developing programmes on disaster management for schools, universities and other institutions.

161. The Convention on the Rights of the Child was ratified by Sri Lanka in 1991. The Children Charter of Sri Lanka was adopted in 1992 based on the Convention. Both these instruments reflect standards and norms for protecting children in conditions of violence and terrorism. The Human Rights Commission of Sri Lanka and NMC play monitoring roles in assessing compliance. NCPA also has a mandate to monitor and support the realization of the objectives of these instruments.

162. In addition to the national action and compliance measures, Sri Lanka strongly supported further international standard-setting in the field of children's rights. The country played an active part in developing a consensus that facilitated the adoption by the General Assembly of the Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflict. At the time of writing, Sri Lanka was in the process of acceding to the Protocol.

C. Violation of domestic and international law by non-State actors

163. The Government is in strict compliance with the Convention and the Optional Protocol on the involvement of children in armed conflict. However, the terror group LTTE has continued the criminal practice of forcibly recruiting and using Tamil children in combat, as reported by Mr. Otunnu, international NGOs and local Tamil NGOs such as the University Teachers for Human Rights.

164. The Government has addressed this situation on three fronts:

(a) Mitigating humanitarian suffering engendered by violence and terrorism through the provision of essential humanitarian services and supplies through engaging international organizations and NGOs as described above;

(b) Launching a process of negotiation towards constitutional/political solutions to the root causes of violence and terrorism through new constitutional arrangements for self-governance/devolution of power and the protection of minority rights;

(c) In the short term, taking resolute national and international action to prevent and combat the criminal practice of employing children for war by the terror group LTTE.

165. It is in connection with the third strategy and the short-term measures that the Government of Sri Lanka would like to request the Committee on the Rights of the Child, in its capacity as the body monitoring compliance with both the Convention and the Optional Protocol, collectively to urge the States parties to the Convention and the Protocol to take strong punitive action against LTTE and its front organizations if they operate on territories under the States parties' jurisdiction.

166. It is also requested that the Committee issue an appeal to the States parties to declare LTTE as a criminal organization as they are already guilty of a war crime by their continued recruitment and employment of child soldiers in violation of the "non-State actors" obligations set out in article 4 of the Optional Protocol.

167. Articles 4 and 6 of the Optional Protocol collectively oblige States parties to introduce the necessary legislative and other measures to prohibit and criminalize the practice of recruitment of children by armed groups that are non-State actors. LTTE's prime source of financing comes from abroad. The ability of these States to take effective action against the fund-raising activities of LTTE has been hampered, mainly by the absence of necessary domestic measures. The Committee should therefore call upon States parties to take all measures required by articles 4 and 6, including the reviewing of their national legislation, with a view to effective implementation and enforcement of those provisions of the Optional Protocol, thereby eliminating the abhorrent practice of recruitment of children in armed conflicts by armed groups.

168. The European Parliament, in a resolution adopted on 18 May 2000, urged:

“The Governments of the EU Member States to take steps to proscribe organizations operating on their territory which continue to provide financial and other support to terrorist action in Sri Lanka, and in so doing, to relieve the intimidation by the LTTE of Tamil people living in third countries.”

D. Child combatants

169. Article 38 (2) of the Convention on the Rights of the Child states that States parties should take all feasible measures to ensure that persons who have not attained the age of 15 years do not take a direct part in hostilities. Sri Lanka has gone beyond this article by insisting that all new recruits into the armed forces should be over 18 years of age.

170. Sri Lanka's authorities estimate that at least 60 per cent of LTTE fighters are below the age of 18 years. Estimates of LTTE cadres killed in combat reveal that at least 40 per cent of the fighting force consist of girls and boys between the ages of 9 and 18 years. Children have been recruited as they are receptive to indoctrination fine-tuned to their level of mental maturity, willing to engage in high-risk operations, obedient, and can easily use weapons such as M-16s, AK-47s and T-56s which are light in weight, easy to fire and maintain and require minimum training. Children are well known to be used for both gathering intelligence and in combat. They form the first wave of suicide attacks carried out by LTTE against their targets. Children are used in all activities of armed combat except in leadership positions.

171. Compared to the year 1994, more information is now available on child combatants. The nucleus of the so-called LTTE “Baby Brigade” was first formed in early 1984. A major drive to recruit children was first launched in October 1987 as an added force to fight the 100,000-strong Indian Peace Keeping Force.

172. It is also estimated that one third of all LTTE recruits are females, who serve in all units. Over the past several years, nearly all suicide bombers engaged by LTTE have been females.

173. Originally, the majority of child combatants between the ages of 10 to 16 years were from Batticaloa, in the Eastern Province. However, now there are more children from Jaffna and the Vanni, in the Northern Province. The families of child combatants are termed “Great hero families” and receive special status from the LTTE hierarchy. They pay no levies imposed by LTTE and receive preferential treatment. LTTE's unwritten rule is that every family should give a son or a daughter to the cause.

174. A typical unit of child combatants is trained for four months in the jungle. They receive short haircuts to ensure that deserters can be easily identified. Parents have no access to their children during training.

175. The trained young fighters are prepared for battle by attacking unprotected or weakly defended villages. In these attacks, LTTE child combatants, armed with automatic weapons, are guided by experienced fighters. The civilian targets have no police or forward defence lines for

protection. These groups are later deployed for attacks on army camps. To gain greater strength and surprise, LTTE mixes “Black Tigers”, who are physically strong and psychologically mature and well trained, with the “Baby Brigade”.

176. From late 1995 to mid-1996, LTTE has recruited and trained at least 2,000 persons, largely from the displaced population in the north. It has been estimated that about 1,000 of these persons were between the ages of 12 and 18 years, and that they have since been dispersed among the fighting units. LTTE has established a “Leopard Brigade”, which is composed of children drawn from LTTE-managed orphanages. LTTE regards this group as its most fierce fighting source.

177. Although LTTE sends its fighters into battle with cyanide capsules strung around their necks for committing suicide when taken as captives or injured, the majority of youngsters do not commit suicide when they are overpowered by the armed forces.

E. Machel report

178. Graça Machel, in her 1996 report on the impact of armed conflict on children (A/51/306 and Add.1) has raised the plight of the child combatants and has been a strong international advocate against this practice. The Government gives high priority to implementing its recommendations. The Government has initiated action both within the country as well as at the international level to advocate the elimination of the recruitment of children as combatants. This issue was raised by the Sri Lankan Foreign Minister at the fifty-second session of the General Assembly in September 1997. He is at present personally spearheading a campaign against recruitment of children as combatants, both within the country and at the international level.

179. The Government is planning a comprehensive programme not only to prevent recruitment but also to help in the rehabilitation and social integration of child combatants. There are also plans to professionalize psychosocial support training to be provided to former child soldiers captured by or surrendering to the armed forces. External assistance is being sought for this programme. At present, former child combatants are housed in centres run by the National Youth Services Council.

F. Cooperation with the United Nations

180. Mr. Otunnu, who was invited to visit Sri Lanka in May 1998, was able to perceive the plight of affected children in armed conflict during his tour of the Northern Province. The Government of Sri Lanka expressed willingness to implement a national programme for all children who are subjected to trauma, disabilities and handicaps resulting from violence and terrorism. Mr. Otunnu met with LTTE in the Vanni and several issues concerning the protection, rights and welfare of children affected by the ongoing conflict were raised. The following commitments in relation to children in armed conflict were made by LTTE to Mr. Otunnu during his visit to Vanni:

(a) Participation and recruitment of children in hostilities - LTTE undertook not to engage children below the age of 18 years in combat and not to conscript children below the age of 17 years. The LTTE leadership accepted that a framework to monitor these commitments should be put in place;

(b) Freedom of movement for displaced people - LTTE made a commitment not to impede the movement of displaced people to the “cleared” areas. Further, LTTE made a commitment not to impede the displaced Muslim population returning to their homes and accepted that a framework to monitor this process should be introduced;

(c) Distribution of humanitarian supplies - LTTE made a commitment not to interfere with the distribution of humanitarian supplies meant for the affected civilians and accepted that a framework to monitor this process should be enforced;

(d) Observing the Convention on the Rights of the Child - Mr. Otunnu stressed the importance of all parties, including the non-State sector, to observe the Convention on the Rights of the Child and urged LTTE to make a public commitment to respect the principles and provisions of the Convention. LTTE had indicated its readiness to let its cadres receive information and instructions on the provisions of the Convention;

(e) Targeting civilians - LTTE agreed to review its strategies and tactics of targeting the civilian population.

181. LTTE, despite the assurances given to the Special Representative, is continuing the recruitment of children below 18 years as combatants. This was clearly evident on several occasions when the combatants surrendered or were killed in confrontations with security forces. The Government of Sri Lanka has brought this situation to the notice of Mr. Otunnu several times since his last visit to the country.

G. Humanitarian relief and assistance

182. The Government’s main institutional framework for the implementation of relief and rehabilitation activities in the north and east includes two principal agencies of the Government, the Resettlement and Rehabilitation Authority of the North (RRAN) and the Ministry of Relief and Rehabilitation. RRAN functions as a central planning and coordinating body while implementation is undertaken at district level by local officials led by GAs responsible for each district. The Ministry of Relief and Rehabilitation adopts a similar strategy for the Eastern Province. It is linked with the official structure of the North-East Provincial Council, which is responsible for the implementation of programmes.

183. In addition, the sectoral Ministries such as Health, Education and Social Services provide services through their officials in the affected districts. The Commissioner General of Essential Services (CGES) provides logistics, transport, etc. for essential supplies to the north.

184. Others involved in relief and rehabilitation include local and international NGOs and United Nations agencies.

185. The Government has given the highest priority to the following:

(a) The provision of humanitarian relief, such as food and medical supplies, to the civilian population, including the displaced persons;

(b) Coordination of transport of persons wishing to return to Jaffna from Vanni, as well as the sick and the disabled to and from Colombo for treatment. Following the downing of the civilian flight by LTTE in late 1998, the Government has made arrangements to provide high-speed air-conditioned ships with effect from April 2000, exclusively for passenger transport between Trincomalee and Jaffna;

(c) Long-term reconstruction and rehabilitation of the peninsula by providing infrastructural facilities in the fields of education, health, agriculture, transport, roads, postal services, electricity, water supply, etc. This is in order to provide long-term employment opportunities for the youth and to rebuild the economy that was disrupted by the conflict;

(d) Restoration of the functions of elected local government bodies so that the administrative structure of the peninsula is fully returned to civilian authorities;

(e) Conduct of regular school examinations (GCE "O" Level and GCE "A" Level) in the "uncleared" areas with the assistance of UNHCR.

186. Despite budgetary constraints, the Government of Sri Lanka has continued its commitment to help conflict-affected families by providing food, shelter and basic amenities at a monthly cost of approximately Rs 200 million.

187. The Commissioner General of Essential Services provides food assistance in the form of dry rations. All newly displaced persons are provided with cooked meals three days a week. Thereafter, if they are unable to return to their places of residence they are granted food stamps or dry rations.

188. Reports from GA Mullativu indicate a satisfactory improvement in agricultural production-related targets in paddy, chillies, red onions, cowpeas and groundnuts. In districts such as Mannar farmers are given loans to promote agricultural production.

189. From January to May 1998 the Cooperative Wholesale Establishment purchased 997,076 kg of paddy at a cost of Rs 9.9 million from the "cleared" areas of Vavuniya district. However, farmers in "uncleared" areas faced problems in marketing their produce. They had a surplus of produce during the Maha season in 1997/98. According to GA Vavuniya, authorization of the purchase of rice as dry rations for displaced families since April 1998 immensely helped the producers.

H. Education in conflict areas

190. According to the 1997 school census, there are 410 schools functioning in Jaffna, 84 in Killinochchi, 87 in Mannar, 175 in Vavuniya and 92 in Mullaitivu. Batticaloa has 309 schools functioning, Ampara 397 and Trincomalee 341. In the Northern Province 50 per cent

of the teachers are trained and 24 per cent untrained; the rest are graduates. In the Eastern Province 48 per cent are trained and 35.5 per cent untrained. In the country as a whole, 50.4 per cent are trained and 22.6 per cent untrained, the balance being graduates.

191. The German Agency for Technical Cooperation (GTZ) has undertaken to rehabilitate schools in the Jaffna district. GTZ rehabilitated many schools in the affected areas at a cost of Rs 75 million. The GTZ programme was not confined to rehabilitating buildings and improving the water supply, but also extended to training in leadership skills, human development, and physical and mental health care. It also included programmes that promote mine awareness and education in children's rights.

192. RRAN also contributed to the GTZ programmes. In 1999 RRAN provided Rs 18.3 million to support GTZ projects.

193. The Northern Province has 848 schools with 265,120 students and 8,618 teachers. The pupil:teacher ratio is 30:76. In the Eastern Province, the number of schools is 947 and the number of students 351,375. The pupil:teacher ratio is 26:72 as compared with the national ratio of 22:96.

194. The Government has issued a circular to Regional Directors of Education to admit all children of school-going age to the schools nearest to welfare camps. Specific instructions have been issued that children who have lost their birth certificates due to displacement should not be prevented from being admitted to school.

195. In January 1996, the Government launched a scholarship programme with a provincial grant for displaced children who have completed their GCE "O" Level in order to help them pursue higher studies.

196. A College of Education to train more teachers is expected to be established soon in Jaffna. To overcome the shortage of teachers, the Government recruited 1,060 unemployed graduates in July 1998 for schools in the Northern and Eastern Provinces. Some schools conduct double sessions. Play equipment and toys are being distributed among them with special attention to pre-schools.

197. In 1997, the Government distributed material for school uniforms to all boys and girls. Furthermore, 3 million copies of 211 textbooks were distributed of which 89 per cent were in Tamil. In 1998, the number of books distributed increased to 3.2 million. However, there are delays in the distribution in some of the "uncleared" areas due to the prevailing security reasons.

198. Issues in relation to education include school dropouts due to displacement and their readmission to schools after their resettlement. Non-formal education centres need greater support to cater for such children. A more difficult problem to resolve is that some parents are not motivated to send their children to school due to the stressful situation and their preoccupation with violence and terrorism. Moreover, parents in "uncleared" areas have to cope with the recruitment of their children by LTTE through propaganda events conducted inside school premises or in the vicinity of schools. Economic factors also affect their capacity to provide day-to-day school supplies necessary for schooling.

199. The National Human Development Report 1998: Sri Lanka states:

“Despite the hardships experienced in the North-Eastern Province, the quality of education has remained roughly comparable with the rest of the country. The Northern Province has the second highest ratio of advanced Type 1AB schools, next to the Western Province. The proportion of students passing the GCE (O/L) from the Northern Province has consistently been among the three highest in the country. The percentage of students passing the GCE (A/L) has also been approximately equal to the national average.

“Education in the North-Eastern Province has been sustained due to the strong commitment of the Government and the population to investment in human capital through education. Thus, despite the severely adverse conditions, schooling has continued. Sometimes, when buildings have been damaged, classes are held in gardens and under trees. Also, the Government has taken special measures to support education in the conflict areas. For instance, the Education Publications Department of the Ministry of Education has arranged for school textbooks to be delivered with the assistance of the military and NGOs to schools located in territory controlled by the LTTE. The Ministry of Education and Higher Education, along with the provincial education authorities in the North-Eastern Province, has cooperated with the local population to sustain educational activity in the conflict areas in the face of considerable difficulty” (pp. 61-62).

I. The health situation in affected areas

200. There is under-registration of births and deaths in the affected areas. According to the data available, infant deaths per 10,000 live births in 1995 was 5.6 in Jaffna, 5.2 in Vavuniya, 7.6 in Killinochchi, 6.8 in Mannar and 2.3 in Mullativu in the Northern Province. It was 7 in Trincomalee, 7.5 in Batticaloa and 4 in Ampara in the Eastern Province. It was 19.1 in Puttalam, 28 in Anuradhapura and 13.2 in Polonnaruwa. The average for Sri Lanka was 16.5 (1995).

201. Infant immunization coverage for diphtheria (DPT3) in 1997 was 84.3 per cent in Jaffna, 90.6 for Killinochchi and 36.4 for Vavuniya in the Northern Province; 81.7 in Trincomalee, 86.6 in Ampara and 100 in Batticaloa in the Eastern Province. It was 100 per cent in Polonnaruwa, 98 in Anuradhapura and 100 in Puttalam.

202. Malaria is of major public health significance in the affected areas due to the breakdown of control measures resulting from the security situation. According to reported data on the incidence of malaria, the Northern and the Eastern Provinces account for approximately 56 per cent of the total malaria cases detected. During 1997, 323 deaths due to malaria were reported, of which 261 were in Mullativu and Killinochchi. According to the Anti-Malaria Campaign, the number of malaria patients in the Jaffna district for the year 1999 has shown a decrease in comparison with the preceding year.

203. The maternal mortality rate per 10,000 live births for 1995 was 3.0 for Jaffna, 13.9 for Killinochchi, 5.2 for Mannar, 0 for Mullativu and 0 recorded for Vavuniya in the Northern Province, 3.5 for Batticaloa, 3.4 for Ampara and 1.3 for Trincomalee in the Eastern Province, 6.0 in Anuradhapura, 0 in Polonnaruwa and 2.3 for Puttalam. The national average was 2.4.

204. Hospital beds per 1,000 population range from 2.2 in Jaffna to 1.9 in Killinochchi, 2 in Mannar, 2.5 in Vavuniya, 1.3 in Mullativu, 2.3 in Batticaloa, 2.5 in Ampara and 2.2 in Trincomalee, to 2.2 in Puttalam, 3.1 in Anuradhapura and 2.9 in Polonnaruwa. The Sri Lanka average is 2.9. In terms of key health personnel, the number per 100,000 population of public health midwives for Jaffna is 8.4, Killinochchi 8.4 and Vavuniya 7.0. It is 16.8 for Batticaloa, 20.9 for Ampara and 13.1 for Trincomalee. The national average is 23.5.

205. A committee to monitor primary health-care services for affected families has been established by the Ministry of Health. It includes Ministry officials, local health staff from affected areas such as directors of provincial health services, representatives of NGOs working in these areas, United Nations organizations and the Ministry of Defence. A meeting is convened once every two months to deal with critical issues affecting the delivery of health services to these areas including personnel deployment and the distribution of drugs.

206. There are often shortages of essential drugs when there are delays in getting them to affected areas. Part of the problem is that the entire supply in these areas is dependent on supplies made available by the Government free of charge, as the private sector is not operational. In non-conflict areas, government sources supply part of the requirements of the population, while the balance is obtained from private sources.

207. The Government is conscious of the possibility that infant and child mortality and morbidity and maternal mortality and morbidity tend to worsen in all conflict areas. There is a tendency to underreport infant and maternal deaths particularly in the "uncleared" areas; however, the continued existence of a health infrastructure, even in a weakened form, is a unique feature in most areas affected by the conflict in Sri Lanka. Due to the destruction of hospitals, the exodus of trained personnel and security reasons, the capacity of the health system to deliver basic services to children, women and their families has been affected. However, all hospitals (district and rural) continue to function. Action is being taken to overcome the shortages of hospital staff and equipment. In September 1998, plans were made by the Ministry of Health with UNDP to rehabilitate and improve the services of the Jaffna Teaching Hospital at a cost of US\$ 600,000, primarily funded by the Government of the Netherlands. The objective of the project was to complete the construction of a two-floor ward building, provide refresher training for existing staff, expedite recruitment of staff, ensure access to drugs and essential supplies, install internal communications, ensure continuous water supply, improve waste disposal and procure priority equipment. This project has now reached its final stage.

208. The availability of safe water and sanitation is a problem in welfare camps, leading to diarrhoea and water-borne diseases. The use of facilities provided for temporary use has had to be prolonged beyond their lifespan and the overcrowding in camps posed a problem of disequilibrium between the supply of and demand for facilities.

J. Food

209. Ensuring food security is one of the major challenges faced by the Government in bringing normalcy to the Jaffna peninsula. It has been observed that there was no shortage of food within the peninsula from 1997 to 1999. The sources of food supply to the peninsula are twofold: local production and supplies brought from Colombo via Trincomalee. The supply of food and other essential items to the Jaffna District is effected through the Commissioner General of Essential Services (CGES), the Cooperative Wholesale Establishment (CWE), Multi-Purpose Cooperative Societies (MPCS), private traders and the Food Commissioner. The food items received from CGES are mostly used to issue free rations to the resettled families and affected fishing families. The food assistance takes the form of dry rations. The dry ration consists of dhal, flour, rice, pulses, sugar and powdered milk and is distributed through MPCS. As of 1 December 1999, the number of dry ration recipients in the Jaffna District amounted to 269,185 persons.

210. Food items brought by institutions other than the CGES and the Food Commissioner are distributed through the normal market channels by MPCS outlets and private traders to consumers. With the approval of the President, RRAN has organized transport of essential items and building materials to Jaffna by government sector organizations such as CWE, the Building Materials Corporation (BMC), the State Trading Corporation (STC) and the cooperatives, at government cost.

Table 9. Food supplies sent to Jaffna for the years 1998 and 1999

	1998 mt	1999 mt
Rice	22 497	31 738
Sugar	10 791	6 598
Dhal	2 516	1 519
Milk food	939	450
Flour	22 024	58 664
Total	58 767	68 969

Source: CGES.

211. The Ministry of Health promotes growth monitoring and has started the distribution of thripasha - a supplementary food for pregnant and lactating mothers, infants and pre-school children. In order to overcome the problem of malnutrition, some local NGOs conduct supplementary feeding centres, which provide nutritious meals of local food for children in conflict areas. Iron supplements are provided through maternal and child health clinics.

K. Resettlement

212. The policy of the Government has been to promote resettlement in areas wherever the security situation improves. This is a commitment to support family life and normalcy for children. The Government provides a package of assistance valued at Rs 39,000

(about US\$ 600) for this purpose. It includes a temporary shelter grant, a settling-in allowance, a productive enterprise grant, and an allocation for the purchase of agricultural implements. In addition, the Government provides soft loans for housing reconstruction and economic enterprises. The funds channelled for resettlement and rehabilitation activities in Jaffna between 1996 to the end of 1998 amounted to 637.1 million (sic). About 100,200 families have already been resettled in their original places of residence in 15 divisional secretariats.

213. A resettlement programme is currently being implemented in the Jaffna peninsula and its islands, the Eastern Province, and the districts bordering the Northern Province such as Puttalam, Anuradhapura and Polonnaruwa.

L. Psychosocial issues and responses

214. The conflict contributes to both the mortality and morbidity of children and women, and in addition has widespread psychosocial implications that are more difficult to assess and monitor. A lack of a primary mental health-care network in Sri Lanka which could lend itself to establishing a programme to reach all children in need was a barrier during the first two years of the conflict. However, some response has been developed by the Departments of Psychiatry in Colombo and Kandy, in collaboration with the Department of Psychiatry in Jaffna, to plan and develop such a programme, taking into consideration cost-effectiveness and sustainability. The programme is linked to the primary health-care infrastructure. Psychotherapeutic approaches based on Western mental health traditions, which emphasize individuals, are not used, but a community-based approach is practised. The primary health-care system provided the potential to build such a service. The programme takes into account the developmental needs of children, incorporating the best practices that emphasize knowledge of, and respect for local culture and traditions and the importance of integration with community-based functionaries and the communities themselves.

215. For ethical reasons, no large-scale surveys using questionnaires have been conducted on those who need support. This information is mostly obtained from health and community workers, teachers and parents. It is felt that information from affected children should be collected only for interventions. Many of the rehabilitation workers have reported that nearly all children are subject to stress and display a range of signs and symptoms pertaining to separation anxiety, developmental delays, nightmares and sleep disturbances, loss of appetite, withdrawn behaviour, and diminished interest in play and recreation. Younger children have learning difficulties, while older children and adolescents have other problems. Development of identity is a problem for them. Adolescents living in conflict areas find it hard to think of and hope for a secure future. Many are therefore depressed and pessimistic. They tend to become rebellious, and do not seek adult guidance. They have no proper role models to follow. In such an environment, it has been relatively expedient for LTTE to force them into combat, as they are vulnerable.

216. Another factor which affects children is the emotional change which occurs in parents and adult caregivers living in conflict situations. Children find it hard to understand them when they change, obviously due to their own traumatic experiences. This is particularly manifest in children of war widows and in orphans.

217. Community-based interventions have been implemented through health workers, volunteers and NGOs. Some local schools, teachers as well as pre-schools are also involved in implementing the programme. Activities include raising awareness about how central caregivers such as parents, teachers, and community and health workers can help affected children and promote psychological healing and well-being in a situation of conflict. Core groups of trainers who can function at community level, including family health workers, teachers and volunteers, have been stationed in some of the affected districts.

218. Efforts have commenced to use the school structure and teachers to reach children in distress. Teachers can help children develop new skills and knowledge necessary for problem solving. This process needs to be expanded, as it would be a useful network in addition to the public health-care system which is functioning.

219. NGOs, especially those working directly with children and families at community level, have been mobilized for support using a training manual as the basis of their interventions. They have been effective in reaching affected children and families. A number of NGOs are using this training manual as a basis for their services to children at village level.

220. The programme at present is not reaching all areas; it is estimated to cover about 20 per cent of affected groups. The process of expansion continues in order to reach all children in need.

M. Unaccompanied children

221. Although it is known that there are unaccompanied children living in welfare centres, their exact number is still to be determined. Efforts are being made by Social Service authorities to trace their families for reunification. In some areas local NGOs are involved in the process. It is recognized that these efforts need to be monitored to ensure that standards and norms are maintained. The majority of these children have lost both their parents, or they are from single-parent families where the widowed mothers cannot support them due to their poor economic prospects.

222. It has been noted that there are unaccompanied children living outside welfare centres, and that there are many child-headed households. There is anecdotal evidence that such unaccompanied children are at risk of being taken to cities for employment as child domestics, or are at risk of being recruited as combatants by LTTE.

N. Rehabilitation and social integration of child combatants

223. Since the war is ongoing, there is as yet no overall plan for the social integration of child combatants. However, those who have voluntarily left LTTE are being rehabilitated. There are three rehabilitation centres at present. Vocational training in masonry, carpentry, tailoring and agriculture are provided. Counselling too is available. There are plans to improve the quality of psychological support they receive through expertise to be channelled through NCPA. Some reunite with their families, but for many this is not possible as these families are living in the north, and they are too frightened to leave their present abodes.

O. Displacement of families and disruption of social life

224. There are many geographical areas affected by the conflict, each having its own problems. Jaffna has been the centre for several years. It experienced several episodes of displacement of people. The Jaffna peninsula was recaptured by government forces in 1996, which created the opportunity for many displaced families to return to their original places of residence.

225. Other areas affected include the districts of Kilinochchi, Mullativu, Mannar and North Vavuniya with a population of about 70,000, of whom many are displaced people from Jaffna and other areas. The battle for the control of Jaffna in 1995 led to the displacement of a large segment of the population to Vanni and about 25 per cent of displaced families from Jaffna still reside there. Since the area of fighting is now in Vanni, there are frequent displacements of communities, which has a negative impact on children. About 82,000 displaced persons live in the Vanni region at present.

226. The Eastern Province, comprising the three districts of Trincomalee, Batticaloa and Amparai, with a population of 1.2 million, accommodates a large number of displaced families. The peripheral areas are particularly affected by sporadic armed attacks and are marginalized with regard to basic services. There are several “uncleared” areas in Batticaloa, Ampare and Trincomalee where provision of basic services is difficult. This situation has further worsened over the last two years, as security problems have arisen.

227. The districts of Puttalam, Anuradhapura and Polonnaruwa with a population of 1.7 million (the majority of whom belong to non-Tamil communities), have experienced waves of massive displacement of people since the beginning of the armed conflict. In 1990, following LTTE attacks aimed at “ethnic cleansing”, 90,000 Muslims were displaced in Mannar, Mullativu and Jaffna and were accommodated in Puttalam.

228. Anuradhapura and Polonnaruwa, with a predominately Sinhala population, have experienced violent attacks. It is estimated that in Anuradhapura district alone, 76,000 families are still at risk of such attacks. They live in constant fear, often sleeping in the jungle to avoid attacks by LTTE. Snakebites are a common occurrence in such situations. Their farming and other earning activities too have virtually collapsed.

229. In Puttalam, the displaced families are a marginalized group of impoverished people who try to supplement their income by working as casual labourers. Their presence is resented by the local community because it is alleged that they undercut wage rates. NGOs supplement government aid services, specially the supply of food and drugs.

P. Children in conflict with the law and exploited children

230. The subject of the trial and treatment of young offenders as distinct from adult offenders was first considered in Sri Lanka in the 1920s. A legislative framework for the administration of juvenile justice was first introduced in 1939 with the enactment of the Children and Young Persons’ Ordinance (CYPO) and the Youthful Offenders’ Training Schools’ Ordinance (TSYO).

231. CYPO defines a “child” as a person under 14 years, and a “young person” as a person who has attained 14 years but is under 16 years of age. A “youthful offender” is a person between 16 and 22 years. It provides for the establishment of juvenile courts, the supervision of juvenile offenders and the protection of children and young persons. TSYO provides for the establishment of training schools for youthful offenders for their detention, training and rehabilitation.

232. The Penal Code of Sri Lanka prescribes 8 years as the minimum age of criminal responsibility.

233. The administration of CYPO comes within the purview of the Department of Probation and Childcare Services (provincial) while TSYO is administered by the Department of Prisons.

Q. Administration of juvenile justice

234. The laws relating to the administration of juvenile justice have never been amended since their enactment nearly 60 years ago and the need for their review to suit current circumstances has received the attention of the relevant authorities. In 1997, the Law Commission of Sri Lanka at the request of the Ministry of Justice examined in detail all matters relating to the administration of juvenile justice. The Law Commission has identified the following general areas as requiring consideration for change:

- (a) Anomalies in terminology used to define categories of juveniles;
- (b) The decisive nature of and difficulties encountered in establishing the age of juveniles;
- (c) The jurisdiction of juvenile courts and the procedures to be adopted by them;
- (d) The need to ensure the segregation of juveniles from adult detainees at all stages of the legal process;
- (e) Representation of/protection for juveniles involved in the legal process;
- (f) The need for a Code of Juvenile Justice Procedure;
- (g) The classification and conditions of places of detention of juveniles;
- (h) The need to develop non-custodial measures for the treatment of juveniles in conflict with the law.

235. In 1997 a research project on the abused child and the legal process of Sri Lanka was carried out at the request of the National Monitoring Committee appointed under the Children’s Charter (Vijaya Samaraweera report). The Law Commission in its deliberations had heeded recommendations of this report.

236. The recommendations contained in both the Law Commission report and the Samaraweera report were circulated among a wider group of concerned institutions and persons with a view to obtaining a broader consensus.

237. The implementing process in relation to these recommendations is presently under consideration.

R. Children in situations of exploitation

238. Sri Lankan children continue to work in exploitative occupations unattractive to adults, where wages are low. Child labour occurs mostly in the informal sectors of small, unregistered concerns, private homes and illegal enterprises. Resource constraints and official complacency as well as poverty have contributed to low-income families using child labour. Although the majority of children enter school, Sri Lanka has yet to achieve universal primary education. According to reports at least 125,000 children are reported to drop out of school annually before the age of 15. The out-of-school population of the 5-14 age group inevitably provides a pool of actual and potential child labour.

239. There is evidence to show that the children vulnerable to child labour belong to poverty groups in low-income urban neighbourhoods, remote rural villages, new settlements and tea plantations. Children living in refugee camps in conflict-affected areas are another vulnerable group. Many are prevented by the cost of education from utilizing even existing education facilities. Some are often compelled by parental pressure to contribute to family income or to assume childcare and household responsibilities very early in their lives.

240. The commonest form of child labour in Sri Lanka is domestic labour. Besides being emotionally abused, many children are physically and sexually abused too. Domestic labour is commonest in urban areas. There are also street children who work in cities such as Colombo. Their numbers are estimated to be 20,000. They too are deprived of basic needs in terms of health, nutrition and education. They work, live, learn and play in the streets. They are also in danger of being subject to violence and abuse. One of the most degrading and serious forms of child labour involves commercial sex tourism. In Sri Lanka commercial sex tourism involves small boys in the age range of 8-13 years. Regular employment of children occurs in the informal sector in family enterprises such as family farms, crafts, small trade establishments, eating houses and repair workshops.

S. A study on child labour

241. A study done in the Galle district on child domestic labour indicates that about 9 per cent of households have child servants. The town areas with tea estates in the vicinity had the highest number (14 per cent). In the younger age group (5-12 years) more boys were employed and in the 12-14 year age group, the majority employed were girls.

242. One of the main issues relating to child labour, particularly domestic labour, is a lack of proper and effective law enforcement. During the reporting period the setting up of a special Police Desk on Child Abuse in Colombo at the main police headquarters and 32 desks at district level with trained female police officers has been a step in the right direction. This, coupled with

a multi-media campaign against child labour, has led to an immediate increase in the number of complaints and investigations of offences against children. Approximately 60-70 per cent of these complaints were related to children in domestic labour. The police have established a hot line (444444), and a post office box for complaints.

243. The minimum age of employment of children as domestic labour was raised from 12 to 14 years by an amendment to the Women's, Young Person's and Children's Act, No. 47 of 1956, in December 1999. At present, the minimum age of employment in all sectors other than the plantation sector is 14 years. Action is being taken by the Government to raise the age of employment in the plantation sector from 10 to 14 years. Further, the Ministry of Labour has initiated action to make payment of compensation mandatory for violating the minimum employment age requirement.

244. There has been a concerted effort by the NCPA in collaboration with the Ministry of Justice to sensitize judges and magistrates, who tend to let off convicted employers with light fine payments. The Ministry of Justice, through the Sri Lanka Judges Institute, has conducted these seminars.

245. Another continuing issue which needs to be addressed is what happens to a child domestic following a court appearance. Unfortunately, in many instances the parents cannot be traced or they refuse to take the child back, citing poverty, and the child is sent to an institution. There are ongoing discussions on how these children could be better supported within the family once they return, including their re-entry to school.

246. Programmes are being planned to promote the psychological recovery and social reintegration of these children. This is necessary both for them as well as for children who have been sexually abused by foreign paedophiles. The National Institute of Social Development has commenced training of staff who can help in promoting their recovery and social integration. NCPA has also undertaken training of paediatricians and other categories of staff who are in a position to help these children. However, more local capacity needs to be built in this critical area of need. Psychiatrists and psychologists have also been mobilized to establish a wider system of care. There are many NGOs that supplement the government programme, but the need outstrips the availability of services.

247. Provision of care facilities for children whose parents cannot be traced is another area in need of strengthening. At present the need is greater than the facilities available.

T. Sex tourism

248. The enactment of legislation on compulsory education by the Ministry of Education will help in the elimination of child labour to a considerable extent.

249. Most of the local and international publicity on child abuse has so far been focused on boys exploited by foreign paedophiles. This consists of sexual exploitation of boys between approximately 8-14 years of age. It is now well known that Sri Lanka is part of an international commercial sex tourism network. The exact number of affected children is not known. NGOs

have quoted figures as high as 30,000 whilst some studies indicate the number to be in the 2,000-2,500 range. The problem first manifested itself in the 1980s and has since grown, particularly in the high-tourism areas along the seacoast in the south and in places such as Negombo.

U. A survey of child abuse

250. Recent studies reveal that there is more widespread child abuse than is reported in police data. Physical abuse is much more common than is recognized, but it is often not identified and therefore not reported. Injuries are most commonly caused by parents and immediate caregivers and only occasionally by outsiders. Physical abuse is well known to be common among child domestics. Nutritional neglect tends to be associated with physical abuse. Incest is probably the commonest form of sexual abuse. A study on 899 pre-university students and undergraduate students undertaken by the Department of Paediatrics, University of Ruhuna in Galle, revealed that as many as 18 per cent of boys and 4.5 per cent of girls had been sexually abused in childhood. The majority of the boys had been abused by relatives, neighbours, brothers, teachers and priests. The girls did not divulge their abusers, signifying the possibility of close family members. The same questionnaire administered to girls after a lecture increased the number from 4.5 per cent to 12.3 per cent who divulged the abuser as a brother, an uncle or the father.

251. Unfortunately, the adult abusers are protected against enforcement of the law as children are coerced not to disclose the identity of their abusers. This is mainly due to fear of breaking up family units.

252. Sexual abuse as well as other forms of abuse have also been reported in childcare institutions that are poorly supervised and monitored.

253. The importance of protecting children from abuse was accorded high-level political commitment in 1998. A presidential task force was set up in December 1997 to plan interventions and programmes on a national basis. One recommendation was the setting up of the National Child Protection Authority.

254. The Child Protection Authority Act defines a child as a person under 18 years of age:

“For purposes of the Act, ‘Child Abuse’ is defined as:

“All acts of sexual violence against children;

“Cruelty to children;

“Use of children in obscene publications;

“Use of children in exploitative labour;

“Use of children in illegal activities;

“Non-conformity to compulsory education regulations;

“Involvement of children in armed conflict.”

255. The Authority appointed a multidisciplinary team who have the power to inspect and search premises and seize articles of an unauthorized nature.

V. Amendments to ordinances

256. The Ministry of Social Services sought the approval of the Cabinet for amending the Children and Young Persons' Ordinance, No. 48 of 1939, to achieve the following:

(a) To prevent a child being in future contact with an abuser or being sent to the place where the abuse took place. To make it mandatory for heads of certified schools to accept children in need of care on court orders;

(b) To amend the Orphanages' Ordinance, No. 22 of 1941, to provide criminal penalties for those running orphanages without a licence;

(c) To amend the Prevention of Crimes Ordinance to provide recognition of Penal Code offences as fingerprintable offences; the Ministry of Defence has taken action in this regard;

(d) To develop a new medico-legal report with content relevant to children, making reporting mandatory. A subcommittee was set up by NCPA to formulate procedures to be adopted by doctors when cases of child abuse are detected. Decentralized child protection schemes have been started under the guidance of the respective provincial commissioners of probation and childcare.

VII. CONCLUSION

257. Sri Lanka has gone a long way in institutionalizing safeguards and in consolidating efforts for the protection of the rights of children. Introduction of new legislation/amendments to existing legislation, installation of monitoring and surveillance mechanisms and establishment of administration structures for carrying out operational steps relevant to legislative requirements and policy pronouncements are among the measures taken by the State for protecting children and for dealing with encroachments on children's rights. NGOs and the media have played a significant role in bringing to light instances of child abuse. Sri Lanka is presently pursuing a multi-sectoral approach for the protection of children. In this approach, personnel in such spheres as health, education, law enforcement and rehabilitation cooperate in pursuit of a common goal.

Annex

**DEMOGRAPHIC, SOCIAL, HEALTH, EDUCATIONAL AND ECONOMIC
INDICATORS OF SRI LANKA**

Population:	1994 - 17,865,000 1997 - 18,552,000	Males - 9,457,000 Female - 9,095,000
Population growth rate:	1994 - 1.4 per cent 1997 - 1.3 per cent	
Life expectancy:	1997 - Male - 69.5 years Female - 74.2 years	
Population by residence:	Rural - 72.2 per cent Urban - 21.5 per cent Plantation - 6.3 per cent	
HDI:	Human Development Index (a composite of life expectancy, education and income calculated by UNDP) - Sri Lanka is the highest among the countries - 0.711 of the South Asian Association for Regional Cooperation (SAARC)	
Access to safe drinking water (1997):	Rural 30 per cent Urban 70 per cent	
Expenditure on health as a percentage of the total expenditure:	1994 - 5.5 per cent 1997 - 5.7 per cent	
Number of patients per doctor:	1994 - 3,681 1997 - 2,760	
Number of patients per Ayurvedic doctor:	1994 - 1,311 1997 - 1,230	
Married women using contraceptives (modern methods):	1997 - 43.7 per cent	
Children with acceptable weight for age:	62.3 per cent	

Public health midwives per 100,000 population:	30.3 per cent
Hospital beds per 1,000 population:	2.9 per cent
Immunization of infants (Annual Health Bulletin):	1997 - DPT3 - 97.5 per cent
	OPV - 98.4 per cent
	BCG - 95.6 per cent
	Tetanus toxin for pregnant women - 83.7 per cent

GDP growth rate:	1994 - 5.6 per cent
	1998 - 4.7 per cent
Per capita income:	1997 - US\$ 804
Unemployment rate:	1994 - 12.0 per cent
	1997 - 10.2 per cent
Inflation:	1997 - 1998: 9.6 per cent

Education

Total number of schools:	1994 - 10,936	1998 - 11,007
Total number of pupils in school:	1994 - 4,265,076	1998 - 4,286,894
Pupil: teacher ratio in schools:	1994 - 22	1998 - 22
Universities:	1994 - 9	1998 - 12
Pupils in universities:	1994 - 30,764	1998 - 34,139
Expenditure on education:	1994 - Rs 14,836 million	1998 - Rs 17,757 million
Expenditure on education as a percentage of GDP:	1994 - 2.5 per cent	1998 - 2.7 per cent
Literacy rate:	1994 - Male - 92.2 per cent	Female - 85.2 per cent
	1997 - Male - 94.5 per cent	Female - 89.8 per cent

Source: Sri Lanka socio-economic data of the Central Bank, June 1998.