



UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

Excerpts of Concluding Observations and Recommendations from UN Treaty Monitoring Bodies and UN Special Procedures' reports

Universal Periodic Review:

SRI LANKA

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations and Recommendations and the Human Rights Council's Special Procedure Reports, relating to issues of interest and persons of concern to UNHCR with regards to Sri Lanka.

1. Treaty Body Reports

CAT/C/KLA/CO/3-4
COMMITTEE AGAINST TORTURE, 47th Session
8 December 2011

Internally displaced persons

20. The Committee notes that near the end of the armed conflict in 2009 over 280,000 people fled from the northern LTTE-controlled areas to government-controlled territory in Vavuniya, Mannar, Jaffna and Trincomalee districts, where the vast majority of them entered closed military-run internment camps. While noting the information provided by the State party regarding the substantial efforts undertaken to respond to the influx of displaced persons, the Committee remains concerned at the situation of IDPs in the country, especially those who remain in "welfare centres". According to the State party, IDPs were initially provided with "a secure environment and cared for while they were screened to identify terrorist cadre[s] who had infiltrated the civilian population that was rescued at the conclusion of the armed conflict". The Committee, however, remains concerned about consistent allegations of torture and ill-treatment during questioning of camp residents by the Criminal Investigation Department (CID) and the Terrorist Investigation Department (TID). The Committee is concerned that these allegations have not been investigated outside the context of the Lessons Learnt and Reconciliation Commission (LLRC) process and that no judicial action has been taken. The Committee is also concerned at reports of massive overcrowding, poor hygienic and sanitary conditions, malnutrition, inadequate medical and psychological assistance and lack of freedom of movement for camp residents during and after the final stages of the war (art. 2, 11 and 16).

The State party should:

- (a) Adopt the necessary measures to guarantee the physical integrity and address the specific needs of internally displaced persons, in accordance with the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2), including the medical care and psychological attention they require;**
- (b) Ensure that investigations are carried out into the alleged cases of torture, including sexual violence, against camp residents and that perpetrators of such acts are brought before the courts;**
- (c) Provide mandatory in-service training programmes on human rights, internal displacement and gender-based violence for members of the military and law-enforcement officials serving in the camps.**

Human trafficking and violence against Sri Lankan migrant workers

24. While noting the adoption in 2006 of the Penal Code (Amendment) Act No. 16, the Committee is concerned about persistent reports of trafficking of women and children within the State party for the purposes of forced labour and sexual exploitation, the low numbers of convictions related to human trafficking and the detention of trafficking victims. The Committee is similarly concerned at the reported abuses of many Sri Lankan migrant workers, especially women, who travel abroad and subsequently face conditions of forced labour or other abuse in the host country, as alleged by the representative of the State party. In this regard, the Committee notes with interest the statement of the representative of the State party that the draft National Action Plan on Human Rights contains a section devoted to the protection of Sri Lankan migrant workers (arts. 2, 12 and 16).

The State party should:

- (a) Increase its efforts to combat trafficking in human beings by taking effective measures to investigate, prosecute and punish those responsible and by further strengthening international cooperation with countries of origin, transit and destination;**
- (b) Review legislation and practices to prevent victims of trafficking from being prosecuted, detained or punished for the illegality of their entry or residence or for the activities they are involved in as a direct consequence of their situation as victims of trafficking;**
- (c) Instruct consular or diplomatic authorities to provide protection and assistance to Sri Lankan migrant workers to protect their rights to be free from violence, confinement and abuse in violation of the Convention;**
- (d) Consider the possibility of ratifying the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.**

Refugees, non-refoulement

27. The Committee notes with concern the absence of domestic legislation or national policy that guarantees the protection of refugees and asylum-seekers in the State party and persons who require international protection. The Committee regrets the lack of information provided by the State party on the number of cases of refoulement, extradition and expulsion carried out during the reporting period and on the number of instances in which it has offered diplomatic assurances or guarantees (art. 3).

The State party should adopt a national policy, as well as the necessary legislative and administrative measures, to guarantee protection for refugees, asylum-seekers and stateless persons.

The Committee encourages the State party to consider the possibility of ratifying the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees, the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

CEDAW/C/LKA/CO/7

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, 48th Session

8 April 2011

Positive aspects

7. The Committee welcomes:

[...]

(d) The establishment of the Ministry of Foreign Employment Promotion and Welfare, and the adoption of the Sri Lanka National Policy on Labour Migration which focuses on concerns of migrant women workers.

36. While the Committee acknowledges the achievements of the State party in the area of maternal healthcare, it is concerned about the limited knowledge of reproductive health and the low rate of use of contraceptives, the high level of teenage pregnancies especially in less developed and conflict-affected areas, as well as the low accessibility to family planning and the increase in prevalence of HIV/AIDS infection among women. The Committee is also concerned that abortion is a punishable offence under the law, unless the purpose is to save the life of the mother and regrets that about 10 per cent of maternal mortality is reported as the direct result of clandestine abortion.

37. Within the framework of the Committee's general recommendation No. 24, the Committee urges the State party:

(a) To ensure that family planning and reproductive health education are widely promoted, in particular for internally displaced women and girls as well as women working in less developed and conflict-affected areas, with special attention to diseases and HIV/AIDS;

(b) To reduce maternal mortality rates by identifying and addressing causes of maternal death;

(c) To take measures to ensure that women do not seek unsafe medical procedures, such as illegal abortion, because of lack of appropriate services in regard to fertility control; and

(d) To review the laws relating to abortion with a view to removing punitive provisions imposed on women who undergo abortion, providing them with access to quality services for the management of complications arising from unsafe abortions.

Impact of conflict on women

40. While noting the State party's explanation that women were not subjected to violence and discrimination during the last stages of the conflict and in the post-

conflict phase, the Committee remains deeply concerned about reports of gross violations of the human rights of women on both sides, particularly of the Tamil minority group, the internally displaced women and the female ex-combatants. The Committee is particularly concerned about reports of sexual violence allegedly perpetrated also by the armed forces, the police and militant groups. The Committee is also deeply concerned about reports on the inadequate infrastructure and the limited availability of basic services such as shelter, health facilities, water and sanitation. The Committee is further concerned that the Ministry of Child Development and Women's Empowerment is not a member of the Consultative Committee on Humanitarian Assistance (CCHA) which consists of representatives of relevant Ministries to consult with donor countries and agencies, and that the Lessons Learnt and Reconciliation Commission, composed of eight members, appointed by the President only includes one woman.

41. The Committee urges the State party:

(a) To protect women affected by the prolonged conflict, particularly the Tamil minority group, including internally displaced women and female ex-combatants, from any form of human rights violations;

(b) To promptly investigate, prosecute and punish all acts of violence, including acts of sexual violence perpetrated by private actors as well as by the armed forces, the Police and militant groups;

(c) To establish counseling centres for women to address the traumatic experiences, specifically with regard to sexual violence;

(d) To provide adequate infrastructure for women IDPs and returnees especially housing and health facilities, water and sanitation;

(e) To include provision for economic and social rights in post-conflict reconstruction including through the adoption of temporary special measures;

(f) To ensure the freedom of movement of internally displaced women, wider access of international organizations to the conflict-affected population in the North of the country and the population's access to humanitarian aid;

(g) To consider having an independent international accountability mechanism, in accordance with recent proposal of the United Nations High Commissioner for Human Rights, mandated to investigate the cases of serious violations of human rights, including women's rights, which have arisen in the last stages of the fighting in the State party; and

(h) To include women in the country's post-conflict, reconstruction and peace building process.

Migrant women

42. While welcoming the protective measures taken by the State party for women who migrate from Sri Lanka, the Committee remains concerned that these women remain vulnerable to illegal employment agencies, and that many work in exploitative situations and experience violence and abuse at the hands of their employers.

43. The Committee urges the State party to take a rights-based approach in order to empower women migrant workers, in particular through implementing bilateral conventions with recipient countries and assisting migrant women who seek for redress.

Data collection and analysis

46. While noting that comprehensive statistics have been provided as regards the health of children, the Committee is concerned by the limited availability of data disaggregated by sex and ethnic group in other fields, including violence against women, polygamy, the situation of internally displaced women and the disparities between urban and rural women, which are necessary for an accurate assessment of the situation of women, for informed and targeted policymaking, and for the systematic monitoring and evaluation of progress achieved towards the realization of women's substantive equality in regard to all areas covered by the Convention.

47. The Committee calls upon the State party to continue to enhance the collection of comprehensive data disaggregated by sex and of measurable indicators to assess trends in the situation of women and progress towards the realization of women's substantive equality, and draws the State party's attention to the Committee's general recommendation No. 9 in this regard.

E/C.12/LKA/CO/2-4

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, 45th Session

9 December 2010

29. The Committee is concerned that in spite of progress made by the State party to resettle internally displaced persons (IDPs) and to rebuild damaged infrastructure in conflict-affected areas, thousands of IDPs are still prevented from returning due to the establishment of High Security Zones (HSZs) on their homelands. The Committee is also concerned about the conditions of resettlement of internally displaced persons who often lack basic shelter, access to sanitation and water and livelihood opportunities, a situation aggravated by the regular restrictions placed on United Nations agencies, international organizations and international and national NGOs to access internally displaced persons requiring urgent assistance. (arts. 11 and 12)

The Committee urges the State party to speed up the closing of HSZs as indicated during the interactive dialogue, to restore housing land and/or property of which IDPs have been arbitrarily or unlawfully deprived and to establish adequate mechanisms at local levels to resolve land and property disputes and to provide compensation to land owners for the occupation of their land. The Committee draws the attention of the State party to its obligation to respect and protect the work of United Nations agencies, human rights advocates and other members of civil society who assist internally displaced persons in the realization of their economic, social and cultural rights and to refrain from imposing further restrictions on access to IDPs, especially those who are living in food insecurity. The Committee requests the State party to provide detailed information on the situation of internally displaced persons in its next periodic report.

33. The Committee expresses concern that malnutrition affects nearly one-third of children and one quarter of women and that the nutrition status of internally displaced persons, especially children, remains an issue of serious concern. (arts. 11 and 12)

The Committee urges the State party to adopt the necessary measures to protect the right to adequate food, including through the setting up of a public food distribution system for the most disadvantaged and marginalized individuals and

groups. It also encourages the State party to formulate and implement an Integrated Nutrition Programme throughout the State party.

CRC/C/LKA/CO/3-4

COMMITTEE ON THE RIGHTS OF THE CHILD, 55th Session

19 October 2010

Non-discrimination

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

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

Birth registration

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

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

Family environment

44. The Committee reiterates its deep concern about the physical, psychological and social impact that massive labour migrations of women have on the rights and well-being of children, as most of the over one million women migrants leave behind children, half of whom are under 6 years old. The Committee is also concerned that

insufficient efforts have been made to create alternative working opportunities for women who have often no choice but to migrate to support their families, and to address problems faced by children whose mothers are working abroad. While it welcomes the efforts to formulate a comprehensive policy to support the families and caregivers of children of migrant workers and the plans to collect details about children of migrant mothers at the international airport, the Committee remains concerned over the inconsistent implementation of protective safety net programmes and the insufficient coordination amongst childcare authorities to monitor the well-being of children of migrant mothers.

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

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

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

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

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

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

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

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

Right to an adequate standard of living

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

61. The Committee recommends that the State party ensure that poverty alleviation and social protection programmes are adequately targeted to the

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

Internally displaced children

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

The Committee urges the State party:

- (a) To allow international and national humanitarian agencies and organizations immediate access to IDP camps and transit and resettlement areas to offer needed assistance to the affected children and their families;**
- (b) To address critical funding shortfalls to ensure that the basic life-saving needs of IDPs are met;**
- (c) To refrain from initiating resettlement movements of children and their families that result in further displacement.**

CRC/C/OPAC/LKA/CO/1

OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

Landmines

20. The Committee notes that despite efforts made by the State party in relation to demining and mine risk education, children have been and remain at high risk of being killed and maimed by anti-personnel landmines and unexploded ordinance. The Committee also expresses concern that not all internally displaced families have received mine risk education before their return to their area of origin and that mine-victim assistance remains underdeveloped.

21. The Committee recommends that the State party:

- (a) Continue and strengthen mine-awareness campaigns and demining activities, in particular by strengthening funding for demining activities, in cooperation with humanitarian demining units as well as with demining operators from international and non-governmental organizations;**
- (b) Consider establishing special rehabilitation programmes for children affected by the explosion of mines and other consequences of the armed conflict and**

ensure that all affected children have access to such programmes through, inter alia, increased allocation of resources to centres for social work and increased coverage of the system of personal disability benefits;

(c) Ensure that internally displaced families are provided with mine risk education prior to, during and after their return and that child-friendly educational measures are implemented, in coordination with civil society, especially at the municipal level, in rural areas where landmine risks have been identified or are suspected;

(d) Consider acceding to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction.

CMW/C/LKA/CO/1

COMMITTEE ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES, 11th Session

14 December 2009

Data collection

21. The Committee notes with interest the statistics provided by the State party on Sri Lankan migrant workers abroad and persons prosecuted for illegally recruiting Sri Lankan migrant workers. However, the Committee notes with regret that little information is provided by the State party with regard to foreign migrant workers in its territory or Sri Lankans who have migrated abroad irregularly.

22. **The Committee recalls that reliable, quality information is indispensable to understand the situation of migrant workers in the State party, to assess the implementation of the Convention and to develop adequate policies and programmes. In this regard, the Committee encourages the State party to:**

(a) **Adopt a harmonized mechanism for gathering sex and nationality disaggregated statistics on foreign migrant workers in Sri Lanka and on Sri Lankan irregular migrants working abroad, including through studies or estimated assessments when information is insufficient; and**

(b) **Strengthen collaboration with Sri Lankan embassies and consulates, as well as host countries receiving Sri Lankan migrants, to improve data collection, in particular with regard to irregular Sri Lankan migrants.**

Non-discrimination

25. The Committee notes with appreciation that most provisions of the Sri Lankan Constitution apply to all persons on Sri Lankan territory. However, the Committee expresses concern that the rights provided under articles 12(2) and 14 of the Constitution, which guarantee association and freedom to form and join a trade union, apply only to citizens.

26. **The Committee recommends that the State party take the necessary steps to ensure that all migrant workers and members of their families within its territory or subject to its jurisdiction enjoy the rights provided for in the Convention without any discrimination in conformity with article 7 of the Convention.**

2. Reports of Special Procedures mandate holders

A/HCR/8/6/Add.4

HUMAN RIGHTS COUNCIL, 8th Session

Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin

21 May 2008

Conclusions and recommendations

83. Concerning the national response, the Representative recommends that the Government:

- (a) Develop a comprehensive policy addressing all aspects of internal displacement, in line with the Guiding Principles on Internal Displacement. This policy should assign institutional responsibilities and establish accountability and should address issues including standards for registration and deregistration, entitlements to assistance and equitable standards for compensation for loss of property and livelihoods. It should also enshrine the principle of voluntariness of return in safety and dignity and the right of IDPs to informed choice;**
- (b) Allocate sufficient resources and increase its own capacity to protect and assist IDPs;**
- (c) Ensure consistent and accessible dissemination of information to IDPs concerning their rights and entitlements, and procedures for accessing them;**
- (d) Establish mechanisms to ensure that IDPs are consulted and participate in decisions affecting their lives;**
- (e) Undertake contingency planning for increased displacement in the North, in particular that both military and civilian authorities be prepared to receive IDPs in conditions of safety and dignity;**
- (f) Support international and national humanitarian actors in their efforts through advance communication and consultation and facilitated access to all IDP and returnee populations for assistance, protection and early recovery activities alike.**

84. With regard to the 300,000 displaced since 2006 who have returned home or remain in displacement, the Representative recommends that the Government:

- (a) Address all sources of insecurity and threats to safety, including abductions and disappearances, the presence of armed elements in camps and transit sites, the presence of UXO in return areas, heavy-handed responses by security forces, and the use of additional identification to restrict returnees' freedom of movement;**
- (b) Restore security through increased civilian police presence, including local and Tamil-speaking police, and promptly restore civilian administration;**
- (c) Take effective measures to address impunity;**
- (d) Assure, at all times, the right to adequate shelter;**
- (e) Recall, with regard to housing and property, that participation in needs-based assistance schemes does not negate rights to restitution or compensation;**
- (f) Ensure that access to livelihoods and basic services is provided in parallel with return.**

85. Concerning the 300,000 IDPs in protracted displacement, the Representative:

- (a) Urges national authorities and international agencies to identify and address obstacles to the achievement of durable solutions, including special attention to**

issues of landlessness and livelihoods and the needs of the most vulnerable, including widows and female-headed households;

(b) Calls upon all relevant actors to improve the standard of living and protection of individuals pending the achievement of durable solutions.

86. The Representative recommends that the United Nations, humanitarian and development organizations and donors:

(a) Continue to support the Government of Sri Lanka in meeting its primary responsibility to protect and assist IDPs;

(b) Continue to support capacity-building within the Government;

(c) Address gaps that fall between traditional humanitarian and development assistance but that are necessary to establish the conditions for durable solutions, including efforts supporting early recovery and confidence-building and stabilization measures, with attention to protracted situations;

(d) Prioritize support for livelihoods initiatives for IDPs, host and return communities.

87. The Representative urges all parties to the armed conflict to:

(a) Ensure full respect for and compliance with international humanitarian law, especially the prohibition against arbitrary displacement and the principle of distinction;

(b) Fulfill their duty to facilitate rapid and unimpeded passage of humanitarian relief;

(c) Ensure safe passage of all civilians seeking safety;

(d) Recognize the impartiality and integrity of humanitarian assistance and ensure the safety and security of all humanitarian workers.

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UNHCR
February 2012**