

**United Nations Study on Violence against Children**

Response to questionnaire received from the  
Government of the Republic of SRI LANKA

# QUESTIONNAIRE

## I. LEGAL FRAMEWORK

*This part of the questionnaire aims to determine how your country's legal framework addresses violence against children, including prevention of violence, protection of children from violence, redress for victims of violence, penalties for perpetrators and reintegration and rehabilitation of victims.*

### International human rights instruments

- 1. Describe any developments with respect to violence against children which have resulted from your country's acceptance of international human rights instruments, including, for example, the Convention on the Rights of the Child and its optional protocols, the Palermo Protocol or regional human rights instruments. Provide information on cases concerning violence against children in which your country's courts or tribunals have referred to international or regional human rights standards.**

#### Developments resulting from acceptance of international human rights obligations

Sri Lanka signed the Convention on the Rights of the Child on 26.01.1990 and ratified on 12.07.1991. However because Sri Lanka follows the dualist system in international law a separate legislative process is required for the rights recognised by the Convention to become legally enforceable within Sri Lanka.

A comprehensive review of legislation for harmonisation with the Convention has not taken place. But it has been accommodated within the State policy structure through the declaration of the Children's Charter in 1994.

Significant legislative activity however has taken place in regard to child protection through multi-sectoral collaboration and improvement of penal remedies. The most prominent of these measures was the establishment of the National Child Protection Authority (NCPA) through the NCPA Act No. 50 of 1998.

The Optional Protocol I on the involvement of Children in Armed Conflict was ratified on 8/9/2000. However the Optional Protocol II on the Sale of Children though signed has not yet been ratified.

#### National Plans of Action

Currently there are 3 Plans being implemented:

- Public Policy and a National Plan of Action to combat the trafficking of children for exploitative employment prepared by the NCPA supported by ILO/IPEC (International Programme for the Elimination of Child Labour 2001)
- NCPA Plan of Action 2001 – 2006
- National Plan of Action for the Children of Sri Lanka 2004-2008 prepared by the Department of Planning and Ministry of Finance and supported by UNICEF pursuant to the World Summit for Children 2002.

#### Cases which referred to international obligations

The Supreme Court in *Bandara vs. Wickramasinghe*<sup>1</sup> held that school teachers who purport to maintain discipline act under the colour of office and if they exceed their disciplinary powers in doing so would become liable for infringement of fundamental rights by executive or administrative action. This Judgement affirms the availability of the constitutional remedy in all cases where students are subjected to cruel inhuman or degrading treatment or punishment. However an important procedural limitation is that the remedy must be sought within one month of the alleged violation.

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<sup>1</sup> 1995 (2) SLR 167

The Supreme Court has in several cases recognized and respected the applicability of International Conventions.<sup>2</sup> Hon. Justice Amerasinghe advanced the application of the International law into our law in the Eppawala case<sup>3</sup> when His Lordship held that although the principles set out in the Stockholm and Rio de Janeiro Declarations are not legally binding in the way in which an Act of our Parliament would be it may be regarded merely as "soft law". "Nevertheless, as a Member of the United Nations, they could hardly be ignored by Sri Lanka. Moreover, they would, in my view, be binding if they have been either expressly enacted or become a part of the domestic law by adoption by the Superior Courts of record and by the Supreme Court in particular in their decisions."

In *Weerawansa vs Attorney General* <sup>4</sup> Fernando J held 'A person deprived of personal liberty has a right of access to the Judiciary, and that right is now internationally entrenched, to the extent that a detainee who is denied that right may even complain to the Human Rights Committee... should this court have regard to the provisions of the covenant? I think it must. Article 27 (15) requires the State to "endeavour to foster respect for international law and treaty obligations in dealings among nations". That implies that the State must likewise respect international law and treaty obligations in its dealings with its own citizens. The State must afford to them the benefit of the safeguards which international law recognizes".

### **Legal provisions on violence against children**

#### **2. Describe how forms of violence against children are addressed in your country's constitution, legislation and subsidiary legislation, and, where appropriate, customary law.**

The issue of violence is not specifically addressed in the Constitution except through the absolute prohibition on torture and cruel, inhuman or degrading punishment or treatment. It does not contain any specific provisions on violence against children or on domestic violence.

There is yet no consistency in legislation as to the age group to be considered as children. Different laws use different ages for different purposes and there is much variation even within laws that regulate the employment of children. The Penal Code (Amendment) Act No. 22 of 1995 treats all persons under the age of 18 years as children and has raised the age of consent to sexual activity to from 12 to 16 years. The Employment of Women, Young Persons and Children Act defines a child as being under 14 years and a young person as being between 14 and 18 years of age. The Children and Young Persons Ordinance (CYPO) defines a child as being under 14 years and a young person as being between 14 and 16 years of age.

The Children's Charter in Article 1 declares that it is applicable to all children defined as all human beings under the age of 18 years. This ensures uniformity as far as public policy is concerned.

The law provides a formal and an informal response to violence in general. The formal response is through the criminal process and the informal response through the network of Mediation Boards in relation to specified minor offences. Under the civil law

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<sup>2</sup> *Abisin Banda vs S.I. Gunaratne and others* (1995) 1 Sri LR 244, *Ratnasiri and another vs Devasurendran Inspector of Police Slave Island and others* (1994) 3 Sri LR 127, *Mallawarachchi vs Seneviratne OIC Police Station Kollupitiya and others* (1992) 1 SLR 181, *De Silva, Mrs. W.M.K. Vs. Chairman, Ceylon Fertilizer Corporation* (1989) 2 Sri LR 393

<sup>3</sup> *Tikiri Banda Bulankulanna and others vs. The Secretary, Ministry of Industrial Development and others*. SC FR 884/94 FR SCM 02.06. 2000

<sup>4</sup> (2000) (1 SLR page 387 at 408)

an action for monetary compensation is available in delict for causing bodily harm. The criminal and civil actions have to be brought in separate actions in separate courts and cannot be combined.

Although a Juvenile Court was legally established in 1939 with the CYPO with a special jurisdiction to take measures in respect of children in need of care and protection there was no effective separation of this court from the adult criminal process. Thus the Juvenile Court became indistinguishable from the Magistrate's Court dealing with adult crime. Hence the country does not have a functional Juvenile Justice System.

In terms of the substantive criminal law there was no special focus on children and on the concept of child abuse until the Penal Code (Amendment) Act No. 22 of 1995.

The Constitution guarantees equal rights for all citizens. This has ensured that children can invoke general penal provisions and remedies also available to adults. However the move towards substantive equality in the sense of the right of children to be treated differently within the legal process and have their special needs met has been slow. Child friendly procedures are recognised by a 'Handbook on Child Abuse' published by the Police Department in 1999 but the book does not have legal status. A similar Manual for Medical Officers was issued by the NCPA in 2000. The Evidence (Special Provisions) Act No. 32 of 1999 on the admissibility of video recordings of statements of child victims is a significant development which will be dealt with under the heading 'Protection of children from all forms of violence' below. Moves are afoot to prepare a comprehensive Child Protection Manual for all services dealing with children in terms of the National Plan of Action for the Children of Sri Lanka 2004-2008.

The Constitution in Article 12 (4) provides for special provision to be made by law, subordinate legislation or executive action for the advancement of children. Such special provision was made in regard to child abuse by the Penal Code (Amendment) Act No. 22 of 1995. In addition the following legal provisions are relevant:

- Article 11 of the Constitution protects the citizens from torture, inhuman or degrading punishment or treatment. However a fundamental rights action can only be brought in cases of executive or administrative action and not in cases where the offender is a private individual.
- The Penal Code criminalizes certain offences including offences relating to violence against children. The original Code contained offences which could be used in situation of child abuse. The amendments Act No 22 of 1995 and 29 of 1998 are not only more appropriate for contemporary times, but also stipulate minimum sentences applicable to the relevant offences.
- Children and Young Persons (Harmful Publications) Act No 48 of 1956 is aimed at curbing publications which are harmful to children and young persons.
- Vagrants Ordinance, Section 11; causing the seduction or prostitution or unlawful carnal knowledge of a girl under 16 years of age.
- Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment Act No 22 of 1994. This provides for prosecutions to be launched against offending public officers.
- Employment of Women, Young Persons and Children (Amendment) Act No. 8 of 2003. This is prosecution focused and primarily devoted to enhancing sentences and fines.
- Custom has long ceased to be a source of law on all crimes. The Penal Code enacted in 1883 established legislation as the primary source of criminal law, the other main source being case law.

#### Pending legislation

- Juvenile Justice Procedure Code – replacing the CYPO
- Domestic Violence Bill
- Obscene Publications Act – this deals with internet pornography, text and other new forms of obscenity harmful to children
- Soliciting of Children Act – this deals with sexual solicitation via the internet.

**3. Provide details of any specific legislative provisions on:  
Prevention of all forms of physical, sexual and mental violence, injury or abuse, neglect or negligent treatment, and sexual abuse;**

The legal framework is yet to adopt the concept of prevention found in Article 19.2 of the Convention on the Rights of the Child namely the organization of 'social programmes to provide necessary support for the child and for those who have the care of the child'. Legislative activity that has taken place so far has relied upon prevention through deterrence and punishment under criminal statutes. Consequently the coverage of different categories of violence abuse and exploitation of children is fairly comprehensive. Another feature is that the law does not differentiate between offences committed within the family and by outsiders. Criminal liability and responses are uniform. The relevant legal provisions are as follows:

- Cruelty to Children, Penal Code Amendment Act No 22 of 1995 {Section 308 A (1)}.
- Offence of Rape, Section 363, Penal Code Amendment Act NO 22 of 1994.
- Vagrants Ordinance No 4 of 1842, Section 11 deals with the sexual offences against a female child.
- Grave Sexual Abuse, Section 365 B of the Penal Code, Amendments Act No 22 of 1995 and 29 of 1998.
- Sexual Exploitation of Children, Section 360 B, Penal Code Amendment Act No 22 of 1998.
- Offence of Gross Indecency and Punishment, Section 365 A, Penal Code Amendment Act No 22 of 1995.
- Offence of Unnatural Acts and Punishment, Section 365 of the Penal Code.
- Offence of Procuration (engaging children in prostitution), Penal Code, Section 360 (A) Amendment Act Nos. 22 of 1995 and 29 of 1998.
- Offences relating to Obscene Publication and Exhibition relating to Children, Penal Code Section 286 A (1) Amendments Act Nos. 22 of 1995 and 29 of 1998.
- Offence of Developing an Indecent or Obscene Photograph or a Film of a Child, Penal Code, Section 286 A; Amendment Act No 29 of 1998.
- Obscene Publication Act.
- The Prohibition of Ragging and other forms of Violence in Educational Institutions Act No. 20 of 1998 was a legislative response to acts of ragging which seriously endangered the life and health of new entrants to educational institutions. The acts prohibited include grievous hurt, sexual harassment, criminal intimidation, hostage taking, wrongful confinement and forcible occupation and damage to property of educational institutions. The phrase educational institution is defined inclusively to include 'a Government school or an assisted or unaided school, within the meaning of the Education Ordinance.'
- The Maintenance Act No. 37 of 1999 revised the law and process relating to maintenance of spouses, children (under 18 years of age), adult and disabled offspring by a male or female respondent 'having sufficient means.' It has implemented a specific provision of the Convention on the Rights of the Child by recognising the equal obligation of both male and female spouses for the maintenance of their children. This Act did not address cases of parent/s without sufficient means and it also maintained the Magistrate's Court as the most efficient forum for the enforcement of this duty. Two colonial statutes, the Poor Law Ordinance No. 30 of 1939 and the Orphanages Ordinance No. 22 of 1941 continue to deal with the ramifications of such cases.
- The Adoption of Children (Amendment) Act No.15 of 1992 was a legislative response to malpractices concerning both local and foreign adoptions.
- The Compulsory Attendance of Children at Schools Regulations No 1 of 1997. This imposes a duty on all parents to send their children between the ages of 5 and 14 to school, and makes a failure to do so a punishable offence.

The above three enactments can be regarded as efforts to address the protective environment of the vulnerable child.

### Protection of children from all forms of violence

#### Penal Code Offences:

- Cruelty to children – Section 308A (1) (Amendment Act No 22 of 1995)
- Causing Hurt - Section 310 and 312, Punishment, Section 314
- Voluntary causing Hurt by dangerous weapons – Section 315
- Grievous Hurt – Section 311 and 313 (Amendment Act No 22 of 1995), Punishment Section 316
- Voluntarily causing grievous hurt by dangerous weapon – Section 317.

The Evidence (Special Provisions) Act No. 32 of 1999 on the admissibility of video recordings of statements of child victims has addressed the secondary victimisation of child victims within the legal process. The video recording is treated as evidence in chief and the child can be cross examined in court. Another provision in the same law provides for the admissibility of a certificate of probable age issued by a registered medical practitioner – where it becomes necessary for the Court to ascertain the age of the child, particularly in cases where the Birth Certificate is not available.

### Redress, including compensation, for child victims of violence

The Supreme Court and/or the Human Rights Commission upon a successful completion of a fundamental rights application are entitled to grant compensation to the victims. The Code of Criminal Procedure Act No 15 of 1979, Section 17(7) limits the compensation payable to a victim upon entering a conviction to Rs. 500/-.

The Penal Code (Amendment) Act No. 22 of 1995 makes provision for payment by the accused of an amount decided by Court as compensation to the victim upon conviction and as part of the sentence. The offences that include this provision are Cruelty to children (308A), Sexual harassment (345), Rape (364), Unnatural Offences (365), Gross indecency (365A) and Grave sexual abuse (365B). Certain other offences within this statute such as Trafficking are not covered. However all offences carry a sentence of a fine and there is a judicial practice of making part of the fine payable as compensation to the victim. However such practices on the part of judges are not systematised and regularised by Judicial circulars or guidelines.

The Code of Criminal Procedure Act No 15 of 1979, Section 266, provide for the compounding of offences, in which case, the accused party might agree to pay a sum of money to the victim.

Mediation Boards Act No 72 of 1988 as amended by Act No 15 of 1997 in its schedule sets out offences that could be mediated by the parties.

However there is no mechanism for child victims of abuse to obtain compensation at the time of making the complaint or at some early stage, immediately following the alleged incident.

### Penalties for perpetrators of violence against children

In criminal cases, punishment is meted out at the end of the trial, which can be challenged by way of appeal to the High Court, Court of Appeal or to the Supreme Court.

The Penal Code (Amendment) Acts No. 22 of 1995 and No. 29 of 1998 have prescribed mandatory minimum jail sentences for those convicted for the commission of offences against children. It is doubtful whether this removal of discretion from judges has furthered the legislative purpose of ensuring more deterrent sentences. Studies, especially that carried out by Lawyers for Human Rights and Development (LHRD) - cited below - have shown that judges have been inclined to acquit accused on account

of the harsh nature of this penalty applying irrespective of the ages and circumstances of the parties to the offence. This study in fact recommends the repeal of such penal provisions. However deterrent sentences have been imposed in the case of violent offences committed in respect of very young children – especially those under 14 years of age.

#### Reintegration and rehabilitation of child victims of violence

The legal framework of the CYPO and other legislation such as the Youthful Offenders Training Schools Ordinance (applicable to youth aged between 16 – 22 years) is primarily based on the concept of rehabilitation. There is limited scope for reintegration through community based supervision of probation officers under the CYPO and the Probation of Offenders Ordinance No. 42 of 1944. However studies (mentioned under question 12 below) have shown that these processes, established at a time when the control of juvenile delinquency was the major concern, have not coped very well with the steady increase of victims of child abuse entering the system. The number of reported cases of child victims now easily average over a 1000 each year.

There is legal provision for Magistrates sitting as Juvenile Court Judges to order a child “in need of care and protection” to be sent to a certified or approved school for education and training. Such children may either be victims or offenders [CYPO s. 35(1).] Apart from this provision no legal obligation is placed upon any agency in regard to treatment, follow up and reintegration of child victims. This aspect has traditionally been considered the province of public health authorities since Sri Lanka has enjoyed free universal health care since the early 1940s.

#### **4. Indicate whether any specific legislative provisions address all forms of violence including physical, sexual and psychological violence, injury or abuse, neglect or negligent treatment and sexual exploitation against children which take place in:**

##### The family/ home:

As noted in the answer to question (2) above the criminal law protected all persons including children from different forms of violence. A specialized approach to children emerged in 1995 with the amendment to the Penal Code. However that amendment focused on different forms of *sexual* abuse and not physical abuse. Further it stopped short of designing a specialized approach to intra family abuse apart from criminalizing incestuous intercourse under sec. 364A. However a prosecution under this section cannot be commenced without the written sanction of the Attorney General. The factors to be considered in granting or withholding this sanction are not spelt out by legislation or administrative guidance.

However there are certain provisions that criminalize certain acts against children both before and after birth:

- Penal Code No. 2 of 1883 in Section 308 states that whoever being the father or the mother of a child under the age of 12 years or having the care of such child, exposes or leaves the child in any place with the intention of wholly abandoning such child shall be punished.
- Penal Code No. 2 of 1883 in Section 309 makes it an offence to secretly bury or otherwise dispose of the dead body of a child, whether such child died before or after or during its birth and intentionally conceals or endeavors to conceal the birth of such child.
- Cruelty to children – Section 308A (1) (Amendment Act No 22 of 1995)
- Penal Code No. 2 of 1883 in Section 303 states that whoever voluntarily causes a woman with a child to miscarry unless it is in good faith for the purpose of saving the life of the woman will be punished.

- Penal Code No. 2 of 1883 in Section 304 makes it a punishable offence for a person to cause miscarriage without the consent of the woman, whether the woman is quick with the child or not.
- Penal Code No. 2 of 1883 in Section 305 stipulates the punishment for a person who with the intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman.
- Penal Code No. 2 of 1883 in Section 306 states that whoever before the birth of any child does any act with the intention of preventing the child from being born alive or causing it to die after its birth is committing an offence unless it was done in good faith for the purpose of saving the life of the mother.
- Penal Code No. 2 of 1883 in Section 307 states that whoever does an act as stipulated in Section 306 shall be guilty of culpable homicide.
- Penal Code Amendment No 22 of 1995 Section 286A sets out that a parent or guardian having custody of a child causes or allows such child to be employed, or to participate in any obscene or indecent exhibition or show or pose or model for or appear in any such photograph or film, or that parent or guardian engages in distribution or publishing of such material, or has in his possession such material, shall commit an offence and be punishable according to law.

Schools and pre-school care and education (both formal and non-formal, state and private):

- Education Ordinance Section 23 sets out the rules in inflicting corporal punishments. It further states 'Teachers are reminded that there is no surer sign of a teacher's incapacity than inability to maintain order and secure attention without the aid of corporal punishment. Corporal punishment is specially unsuitable in schools situated in backward parts of the country where education is still a novelty. It should never be used in schools where it is likely to have the effect of deterring children from attending or of prejudicing the minds of parents against the school'.
- The Prohibition of Ragging and other forms of Violence in Educational Institutions Act No. 20 of 1998 provides the public law for deterring and punishing acts of violence committed against children. However where the offenders are also children within secondary educational institutions the applicability of the CYPO is not expressly recognised.
- The Education Circular No. 11/2001 dated 30/3/2001 prohibits the use of corporal punishment in schools and provides detailed instructions on alternative methods of discipline.

Institutions including care, residential, health and mental health;

Remand Homes for temporary care and custody and Approved Schools and Certified Schools for the education and training of children who have attained the age of 12 years are established in terms of the CYPO. The network of state institutions for the care, custody, training and education of children is as follows:

- Certified Schools – 4 (Boys – 3, Girls – 1)
- Approved Schools – 2 (Boys)
- Remand Homes – 6 (Boys – 3, Girls – 3)
- Detention Homes – 1
- State Receiving Homes for Infants/Children under 5 years of age – 8

The total number of children in these State Homes are estimated to be less than 1000.

Differently-abled children who are institutionalized are cared for within homes administered by the Social Services Department.

Orphanages Ordinance No 22 of 1941 provides for the Registration and control of orphanages, and the establishment of Children's homes for the reception of orphans and deserted children and who are found homeless or without visible means of



subsistence. Orphanages are supported wholly or partly by voluntary contributions. The Ordinance also lays down offences and penalties for contravention of its provisions. There are 201 Voluntary Homes registered in Sri Lanka. Voluntary and faith based organizations account for the alternative care, vocational training and reintegration of an overwhelming majority of children – presently estimated at 10 500.

The NCPA and Department of Probation and Child Care Services with support from ILO/IPEC established a model rehabilitation centre for trafficked girl children who were victims of CSEC in Paratta Panadura – South of Colombo in 2001. This Centre has the capacity for accommodating 25 children and has been responsible for the successful reintegration of many girl children.

In terms of the Youthful Offenders (Training Schools) Ordinance No 28 of 1939, 'male offenders' between the ages of 16 to 22 years who have been convicted by the High Court, or have previous convictions or have violated the probation orders may be ordered to be sent to a 'training school' (also known as Borstal school) for a period of 3 years.<sup>5</sup> The Minister is vested with the power to discharge a person on licence after a period of one year if it is reasonably probable that the person detained will abstain from crime and lead a useful and industrious life.<sup>6</sup>

#### The context of law and public order enforcement including in detention facilities or prisons:

The primary responsibility for the supervision and monitoring of detention facilities lies with the relevant state institution. All prisons, remand prisons and the Youthful Offenders Training Schools come within the jurisdiction of the Commissioner General of Prisons who heads the Department of Prisons. State and Voluntary Institutions for children fall under the regulation and monitoring powers of Probation Officers and Child Rights Promotion Officers of the Department of Probation and Child Care Services. Through an administrative arrangement the formal responsibility for the conveyance of all institutionalized children is undertaken by Prison Officers who escort children to and from institutions and Courts. The powers of monitoring conferred upon the Human Rights Commission and the NCPA set out below are supplementary to the primary powers conferred on the Prisons and the Probation and Child Care Services.

Human Rights Commission Act No 21 of 1996 Section 11 (d) gives the power to the Commission to 'Monitor the welfare of persons detained either by a judicial order or otherwise, by regular inspection of their places of detention, and to make such recommendations as may be necessary for improving their conditions of detention'.

NCPA Act in Section 14 (h) gives the power to the Authority 'to monitor the progress of all investigations and criminal proceedings relating to child abuse. (j) requires the NCPA 'to take appropriate steps where necessary for securing the safety and protection of children, involved in criminal investigations and criminal proceedings.'

Probation of Offenders Ordinance No 42 of 1944 provides for the establishment and administration of a probation Service.

#### The neighbourhood, street and the community, including in rural areas;

Employment of Women, Young Persons and Children Act No 47 of 1956 restricts and regulates the employment of children in different settings including that of family labour.

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<sup>5</sup> In February 1981, two institutions which were opened as 'work camps for young offenders, Pallansena and Taldena respectively were subsequently renamed as "Correctional Centres for Youthful Offenders'. These open work camps are in addition to the Training School for Youthful Offenders, situated at Pallansena.

<sup>6</sup>Youthful Offenders (Training Schools) Ordinance No 28 of 1939, Section 9.

The following amendments to the Penal Code seek to protect children on streets:

- Offence of causing or procuring a child to be in any street, premises or place for the purposes of begging or receiving alms, or of inducing the giving of alms; Section 288 (1), Penal Code Amendment Act No 29 of 1998.
- Offence of Hiring or Employing Children to act as Procurers for Sexual Intercourse, Penal Code, Section 288A (1), Penal Code Amendment Act No 29 of 1998.
- Offence of Hiring or coercing Children to traffic in articles restricted by the Poisons, Opium and Dangerous Drugs Ordinance, Penal Code, Section 288B (1), Penal Code Amendment Act No 29 of 1998.

Two other colonial statutes, the Brothels Ordinance No. 5 of 1889 (as amended) and the Vagrants Ordinance No. 4 of 1841 (as amended) also continue to apply even though their enforcement often entails consequences of a penal nature to the innocent and the exploited.

#### The workplace (informal and formal);

- Gazette Extraordinary No 1116/5 (2000 January 26<sup>th</sup>) containing regulations to the Employment of Women, Young persons and Children Act No 47 of 1956 states that 'No child shall be employed in any occupation' (Child defined to be under 14 years)
- Employment of Women, Young Persons and Children Act defines a child mean, 'a person who is under the age of fourteen years', and a young person to mean 'a person who has attained the age of fourteen years but is under the age of eighteen years'.
- Employment of Women, Young persons and Children Act No 47 of 1956. Section 19 states that "No person under 16 takes part in performances endangering life and limb. (breach of this is made an offence)
- Section 20 of the above law restricts child training for performances of dangerous nature. (breach is of this provision is made an offence)
- Sections 24, 25 and 26 of this law permits inspection by authorized officers and gives such officers powers of entry and of furnishing information from employers. This is in order to ensure that the provisions of this Act are not contravened.
- Shop and Office Employees Act No 19 of 1954, in Section 10 states that 'children under 12 years are prohibited to be employed' and therefore it could be summarized that according to this Act a "child" is a person less than 12 years of age.
- Factories Ordinance No 45 of 1947 defines a young person as a person who has attained the age of 14 and has not attained the age of 18.

#### Sports and sporting facilities

- Sports Law Amended by Acts No. 47 of 1993 and 10 of 1998 governs this subject. This law and the regulations made there under do not contain specific provisions on the protection of children from violence or on corporal punishment. Any cases of violence will fall to be dealt with under the general law.

**5. Indicate if corporal punishment of children, in any setting, including in the family, is explicitly prohibited in your legal system. Provide details of any legal defences available to those who administer corporal punishment to children, including in the family. Provide information on penalties applicable to those who administer corporal punishment to children, including in the family.**

Corporal punishment has not been prohibited in our laws, but is recognised as a form of punishment. There are instances where it has been resorted to in schools and ordered by courts as well.

It could be challenged by way of a fundamental rights application alleging 'degrading treatment or punishment' in terms of Article 11 of the Constitution.

Criminal proceedings could be instituted in terms of Section 308A (1) of the Penal Code, Amendment Act No 22 of 1995. It defines 'Cruelty to children' as whoever having the custody or charge of the child wilfully assaults, ill-treats, neglects or abandons such person or causes or procures such person to be treated in such manner that is likely to cause him suffering or injury to health, commits the offence of cruelty to children.

**6. Provide information on whether the penal code permits corporal punishment and/or capital punishment as a sentence for crimes committed by under 18 year olds.**

Corporal punishment

In Sri Lanka 'whipping' is a recognized form of punishment. The Penal Code (Section 52) and the Code of Criminal Procedure Act No 15 of 1979 {Section 14 (c)}, list whipping as a punishment to which offenders are liable under the Code. The Children and Young Persons Ordinance {Section 29(1)} and the Probation of Offenders Ordinance No 42 of 1944 as amended {Section 3 (1)} allows whipping to be imposed as a form of punishment by Magistrate's Courts on male children, as an additional punishment for certain offences. The Prisons Ordinance (Section 81 and 86), the Education Ordinance No 31 of 1939 {Section 56 (2)}, the Railways Ordinance No 9 of 1902 {Sections 24 (1), 26, 27, and 41}, the Offensive Weapons Act No 18 of 1996 {Sections 2 (1), 3, and 4 (1)}, the Police Ordinance No 16 of 1865 as amended (Section 98), and the Dangerous Knives Ordinance No 28 of 1906 (Section 11) also recognize whipping as a form of punishment.

The Code of Criminal Procedure Act (Sections 294, 295, 296, 297 and 298) sets out the procedure relating to the execution of sentence of whipping. Prisons Rules (59, 60, 253 (1), (2), 254, 255, and 257) sets out the procedure to follow when prison officials are to carry out the sentence of corporal punishment.

The Corporal Punishment Ordinance in Section 2 states that the sentence shall not exceed the number of 6 strokes with a light cane or rattan in the case of a boy below the age of 16, or of 24 strokes with a rattan or the like number of lashes in the case of a person above the age of 16.

Capital Punishment

- Penal Code No. 2 of 1883 as amended; in Section 53 states that sentence of death cannot be pronounced or recorded against any person under the age of 18 years.
- Children and Young Persons Ordinance No 48 of 1939 in Section 24 states that a person under 18 shall be detained at a remand home in lieu of a sentence of death.

**7. Provide details on whether bullying/hazing and sexual harassment are explicitly addressed by legislation.**

- Prohibition of Ragging and other forms of violence in Educational Institutions Act, No. 20 of 1998 was enacted to 'eliminate ragging and other forms of violence and cruel, inhuman and degrading treatment from Educational Institutions.
- The Act comprises of 17 sections in all. "Ragging" is defined in Article 17 (k) as 'any act which causes or is likely to cause physical or psychological injury of mental pain or fear'.
- Section 17(k) defines and explicitly criminalises sexual harassment committed under the guise of ragging.
- Article 14. declares: "The Provision of this Act shall be in addition to, and not in derogation of, the provisions of the Penal Code, the Convention Against Torture and

Other Cruel, Inhuman or Degrading Treatment Or Punishment Act, No 22 of 1994 or any other law..".

The Act criminalizes the following offences if committed in educational institutions:

1. Ragging – Punishment of two years and compensation to be paid to the victim. Summary trial before Magistrate (Section 2 (1))
2. Causes sexual harassment or grievous hurt while committing ragging – imprisonment not exceeding ten years and compensation to be paid to the victim. Summary trial before Magistrate (Section 2 (2))
3. Criminal Intimidation. – Rigorous Imprisonment not exceeding five years. Summary trial before Magistrate (Section 3)
4. Hostage Taking - Rigorous Imprisonment not exceeding seven years. Summary trial before Magistrate (Section 4)
5. Wrongful Restraint - Rigorous Imprisonment not exceeding seven years. Summary trial before Magistrate (Section 5)
6. Unlawful Confinement Rigorous Imprisonment not exceeding seven years. Summary trial before Magistrate (Section 6)
7. Forcible occupation and damage to property of an educational institution.- Imprisonment not exceeding ten years and / or fine not exceeding Rs. 10,000/- Summary trial before Magistrate (Section 7 (1))
8. Mischief to property - Imprisonment not exceeding twenty years and / or fine not exceeding Rs. 5,000/- or three times the amount of the loss or damage caused to such property, whichever is higher. Summary trial before Magistrate. (Section 7 (2))

**8. Provide information on the way in which harmful or violent traditional practices, including but not limited to female genital mutilation, child marriage or honour crimes are addressed in your country.**

Female Genital Mutilation and Honour Crimes are not major issues in Sri Lanka. However doctors have reported instances of piercing or puncturing the genitals of female infants in order to draw blood pursuant to a traditional ritual among Muslims in the Eastern Province.

The Penal Code in Section 363 (e) (Amendment Act No 22 of 1995) a man is said to commit rape who has sexual intercourse with a woman 'with or without her consent when she is under sixteen years of age, unless the woman is his wife who is over twelve years of age and is not judicially separated from the man.'

After the enactment of the Marriage Registration (Amendment) Act No 18 of 1995 and the Kandyan Marriage and Divorce (Amendment) Act No 19 of 1995 the age of competence for marriage stands as follows.

Law applicable	Males	Females
General Law (Including Burghers)	18	18
Muslim Law	Age of Puberty	Age of Puberty.
Kandyan Law	18	18

Under the General Marriages Ordinance a party being below 18 years of age is a legal bar to the formation of a valid marriage.

The Kandyan Marriage and Divorce Act No 44 of 1952, as amended specifies 18 years as the age of marriage but permits the subsequent legitimation of marriages contracted where one or both parties are under the age of 18 years upon such parties remaining together

and attaining the lawful age of marriage. Twelve years is recognised as the age of puberty among Muslims. The Marriage of a Muslim girl under 12 years would be invalid unless it has been specially authorized by the Quazi before its registration. (Section 23 of the Muslim Marriage and Divorce Act No 13 of 1951).

The General Marriages Ordinance applies to ALL marriages except those contracted under the Kandyan Marriage and Divorce Act and contracted between Muslims, vide the definition of 'marriage' in Section 64 of the GMO.

**9. Provide information on the applicability of specific provisions to address all forms of violence against children to non-citizens and stateless children, including asylum seekers and displaced children. If specific provisions do not apply to such children, provide details of protection offered to them.**

Sri Lanka has not signed or ratified the 1951 Convention relating to the Status of Refugees and its 967 Protocol. In the case of Internally Displaced Persons, there have not been any special laws enacted, since the general law of the land applies to all these persons.

**10. Provide information on any difference in the definition of violence and the applicable legal framework according to:**

The sex or sexual orientation of the victim and/or of the perpetrator;

- The Penal Code Amendment No 22 of 1995 Section 363 states that a man is said to commit rape where he has sexual intercourse with a girl under 16 years of age, with or without her consent unless she is the wife.

The age of the victim and /or of the perpetrator;

- Penal Code makes it an offence to kidnap a minor under the age of 14 years if a male or under 16 years if a female from a lawful guardian without the consent of such guardian (Section 352). (The definition of Kidnapping is inconsistent with the definition of a child, and is discriminatory as regards the sex of the child)
- Penal Code in Section 352 defines the offence of kidnapping from lawful guardians to be applicable to minor under 14 years of age if a male, or under 16 years of age if a female.
- Penal Code in Section 360 makes it an offence to Kidnap or abduct a child under 10 years with intent to steal movable property from the person of such child.
- Penal Code Amendment Act No. 22 of 1995, Section 360A makes it an offence to procure or attempt to procure any person under sixteen years to leave Sri Lanka with or without the consent of such person with a view to illicit sexual intercourse with a person outside Sri Lanka. The section further provides that a person under the age of sixteen cannot be brought to Sri Lanka for the same mentioned purpose.
- Children and Young Persons (Harmful Publications) Act defines 'child' to be under 14 years.
- Children and Young Persons Ord. defines 'child' to be under 14 years.
- Adoption of Children's Ordinance, child defined to be under 14 years. (Sections 17, 30)

The relationship between the victim and the perpetrator, including, but not limited to infanticide, sexual violence in marriage, incest and sexual abuse within the family, and physical chastisement.

- Penal Code Amendment No 22 of 1995 Section 364 (A) deals with Incest. It makes it an offence for a person to have sexual intercourse with another who

stands towards him as a direct descendant or an adoptive parent/grand parent/child/grandchild, the female is the sister by full or half blood or by adoption, etc.

**11. Provide information on any recent comprehensive review of the legal framework to address violence against children.**

- Penal Code Amendments, Act Nos. 22 of 1995 and 29 of 1998.
- Evidence Ordinance (Special Provisions) Act No 32 of 1999 permits in cases of child abuse, the reception of video taped evidence of the preliminary interview of a child victim or witness.
- National Child Protection Authority Act No 50 of 1998 was established for the prevention of child abuse, protection, and treatment of children who are victims of such abuse.
- Draft Juvenile Justice Procedure Code has been prepared by a Committee of the NCPA and is in the process of being finalized for enactment
- Draft Domestic Violence Bill
- The NCPA Act is also due to be amended – the process to begin in November 2004.

**12. Provide information on any studies and surveys which have been undertaken to assess the impact of legal measures to address violence against children.**

- Report on the Abused Child and the Legal Process of Sri Lanka. Submitted to the National Monitoring Committee on the Children's Charter. July 04, 1997. (Commonly referred to as the Samaraweera Report)
- Report of the Legal Sub Committee of the NCPA on Two Child Deaths in 2000.
- Evaluation of Women's and Children's Desks in Police Stations. Conducted by Center for Women's Research (CENWOR), October 1997.
- Study on State Receiving Homes, Remand Homes and Detention Centres for Children. By Malsiri Dias, Centre for Women's Studies (CENWOR) Funded by UNICEF. (2001)
- 'Violation of Child Rights in the implementation of the Law relating to Statutory Rape'. Lawyers for Human Rights and Development (LHRD) (February 2003)
- A situational Analysis of Child Sex Tourism in Sri Lanka (Negombo, Colombo, Mt.Lavinia, Hikkaduwa, Galle, Anuradhapura and Trincomalee.) by South Asia Partnership International. December 2003. Funded by the European Union and Groupe Development.
- Research by NCPA in 2002/2003
  - Study of 7 Children's Homes on the illegal institutionalisation of Children
  - Rapid Assessment Survey of Child Domestic Violence – supported by ILO/IPEC
  - Reintegration of ten female child soldiers
  - Street children in the Colombo Municipal Council area. Please see on the official website at [www.childprotection.gov.lk](http://www.childprotection.gov.lk)
  - Awareness level of administrators and professionals on child abuse.

**Courts tasked with addressing violence against children**

**13. Identify those parts of the court structure in your country tasked with addressing violence against children. Indicate if your family or juvenile courts have specific responsibility for this issue.**

- A Juvenile Court is situated in Bambalapitiya.
- All Magistrates Courts are given the power to hear cases involving children according to the procedure laid down in the Children and Young Persons Ordinance. But there is no effective separation, in practice, of children's cases from adult cases in the Magistrate's Courts.

- A recent gazette issued by the Judicial Services Commission designated the Chief Magistrate's Courts and High Courts within judicial zones as the only Courts to hear, try and determine cases of child abuse.
- Judicature (Amendment) Act No. 27 of 1998 removed cases of rape of girls under 16 years of age from the non-summary procedure in the Magistrate's Court to enable the forwarding of a direct indictment by the Attorney General for expeditious disposal.
- High Court hears appeals from the Magistrate's Courts and also tries cases upon Indictments been filed by the Attorney General.
- Court of Appeal and the Supreme Court sits as the superior Appellate courts in the country.

### **Minimum age for sexual activity**

#### **14. Provide information on any legislatively defined minimum age required for valid consent to sexual activity. Is this age different for girls and boys? Is this age different in respect of heterosexual and homosexual activities?**

- The age of consent for sexual activity was raised from 12 to 16 years by the Penal Code (Amendment) Act No. 22 of 1995. For children under 16 years of age consent is irrelevant and the offences of rape and grave sexual abuse are constituted even where the relevant activity took place with consent. How the legal process responded to such cases is studied in the Report of LHRD (mentioned in answer to question 12.)
- Penal Code Amendment 22 of 1995 Section 360 (A) states that whoever procures or attempts to procure a person below 16 years of age to leave Sri Lanka, or brings in or attempts to bring into Sri Lanka a person below 16 years, whether with or without the consent of such person with a view to illicit intercourse with a person within or outside Sri Lanka shall be punished according to law.
- Penal Code Amendment No 22 of 1995 Section 363 states that a man is said to commit rape where he has sexual intercourse with a girl under 16 years of age, with or without her consent unless she is the wife. It may be observed here that children who are married are left unprotected by the law.
- Homosexual sex is a crime in Sri Lanka as it is deemed an act of gross indecency. Penal Code Amendment No 22 of 1995 Section 365 (A) states that any person who is a party to the commission of, or procures or attempts to procure the commission of any act of gross indecency with another person, in public or private, is guilty of an offence and can be punished by law. Imprisonment could be up to two years and/or a fine could be imposed. Where the offence is committed by a person over eighteen years of age in respect of any person under sixteen year of age, the offender shall be punished with rigorous imprisonment for a term not less than ten years and not exceeding twenty years and a fine shall be imposed. Compensation to the person against whom the offence was committed can also be ordered by the courts.
- Penal Code Amendment No 22 of 1995 Section 365 (B) deals with Grave Sexual Abuse. This is defined as any person who, for sexual gratification does any act, by the use of his genitals or any other part of the body, or any instrument on any orifice or part of the body of any other person, being an act not amounting to rape, but without the consent of the other person, or with his consent if got by use of force or threat or intimidation. The punishment for this offence committed against any person below the age of 18 years also involves a payment as compensation with regard to injuries caused to such person in addition to a fine and a jail term.
- Section 365 (b) states that it is grave sexual abuse if the consent of the other person has been obtained where the other person was of unsound mind or was intoxicated by alcohol or drugs.

#### **15. Provide information on the minimum age of marriage for women and men.**

- Please see answer to question No 8 above.

Law applicable	Males	Females
General Law (Including Burghers)	18	18
Muslim Law	Age of Puberty	Age of Puberty.
Kandyan Law	18	18

### **Sexual exploitation of children**

16. **Provide information on legislation and other measures to prevent the commercial sexual exploitation of children, including through prostitution and other unlawful sexual activities. Provide details on means to ensure that child victims of such exploitation are not criminalized. Provide information on legislation or other measures to prohibit all forms of sale or trafficking in children, including by their parents.**

- Penal Code Offences (Amendment) Act No 22 of 1995.
- Grave Sexual Abuse – Section 365B,
- Sexual Exploitation of Children – Section 360 (B) (1)
- Incest- Section 364A
- Unnatural Offences – Section 365
- Gross Indecency - Section 365A
- Trafficking – Section - 360 C
- Causing children to beg – Section 288 (1)
- Hiring or employing children to traffic restricted articles - Section 288B
- Procuration – Section 360A Amendment Act No 29 of 1998
- Hiring or employing children to act as procurers for Sexual Intercourse – Section 288 A, Amendment Act No 29 of 1998
- Vagrants Ordinance No 4 of 1841, Causing seduction, Prostitution or unlawful carnal intercourse of a female child- Section 11

Other measures taken by the NCPA to combat CSEC

#### Special Police Unit:

This is manned by 16 officers and responds to complaints made to or information received by the NCPA. This unit has also arrested and taken action against foreign pedophiles, including a first successful prosecution against a UK National in terms of a new UK extra – territorial law in the Woodbridge Crown Court, London.

#### Anti Trafficking and Surveillance Unit:

This is a multi-disciplinary team which works in close collaboration with relevant law enforcement agencies in maintaining general surveillance, investigating complaints made to the NCPA and carrying out investigations relating to the Cyberwatch programme. This is supported by ILO/IPEC.

#### The Cyberwatch project:

Monitors websites patronized by pedophiles. Its goal is to prevent the use of Sri Lankan children for pornography and CSE.

### **Pornography and harmful information**

17. **Provide information on legislation and other measures to prohibit the production, possession and dissemination of child pornography. In particular, please provide information on any controls on pornography produced and/or disseminated via the internet.**



- Offences relating to Obscene Publication and Exhibition relating to Children, Penal Code Section 286 A (1) Amendments Act Nos. 22 of 1995 and 29 of 1998.
- Offence of Developing an Indecent or Obscene Photograph or a Film of a Child, Penal Code, Section 286 A Amendment Act No 29 of 1998.
- Obscene Publications Ordinance No 4 of 1927.

**18. Provide information on any legislation or guidelines to protect children from injurious information and material transmitted through the media, Internet, videos, electronic games, etc.**

A committee of the NCPA has made recommendations to the Ministry of Justice to amend the law to prevent the exposure of children to pornography and sexual solicitation over the Internet.

**Reporting obligations relating to violence against children**

**19. Provide information on legislation, regulations or administrative directives requiring reporting of all forms of violence against and abuse of children in all settings to appropriate bodies. If reporting legislation, regulations or administrative directives exist, please indicate whether all citizens are required to report, or whether the obligation falls on certain professional groups only. Provide details of any sanctions for non-reporting.**

There are no mandatory reporting requirements except in the case of sudden and unnatural deaths, an offence of murder or culpable homicide in which case every person is bound to report the matter to one of several specified authorities. Section 21 of the Code of Criminal Procedure Act No. 15 of 1979.

**Complaints procedures**

**20. Provide information on any complaints procedures relating to all forms of violence against children perpetrated in:**  
**The family/ home;**  
**Schools and pre-school care and education (both formal and non-formal, state and private);**  
**Military schools;**  
**Institutions, state and private, including care, residential, health and mental health;**  
**The context of law and public order enforcement including in detention facilities or prisons;**  
**The neighbourhood, street and the community, including in rural areas;**  
**The workplace (informal and formal);**  
**Sports and sporting facilities.**

The police maintain children and women's desks in almost all police stations nationwide. These desks coordinate with 34 district offices of the women's and children's division, facilitating the lodging of complaints by abused children or their relatives. A 24 hour Police hotline is operative from the Police Headquarters in Colombo - 2421111. In addition the Children and Women's Bureau in Colombo has a hotline - 2444444 – for reporting offences against children and women.

NCPA established 12 District Child Protection Committees whose activities are co-ordinated by NCPA. The Functions of these committees relate to child abuse complaints, referral of victims of child abuse, to relevant institutions, conduct of awareness programmes and other related matters. Complaints are also accepted directly by the NCPA in Colombo.

Human Rights Commission in its head office and regional officers entertains complaints and conducts inquiries in matters relating to the infringement of fundamental rights.

The Mediation Boards, Religious leaders, schools, Court Martial, Peace Committees etc exercise certain authority pertaining to dispute resolutions.

In terms of the Parliamentary Commissioner for Administration Act No. 17 of 1981 as amended by Act No. 26 of 1994 'a complaint or allegation of the infringement of a fundamental right or other injustice by a public officer or an officer of a public corporation, local authority or other like institution may be made in a communication in writing addressed to the Ombudsman.

**21. Indicate whether children or persons acting on their behalf can access these procedures. Indicate whether legal aid is available to facilitate submission of complaints, and the circumstances in which legal aid will be available.**

There are many Non Governmental Organisations providing legal aid to needy people including children. The Legal Aid Ordinance No 27 of 1978 provides for the grant of legal assistance to deserving persons and for that purpose to establish a Legal Aid Commission and a Legal Aid Fund for the grant of moneys to the fund and for the disbursement thereof...'

Supreme Court Rules, 1990. Rule 44 rectified numerous ambiguities and technicalities relating to the grant of proxies, the proper persons to be named as petitioners, applications by third parties, curing deficiencies in pleadings etc. Children can appear through an adult Next Friend in fundamental rights applications

Supreme Court (Exemptions from Fees) Rules 1991, and Supreme Court (Assigned Counsel) Rules 1991 made further provisions permitting the exemption of indigent petitioners from the payment of court charges, as well as the assignment of counsel and the payment of fees to assigned counsel, where the interest of justice required it.

**22. Describe steps which have been taken to raise awareness of possibilities to submit complaints about violence against children.**

The NCPA, Probation and Child Care Services, Human Rights Commission and the National and International NGO's conduct frequent awareness programmes by way of workshops, consultative meetings, mass media campaigns using the electronic and print media etc.

The NCPA has utilised the Samurdhi Social Work network to reach the grass roots level in awareness campaigns. Another group which has been trained by the NCPA on identification of abuse and raising awareness is doctors.

**23. Provide information on any special procedural or evidentiary rules which may apply in proceedings with respect to violence against children.**

Evidence special Provisions Act No 32 of 1999 enhances the protective rights of child victims by way of allowing the reception of video-taped evidence of the preliminary interview with a child victim or witness. (Section 163A).

The Code of Criminal Procedure (Amendment) Act No 28 of 1998 Section 43 A, provides for a person arrested without a warrant for the offence of child abuse to be detained in custody for a period not exceeding three days by way of a magistrates order. This Amendment also contains provisions which require that cases of child abuse should be given priority as a measure of protecting their rights. (Section 453 A).

It also prescribes a form of warrant of commitment to a place of safety 'where it appears that the victim requires care and protection' pending the trial of the case. (Schedule 11 A). This provision follows a similar provision of the CYPO which is resorted to as a matter of course by Magistrate's to institutionalize children without a proper inquiry into the necessity to do so. This issue is analysed in the Samaraweera Report and the Report on Child Deaths to the NCPA.

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Act No. 22 of 1994 makes torture, or the attempt to commit, or the aiding and abetting in committing, or conspiring to commit torture, an offence. (Section 2)

**24. Provide information on the usual outcome of complaints of violence against children (e.g. compensation, punishment of perpetrators, perpetrator rehabilitation, family therapy).**

The outcomes in a select category of cases, namely children under 16 years of age who were sexually abused or interfered with were studied in the LHRD Report. This provides a good insight into how processes work and how they defeat proper implementation and the best interests of children.

Compensation is granted upon the successful completion of a fundamental rights application or proceedings before the Human Rights Commission, upon a compromise reached in the Mediation Board and sometimes in criminal cases. Alternative Dispute Resolutions mechanisms such as Community Based Corrections, Probation etc provide for perpetrator rehabilitation and family therapy etc.

**25. Provide information on the usual outcome of legal proceedings in which children and juveniles are found guilty of perpetrating violence (e.g. imprisonment, corporal punishment, community service, perpetrator rehabilitation, family therapy).**

Punishments

In terms of the Children and Young Persons Ordinance (CYPO), a child cannot be imprisoned, while young persons can be imprisoned if the court certifies that they are so 'unruly' or 'depraved' that they cannot be institutionalized.<sup>7</sup>

A child or young person found to have committed an offence punishable with imprisonment may be:

- Committed to custody in a remand home<sup>8</sup> for a period not exceeding one month.<sup>9</sup>
- A child of 12 years or a young person may be sent to an approved or certified school<sup>10</sup> for a period of 3 years.<sup>11</sup>
- Release to a parent or guardian on condition of keeping good behaviour for one year, or place him in the custody of some fit person for 3 years, or conditionally release him, or place him under probation.<sup>12</sup>
- Or fine him, fine to be paid by parent or guardian under certain circumstances<sup>13</sup>

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<sup>7</sup> CYPO, Section 14 (2)

<sup>8</sup> Remand homes are meant for temporary detention of children on court orders providing safety and protection till they are dealt with by courts. There are 4 remand homes at Pannipitiya, Kithulampitiya and detention home for children at Halpotha (for boys) and remand home for girls at Ranmuthugala

<sup>9</sup> CYPO, Section 25 (1)

<sup>10</sup> Certified or approved schools are intended for those children and young persons between the ages 12-16 years found guilty by the courts. There are 3 certified or approved schools. Certified school for girls at Ranmuthugala, Certified Schools for boys at Makola, and Certified School for Boys at Hikkaduwa, and approved school for boys at Maggona.

<sup>11</sup> CYPO, Section 26

<sup>12</sup> CYPO, Section 27 (1)

<sup>13</sup> CYPO, Section 28 (1)

- Order corporal punishment (6 strokes with a light cane for males only).<sup>14</sup>
- Discharge him after admonition<sup>15</sup>

### Non-Custodial Options.

Young offenders can otherwise be punished in the same manner as adults by imposing the following alternative sentencing methods,

The court may;

- (a) Place a child under the supervision of a probation officer for a period not exceeding 3 years.<sup>16</sup>
- (b) Place the child with a "fit person" up to 3 years, a fit person is not defined in the CYPO, except that it can include a relative.<sup>17</sup>
- (c) Return the child to parents or relatives, upon the basis of a bond of good behaviour or recognizance.
- (d) Discharge after due admonition.<sup>18</sup>
- (e) Discharge conditionally.
- (f)** Suspend the sentence
- (g) Impose a community service order in terms of the Community Based Corrections, Act No 46 of 1999.
- (h) in the case of males, impose whipping as an additional form of punishment. (Corporal Punishment has been discussed in detail under Question 6 above.)

### Training Schools for Youthful Offenders.

In terms of the Youthful Offenders (Training Schools) Ordinance No 28 of 1939, 'male offenders' between the ages of 16 to 22 years who have been convicted by the High Court, or have previous convictions or have violated the probation orders may be ordered to be sent to a 'training school' (also known as Borstal school) for a period of 3 years.<sup>19</sup>

The Minister is vested with the power to discharge a person on licence after a period of one year if it is reasonably probable that the person detained will abstain from crime and lead a useful and industrious life.<sup>20</sup>

## **II. INSTITUTIONAL FRAMEWORK AND RESOURCES TO ADDRESS VIOLENCE AGAINST CHILDREN**

*The aim of this section is to establish if your country has an institution coordinating multi-sectoral activities concerning violence against children, which include prevention, protection, redress, reintegration and rehabilitation.*

### **26. Are there any Governmental authorities, structures and mechanisms, including at federal, state/provincial, municipal and local level which are currently responsible for addressing violence against children?**

**If YES, identify these authorities, structures and mechanisms and describe how coordination is ensured.**

As noted above there is no functional Juvenile Justice System. Moreover the special jurisdiction for the Care and Protection of Children in the CYPO has lost its procedural

<sup>14</sup> CYPO, Section 29 (1)

<sup>15</sup> CYPO, Section 30

<sup>16</sup> CYPO, Section 27

<sup>17</sup> CYPO, Section 28

<sup>18</sup> CYPO, Section 30

<sup>19</sup> In February 1081, two institutions which were opened as 'work camps for young offenders, Pallansena and Taldena respectively were subsequently renamed as "Correctional Centres for Youthful Offenders'. These open work camps are in addition to the Training School for Youthful Offenders, situated at Pallansena.

<sup>20</sup> Youthful Offenders (Training Schools) Ordinance No 28 of 1939, Section 9.

rigour as a mechanism for a genuine exploration of the best interests of individual children. Standards laid down by statute and case law have been neglected and decisions on placement have become mechanical to the detriment of children and families. For example the decided case of *Navaratnam v Karunaratne* (1957) 62 NLR 82 held that the Magistrate must hear evidence and be personally satisfied that the young person in question is in need of care and protection and that the Magistrate cannot act merely on the report of the Probation Officer. Actual practice however has not upheld the letter and spirit of this decision. Due to this erosion of child specific mechanisms in the CYPO the institutional response to child abuse cases was integrated within the adult criminal law and adult processes without sufficient appreciation of the damage and secondary victimisation that child victims would become exposed to. Therefore the relevant structures are either based or built around the criminal justice process.

Department of Probation and Child Care has two categories of officers who are responsible for the care and protection of child victims of violence:

- a. Probation officers who have statutory duties in terms of the enactments such as the CYPO, Probation of Offenders Ordinance etc for invoking and carrying out legal procedures designed to protect and rehabilitate child victims and child offenders. These officers work under their respective Provincial Commissioners of Probation and Child Care Services.
- b. Child Rights Promotion Officers (CRPOO) stationed in each administrative division (a division being a sub unit within an administrative district) who are entrusted with working directly with vulnerable families and coordinating services needed to support those families. These officers come under the National Commissioner for Probation and Child Care Services who is a Central Government functionary. They are stationed in the offices of the Divisional Secretaries who supervise their day to day work.

The police maintain children and women's desks in almost all police stations nationwide. These desks coordinate with 34 district offices of the women's and children's division, facilitating the lodging of complaints by abused children or their relatives.

NCPA established 12 District Child Protection Committees whose activities are co-ordinated by NCPA. The Functions of these committees relate to child abuse complaints, referral of victims of child abuse, to relevant institutions, conduct of awareness programmes and other related matters.

National Child Protection Authority Act No 50 of 1998 provides for the protection and treatment of child victims of abuse and for the coordination and monitoring of all action against all forms of child abuse.

- o Section 14 (e) requires NCPA to 'consult relevant Ministries, provincial Councils, local authorities, District and Divisional Secretaries, public and private sector organisations and recommend all such measures as are necessary, for the purpose of preventing child abuse and for protecting and safeguarding the interests of the victims of such abuse'
- o Section 14 (l) gives the power to the NCPA to 'advise and assist Provincial Councils and local authorities and non-governmental organisations to co-ordinate campaigns against child abuse.
- o Section 14 (n) 'In consultation with the relevant ministries and other authorities to supervise and monitor all religious and charitable institutions which provide child care services to children.'
- o Section 15 (3) gives the power to 'appoint sub-committees or to coordinate with units at Provincial level, for the effective discharge of its functions'.

The Anti Trafficking Surveillance Unit (ATSU) of the NCPA, manned by a multi disciplinary team, has been successful in reducing the incidence of trafficking in children. The ATSU works in close collaboration with relevant law enforcement agencies to participate in activities relating to general surveillance, the investigation of

complaints received or initiated by the NCPA, and the carrying out of investigations relating to the 'Cyber watch' programme

Orphanages Ordinance No 22 of 1941 provides for the 'Registration and control of orphanages and other institutions for the boarding, care and maintenance of orphans, and deserted children.' In terms of Section 16 the Registrar of the area is required to pay to the Manager of the registered orphanages, a maintenance grant out of moneys voted by Parliament for the orphans and deserted children maintained in the orphanage.

National Youth Commission has been given the task of managing the Rehabilitation Centres established for victims of war. (Gangodawila girls home and Vauniya Rehabilitation Centre).

NCPA in collaboration with the Department of Probation and Child Care under the Ministry of Social Welfare introduced a new Rehabilitation Model for trafficked children into the Center for Training and Counseling at Paratta, Panadura. The approach focuses on elements on potential of victims, confidence building measures in the first stabilizing period, re-establishing trust worthy human relationships, development of individual action plans enhancing the possibility for sustainable rehabilitation of each child/youth, developing the economic potential of the child leading to economic independence of youth /adolescent girls, developing life scenarios for post rehabilitation, establishing support networks/live-in collectives among youth; involvement of families before reunion takes place, finding viable alternatives to family reunion such as foster parenting. All individuals working at the center have received a three-week induction training in psycho-social counseling and the provision of quality care and interventions to trafficked and exploited children. More advanced training was to be conducted. NCPA improved the quality of care received by sexually abused, exploited and trafficked children residing within the center by supporting the center through improving its technical expertise, providing equipment and strengthening the existing staff capacity. The Ministry of Social Welfare is due to sustain the Model once the NCPA program is terminated.

## **27. Is there a lead Government authority tasked with responsibility for addressing violence against children?**

National Child Protection Authority (NCPA)  
Children and Women's Desks of the Sri Lanka Police  
Probation and Child Care Services

Functions of the NCPA could be summarised as follows:

- Advising the government on national policy and measures regarding prevention of child abuse and protection and treatment of children who are victims of such abuse:
- Creating an awareness of the right of the child to be protected from child abuse and the methods of preventing such abuse.
- Consulting and co-ordinating with relevant ministries, local authorities and private sector organisations and recommending measures for prevention of child abuse and protection of victims.
- Recommending legal, administrative and other reforms for the effective implementation of national policy.
- Monitoring implementation of the law, the progress of all investigations, and criminal proceedings in cases of child abuse.
- Taking appropriate steps where necessary for securing the safety and protection of children involved in criminal investigations and criminal proceedings.
- Recommending measures in relation to protection of children involved in criminal investigations and criminal proceedings.

- Recommending measures in relation to protection, rehabilitation and reintegration into society of children affected by armed conflict.
- Receiving complaints from the public relating to child abuse.
- Advising and assisting local bodies and NGOs to co-ordinate campaigns against child abuse.
- Co-ordinating, promoting and conducting research on child abuse.
- Organising and facilitating workshops and seminars.
- Liaising with the tourist industry to prevent child abuse.
- Preparing and maintaining a national data base on child abuse.
- Monitoring organizations providing care for children.
- Liaising and exchanging information with foreign governments and international organisations in relation to detention and prevention of child abuse.

The four cardinal goals of the Department of Probation and Child Care are set out below:

- The correction of deviant behaviour and the promotion of law abiding citizenship in the client population.
- The creation of opportunities for the healthy growth and development of disadvantaged and dependent children.
- Elimination of causes of family dysfunction among vulnerable groups in society and restoration of their potential capacity for normal family functioning.
- Promotion of social action for the establishment of conditions conducive to the improvement of the quality of life for the socially disadvantaged sections of a community.

Services delivered by the Department to meet these goals can be classified into two sectors; correctional services and protective services.

Correctional services refer to both non-institutional treatment and institutional treatment. Non-institutional treatment for offenders and children with delinquent traits allows the child to live productively within his or her community. When non-institutional treatment is not possible, institutional treatment is provided. Institutional treatment addresses the educational and developmental needs of the inmates.

Protective services refers to services provided to children deprived of parental care, adoption services, and services for the young child such as the sponsorship child programme for children below the poverty line.

The Department of Probation and Child Care Services recognises that child care programmes should be designed to provide services that would substitute or supplement parental care and supervision in addition to providing general social amenities and opportunities that promote the welfare of children.

#### Children and Women's Desk (CWD) mandate:

The Children and Women's Desk (CWD) in the City of Colombo was established in 1979 to address complaints made by women and children who were victims of crime. This desk, manned by women officers, receives complaints from victims of crime and gives them guidance and protection as well as refers them to the relevant Government Departments for cases which deserve further action.

In 1994, the Police Headquarters took a very significant step forward to cater to victims by issuing two circulars – IG Circular No. 172/94 and Crimes Division Circular No. 13/94 both dated 1<sup>st</sup> November 1994. These Circulars establish a Children's and Women's Unit at every police station to cater exclusively to women victims. In order to make these units more efficient and effective, a separate Police Division was

established in Colombo by IG's Circular No. 1416/98 dated 04.08.1998. This Division is known as the "Bureau for the Prevention of Abuse of Children, Young Persons and Women". This is an independent Police Division under the command and control of the Senior Deputy Inspector General of Crimes, Criminal Intelligence and Organized Crime, commencing its functions from 01.07.1998.

The main functions of this Bureau according to the IG Circulars referred to above are as follows.

1. To investigate crimes committed against women, young persons and children;
2. To follow up and supervise the action taken by any police station;
3. To give advice and guidance when and where necessary to police stations in the Island with regard to such crime, and
4. To promote public awareness in order to prevent such crime.

This circular elaborates on the structure of this Bureau and how it should coordinate activities with Headquarter Police Stations. At present there are 36 such units in 36 SSP Divisions throughout the Island. Additionally, there are about 200 Desks out of the 348 Police Stations. Almost all these units are being manned by women officers. Most of the officers attached to these units have followed specialized courses of training relating to the offences against women and children.

The following significant and prominent developments have been made in the recent past.

1. A "Corporate Plan" incorporating the Missions for the years 2004-2006 has been designed by Sri Lanka Institute of Development Administration (SLIDA) in concurrence with UNICEF for the Bureau for the Prevention of Abuse of Children, Young Persons and Women of the Police Department.
2. A Telephone Hot Line (2444444) has been installed at the above Bureau in Colombo for the benefit of all the citizens in the country to convey information and /or complaints pertaining to abuse etc., against children and women.
3. The Bureau has taken initiatives with the assistance of the University of Colombo, Sri Lanka, to establish a Data Base funded by UNICEF.
4. A Senior Gazetted Officer (in the rank of an A.S.P. and above) was assigned to function as the co-ordinating officer for each Police Division to monitor the Divisional Units and the Desks of the Bureau by Circular No. 1739/2003 issued by the then Inspector-General of Police. For the purpose of more effective monitoring, the above circular was amended by Circular No. 1802/2004 by the present Inspector-General of Police directing the Senior Gazetted Officer who is in charge of the Divisional Headquarters Station to monitor and supervise the activities of the above Units and Desks.

**28. Are specific financial and/or human resources allocated by your country to address violence generally?  
If YES, indicate the extent of these allocations.**

There is no special allocation to address the above issue but funds allocated by the National Budget to the Ministry of Justice, Ministry of Social Welfare and Presidents Fund are been utilised to perform the functions carried out by the respective organisations including issues relating to violence against children.

**29. Does your country allocate specific financial and/or human resources to activities to address violence against children?**

**If YES, provide details.**

The annual budget of the NCPA from the treasury is between Rs.5- 10 million. Funding from other sources is approximately Rs.30 M.



In addition under the NPA, a government allocation has been made against this plan.

The Government allocation towards the NPA is Rs. 2,202,190.

The Central Government allocation to Protection and Child Care is Rs. 7.2 M. It is important to note that this figure does not cover operational costs in the field as these costs are met by the respective Provincial Office.

There is no direct financial allocation granted by the Government to the Children and Women's Desk. The I.G. Police discretionally grants certain amounts of money when an application is submitted to him by the Bureau Director.

Presently a joint project has been initiated by the Presidential Secretariat, the Ministry of Education and the Sri Lanka Foundation Institute with child participation to address the issue of violence in schools. A special unit has also been formed for this purpose within the Ministry of Education.

**30. Do international or bilateral donors provide resources to your country for activities to address violence against children?**

Yes. Support has been extended for infrastructure development, institutional development, human resource training and service delivery.

**31. Does your country provide any assistance to other countries' efforts to respond to the problem of violence against children?**

**If YES, provide details.**

The NCPA exchanges information in cases such as trafficking and paedophiles in order to initiate investigations and prosecutions. Section 14 (s) of the Act gives the power to the NCPA 'to liaise and exchange information with foreign Governments and international organisations, with respect to detection and prevention of all forms of child abuse'. UNICEF and NCPA together with SIDA provided training to the following countries: Maldives, Central Asia, Pakistan India, and Nepal, translated posters and prepared publications. Eg. The SE Asian Doctors Manual

The Police Unit of the NCPA coordinates with INTERPOL and foreign governments in tracking down pedophiles. If suspects cannot be prosecuted in Sri Lanka evidence is handed to the INTERPOL to be provided to the relevant government to prosecute the alleged perpetrator.

INTERPOL alerts and informs the NCPA with regard to the arrival of known pedophiles in the country.

In International Training Programmes and SAARC Regional Activities, Sri Lanka contributes by way of resource persons and resource material in order to exchange ideas and good practices adopted by the country.

**32. If your country has a national human rights institution, such as a human rights commission or ombudsman, or a child-specific human rights institution, does it have any role or competence in the area of violence against children, including receiving complaints?**

**If YES, provide details.**

NCPA Act in Section 14 (K) gives the power to 'receive complaints from the public relating to child abuse and where necessary, to refer such complaints to the appropriate authorities.

Human Rights Commission Act No 21 of 1996 in Section 10 gives the power to the commission to 'inquire into and investigate complaints regarding infringements or imminent infringements of fundamental rights and to provide for resolution thereof by complainant.

In terms of the Parliamentary Commissioner for Administration Act No. 17 of 1981 as amended by Act No. 26 of 1994 'a complaint or allegation of the infringement of a fundamental right or other injustice by a public officer or an officer of a public corporation, local authority or other like institution may be made in a communication in writing addressed to the Ombudsman.

**33. Are there any particular parliamentary structures (for example special committees) to address violence against children?**

**If YES, provide details.**

There is no Standing Committee. However the following ad hoc Committees were appointed to examine specific instances.

Presidential Commission appointed to inquire into the massacre of 28 Tamil youth at the Bindunuwewa Rehabilitation center.

Commission of Inquiry into the Involuntary Removal or Disappearances of Persons in the (1) Northern and Eastern Provinces (ii) Western, Southern and Sabaragamuwa Provinces (iii) Central, North Western, North Central and Uva Provinces and (iv) the All Island Commission investigated into disappearances and involuntary removals of persons during the period 1988-1990 and held that in over 20,000 cases disappearance of persons by government and para military groups was established. This Commission investigated into disappearances of many youths including children from several Schools in the Embilipitiya Area.

**34. Have there been any recent parliamentary initiatives to address violence against children?**

**If YES, please give details.**

- National Child Protection Authority Act No 50 of 1998.
- Penal Code Amendments Acts No. 22 of 1995 and 29 of 1998.
- Evidence (Special Provisions) Act No 32 of 1999.
- Code of Criminal Procedure Act No 15 of 1979 amended by Act Noss. 19 of 1997 and 28 of 1998.

**III. ROLE OF CIVIL SOCIETY IN ADDRESSING VIOLENCE AGAINST CHILDREN**

*The aim of this section is to elicit information on civil society activities relating to violence against children.*

**35. Describe significant civil society initiatives addressing violence against children in your country, including the types of institutions involved (such as academic institutions, professional associations, women's associations, student associations, community-based groups, faith-based groups, child and youth-led groups, trade unions, employer's organizations, national non-governmental organizations, international non-governmental organizations) and the major activities engaged in (including advocacy, awareness raising,**

**research, prevention, rehabilitation and treatment of children harmed by violence, provision of services, provision of resources).**

Sri Lanka's civil conflict has perpetrated violence against children in the North and East. This violence manifests itself in the ranks of the LTTE as the LTTE has always and continues to recruit children. While serving the LTTE, these children are denied their basic right to family, education, and participation and control over their own development. Child soldiers are subjected to physical and mental violence as a means to keep them under the control and influence of their superior officers. To address the needs of children living in conflict, the Government of Sri Lanka and the LTTE entered into a joint plan in July 2003: The Action Plan for Children Affected by War. The Action Plan was facilitated by UNICEF and is delivering projects through partner organizations including national and international non-governmental organizations, women's associations and community groups. Through the peace process the mandate for monitoring and reporting child recruitment and abuses against all children has been given to UNICEF, and this in turn creates a platform for advocacy and awareness raising initiatives on the mistreatment of children affected by conflict. Other actors are also involved in advocacy on behalf of these children, including the NCPA, the Human Rights Commission and international actors such as Human Rights Watch.

Child Protection being a priority issue in Sri Lanka certain pioneering social work initiatives like those of World View in Anuradhapura, Alcohol and Drug Information Centre (ADIC), Centre for Family Services (CFS) and La Sallian Community Education Services (LCES) provide an indicator of the direction national policy must necessarily take in order to safeguard the welfare of children at developmental risk. The criminal process treats child victims in a manner that heightens their sense of powerlessness. It is autonomy denying. The wishes of the child and her family have no relevance or weight to affect administrative and judicial decision making within the criminal process even though they have far reaching consequences for family relations. In any event the overwhelming majority of cases of child abuse and neglect do not reach the criminal process due to stigma, and syndromes of secrecy and addiction that accompany them. The social work approach on the other hand provides space, empathy and skilled competence – a framework that naturally invites and makes room for child participation. At the same time an informal social work process cannot provide an acceptable long-term response to children with protection needs. Sooner rather than later the State must move to establish a mechanism in terms of Article 19.2 with the safeguards envisaged in Articles 9, 12.2, 25 and 39.

The LCES initiative of Early Childhood Intervention is another example of participatory social work which is pro-active in preventing the causes of child abuse and neglect. This treats child participation as a developmental need from birth – an approach that lays the foundation for the effective exercise of youthful autonomy in later years. This broad approach provides another lesson that reactive protection needs to be balanced with pro-active prevention for an efficient and effective child-care system. The present scenario however, with several independent NGO's working under the broad banner of the CRC does not permit policy making of this nature.

Autonomy creation is a process that requires a long-term approach and children need to be supported through a difficult process of readjustment to reintegrate with the social order. Initiatives by Pope Paul Centre and SLIMG with street children and disabled children for example were committed to this long-term process with a specific strategy of child participation.

Several initiatives like Sarvodaya focused directly on those basic skills needed for effective participation such as life skills, social skills and inter-personal relations. Additionally they drew upon the spiritual and cultural resources of the community and the burgeoning talents of children and youth to advance social processes of individual and collective healing and re-awakening.

Several INGO's were able to raise child participation to new heights by acknowledging children as equal partners in the rights based planning circle. In addition to the self-

confidence gained the skills acquired thereby have a long term relevance for both the children and their society. Another outstanding feature was the ability of children to organise and accomplish a variety of tasks and activities for their own benefit as well as for others through children's clubs and societies.

Several conclusions may be drawn from the broad patterns discerned above. Participation is an essential part of any project designed to advance child rights. However the mere fact of participation would not guarantee good outcomes unless there is a reasonable match between needs and responses. All children have the right to participate but some children will require a greater focus on their unresolved psycho-social needs. Intra-family participation and early childhood intervention may be critical in preventing social exclusion at an early age. Where however children have grown up in adversity with or without unresolved psycho-social needs they may resolve to take responsibility for their own future and take positive action to win their rights. Situations may differ, but the need for participation, inclusion and equal rights remain. Promoting participation however requires both knowledge and skills and this is a definite obligation which has befallen the adult community. There was no specific reference in any of the projects of a training initiative which targeted adults to develop their communication skills.

On a macro scale it is anticipated that the civil society processes which have now commenced will lead in time to a clear policy reorientation that accords respect to the voices of children within a framework of social development and social solidarity. Until then the NGO sector will presumably play a general maintenance role without actually pushing society in the direction of full implementation of the CRC. Such a policy reorientation however cannot be taken for granted and it will only result from conscious decisions and actions taken by individuals within the government and civil society.

**36. Describe the support provided by your Government for these activities and the efforts made to coordinate civil society and government initiatives.**

The participation of Civil Society Organisations is ensured by Committees which have been activated at Provincial, District, Divisional and Village level – by the NCPA as District Child Protection Committees and under the National Monitoring Committee.

**37. Describe the role played by the media in addressing violence against children.**

In order to protect the privacy of the child, the CYPO prohibits the publication of reports of any proceedings before a juvenile court, or proceedings involving a child in any other court.

Sri Lanka Press Council's Code of Ethics for journalists states, 'in reporting or causing to be printed or publishes accounts of crimes or criminal cases, a journalist shall not...name any young person accused of a criminal offence who to his knowledge is a person who has no previous conviction.'

Penal Code Section 365 (c) (1) (Amendment Act No 22 of 1995) prohibits publication of matters revealing the identity of child victims of abuse and neglect.

Section 11 of the CYPO imposes certain restrictions on publishing proceedings before a Juvenile Court.

**V. CHILDREN AS ACTORS IN ADDRESSING VIOLENCE**

***This section is designed to extract information on children's activities to address violence.***

**38. Provide information on the involvement and consultation of children in designing activities, and in implementation and monitoring of programmes**

**and policies to address violence against them. Provide details, including ages and other details of the children involved.**

Development of the National Plan of Action:

- In formulating the National Plan of Action (NPA) of the Department of National Planning, UNICEF, Save the Children and Sarvodaya consulted children and adolescents. Consultative workshops with stakeholders such as Ministries of Policy Planning, Health, Education, Social Welfare and Labour were conducted regularly. Children were considered the key 'stakeholders' and their views were heard when discussing goals and the best way to achieve them.
- Eight sub national workshops at provincial levels were held for children between 14-18 years of age. The children were selected from children's organisations and children's clubs. The children in these organizations selected their representatives to the consultation in a very democratic manner, using gender, ethnicity and age as the criteria for selection. Children, both boys and girls, differently-abled children and children from the streets were included in the group representatives, so that the NPA might reflect the concerns, issues and problems of children from a wide spectrum of backgrounds and solutions as they perceive them.

Child protection committees in schools:

- NCPA set up 'Child Protection Committees' in Schools to raise awareness in the area of child abuse, child rights, corporal punishment, and to strengthen child-family-interactions. It provides a direct connection between the school system and the NCPA and enables the NCPA to ensure that child participation is maximized in such functions as drama and music performances. NCPA acts as a supervisory and advisory body helping schools organize essay and art competitions, plays, notice boards, and qualifying examinations relating to child rights and provides schools with NCPA posters.
- Representatives from NCPA regularly attend committee meetings and coordinate any complaints received.
- NCPA psychologists present lectures relating to child rights, child labour and child abuse, to schools as well as provide materials on self esteem, self confidence, participation, effective teaching methods, counseling, effective parenting, protecting children from abuse, and alternative disciplinary methods.

Children's Participation in awareness raising:

- SERVE is carrying out a programme for children by children to impart knowledge with regard to CSEC and CSA. 30 children and young people have been trained as trainers, and will thereafter conduct awareness programmes for 800 vulnerable children and 200 adults living among vulnerable children. In addition SERVE has set up a 24-hour hotline, awareness materials and a cinema slide to be shown in cinemas in the coastal belt.

Children's Clubs:

- Anuradhapura District, Save the Children, Children's club lobbied with the Divisional Secretary for a plot of land to put up a reading room/library. They obtained the land for the purpose.
- A children's society in Galle, demanded the Divisional Secretary to register their society under the social services act to engage in village development work legally. The Divisional Secretary who was influenced by an elitist group of the village refused registration on grounds that they were under age for registration. The children got an 8 year old youth involved to overcome the hurdle.
- In Potuvil where the law enforcement authority and the MP turned a blind eye on illicit brewing, the children organized a rally against it and invited the OIC of the Police and the MP of the area to address the rally. After this event both the brewing and consumption of liquor in the village had reduced.

UNICEF regional initiative for commercial sexual exploitation of children:

- This initiative has allowed children to participate in regional action to combat the commercial sexual exploitation of children has been discussed and initiated. In the context of Sri Lanka it has led to particular initiatives engaging children in awareness raising on such exploitation.

**39. Describe the involvement, if any, of children in designing special procedural or evidentiary rules applying in court proceedings with respect to hearings concerning violence against children. Provide details including ages and other details of the children involved.**

N/A

**40. Describe the amount and type of resources made available to support children’s participation in activities to address violence against children.**

A Guidance Manual has been prepared for School Child Protection Committees by the NCPA, supported by UNICEF. Training activities and awareness raising on child participation are also being implemented.

**V. POLICIES AND PROGRAMMES TO ADDRESS VIOLENCE AGAINST CHILDREN**

*A comprehensive policy for dealing with violence against children is one that addresses multiple forms of violence against children, that works across the different settings in which violence occurs, and which includes components for prevention, protection, victim medical, psychological, legal and social assistance, victim rehabilitation and reintegration, and perpetrator interventions. Such policy is distinguished from specific programmes that address selected sub-types of violence against children or its effects in specific populations and settings.*

**41. Does your Government have a comprehensive policy concerning violence against children?  
If YES, provide details and describe any gender-specific provisions included in the policy.**

The NCPA ct No 50 of 1998 was established inter alia to ‘advise the government in the formulation of a national policy on the prevention of child abuse and the protection and treatment of children who are victims of such abuse’.

The National Plan of Action (NPA) developed by the Department of National Planning (2004-2008) focuses on Education, health, Juvenile Justice, Child Labour, Child Protection, and Water supply and sanitation. UNICEF has recommended that provisions on Commercial Sexual Exploitation of Children and Child Sexual Abuse be incorporated in the NPA with activities such as awareness programmes, legal reforms, monitoring, investigation etc.

Other NPAs formulated by National Child Protection Authority (NCPA) aims ‘to combat the trafficking in children for exploitative employment in Sri Lanka’. These initiatives involve a 10 year plan detailing four areas of intervention. (1) legal reform and law enforcement. (2) institutional strengthening (3) prevention (4) rescue, rehabilitation, and reintegration. A draft plan for a new section of the penal code relate to trafficking has also been created.

**42. Does your Government deliver, or provide direct support for delivery by other agencies, of specific programmes aimed at preventing and responding to violence against children?**

**If YES, please provide available summary reports, or URLs, of these programmes, and indicate, using the table below, which settings and types of violence are addressed by these programmes:**

	Physical	Sexual	Psychological	Neglect	http:	Other
Family/Home	Yes	No	Yes	Yes		
Schools	Yes	No	Yes	No	<a href="http://www.childprotection.gov.lk">www.childprotection.gov.lk</a>	
Institutions						
Neighbourhood/Community						
Workplace	No	No	No			
Law	Yes	Yes	Yes	Yes	<a href="http://www.police.lk/introduction.html">http://www.police.lk/introduction.html</a>	

enforcement						
Other						

**43. Does your Government monitor the impact of these policies and programmes directed towards violence against children?**

**If YES, describe the monitoring systems and provide a URL or other reference where the system and outcomes are described in greater details.**

The NCPA continues to monitor implementation of policies and guidelines related to violence against children. The Human Rights Commission has also established a mechanism for monitoring the situation of children in different types of detention facilities. NCPA website link above.

**44. Does your Government participate in any internationally coordinated activities concerning violence against children?**

**If YES, please provide details.**

The NCPA participates in a range of activities internationally. Recently also regional activities launched related to the Violence against Children Study.

Sri Lanka participated in both the Stockholm first World Congress on Commercial Sexual Exploitation of Children and in the follow up congress in Yokohama. Sri Lanka was party to the declarations made at both those congresses.

At the regional level, Sri Lanka participated in the Dhaka Regional Consultation in 2001, prior to the Yokohama Congress and was party to the commitments made at this consultation. These commitments were focused on protection measures, recovery and reintegration, collaboration, co-ordination and capacity building and creating partnership with children and young people. In addition, Sri Lanka hosted the recent South Asia Regional Mid-Term Review of the Yokohama Commitments from 2001. This review meeting took place in September 2004.

**VI. DATA COLLECTION, ANALYSIS AND RESEARCH**

***This section aims to provide an overview of information systems and information about violence against children that may be used to inform, plan and monitor policy, legal and programmatic interventions concerning violence against children.***

**45. Over the past five years, has there been any victimization, epidemiological or other population-based surveys of any forms of violence against children in your country?**

**If YES, provide details or references, or attach.**

NCPA Act in Section 14 (m) requires the Authority 'to prepare and maintain a national data base on child abuse'. NCPA is in the process of creating a data base and is presently having discussions with the Attorney General's Department. NCPA has a record of all the Magistrate's Court cases prosecuted by the Police Unit of the NCPA.

In an article published by the Asian Human Rights Commission it was laid down as follows: 'The chairman of the National Child Protection Authority (NCPA), Professor Harendra de Silva, says there were 386 cases of child abuse in 2002, up from 276 cases the previous year. Of these, cases of sexual abuse, totaling 194, topped the list, followed by those of physical abuse (84). Unlike earlier, officials working with abused children say that enhanced awareness of subtler forms of abuse encourages children to complain to parents or elders. Parents too are now more aware of the warning signals and where to lodge complaints. Deputy inspector general of police Sirisena Herath, in charge of the women's and children's police headquarters, says 600 girls under the age of 18 were sexually abused last year.

Shockingly, this figure included two baby girls less than one year old and 60 under fives, all of whom were sexually molested. There are over 500,000 children living in difficult circumstances in Sri Lanka.<sup>21</sup>

**46. Have there been any small-scale or representative interview studies with parents and children on violent victimisation of children?  
If so, please give details.**

N/A

**47. Over the past five years, has your Government conducted or commissioned any scientific research projects on the problem of violence against children?**

**If YES, indicate the subject of this research and where the findings of these projects may be consulted in more detail.**

Medical students have carried out research on physical and sexual abuse with support from the NCPA.

**48. Have studies or surveys been undertaken into the impact of legal measures to address violence against children?**

**If YES, provide details or references, or attach.**

- NCPA, INGO's and NGO's conduct regular research on CSA and CSEC.
- South Asia Partnership International conducted a 'Situational Analysis of Child Sex Tourism in Sri Lanka, (Negombo, Colombo, Mt Lavinia, Hikkaduwa, Galle, Anuradhapura and Trincomalee. (December 2003)
- Regular Research Studies are conducted by the International and Local NGO's in collaboration with the Government agencies.
- Also see Question 12 above

**49. Does your Government have a system for formal inquiries into all child deaths in which it is known or suspected that violence may have played any part?  
Provide details.**

Code of Criminal procedure Act No 15 of 1979 in Chapter XXX (Sections 369-373) provides for the 'Inquests of Death', which also applies in cases of child deaths. The Inquests are to be conducted by the inquirer and/or the Magistrate. They are required to record evidence and submit findings and if necessary call for the Government Medical officer to hold a post mortem of the dead body.

**50. Are regular (e.g. annual) reports published describing the statistical profile of the known or suspected violent deaths investigated by the system?  
If YES, what proportion of all homicide deaths are under the age 18?**

During the year 2003, 43 cases of child homicide were reported to the police.

**51. If reports on the national profile of known and suspected violent deaths are published by your Government, indicate how the data is broken down for the purpose of reporting (check all that apply):**

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<sup>21</sup> 'Sri Lanka Cracks down on Child Abuses' <http://acr.hrschool.org/mainfile.php/0131/150/>



Currently, statistics on the national profile of known and suspected violent deaths are not reported under the categories detailed below. The Police are currently setting up a data base and the data detailed below concerning violent deaths in 2004 will be available.

<b>Sex</b>	
<b>Age</b>	
<b>Ethnicity</b>	
<b>Manner of death (homicide, suicide, undetermined)</b>	
<b>External causes of death (firearm, strangulation, etc.)</b>	
<b>Geographical location of incident (address)</b>	
<b>Scene of occurrence (home, school, etc.)</b>	
<b>Time and date of incident</b>	
<b>Victim-perpetrator relationship</b>	
<b>Other:</b>	

**52. Provide the total number of reported cases of violence against children in 2000, 2001, 2002 and 2003.**

Offence <sup>22</sup>	2000	2001	2002	2003
Murder	44	51	60	43
Attempted Murder	20	17	16	08
Rape	608	685	714	753
Grievous Hurt	56	56	46	128
Unnatural Offences and Grave Sexual Abuse	183	363	427	366
Acts of Gross Indecency	38	30	31	12
Kidnapping and Abduction	301	329	357	387
Incest	10	26	24	06
Cruelty to Children	28	91	73	35
<b>Total</b>	<b>1288</b>	<b>1648</b>	<b>1748</b>	<b>1933</b>

**53. Provide the total number of convictions and reported cases for the various categories of crimes of violence recorded against children in 2000, 2001, 2002 and 2003.**

See above.

**VII. AWARENESS, ADVOCACY AND TRAINING**

*This section is aimed at gathering information on any awareness-raising, advocacy and training activities relating to violence against children which may have been conducted by your Government.*

**54. Over the last five years has your Government conducted or commissioned any campaigns for raising awareness of and preventing violence against children? If YES, please describe any recent campaigns, including the settings and types of violence that were the subjects of the campaigns and the target audience (general public, caregivers, teachers, etc.).**

<sup>22</sup> Source: Annual Report 2003, Women and Children’s Bureau. Sri Lanka Police

- NCPA designed a sticker entitled 'Stop Child Labour' for the National Workers Congress. 20,000 copies were printed for distribution island wide.
- NCPA uses the Media as an important method of disseminating information to the community. Press releases are circulated to all the media station when the NCPA organizes special functions, conducts seminars and various other special events.
- On 1<sup>st</sup> October 2002, International Children's Day, Thorn Holding Group, Associated Newspapers Ceylon Ltd. (ANCL), Wijaya Newspapers and Upali Newspapers, in corporation with the NCPA, designated one page of each newspaper to the publication of one of the NCPAS posters, 'What is child Abuse'?
- Drama presentations assisted by NCPA. Selected Schools to produce four dramas on topics such as child labour, emotional abuse, parenting skill, and the identification of child abusers.
- NCPA calendars. 2002- featured key articles from CRC, 2003 was on child labour and parenting skills.
- NCPA in house cartoons with plots based on corporal punishments and child labour.
- NCPA Poster campaigns titled, 'what is child abuse?', 'Children's Rights and responsibilities', 'What is bullying?', 'Your body is yours to protect', and Stop Child labour'.
- NCPA mobile exhibition stall provides information to the public on issues of child abuse.
- NCPA produced cassettes and CD's, including audio visual CD's containing child protection songs, which were also transmitted over radio.
- There are also awareness campaigns designed and carried out by the District Child Protection Committees, often using above mentioned materials as a basis.
- Two campaigns related to violence against women and gender-based violence have recently been initiated by OXFAM and UNHCR respectively, which also benefit children.

**55. How were the campaign messages and information disseminated (check all that apply)?**

<b>Print media</b>	X
<b>Radio</b>	X
<b>Television</b>	X
<b>Theatre</b>	X
<b>Schools</b>	X
<b>Others</b>	X (bill boards)

**56. Over the last five years, has your Government provided, commissioned or sponsored training programmes in the area of violence against children? If YES, indicate which of the following areas were addressed by the last such training programmes and which provider groups received training (check all that apply).**

	Prevention	Protection	Redress	Rehabilitation	Penalties
Medical Professionals (including paediatricians, nurses, psychiatrists and dentists)					
Public health practitioners					
Social workers and Psychologists	X	X		X	X
Teachers and other educators	X	X			X
Court officials (including judges)		X	X	X	X
Police	X	X		X	X
Prison officers		X		X	
Juvenile offenders personnel Institution personnel Parents/guardians		X		X	
Other (please specify): Community-based service providers, child rights and protection training.	X	X		X	