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**Joint Submission of the UN Country Team in Sri Lanka for the UN Compilation  
Report  
23 April 2012**

**Universal Periodic Review of Sri Lanka  
14<sup>th</sup> Session, October–November 2012**

## Information on, inter alia, accepted recommendations and development(s) on the human rights situation(s)

### I. Background and framework

#### A. Scope of international obligations

##### *Universal human rights treaties*

	STATUS PREVIOUS CYCLE	ACTIONS AFTER REVIEW	NON-RATIFIED
Ratification, Accession Succession	ICERD ICESCR ICCPR CEDAW CAT CRC OP-CRC-SC ICRMW	CRPD	ICCPR-OP 2 OP-CAT OP-CRC-AC CED Second Optional Protocol to ICCPR on abolition of the death penalty Optional Protocol to CAT Convention on the Rights of Persons with Disabilities (signed but not ratified) International Convention for the Protection of All Persons from Enforced Disappearances Convention relating to the Status of Refugees Convention relating to the Status of Stateless Persons Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity
Reservations · Declarations and/or Understandings		--	
Complaint Procedures	ICERD art. 14 ICCPR-OP 1	--	OP-ICESCR OP-CRPD

	OP-CEDAW		CAT art. 22 CED art. 31 ICRMW art. 77 OPIC– CRC (OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON A COMMUNICATI ONS PROCEDURE
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*Other main relevant international instruments [optional note]*

	STATUS PREVIOUS CYCLE	ACTIONS AFTER REVIEW	NON- RATIFIED
Ratification, Accession, Succession			Rome Statue of the International Criminal Court

- Under Resolution 1612, no new cases of recruitment of children by armed groups have been reported since October 2009. However, the whereabouts of 1,373 children, out of a total of 6,905 who had been reported as recruited by the Liberation Tigers of Tamil Eelam (LTTE), remain unknown as well as the location of 5 boys recruited by the Tamil Makkal Viduthalai Pulikal (TMVP). The Government of Sri Lanka (GoSL) has been following up on these 5 TMVP cases attributed to Mr. Inya Bharathi. In January 2011, the National Child Protection Authority (NCPA) undertook an independent investigation and made recommendations to the Government, which are being pursued by the Criminal Investigation Division of the Police. To date no prosecution has been initiated.
- Three rehabilitation centres operated during different periods which provided education, care, psycho-social support and reunification assistance to children associated with the LTTE, TMVP and Inya Bharathi. To date, 594 children<sup>1</sup> (364 Boys and 230 Girls) age 12-18, have successfully completed the rehabilitation programme and have been reunified with their families. The Country Task Force on Monitoring and Reporting (CTFMR) is engaging with the Government on the need to identify the possible reintegration needs of these individuals.

## **B. Constitutional and legislative framework**

- Significant steps have been taken by the Government to systematically review all existing laws in order to bring them into conformity with the CRC. In 2009 the Minister of Justice appointed a committee to review the juvenile justice laws and identify areas in need of reform. A comprehensive report was produced highlighting all matters requiring attention. Two major pieces of legislation are currently under review: the amendments to the Children and Young Persons Ordinance (CYPO) of 1939, at national level, and the amendment to the Orphanage Ordinance of 1941, at provincial level.

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<sup>1</sup> Source: Bureau of the Commissioner General of Rehabilitation and Reintegration, Ministry of Defence and Urban Development;  
[http://www.defence.lk/new.asp?fname=20110203\\_05](http://www.defence.lk/new.asp?fname=20110203_05)

4. A Committee appointed by the Minister of Justice recommended that other amendments should be considered for review such as to the mandatory reporting of offences against children, the mainstreaming of the Domestic Servants Ordinance of 1871 into labour legislation; the harmonization of customary laws with the minimum age of marriage established at age 18; the Education Ordinance of 1939; the CYPO (1939) and the Prison Ordinance to prohibit all forms of corporal punishment<sup>2</sup>. Currently the revision of the CYPO is on-going by the Ministry of Justice.
5. In 2008 and 2009 the GoSL continued its efforts to prevent and reduce statelessness in the country by passing the Grant of Citizenship to Stateless Persons (Special Provisions) (Amendment) Act 2009, and the Grant of Citizenship to Persons of Indian Origin Act (Amendment) 2009 which brought within the ambit of the parent acts persons of Indian origin who had moved from the Hill Country to the North and subsequently fled to India as refugees during the armed conflict. Through this legislation these individuals can regularize their status upon return to Sri Lanka enabling them to enjoy the full benefits of citizens. By the Grant of Citizenship to Persons of Chinese Origin (Special Provisions) Act 2008 citizenship was also granted to the ethnic Chinese population resident in the country since the 1940's thereby addressing the rights of all groups known to be stateless or at risk of statelessness in Sri Lanka. The government, with UN support, has taken steps to issue birth and citizenship documents to returning refugees to regularize their status in Sri Lanka. However, Sri Lanka is not a State Party to the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness.
6. In terms of witness and victim protection, in their 2008 UPR commitments, the Government undertook to introduce legislation in this regard. A draft bill, which did not meet international standards, has existed since 2007. To date, no further action to pass the draft bill or introduce new legislation has taken place.

### **C. Institutional and human rights infrastructure and policy measures**

7. The Government undertook during the previous UPR to develop and implement a National Human Rights Action Plan on the Protection and Promotion of Human Rights (NHRAP). With financial support from the UN Joint Human Rights Programme, the Government has completed, approved and published the NHRAP. While the NHRAP was presented to the international community, to date there has been no widespread dissemination of the final NHRAP, nor was it presented to parliament.
8. In the 2008 UPR, the Government committed to strengthen the effective functioning of the Human Rights Commission of Sri Lanka (HRCSL). In March 2009 the International Coordinating Committee's (ICC) Sub Committee on Accreditation maintained the recommended downgrading of the HRCSL from A to B status citing suboptimal compliance with the Paris Principles, particularly related to independence, public reporting, and engagement with civil society. The UN Joint Programme on Human Rights established a programme dedicated to support the HRCSL that began in November 2009, and continues to date, focusing specifically on supporting those areas of the HRCSL's mandate that the ICC cited as in need of strengthening. After a 10-month absence, in February 2011 new Commissioners were appointed to the HRCSL, which has provided for a renewed level of exchange and activity between the Commission and the UN, including a planned Capacity Assessment undertaken by the Asia Pacific Forum and the UN in March 2012 at the request of the HRCSL.

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<sup>2</sup> Report of the Committee to consider reforms of Juvenile Justice law, Hon. Justice Shiranee Tilekawardena, Ministry of Justice, November 2009

## II. Promotion and protection of human rights on the ground

### A. Cooperation with human rights mechanisms

#### 1. Cooperation with treaty bodies<sup>1</sup>

Status of reporting				
Treaty body	Latest Concluding observations (COBs) before the review	Latest report submitted since previous review	Latest COBs	Reporting status
CERD	[month and year]	[year]	[month and year]	Tenth to thirteenth report due [year (s)] respectively
CRC				Fifth to sixth report due [2015], Initial OPSC report overdue since [2008]

Follow-up to COBs			
Treaty body	Due in	Subject-matter	Submitted in
CRC	2015	The need to allocate adequate budget for children's issues, inadequacies in data collection, the need for special focus on, children with disabilities, children in poverty, children on the streets, non-discrimination/affirmative action for disadvantaged children, justice for children in contact with law, moving from corporal punishment to alternative non-violent forms of disciplining children, developing comprehensive admission criteria and strategies to limit and reduce children in institutions and reducing the time taken for child abuse cases and consider holding special court sessions.	2010
CEDAW		Recommended to incorporate the Convention into its	Jan 2011

		domestic legal system and to harmonize its domestic legislation with provisions of the Convention; to criminalize all forms of violence against women; extend criminalization of marital rape regardless of judicial acknowledgement of separation; strengthen its measures to combat all forms of trafficking in women and children, achieve universal provision of quality education for girls at each level of the education system and from each ethnic group; protect women from sexual harassment in the workplace; ensure that a gender perspective is included in the National Development Agenda and to empower women migrant workers.	
ESCR			Nov 2010
CAT			Nov 2011
Follow-up to views			
Treaty body	Number of views	Status	

**2. Cooperation with special procedures<sup>3</sup>**

**3. Cooperation with the Office of the High Commissioner for Human Rights**

**B. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

**1. Equality and non-discrimination**

9. In 2010, the Committee on CRC expressed concern at the persistent discrimination against children belonging to the Veddha, Muslim and Tamil communities, among whom those living in tea plantations are in a particularly disadvantaged situation<sup>4</sup>. Concern was expressed that discrimination also persists against girls, rural children, refugee and internally displaced children, children of overseas workers, children in institutional care and children with disabilities. An additional concern was about caste discrimination, which affects 20 to 30 per cent of the Sri Lankan population and contributes to their poor living conditions and marginalization.<sup>5</sup>

<sup>3</sup> Abbreviations used follow those contained in the Communications Report of Special Procedures, A/HRC/18/51.

<sup>4</sup> CRC/C/LKA/CO/3-4, 2010, para 28

<sup>5</sup> CRC/C/LKA/CO/3-4, 2010, para 28

10. In 2011, the CEDAW Committee expressed concern over the criminalization of consensual adult same-sex relationships by virtue of Section 365A of the penal code. It recommended that this provision be repealed. As a result of this, many individuals and groups from these communities face ongoing violence and discrimination from law enforcement agencies, families, media and religious groups and have no legal recourse or protection. The Government, with support from UNFPA, UNAIDS and the World Bank, has strengthened HIV-prevention capacity of community organizations working with men who have sex with men and sex workers.
11. As stated by the CEDAW Committee in 2011, while noting the explanation given by the GoSL that women were not subjected to violence and discrimination during the last stages of the armed conflict and in the post-war phase, the Committee remained deeply concerned over reports of gross violations of human rights of women by both parties to the armed conflict and recommended the incorporation of the Convention into its domestic legal system, with a view to criminalize all forms of violence against women; extend criminalization of marital rape regardless of judicial acknowledgement of separation; strengthen its measures to combat all forms of trafficking in women and children; achieve universal provision of quality education for girls at each level of the education system and from each ethnic group; protect women from sexual harassment in the workplace; ensure that a gender perspective is included in the National Development Agenda; and to empower women migrant workers. The Ministry of Child Development and Women's Affairs is revising the Chapter on Women, Peace and Security of the National Plan of Action on Women. UNFPA will support the drafting of a National Plan of Action on UN Security Council Resolution 1325.
12. Although the CEDAW Committee urged the GoSL to ensure that police refrain from applying the provisions of the Vagrancy Ordinance to arrest sex workers on the street, this practice continues. The national AIDS subcommittee on legal and ethical issues, of which the UN is a member, has advocated for the repeal of the Vagrancy Ordinance; however no action has been taken to date by the Government.
13. A 2010 report<sup>6</sup> by the Ministry of Health, the Family Planning Association of Sri Lanka and UNAIDS notes concerning levels of stigma and discrimination faced by people living with HIV. Of particular concern are the levels of self stigmatisation reinforced by the health system where HIV testing has been performed without consent and where confidentiality regarding an individual's HIV status has been revealed.
14. Documenting and reporting of discrimination based on HIV status is not taking place due to the absence of a confidential, efficient and independent human rights mechanism through which suitable remedies and redress could be achieved.

## **2. Right to life, liberty and security of the person**

15. The Committee on CAT<sup>7</sup>, observed with concern that despite the State party's public commitment to adopt a zero tolerance policy on torture as a matter of policy and practice, consistent cases of torture and other cruel or inhumane or degrading treatment of suspects in police custody continue to be reported, notably when extracting confessions or other information to be used in criminal proceedings.
16. The Committee on CRC expresses serious concern that insufficient efforts have been made by the State to investigate the deaths of hundreds of children during the final five months of the armed conflict in 2009, as a result of, in particular, alleged shelling and aerial bombardments of civilians, hospitals, schools and deliberate deprivation of food, medical care and humanitarian assistance<sup>8</sup>.

<sup>6</sup> People Living with HIV Stigma Index - Sri Lanka (Family Planning Association Sri Lanka, National STI/AIDS Control Programme, UNAIDS, 2010)

<sup>7</sup> (2011) [http://www2.ohchr.org/english/bodies/cat/docs/co/CAT.C.LKA.CO.3-4\\_en.pdf](http://www2.ohchr.org/english/bodies/cat/docs/co/CAT.C.LKA.CO.3-4_en.pdf)

<sup>8</sup> CRC/C/LKA/CO/3-4, 2010, para 32

17. UNICEF is supporting the on-going efforts of the GoSL in family tracing and reunification.<sup>9</sup>
18. Despite the long-standing history of decades of cases of adult disappearances recently echoed in the report of the Lessons Learnt and Reconciliation Commission (LLRC)<sup>10</sup>, there is a clear duty on the part of the State to undertake investigations into specific allegations and, where such investigations produce evidence of any unlawful act on the part of an individual member of the Army, to prosecute and punish the wrongdoers. The LLRC called on the State to launch a full investigation into these incidents and, where necessary, institute prosecutions.
19. In August 2008 the then Ministry of Disaster Management and Human Rights requested support through the UN Joint Programme on Human Rights to establish a database to collate information related to the backlog of disappearance cases from the WGEID and to coordinate follow up with the Police, the HRCSL and the WGEID. The database was developed and subsequently handed over to the HRCSL in June 2011.
20. The Committee on the CRC expressed its concern at the lack of comprehensive data available on violence, child sexual exploitation and abuse. However, recently there has been an increasing trend of reporting of these violations to the police. There is no central government body to effectively monitor the investigation and prosecution of child sexual exploitation cases. There is a lack of shelters and trained professionals to meet the recovery, rehabilitation and social reintegration needs of child victims of sexual abuse and exploitation<sup>11</sup>. While the government is yet to formulate a comprehensive national strategy, it has recognized that child abuse is a problem and that needs to be dealt with at a national level. With support from UNICEF, the Ministry of Child Development and Women's Affairs, together with the National Child Protection Authority (NCPA), is currently planning a national social mobilization and awareness-raising campaign on child abuse. A 24-hour Child Helpline Service is also provided by the NCPA with the support of UNICEF.
21. Maternal and child malnutrition remains a major challenge, adversely affecting children's physical and intellectual development. Nearly 17% of babies are born with low birth weight. The prevalence of underweight children aged below five stands at 21%. Moreover, significant disparities exist in the nutritional status of children and women across the country. Stunting stands at 19% with district variations; from 8% in Colombo to 41% in the Hill Country district of Nuwara Eliya<sup>12</sup>.
22. Following the end of hostilities in May 2009 and the exodus of IDPs from the Vanni, the government undertook a process to separate IDPs who were suspected of being associated with the (LTTE) from the general IDP population. The government reported that approximately 11,600 of those separated and termed as 'surrendeers' were sent to 'Protective Administrative and Rehabilitation Centres' (PARCs) for rehabilitation. The surrendeers have been detained in the absence of a legal framework that ensures procedural safeguards or the protection of their rights. In addition, the government denied independent monitors access to the PARCs, including to ICRC, since July 2009. At the end of 2011, the Commissioner General for Rehabilitation (CGR) reported that 1,007 surrendeers remained (919 men and 88 women) in 4 PARCs. Following their release, surrendeers are required to register with the military-run Civil Affairs Office and are subsequently subject to ad-hoc and varying levels of surveillance and monitoring. The lack of a legal framework to govern such monitoring has resulted in suboptimal transparency and consistency in its implementation, as well as the involvement of a myriad of security officials from multiple government bodies. There are regular reports of many individuals, both children and adults, who have experienced protection concerns, including increased levels of anxiety for those released as well as their families, impediments to freedom of movement, increased vulnerabilities,

<sup>9</sup> Up to Feb 2012, a total of 2,631 tracing applications have been recorded by the unit out of which 736 (boys 382, girls 354) are related to children and 1,895 (Men 1331, Women 564) to adults. To date and 139 (boys 60, girls 89) children were matched and referred to Probation for tracing, verification, and reunification. So far 42 children (boys 15, girls 27) have been reunified with their families, 97 missing children (boys 45, girls 52) reports are still in process of verification. Tracing is still ongoing for the remaining 597 children.

<sup>10</sup> <http://slembassyusa.org/downloads/LLRC-REPORT.pdf> - 4.319

<sup>11</sup> CRC/C/LKA/CO/3-4, 2010, para 69

<sup>12</sup> DHS, Government of Sri Lanka, Department of Census & Statistics, 2006/2007



particularly for women, which have served to further exacerbate the already existing challenges for reintegration into the community.

23. UNDP and ILO supported the GoSL to formulate a National Policy on the Reintegration of Ex-Combatants into Civilian Life in Sri Lanka in 2009. While the Policy was never implemented, subsequent support by the UN and IOM to the GoSL resulted in the formulation of an abbreviated planning document titled 'Way Forward on Reinsertion and Reintegration of Rehabilitees. While it was endorsed by Cabinet at the end of 2010, it was also never implemented.

### **3. Administration of justice, including impunity (part to be added only if relevant), and the rule of law**

24. There are two juvenile courts in Colombo and in Jaffna<sup>13</sup> of which one is operational to hear cases involving children. Children are rarely provided with legal assistance when appearing in court. The legal minimum age of criminal responsibility remains very low (8 years). Children over the age of 16 years are excluded from the protection of the CYPO. The pre-trial detention periods are long, and children appear before a court for minor offences and remain in remand homes for months, or years in a few cases, against the legal period of 28 days, with no access to education and at the risk of being abused. Recent research indicates that a child subject to abuse has to wait an average of over 6 years (62.5 months) for the case to come up in court<sup>14</sup>. The separation between children and adults is not always guaranteed in relation to transport to and from court. Sentencing remains severe and disproportionate, with the systematic use of three-year sentences for minor offences such as petty theft, which disproportionately affects children from poor families that cannot afford a lawyer or pay for bail<sup>15</sup>. In response to this delay in the administration of justice for children, the Government launched a pilot in 3 provinces to expedite child abuse cases to the courts within 3 months. The CYPO doesn't provide for restorative justice and diversion services for children in conflict with the law. However, amendments to the law on Mediation Boards<sup>16</sup> have been made to enable children who commit petty theft to be sent for mediation rather than for prosecution.
25. In 2008, the Government undertook in its UPR commitments to improve and upgrade detention facilities, which is also part of the NHRAP. While upgrading has commenced in certain facilities, overcrowding remains a serious problem. In May 2011 UNDP supported the government to open a new prison ward exclusively for women with children under 5 years of age. One of the root causes of prison overcrowding, which is also a key issue for the rule of law, is the consistent delays in the justice system.
26. In 2011 the CEDAW Committee expressed concern on the significant delays in processing cases of issuance of protection orders despite the adoption of the Prevention of Domestic Violence Act in 2005.

### **4. Right to privacy, marriage and family life (adjust the title, if relevant)**

### **5. Freedom of movement**

27. From March 2008, starting with the Kalimoddai and Sirukandal camps in Mannar District, all IDP camps set up for those fleeing the conflict from LTTE-controlled areas were closed camps. By the end of the armed conflict in May 2009, there were around 290,000 IDPs in closed camps in Vavuniya (Menik

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<sup>13</sup> After finishing the construction of the building, the Juvenile Court in Jaffna was officially opened in Nov 2011 and gazetting of the Court is in process.

<sup>14</sup> PAS Edirisinghe, IDG Kitulwatte, AAS Sihanada, BAAR Bulathsinhala, Justice delayed Justice denied; a study on time intervals of medico-legal examinations, reporting and giving evidence in cases of alleged child abuse victims, Medico-Legal Journal of Sri Lanka Vol. 1, No 1, Jan-April, 2011

<sup>15</sup> CRC/C/LKA/CO/3-4, 2010, para 77

<sup>16</sup> Act No 4 of 2011

Farm), Mannar, Jaffna and Trincomalee districts. In late 2009, after considerable advocacy by the humanitarian and donor communities, a pass system was introduced to enable IDPs to leave the sites for short periods. IDPs overstaying the duration of their pass or not returning are not penalized; however despite the shrinking population to approximately 6000 individuals currently remaining in Menik Farm, the pass system remains in place. Although enforced inconsistently and to varying degrees between the two zones, the pass system used in IDP camps remains a restriction to full freedom of movement. The IDPs have reported, however, that applications for passes are only entertained for 2 hours each day, which is inconvenient. There have also been incidents reported where passes have been refused where any collective community work has been planned.

## **6. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life**

### **7. Freedom of expression, right to assembly (excessive use of force)**

28. Communities in the North are not being allowed the right to peacefully assemble without oversight and/or direct participation by the military. Certain meetings require prior approval from the Governor's Office with a list of participants to be approved. Those in return areas in the Vanni are required to inform the local Civil Military Liaison Officer of any planned public gatherings, which are sometimes attended by the military.

29. In 2008 the GoSL committed in their UPR to focus on the rights of women and further promote their education, development and representation in politics and public life. Subsequently, in 2011 the CEDAW Committee expressed concern over continuing extremely low levels of participation of women in politics and public life. Representation of females was only 5.8% in Parliament in the election years of 2004 and 2010. At the provincial council level it was 5.0% in 2004 and 4.1% in 2008/9. At local council level it was 1.8% in 2006<sup>17</sup>.

## **8. Right to work and to just and favourable conditions of work**

30. In 2012, the Ministry of Labour and Labour Relations (MoLLR), in collaboration with employers and workers organizations as well as organizations of HIV-positive people and NGOs, drafted a policy on HIV and AIDS in the world of work in line with ILO Recommendation concerning HIV and AIDS in the World of Work. The policy was adopted by the Cabinet in December 2010. This national policy covers workers engaged in formal and informal sectors and migrant workers. It aims to prevent HIV and protect employment rights of people infected and affected by HIV.

## **9. Right to social security and to an adequate standard of living**

31. There are a number of social welfare programmes catering to vulnerable groups. Analysis<sup>18</sup> showed that a number of social protection programmes are in place targeting mostly poor households and the interventions were in the forms of cash transfers, food and nutrition, targeted human development, social funds, public works, microfinance and commodity price subsidies. There however exist various concerns, especially with regard to the targeting of intended benefits, individually and/or collectively, towards vulnerable families and children. It was also found that Samurdhi – the major social safety net in Sri

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<sup>17</sup> Adapted from the Department of Census and Statistics by Chulani Kodikara, Sri Lanka Shadow Report to the CEDAW Committee prepared by the Women and Media Collective, Colombo, July 2010.

<sup>18</sup> Social Safety Nets for Vulnerable Families and Children in Sri Lanka, MoSS Sri Lanka 2009

Lanka – did not provide protection for vulnerable families effectively nor is the amount of assistance sufficient for survival.<sup>19</sup>

## 10. Right to health

32. While overall rates of child and infant mortality are satisfactory<sup>20</sup>, regional disparities exist. The success in reducing child mortality is matched by near-universal immunization coverage<sup>21</sup> where little regional differences are observed.
33. Access for young people to reproductive health services and information is insufficient. Family planning providers as well as government-run youth-friendly health services do not provide contraception to unmarried young people. With support from UNFPA, the Ministry of Health has drafted a policy on the health of young persons which includes sexual reproductive health and rights<sup>22</sup>.
34. In 2010 the UN Special Rapporteur on the Right to Health<sup>23</sup>, urged all States to consider taking steps towards the elimination of criminal and other laws that are counterproductive to HIV prevention, treatment, care and support efforts. In 2011 the Government commenced implementation of the 2007 Drug Dependent Persons Act resulting in 4 compulsory drug treatment centres being established. The services to be provided at the abstinence based treatment centres include: counselling, literacy, and agricultural work. Drug users are detained on a mandatory basis and not afforded effective treatment options.

## 11. Right to Education

35. The Ministry of Education is currently developing the new Education Sector Development Framework and Programme (2012-2016) which focuses mainly on improving the quality of education. Sri Lanka has a total adult literacy rate of 91% and has achieved near-universal primary school enrolment of 99% with little variation across provinces and gender. The percentage of children that complete primary level education is 98 and the secondary gross enrolment ratio is 86 for males and 88 for females<sup>24</sup>. Regional differences exist especially in relation to school drop-outs. Even with high national level participation rates, the quality of education needs further attention<sup>25</sup>. The majority of teachers in Sri Lanka are formally trained, but there is still a need to accelerate addressing the prevalence of outdated teacher-centred pedagogy and insufficient teaching and learning materials that mean many children are not actively engaged in the learning process. More emphasis is needed on long-term strategic planning and sustained school-based teacher and classroom support and monitoring to make the system more efficient. In addition, unbalanced deployment and transportation issues in remote areas and repeated displacement, resettlement and security concerns have caused acute teacher shortages, particularly in the conflict and tsunami-affected Northern and Eastern provinces. School fees continue to be charged despite state policy to provide free education, introducing discrimination against children from poor families and facilitating

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<sup>19</sup> Social Safety Nets for Vulnerable Families and Children in Sri Lanka, MoSS Sri Lanka 2009

<sup>20</sup> Under five mortality is at 21 (per 1000 live births) and infant mortality is at 15 per (DHS 2006). Maternal mortality ratio is 39 with 98 % of deliveries by skilled attendants.

<sup>21</sup> 98% of 1 year old immunised against DPT and Polio, and 96% against measles and 97% against HepB3. (UNICEF database)

<sup>22</sup> Sri Lanka Demographic Health Survey 2006/7 reported that 68.3% and 57.9% of ever-married women in the age groups 15-19 and 20-24 were not visited by family planning providers

<sup>23</sup> The protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) – 13 April 2011 (A/HRC/RES/16/28) paragraph 20

<sup>24</sup> Annual Statistical Abstracts, 2011, Dept. of Census

<sup>25</sup> For instance, the pass rate (+70 marks) at the Grade 5 exams is on average 57%. Geographical disparities in achievements are also observed with a high of 67% to a low of 30%. Similarly, among the nearly 358,000 children who sit for the Ordinary Level examination in Grade 11, only 58% pass the examination. Of those who pass Ordinary level examinations, about 44% pass the Advanced level examination. The total number admitted to universities is only close to 21,000 children (Sri Lankan University Statistics, 2010, University Grants Commission Report)

corruption in school admissions. Insufficient efforts have been made to include human rights and peace education in the school curricula.<sup>26</sup>

36. The Educational expenditure as a percentage of GDP and Total Government Expenditure for Sri Lanka in 2010 are 1.9 and 7.3 respectively which represents the lowest expenditure in the region.<sup>27</sup>

## **12. Cultural rights**

37. On language rights, in 2010 UNDP supported the Ministry of National Languages and Social Integration to identify an intervention aimed at improving language training activities of the public sector. In January 2012, the President launched a 10-year National Action Plan of the National Tri-lingual Policy promoting proficiency in Sinhala and Tamil with English as the link language.

## **13. Persons with disabilities**

## **14. Minorities and indigenous peoples**

## **15. Migrants, refugees and asylum-seekers**

38. In 2011 the CEDAW Committee (paragraph 42) expressed its continuing concern that women who migrate to work overseas remain vulnerable to illegal employment. In addition, migrant workers, especially female, are vulnerable to systematic abuse throughout the migration process. As noted in a 2008 UNDP Regional Report, such abuse can be economic (including extortion and non-payment of wages), sexual (including harassment and rape), or mental (including harsh working conditions and the trauma of dislocation).<sup>28</sup>
39. Sri Lanka is not a State party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. The NHRAP also omits reference to refugees and asylum-seekers. The Government should be encouraged to adopt a national policy and concrete measures to ensure the protection of asylum-seekers and refugees. Sri Lanka does permit UNHCR to carry out refugee status determination in accordance with its mandate for providing international protection once asylum-seekers and/or refugees have entered the country. However, there have been a few instances where those claiming asylum at the airport or port have not been permitted to enter the country and are detained prior to being deported. There is a need for the Government to fully respect the principle of *non-refoulement* based in customary international law with regard to any person claiming to be in need of international protection. Sri Lanka provides access to health care and primary education for asylum-seekers and recognised refugees. However, Sri Lanka does not afford recognised refugees with the right to employment or self-employment, and provides no opportunities for local integration.
40. Sri Lanka has yet to adopt domestic legislation to give effect to the principle of *non-refoulement* contained in Article 3 of the CAT, including as recommended by the Committee on CAT.

## **16. Internally displaced persons**

41. The Government committed in the 2008 UPR to complete the process of drafting a bill on the rights of IDPs in consultation with stakeholders. Despite work on this initiative, no such bill has been presented to

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<sup>26</sup> CRC/C/LKA/CO/3-4, 2010, para 62

<sup>27</sup> Transforming School education in Sri Lanka: From cut stones to polished jewels, World Bank 2011

<sup>28</sup>HIV Vulnerabilities of Migrant Women: from Asia to the Arab States - Shifting from silence, stigma and shame to safe mobility with dignity, equity and justice (UNDP Regional Centre, 2008) p85-86. The report offers further evidence of mandatory pregnancy and HIV testing of migrants prior to their departure, with test results being directly provided to the agents with little information shared with the women. Many also complained of physical abuse, 17% were sexually harassed, and 5% reported having been raped.

Parliament. The NHRAP contains significant analysis regarding IDPs, including the need as well as new commitment to develop a legislative framework of IDPs rights. Government policies continue to predominantly implement voluntary return as the durable solution to displacement, rather than also affording access to local integration or relocation. Implementation of a joint Government-UN verification initiative for protracted IDPs has been slowed by Government inaction. IDPs and IDP returnees continue to face numerous housing, land and property challenges including competing claims, unclear boundaries, and lost documentation, exacerbated by the absence of a comprehensive government land policy as well as suboptimal Government capacity to effectively address these issues. The existence of gazetted and non-gazetted High Security Zones (HSZs) and other areas and sites occupied by the military continues to be a primary reason for protracted displacement including being stranded in transit sites. The Government has taken steps to release some lands previously declared as HSZs, however the process of releasing these zones is slow. In addition, there is no uniform or transparent policy of compensation or redress for those owning land in these zones.

42. Humanitarian space continues to be restricted with a Government emphasis on recovery through infrastructure reconstruction, and less attention to “soft inputs” such as support to social services and reconciliation. While restrictions for humanitarian workers on movement to and within the Northern Province were lifted in July 2011, tight control by Government continues to be exercised on all activities implemented in the region.
43. Three years after the end of the war there continues to be a significant military presence in the region which constrains the full resumption of civilian administration. The military has continued to be involved in surveillance and monitoring which subsequently imposes restrictions on civil liberties and a return to normalcy. Intermittent attempts are made by the military authorities to influence or coordinate humanitarian activities; a concerted and principled response by the humanitarian community has been necessary to maintain the distinction between humanitarian and military operations. The military has increasingly engaged in commercial activities, such as establishment of small shops, agriculture, trade and transport, which adversely affects livelihood recovery for returnees and their right to development.
44. In 2011 the CEDAW Committee highlighted the need for prompt investigation and prosecution of acts of violence (including sexual violence) and the establishment of counselling centres for women in the north of Sri Lanka. While Gender Based Violence (GBV) coordination networks are present in the districts of the North and East, there remain gaps in service provision. There is no centrally identified Government entity at the district level with a responsibility for GBV and resources are limited. In particular there is a lack of safe houses with many districts not having even one safe house.
45. In addition, the CEDAW Committee recommended that family planning and reproductive health education be widely promoted, in particular for internally displaced women and girls and women working in less developed and conflict-affected areas. UNFPA supported the GoSL to address the special reproductive health needs of women and girls during displacement and resettlement as well as less developed areas.

## **17. Right to development and environmental issues**

46. The Government has made impressive strides in the alleviation of poverty and achievement of the MDGs, and achieved middle income status in 2008. Apart from three MDG indicators (Goal 1 – reduce hunger by half; Goal 6 – Halt and reverse the spread of TB, and Goal 7 – reverse loss of environmental resources), all other MDG targets have been achieved or are on track to being achieved by 2015 at the national level. There are however significant disparities between regions, especially in the estate sector in Uva Province and in the North and East. Minimum nutritional requirements related to Goal 1, especially for children under the age of 5, are also of concern. UNDP has advocated for and raised awareness about MDG achievement by supporting the GoSL to develop MDG indicators and monitor progress, develop the capacity of the Department of Census and Statistics for data collection, and strengthen the capacity of government for planning, budgeting and programme development to reduce regional inequalities. Similarly, UNFPA has supported under-served districts in building capacity and to

improve access to reproductive health services. Furthermore, support has been provided to the Department of Census and Statistics to conduct a population census to cover the entire country. In January 2012, the President launched the National Action Plan on Education for Peace and Sustainable Development which covers Social Cohesion, Health, Environment, Economy and Society.

47. In the 2008 UPR, the Government committed to continue to work with the international community on the protection of the environment as well as disaster risk management. The GoSL has remained engaged with the UN on these issues<sup>29</sup>. In particular the Government, with UN support, has strengthened its capacity on environment management, climate change adaptation and disaster resilience. It has re-mapped the post-war Northern Province to identify environment-sensitive areas, formulated a strategy to develop the Northern Province while addressing environment and disaster-related concerns, improved disaster response capacity, and introduced renewable energy. In terms of moving forward, greater emphasis needs to be placed on data sharing between government institutions to further improve the planning process.

## **18. Human rights and counter-terrorism**

48. Although the state of emergency lapsed on 30 August 2011, the GoSL has reproduced a number of the lapsed emergency regulations related to detention, remand and the rehabilitation of former combatants under the Prevention of Terrorism Act (PTA). The existence of the PTA coupled with the new regulations issued under the said Act continues to impinge on the rights of the citizens of Sri Lanka.

## **19. Situation in or in relation to specific regions or territories**

### **III. Best practices, challenges and constraints**

#### Notes

<sup>1</sup> The following abbreviations have been used for this document:

CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
HR Committee	Human Rights Committee
CEDAW	Committee on the Elimination of Discrimination against Women
CAT	Committee against Torture
CRC	Committee on the Rights of the Child
CMW	Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Committee on the Rights of Persons with Disabilities
CED	Committee on Enforced Disappearance

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<sup>29</sup> UNDP, UNEP, UNOCHA and FAO.