



ngo group for the crc

STATE PARTY EXAMINATION OF SRI LANKA'S THIRD AND FOURTH PERIODIC REPORT

55TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

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Sri Lanka ratified the Convention on the Rights of the Child (CRC) on 6 February 1995. On 12 July 1991, the Committee on the Rights of the Child (the Committee) examined the third and fourth periodic report of Sri Lanka. It was last examined in May 2003.

Opening Comments

The delegation of Sri Lanka was led by Ms Wijemanne, Consultant to the Ministry of Justice. She was supported by a medium-sized delegation consisting of representatives of the Ministry of family, the Ministry of Justice, the Permanent Mission of Sri Lanka and Child protection authorities. The delegation was said to illustrate the commitment of Sri Lanka to the implementation of the CRC and its OPs.

Ms Wijemanne mentioned the end of the long conflict which created strong opportunities to improve the work and achieve results in the area of child rights. However, the best interests of the child were considered even during the conflict, as demonstrated by low child mortality rates and the education system. She added that the country was working on the elimination of the worst forms of child labour and sexual abuse. In the area of forced recruitment, children were being rehabilitated and their families were helped in the process. These children had access to school and training. She also emphasised the zero tolerance of recruiting children into the armed forces, adding that these children were considered victims and as such were not convicted. The government was involved in the rehabilitation of children because they still suffered from the stigma of war, exclusion and malnutrition. She added that the special courts for children were being improved, and work was being conducted in the areas of child poverty, education, early childhood development and empowerment. She emphasised the great respect for the CRC and the ongoing work in that respect despite the difficult circumstances. She concluded that the collective aim was to improve the dignity and respect for child rights and welcomed the work of civil society organisations.

Ms Aidoo, the Country Rapporteur, welcomed the delegation and thanked them for the opening statement. She hoped for a frank dialogue and stressed the leading role of Sri Lanka in the promotion of education and health and the impact this would have on reaching the Millennium Development Goals (MDGs). In relation to legislative reform she noted the challenges which undermined the fulfilment of children's rights. She stressed that the combined effect of the conflict and the 2004 tsunami had greatly affected children, especially concerning the right to life, in terms of killing and maiming children as well as the many missing or displaced children. She was concerned by the poor school attendance, inadequate access to social services and the impact of geographic disparities which contributed to discrimination. She asked several questions on: women migrant workers and the impact, harmonisation of national legislation with the CRC, comprehensive laws for children, child complaints procedures, coordination mechanisms, the independence of monitoring and discrimination against certain groups.

General Measures of Implementation

Legislation

The Committee noted the substantive reforms in harmonising the legislation with the CRC but also commented on the absence of comprehensive child laws. It asked about the status of the CRC in the legislation, if it was applied directly and if it was used by judges. The delegation replied that the fundamental rights were reflected in the Constitution and were known to all citizens including children. The legislative system was in line with the CRC and judges referred to the treaty in their judgements, including the principle on the best interest of the child. The Committee further enquired about the application of the law in the case of a child making a complaint and on ways to improve the handling of such grievances. The delegation replied that many cases of violations of the rights of the child were brought to the Supreme Court and many institutions such as the National Child Protection Authority and the National Human Rights Commission or the Ombudsman could provide redress. The Committee noted that the Constitution was the supreme instrument and wanted to know if Sri Lanka intended to draft a law on child rights. While, it understood the use of sectoral law, the Committee noted that in 2007 a single law was enacted to cover the International Covenant on Civil and Political Rights (ICCPR). The delegation said that the dualist legal system required that the ICCPR be transposed into domestic law. The 2007 law allowed anybody to allege violations under the ICCPR to the High Court. The Committee stressed the importance of having a comprehensive law to ensure that there were no gaps, especially since the Constitution and existing laws did not encompass all the CRC.

The Committee was also concerned about the juxtaposition of laws (e.g. marriage). The Court of Appeal stated that the minimum age of marriage was 18. The Committee recommended the creation of case law and asked about the weight of the appeal law and if it was applied throughout the country, as it was concerned that Muslim traditional customary was not in line with the legislation on this matter. The delegation replied that early marriage was prohibited for persons under 18, but that for Muslims the marriage was valid if the father accepted it.

The Committee asked for details about the Supreme Court's reform of Muslim law. The delegation answered that various laws coexist in the country and that three committees were appointed by the Ministry of Justice, one of which was on Muslim law. It agreed that Muslim law had a different age for puberty and that the age of marriage should be in line with the CRC. It explained that the Supreme Court judges were holding an interactive dialogue with the Muslim population on the reform of the law but that this law had existed for a long time. The government was waiting for the conclusion of dialogue but noted that the Supreme Court

had pointed out the need to respect cultural rights. The Committee commented that in several Muslim countries national law had not waited for cultural norms to adapt, but rather imposed the modification. It also wondered if there were references to the CRC during the dialogue and if the judges were aware of it. The delegation confirmed judges' awareness of the CRC and explained that in the context of the recent war, it was difficult to be insensitive to cultural laws and beliefs. The Committee reminded the delegation of its obligation to comply with the CRC, to incorporate it into the law and to prevent any violations. The delegation mentioned that the process of harmonisation was gradual.

National Human Rights Commission

The Committee noted the numerous bodies dealing with Human Rights and asked about the status of the National Human Rights Commission. The delegation replied that the Commission was responsible for monitoring the implementation of the CRC and the provision of child services. While it was independent, it faced constitutional problems which resulted in a situation where the president was involved in the appointment of the Commissioners. The 18th amendment of the Constitution provided the Parliament with the possibility to be involved in the appointments. The Committee enquired if the 10 offices of the Commission were located in regions where children really need support. The delegation answered that some were located in the north and east of the country and that they were operational during the conflict.

Coordination

The Committee enquired about the coordination mechanism for the implementation of the CRC and asked if a Ministry was responsible for it. The delegation answered that they had a multi-sectoral approach which was led by the Ministry of Child Development and Women's Empowerment. The Secretary to this Ministry was the focal point. The Committee asked if this Ministry had the human and budget capacity to coordinate the implementation of the CRC at all levels because it seemed that several issues such as education and health were devolved to the region. The delegation confirmed that they were moving towards a new coordination mechanism, but the current mechanism existed at all levels. It also noted that this area needed to be developed.

The Committee asked if the coordinating ministries were involved in the direct care of children and asked again about the capacity of the Ministry compared to the one for education. The delegation answered that education was free at all three levels, and while it did not have the specific figures, it knew that the allocation for children went directly to the districts not the Ministry. Furthermore, funds from other ministries were given to children, but it was impossible to compare budgets. The Committee commented that ministries for women and children were usually had the lowest rank in the government structure and asked about its budget. The delegation responded that it was very low. The Committee added that the aim of the coordinating unit was also to advocate for more resources - because human development started with children. This was especially important when minimal resources were devoted to the main body in charge of children's rights. The delegation agreed that there was room for improvement. The Committee added that it was important to know the budget allocated to children. The delegation replied that they would calculate the allocations for children and provide the Committee with the information.

Monitoring

The Committee asked about the independent monitoring mechanism. The delegation answered that the National Child Protection Authority was the monitoring body responsible for the empowerment of children. It was also responsible for supervising child services (e.g. education, health, etc.). The Ministry of Child Development and Women's Empowerment was responsible for monitoring non-public institutions which provide services to children.

Budget

The Committee asked if there was a comprehensive budget line for services and programmes for children. The delegation answered that the budget did not come from the ministry in charge of child development but from different bodies. They added that Sri Lanka had to work towards harmonisation. The Committee mentioned that in terms of resource allocation only two per cent went to children. .

Complaint

The Committee noted that the State Report did not contain any information on children's complaints, just about parents and caretakers making complaints on behalf of children. It asked if the children knew that they could make complaints, especially since the nine regional offices of the National Human Rights Commission had received very few complaints concerning child rights violations. It asked if other mechanisms received the other complaints, and if the total number of complaints had been calculated and how they had been addressed. The Committee asked if children involved in the conflict, as well as those in centres and IDP camps had access to the Commission and what is done in order to facilitate access.

Dissemination and training

The Committee asked for further information on dissemination and awareness-raising, as it was unclear in the State Report. It noted that the National Human Rights Commission provided training on child rights and asked if it was systematic and if it reached children, social workers and judges. It also wanted to know if the CRC was well known and translated into different languages. The Committee also noted that, while it had received detailed information on the specialised staff dealing with human rights, it did not have information on child rights. It wondered if the staff was trained to deal with these issues.

Data collection

The Committee said that there was only estimated and old data and enquired about the census, specifically who was in charge and what had been done. The delegation mentioned that because of the conflict the last census took place in 1981 and added that a new census, which would take into account children with disabilities, was planned for 2011.

The role of civil society and non-governmental organisations

The Committee asked if civil society and children were involved in the drafting of the State party report. The delegation answered that the ministry received a draft report made by NGOs and civil society, but because of the delay there was insufficient time to discuss the report with children prior to the presentation.

Definition of the Child

The Committee noted that recommendations had previously been made regarding the definition of the child, but no measures appeared to have been taken to address these

recommendations. It asked if a general definition existed or if there were different definitions for different laws and regions, especially concerning criminal and family law. It also asked if Sri Lanka intended to harmonise the definition.

General Principles

Non-discrimination

The Committee noted discrimination on the grounds of ethnicity, cast and geography and enquired how they monitored and addressed discrimination. The delegation said that until 2009 it was impossible to monitor the disparity of services in the north and east because of the conflict. The Committee asked when the monitoring would begin. The delegation replied that the government was looking to implement a new programme.

The Committee asked about policies regarding children with disabilities, especially if they received support to live with their families and if they received special attention (e.g. in education). It also wanted to know if it was provided by NGOs and concentrated in urban areas. It further asked if community services were developed in the regions.

The Committee was concerned about the ability of judges and police officers to communicate with the population in Tamil regions because of languages issues. The delegation responded that there were judges who spoke Tamil (3 in the Supreme Court out of 9 and 2 were Muslim) in the north and east as well as interpreters to help with testimonies. The delegation said that there was no discrimination in the judicial system.

The Committee asked for more information on the steps taken to reduce the gaps and create a programme for all children without discrimination. It also enquired about measures to fight corruption in institutions providing services for children, if health facilities were only located in certain areas or if access was restricted for certain children. It expressed concerns regarding health disparities in the north and east of the country.

Best interest of the child

The delegation said that the best interest of the child was in the Constitution which was the direct principle governing state policy. The Principle of the best interest of the child was also directly mentioned in the Children's Charter (policy document), and through the International Covenant on Civil and Political Rights document. All the courts and public organisations had to bare it in mind; even the Tsunami Act was built around this principle. The delegation added that judges applied it in custody and guardianship disputes.

Right to be heard

The Committee wondered why the respect of the views of children seemed absent in the State. It was interested to know if there was a code of conduct on the right of privacy and on stigmatisation by the media, especially concerning the divulgence of the names of combatant or abused children. The delegation answered that institutions were monitoring the problems and that action was taken on an ad hoc basis because the law on the media was not implemented.

Survival and development

The Committee asked about affirmative action in the field of development and access to social services.

Right to life

The Committee noted the high number of children killed and missing as a result of the conflict. It asked about measures taken to identify the children and if death certificates were issued. The delegation said that mobile secretariats were going to the region so that families could ask for death certificates. The Committee also enquired about education on landmines for children and families. The delegation responded that all the landmines from the state security forces had been removed. Concerning the other landmines and unexploded ordnances whole areas had to be cleaned, but they assured the Committee that the country would be free of landmines soon. This was a priority because it would allow IDPs to return.

Civil Rights and Freedoms

Right to identity

The Committee enquired about the measures taken for children who have lost their identity documents due to the conflict. The delegation answered that it was a problem for the whole population. Mobile secretariats were going to the region in order for the population to ask for new identity documents.

Freedom of thought, conscience and religion

The Committee also enquired about legal measures aiming at protecting the right to freedom of belief and association and recommended to work with civil society on this matter.

Poverty

The Committee expressed its concern about the declining standards of living and the intense pockets of poverty, as well as the budget reduction for the poverty alleviation programmes.

Protection from abuse and neglect

The Committee noted the enactment of the revision of the Prevention of Domestic Violence Act. However, it did not target the police which still relied on the previous penal law. The Committee was concerned that the revision did not take into account psychological abuse and asked if there was a sectoral act dealing with such abuse. The Committee also asked about the existence of complaint mechanisms for children targeting abuse occurring in private homes as well as abuse committed by the State. The delegation answered that the 1998 National Child Protection Authority had been created by a Parliament Act. This institution was in charge of monitoring schemes and its officers received complaints. Its main goal was the protection of the child. The delegation also mentioned that a helpline had been created to receive complaints from children. The number was distributed and the helpline could contact the government in case of violations.

The Committee expressed concern about cases of torture, degrading treatment and corporal punishment. It noted that corporal punishment was still legal and asked about the possibility of prohibition in the home, schools and institutions. The delegation replied that corporal punishment was prohibited in the home, schools and institutions by the Ministry Circular No. 2001/11 on maintaining discipline in schools. Furthermore, violations were punishable under domestic law¹. The Committee asked about measures to raise awareness on non-violent alternatives to corporal punishment.

¹ the Corporal Punishment (Repeal) Act No. 23 of 2005

Family Environment and Alternative Care

Family life

The Committee was concerned by the estimated 1 million women working abroad who left their children behind, which had an impact on the children's well-being and development. It asked if assistance was provided to these children. The delegation expressed its concern about women migrants and said that the Ministry of Child Development and Women's Empowerment had a policy preventing women to migrate if they had a child under 5. They added that the policy was not implemented because civil society opposed it in order to protect the right to migrate. It added that a new programme was going to be implemented. The Committee mentioned that 48% of children under 6 lived with grandparents or in institutions. The Committee mentioned information received about family situations. It was particularly concerned about children who often live without their parents, as the latter were migrant workers. Furthermore, some children were asked to work or beg by their family. It asked if there were policies and projects to address these issues.

Adoption

The Committee noted that the legislation did not take into account the best interest of the child in cases of adoption, because adoptive families usually imposed criteria which were followed by institutions. The Committee was of the opinion that the legislation had to be adapted to ensure that the families had to provide guarantees towards the children. It also asked if widowers were authorised to adopt. The delegation answered that only families were authorised to adopt.

In relation to inter-country adoption, the Committee wanted more information and was surprised by the contradictory data. It asked about the central authority dealing with data and policies in relation to adoption and how children were selected for international adoption. It also enquired about the quality of data in relation to the monitoring system for adoptions towards the European Union (EU). The delegation replied that a convention was signed and that there were around 40 cases of adoptions per year with the EU. It added that they prioritised national adoption. The delegation answered that all the information on adoption was in the report.

Alternative care and waiting lists

The Committee was worried about cases of violence, as well as respect for freedom of thought, religion and privacy in institutions. It added that due to the lack of skills and knowledge of the staff in these institutions, the emotional and psychological needs of children were not met. It asked about the measures to protect children from mistreatment in institutions.

The Committee asked about the link between adoption and institutions. The delegation said that the Orphanages Ordinance Nr 22 stated that the Provincial Councils were responsible of these institutions. Recommendations were sent to Provincial Councils and to the north and east of the country in order to implement the amended ordinance. In relation to the protection of the rights of children in institutions, there were two types of institutions (community and central) where 20,000 children resided and measures were taken to fight violence against children. Management policy aimed to determine what happened to children in institutions and to take measures targeting reinsertion through psychological care.

The Committee said that while orphanage regulations were clear, it was worried about non-orphan children who were in these institutions. It asked if there were regulations for these

children and whether they were applied. The delegation replied that public and private (22) institutions existed. Child victims were sent to state institutions and 14,000 children, some with a family, were placed in private institutions. The Committee asked if there was legal consideration given or whether parents could simply decide that the child would be better off in an institution. It wondered why parents did not receive assistance to avoid the separation. It further enquired if the measure was provisional and if there was a system in place to check if the child no longer needed to be in an institution. The delegation said that a child in an institution could be adopted if one of the parents agreed. The Committee asked if Sri Lanka was abiding by and promoting the UN Guidelines for the Alternative Care of Children. It added that if it needed 10 years to get the consent of the parents it was problematic and that the best interest of the child should be taken into account.

The Committee noted the violence in institutions and asked if there were mechanisms complaints mechanisms to report mistreatment or abuse. It further enquired if ordinance 22 of the year 1941 had been adopted and if non-accredited orphanages were authorised. The delegation answered that the ordinance was applied and children could be reintegrated into their families. It added that prevention mechanisms were in place, the situation in institutions was monitored and surveys were conducted on a case by case basis. The Committee wondered if children could be placed in the same institution as children in conflict with the law. The delegation said that it was not the case.

Basic Health and Welfare

Health services

While welcoming the low maternal mortality rate, the Committee asked about infant mortality and the funding allocated to primary health care in comparison to specialised care. The delegation mentioned World Bank studies which stated that the primary health care system was cost effective. It added that access to specialised care was more expensive but still offered by both the public and the private sectors. The Committee enquired if mental health services had been improved, if there were adolescent-friendly centres and if posttraumatic disorders, high suicide rates among adolescents, and the psychological situation of children living alone were addressed. The delegation replied that an NGO had created a helpline for psychological problems and mental health care services were offered in hospitals. Furthermore, a community-based system focused on mental health issues and it benefited from the assistance of social workers and family members. There was also a mental health policy, but Sri Lanka remained a poor country so there was little psychological training. In relation to the high suicide rate, the delegation mentioned a presidential task force which was set up as an intervention strategy.

Education, Leisure and Cultural Activities Education

Education

The Committee noted the progress in school enrolment and literacy, and asked who was responsible for the infrastructure, especially in the war torn regions and areas with disparities where many children were not attending school. While education was usually free, the Committee asked about hidden costs which were paid by families. It also asked about the low standards of education and high drop-out rates in remote areas. The delegation answered that education was free and that the state provided uniforms and books but was unable to provide shoes. It added that 77% of the children in remote areas were going to school. The Committee

noted that many children with disabilities were not going to school. The delegation said that 80% of these children were going to school. It added that they followed an inclusive education system and as such these children followed mainstream education. Special education was provided by both private and public schools. The Committee asked about possible inequalities in education. They further asked about measures targeting the drop-out rate in school as well as the existence of human rights education for children. The delegation said that catch-up education was offered in two schools for children up to the age of 12.

The Committee mentioned that 50% of children did not go to higher education and asked how they were addressing this issue. The delegation answered that the Secretariat to the Ministry of Child Development and Women's Empowerment was in charge and universities were open to all for a low fee. The delegation added that an increasing number of skilled workers were going to technical schools and were able to join universities.

The Committee asked about programmes for vocational education. The delegation mentioned the high number of vocational education opportunities available without discrimination. Technical colleges provided training in electronics, electricity, masonry, computing and so on

The Committee asked for more information on corruption in schools and school admission processes. The delegation responded that there was sometimes a great demand for public schools and that criteria must be applied (i.e. number of years in the area, parents working abroad) and sometimes bribery and corruption occurred. It added that cases had been prosecuted by the Supreme Court.

The Committee enquired if intercultural and inter-religious interaction took place in schools or whether children were in different schools according to their religion. The delegation explained that classes were mixed in modern schools and religion classes were provided to the children. All religions were represented and cultural and linguistic differences were respected (e.g. if there was a religious holiday they had the day off). The Committee asked if children learned to live in peace together, as the school was a place to eliminate all forms of discrimination. It asked for further information on intercultural exchange in schools and if teachers were trained in the CRC. The delegation responded that religion was part of the curriculum, and as such it was not possible to teach the four religions simultaneously in the same class. There were many public intercultural events in the streets, on television or during cultural festivals. The Committee emphasised the need to start cultural and other religious education before secondary school because at this stage the classes were not chosen by children. The Committee was of the view that it would help children to better understand each other. Finally, the Committee was concerned that schools were occupied by the army and asked how many were still occupied. The delegation replied that only one had been occupied.

Special Protection Measures

Exploitation

The Committee asked about the incidence of forced marriage. It also enquired if there had been some major amendments of the law in relation with sexual exploitation and abduction. Finally, it asked if the State planned to send the overdue report on the OPSC and if they were going to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against

Transnational Organized Crime. The delegation responded there was a broad definition of child abuse in the current legislation.

While it appreciated the amendments to the penal law, the Committee asked if they were rendered public and well known. In addition, the Committee requested information about the number of cases, investigations, prosecutions and convictions. . The delegation described several awareness-raising programmes on child abuse organised by specialists, and noted that some of these programmes were conducted in schools. It added that there was a District Child Development Committee in every district and that social workers and child rights officers carried out programmes to raise awareness amongst children and teachers. It added that the media and a helpline were also used to raise awareness on child abuse.

The Committee noted the creation of a National Action Plan to Combat Child Sex Tourism and asked how they monitored its implementation, especially for boys. It also enquired about the measures taken to tackle child prostitution. The delegation responded that monitoring took place at regional level in order to guarantee that children were not victims of prostitution. It added that prosecution was immediate if a case was known and the government was working with hotels, religious organisations and NGOs to address the issue. There was also a programme to monitor internet-based child pornography but it was stopped due to a lack of results, although it will be restarted. The Committee also enquired about the provision of psychosocial and reintegration support for child victims.

The Committee welcomed the Child Unit to prosecute cases of child abuse, but noted the enormous backlog which implied that cases were dealt with only 6 to 7 years after the abuse had occurred. It was therefore concerned about revictimisation as children might be interrogated several times and asked if testimonies were recorded using video cameras. The delegation highlighted the high number of cases which were reported and explained that investigations were conducted by specialised teams. The Ministry of Justice was aware of the backlog and the necessity to prioritise cases. The cases could not be expedited because of the right to a fair trial. The Committee also asked about cases of members of the security forces who were expelled due to sexual exploitation and abuse of children. It wanted to know if convictions occurred and if prevention measures had been taken to protect children from such abuse. The delegation explained that in such cases, the perpetrators were subject to military law and if evidence was available, they were tried. They added that cases with credible evidence were dealt with under civil law and other cases through military law (court martial or trial). This could lead to a conviction, although some of these people were still in the army. The Committee asked if the Witness and Victim Protection Bill was passed and if not, it wanted the government to work toward its adoption. The delegation replied that there were no difficulties in relation to the Constitution and that they were waiting for the Parliament to adopt it.

Child labour

With an estimated 900,000 children exploited in agriculture (e.g. plantations), the Committee asked about the measures taken to ensure the respect of the rights of the child. The delegation explained that they were working with the International Labour Organisation unit on child labour, and that crops officers were involved in monitoring child labour. They added that most child labour did not happen in factories but rather in the home (i.e. child domestic workers). Inspectors had been hired and a helpline created to address the issue.

Juvenile justice

The Committee understood from the report that Sri Lanka did not have a juvenile justice system or specialised courts. The delegation replied that the legacy of the Children and Young Person's Ordinance adopted in 1939 still remained and that deficiencies were present. There were attempts to try and overrule this legislation. It mentioned the ongoing establishment of a new juvenile justice system, supported by substantial jurisprudence. The delegation also described a special court in Colombo dealing with juvenile justice cases and another one in Jaffna. The Committee appreciated that new juvenile courts were going to be created as mentioned in the State Report, but that it had not yet happened in other areas due to resource constraints. The delegation replied that at the time they were conducting a war. The Committee also asked how many children were in detention, including pre-trial detention, and if they were detained with adults. The delegation confirmed that children were not mixed with adults. It added that the age of criminal responsibility had been increased from 8 to 10 years. The Committee reacted by saying that it was not a recommendation of the Committee, because 10 was too low. It urged Sri Lanka to increase the age of criminal responsibility to a minimum of 12 years. The delegation answered that the act on sexual offense stated that the age of criminal responsibility for related crimes was 12 and that the number of cases of crime implying children younger than 12 was very low (near zero for serious crime). The penalty depended on the charges and the age of the victim was taken into account. The attorney decided if a child was to be prosecuted and could stop the process at any time. The delegation stated that the age of sexual consent had been increased in 1995 from 12 to 16, and that consent was not a criterion in cases of abuse of children under 16 years. The Committee noted a problem of interpretation because it was not asking for children to be prosecuted under 18 but wanted to know about the possibility of raising the age of criminal responsibility. The Committee further enquired if adolescents' between the ages of 16 to 18 were treated like adults. The delegation answered that persons between the ages of 16 and 21 were treated differently and that safeguards were in place regarding the application of the death penalty.

The Committee wondered if the Criminal Code had special sentences for children and if these were applied to children over 16. The delegation answered that the circumstances were taken into account for a child over 16 and that children received special treatment. The Committee asked what happened in case of criminal behaviour other than sexual. The delegation replied that safeguards were applied. The Committee wondered if a child accused of homicide was brought before the ordinary court or sent to the juvenile court in Colombo. The delegation answered that the child was first sent to the ordinary court and depending on the dossier the case could be transferred to the court in Colombo. It added that there were currently no open cases.

The Committee noted that it was aware of the law and sought assurance that children under 18 years of age were not treated the same as adults. The delegation said they were going to bring back the proposal concerning the differentiated legal treatment for children up to 18. The Committee reminded the delegation that the debate on raising the age of criminal responsibility had been raised three times and wanted to know when it will be done. The delegation stated that the new political context was an opportunity for looking at legislative change. The Committee said there were still concerns because specialised justice did not cover all the required procedures (e.g. investigations in cases involving children need specific knowledge as well as procedures for prosecution and inquiry). Furthermore, a child offender needed proper care and the use of pre-trial detention for minor crimes was problematic. It added that the penalties were too harsh and concluded that in order to apply the CRC, specialised advisors and judges had to be involved.

Armed conflict

The Committee noted that the north and east of the country were still militarised and as such families could not freely access services. It asked if thanks to the decreasing emergency situation the military was going to leave these regions. It added that due to the situation, NGOs seemed unable to access these areas and thus support children in these regions, because of the clearances and memoranda of understanding. The delegation replied that many IDPs had been resettled. There were only 25,000 IDPs still living in camps. The delegation added that the ongoing military presence in the regions was because they were not free of landmines and ammunition and because people could exploit the situation.²

Concluding Remarks

Ms Aidoo noted the significant achievements and added that existing laws needed enforcement and that resources and budget allocated to children and especially disabled children needed to be clarified. Another issue was the access to children in conflict areas and in IDP camps and the situation of children in institutions. She added that Sri Lanka had to work on discrimination, and that the Committee would also address the issues of juvenile justice in its concluding observations. Ms Lee added that a national re-building process was always difficult but that it offered opportunities to improve the situation. Ms Lee recommended an increase in horizontal and vertical coordination in order to avoid regional gaps in re-building efforts.

The head of delegation thanked the Committee for the observation made in a spirit of help, which will prove to be useful for the future of Sri Lanka.

² As the CRC and OPAC were examined at the same time, the issues related to the armed conflict were discussed in depth under the OPAC. See the report on the OPAC for detailed information on the armed conflict.