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**ORGANISATION MONDIALE CONTRE LA TORTURE WORLD ORGANIZATION AGAINST
TORTURE ORGANIZACION MUNDIAL CONTRA LA TORTURA WELTORGANISATION
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Sri Lanka Report for The Committee on the Rights of the Child 1995

OMCT/SOS - TORTURE

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Age of Criminal responsibility:

1. The government report states in paragraph 155 that the laws relating to children in conflict with the law are «in keeping» with the articles of the convention. OMCT/SOS-Torture has several concerns:

According to Article 75 of the penal code:

"nothing is an offence which is done by a child under eight years of age."

It continues:

"Nothing is an offence which is done by a child above eight years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequence of his conduct on that occasion".

Moreover a child over the age of eight years, if presumed by the court to understand the nature and consequence of his conduct is subject to all criminal liabilities and penalties, excluding only the death penalty.

_OMCT/SOS-Torture believes that the age established by Sri Lankan legislation is unacceptably low.

_What are the guidelines for establishing whether or not a child is capable of understanding his or her crime.

II Arrest

2. When a child or young person is arrested the Ordinance(see note in summary) Part 11 section 13 foresees that:

« arrangements shall be made for preventing a child or young person while detained in a police station or while being conveyed to or from any criminal court from associating with an adult who is charged with any offence other than the offence with which the child or young person is jointly charged»

Furthermore according to paragraph 151 of the Government's report:

"Children and young persons are required to be detained separately from adult offenders. Young suspects who are not granted bail are committed to remand homes or to the care and custody of a fit person. They cannot be committed to prison."

However Grime referring to Dharmadasa "Children in Prisons" (1989)

Gill Grime: An investigation into Children's rights in Sri Lanka states that there is: "frequent violation of established procedures is the transport of children under 16 with adult offenders, and their placement on remand in adult prisons".

OMCT/SOS-Torture has two concerns over arrest conditions:

_Although the problem is accepted in paragraph 155 of the government report, what changes are proposed to ameliorate this current de facto problem in Sri Lanka to ensure separation of children from adults.

_If children, as foreseen by the above, share a cell with a person with whom the child has been charged then there is a danger that the child may be subject to coercion.

3. In Section 14.1 the Ordinance foresees that when a child is arrested:

«with or without a warrant, and cannot be brought forthwith before the competent court of summary jurisdiction, the person making the arrest shall take the person to the nearest police station and the Officer in charge shall inquire into the case if a recognisance is entered into by him or his parent or guardian (with or without sureties) for such an amount as will, in the opinion of the officer, secure his attendance upon the hearing of the charge»

_As far as OMCT/SOS-Torture is aware there is no time stipulation of i(forthwith)) on the holding of a child before being brought before a court.

OMCT/SOS-Torture must assume that if there is no «recognizance» or the child has no legal guardian, then children will be detained by the authorities. The International Secretariat is concerned by the lack of a time stipulation before the case is brought

before a court or before the legal guardians of the children are informed of the child's detention.

4. Further the same section foresees that the child will be detained if

"(a) The charge is a scheduled offence.

(b) It is necessary in the interest of such person to remove him from association with reputed criminals or prostitute.

(c) The officer has reason to believe that the release of such person would defeat the ends of Justice. » _

OMCT/SOS-Torture is concerned by section (b) believing this view taken of prostitution conforms with Sri Lankan law described later: that of the prostitute of low moral character not of a person forced by economic necessity. We wonder if this does not conflict with the best interests of the child should the child's mother be a prostitute. _OMCT/SOS-Torture is very concerned by (c) believing that the officer in charge is given considerable freedom and the formatting allows for a wide range of actions. In the report of the government paragraph 1 55 the government makes reference to deficiencies in the observance and enforcement of the law. OMCT/SOS-Torture would suggest that there are also deficiencies in legislation.

5. In paragraph 1 52 of the government report they detail circumstances under which a child can be held in custody. In Part 2 the ordinance expands on this outlining special circumstances under which a child can be held. It foresees three reasons:

« that the officer in charge of the station shall cause him to be detained in a remand home or in the residence of any person nominated by the minister under section (3) until he can be brought court.

The child will not be brought before the court under the following conditions

(a) that it is impracticable to do so; or

(b) that he is so unruly a character that he cannot be safely detained ;or

(c) that by reason of his state of health or his mental or bodily condition it is inadvisable so to detain him »

_OMCT/SOS-Torture again would like to know if there are any time restrictions on the case failing to reach the appropriate court; _OMCT/SOS-Torture is concerned at the lack of definition of unruly, giving, again, the charge officer considerable freedom of action.

6. The government outlines the procedures in paragraph 150 when a child is brought before a court . The ordinance gives more detail: according to section 4(l) the Ordinance states

"Notwithstanding anything in any written law to the contrary, but subject as hereinafter provided, a Magistrate Court sitting as a Juvenile Court shall have jurisdiction to hear and determine any case in which a child or a young person is charged with any offence other than a scheduled offence and any question of law or fact arising in such a case".

According to the Ordinance, a magistrates court which sits as a Juvenile Court has jurisdiction over all cases under section 34 As section 4 (1) states:

«A magistrates Court sitting as a Juvenile Court shall have jurisdiction to hear and determine any case in which a child or a young person is charged with any offence other than a scheduled offence and any question of law or fact arising in such a case»

Scheduled Offences are defined under the following sections of the penal code

Section 296 (Murder) Section 297 (Culpable homicide) Section 300 (Attempt to murder) Section 301 (Attempt to commit culpable homicide) Section 383 (Robbery with attempt to cause death or grievous hurt)

_OMCT/SOS-Torture is concerned that a child (who is considered as innocent until proven guilty under the constitution) accused of one crime will face a deprivation of his or her rights: access to their rights depending on the gravity of the crime that they have been accused of, and not in their function as a child.

_Furthermore it would appear that Juvenile Courts have jurisdiction only on minor offences. OMCT/SOS-Torture feels that this maybe is in contravention to Article 40.3 of the Convention where it states:

«states parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognised as having infringed the penal law».

This OMCT/SOS-Torture takes to mean all penal law.

7. Furthermore OMCT/SOS-Torture believes it is in contravention to Article 2 of the Convention when it states "states parties shall ensure effective respect of the rights set forth in the present convention to each child within their jurisdiction without discrimination of any kind."

A further observation has to be made where, the Children and Young Persons Ordinance stipulates in section 5(l), that :

"Subject as hereinafter provided, no charge against a child or young person, and no application whereof of the hearing is by this Ordinance or by any other written law assigned to Juvenile Courts, shall be heard by a court of summary jurisdiction which is not a Juvenile Court:

Provided that:

(a) no case in which a child or young person is charged with having committed a scheduled offence shall be heard and determined by a Juvenile Court; and

(b) a charge made jointly against a child or young person and a person who has attained the age of sixteen years shall be heard by a court of summary jurisdiction other than a Juvenile Court; and

(c) where in any case a child or young person is charged with an offence, the charge may be heard by a court of summary jurisdiction which is not a Juvenile Court, if a person who has attained the age of sixteen years is in the same case charged with the abetment of that offence; and

(d) where, in the course of the proceedings before any court of summary jurisdiction other than a Juvenile Court, it appears that the person to whom the proceedings relate is a child or young person, nothing in this section shall be construed as preventing the court, if it thinks fit so to do, from proceedings with the hearing and determination of those proceedings."

_OMCT/SOS-Torture is particularly concerned by section (c). If a child commits a crime with an adult he will be tried in a higher court. It would seem pertinent to ask what the minimum age foreseen for this is, if any. It is furthermore possible that the child could be subject to discrimination, since he or she would not be judged in his or her function as a child but rather, he or she would be judged in the light of having committed a crime in the company of an adult. It would be instructive to learn how the authorities foresee guaranteeing all the legal rights of the child as outlined in the Convention.

_OMCT/SOS-Torture would like to know what measures are available to the judge who, because of legislation, tries a child in an adult court, to treat children in their function as children, rather than in terms of the gravity of the crime.

8. However, the legal provisions for children's courts are largely ignored as the Director of Lawyers for Human Rights and Development, Mr Tiranagama, points out:

«Though the Act (the Ordinance) makes provision for setting up of Juvenile Courts in Sri Lanka, there is only one separate Juvenile Court in Sri Lanka..... We often find that cases

where the children are involved are take up together with other cases before the public in Open court»

III Legal representation

9. Another serious concern of OMCT/SOS-Torture is the lack of provision for legal representation of children;

«In Sri Lankan criminal law there is no specific requirement that a child should be legally represented Instead where a child is under 16, a juvenile court is constrained to make attempts to secure the parents attendance, presumably in the expectation that they will assist the child (section 16 the Children's Ordinance)»

Gill Grime same reference

OMCT/SOS-Torture believes that this does not comply with article 40 (2)b 11 of the Convention where it states:

« to have legal or other appropriate assistance in the preparation and presentation of his or her defence.»

Nor Article 12 (2):

«The child shall in particular be provided the opportunity to be heard in any judicial and administrative proceeding affecting the child either directly, or through a representative or an appropriate body, in a manner consistent with the procedural roles of National Law»

Furthermore this suggests a serious contradiction: should a child be tried for a crime which he or she has committed with an adult, he or she would be tried in an adult court and the adult would have a right to legal representation of which the child could theoretically be deprived.

This lack of representation is underlined with an observation of Gill Grime who suggests that the reason that most children who come before the children's court, confess their guilt is due to lack of representation. This would not be the case, she believes, should they have access to representation.

IV Media and the Law

10. De jure the Children's Ordinance is in conformity with the Convention as regard children's trials and the media in Section 11 . It states:

«No report of any proceedings before a Juvenile Court shall be published in any newspaper, magazine or other journal»

This is also guaranteed to children tried in a higher court (article 20 of the Ordinance.)

However our sources Lawyers for Human Rights and Development suggest that de facto this regulation is regularly flouted.

_OMCT/SOS-Torture believes that the government should adopt efficient deterrence measures to end this anomaly.

_Furthermore OMCT/SOS-Torture wonders if a maximum fine of 500 rupees (should the publisher actually be prosecuted) is enough to stop a publisher who feels that they can boost sales of a newspaper or magazine with a particularly dramatic case involving children.

V Protection of Children

11. Although Part 5 (except section 76) of the Ordinance never came into force. It highlights a

concerning question. Section 5 described the measures foreseen by the Ordinance to protect children against physical and psychological violence. Our concern is over the wording of section 76.6 6 which stated: «*nothing in this section shall be construed as affecting the right of any parent teacher or other person having lawful control or charge of a child or young person to administer punishment to him*»

Could the government provide further information on social norms of punishment in the school and the home environment.

VI Torture and ill treatment

12. Article 19.1 of the Convention requires states to take all appropriate measures, including legislative steps and it states:

"... to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardians), or any other person who has the care of the child".

Grime's commentary is worth quoting in its entirety:

»This article therefore (the Convention) is directed at a broad range of child abuse within a specific setting, that of the family. The Children's Charter reproduces article 19.1 in its entirety, except that reference to the "other person" is omitted (article 20.1). The effect of this omission is to focus more narrowly upon child abuse within the nuclear family.

13. **(Quotation continues) The Children Ordinance, as implemented, does not contain any provisions which seek to address mental violence, neglect (except abandonment) or maltreatment of a child, by his or her parents. The child is protected from only some forms of physical violence under the Ordinance. The offences of hurt and grievous hurt (section 314 and 316 of the Penal Code) are not schedule 1 offences. Even the unimplemented section of the Children Ordinance did not recognize the concepts of emotional abuse or aspects of exploitation by parents of their children.**

Specific reference is made to sexual exploitation by children by their parents in both the relevant articles of the Convention and the Children Charter. This presumably means both sexual abuse of a child by a family member (including incest), or the collusion of the family with sexual abuse by a stranger. This second type of sexual abuse will be considered below, in the context of child prostitution.

14. **(Quotation continues) A significant omission from the list of offences in schedule 1 of the Children's Ordinance is that of incest. In fact incest is not an offence under Sri Lankan legislation. Rape is included in the list of schedule 1 offences, so that some elements of incestuous behaviour could be addressed under the Children's Ordinance. Nevertheless this could prove difficult in the absence of the recognition of the concept of incest by the criminal law.»**

15. **OMCT/SOS-Torture is also concerned by sections of the penal code concerning torture. The Penal code states:**

Section 320. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal, or which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine or to whipping.

Section 321. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to

the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

_OMCT/SOS-Torture notes that the stipulation of section 321 of the Penal Code is less harsh in penalising the perpetrator of torture, specially when the victim is a child, when compared with the other sentence inflicted on a person who voluntarily causes grievous hurt to extort property or to constrain to an illegal act.

_Punishment in section 320 is for twenty years, while under section 321 it is only seven years. Moreover there is no minimum sentence for the act of torture, which leaves open the possibility of light sentencing.

_OMCT/SOS-Torture wonders if this anomaly has been amended by recent torture legislation.

16. According to our information Lawyers for Human Rights and Development there is no special law dealing with child victims of torture. Coverage against torture is to be found in Article 11 of the constitution which states:

«no person should be tortured or subjected to cruel, inhuman or degrading treatment»

17. There are significant barriers to the case ever reaching a court, which OMCT/SOS-Torture feels should be investigated:

_To stand any chance of compensation the child must make a complaint within one month of the act.

_The costs of mounting a case in terms of both time and money are prohibitive for most people in Sri Lanka.

18. OMCT/SOS-Torture is particularly concerned by paragraph 153 of the government report which foresees corporal punishment on a male child. Section 29 (1) of the Ordinance provides greater detail:

«Where a child or young person who is a male is found guilty by any court of any offence, the court may, if it is for any reason or opinion that the case is one in which corporal punishment should be inflicted, make order that the child or young person shall receive not more than six strokes with a light cane or rattan»

_Although the Convention does not mention the use or non use of corporal punishment, OMCT/SOS-Torture deplores this treatment as inhuman and degrading. It is a clear infringement of article 37 of the Convention. and is clearly contrary to the Convention against Torture to which Sri Lanka is a party.

_OMCT/SOS-Torture is particularly concerned with the freedom that the court has to impose such a punishment "for any reason or opinion".

19. Perhaps even less understandable is the fact that:

"Adult males may only suffer a (severer) form of corporal punishment as a sentence in cases where serious crimes of violence have been committed. Boys may suffer the punishment where any sort of offence has been committed". Grime

VIII The Death Penalty

20. In Section 24 of the Children's Ordinance it states

«where in lieu of sentence of death, a sentence of detention during the President's pleasure has, under section 53 of the Penal Code, been passed by any court in effective respect for human rights and fundamental freedoms under all circumstances of a person who, in the

opinion of the court is under the age of eighteen the court may order that the person to be detained in a remand home until the pleasure of the president is made known.»

In the Penal Code section 53 it states:

*«Sentence of death shall not be pronounced on or recorded against any person who, in the opinion of the court is under the age of sixteen years, but, in lieu of that punishment, the court shall sentence such person to be detained during the Governor General's pleasure»
However in the Penal code section 53 the age is given as 16. OMCT/SOS -Torture therefore wonders which document has supremacy ?*

OMCT/SOS-Torture is further concerned over the concept of the pleasure of the President and the Governor Generals pleasure. We feel it would be appropriate to ask what guidelines exist. Our concern is that in cases that have received particular media attention the release of the child would be rather governed by political factors rather than the rights of the child. This is all the more worrying given the lack of sanctioning over publicity during a child's case already described.

X Non Payment of Fines

21. According to section 23 of the Children's Ordinance, a child under 14 cannot be imprisoned for any offence, or in default of payment of a fine, while a child aged 14 to 16 can only be imprisoned if a court certifies that he or she is of an unruly or depraved character.

The limit of that period of imprisonment is not determined, therefore children under eighteen could be imprisoned for prolonged periods contrary to their best interests.

In article 28 of the Ordinance the state provides that where a fine is imposed it can be transferred to the parent or guardian and goes on to say in section (4):

"Any sum ordered under subsection (1) to be paid by a parent or guardian may be recovered from him as if it were a fine and in like manner as if the order had been made on his conviction of the parent or guardian of the offence with which the child or young person is charged."

In the event that the adult or guardian is unable to pay and will thus have the sentence commuted to a prison sentence, OMCT/SOS-Torture is concerned how the best interests of the child will be served under such conditions.

X Emergency Regulations

22. Emergency regulations are applicable only to the North East zone and border areas. They give wide powers of arrest and detention to the security forces and make provision for trial of offenders under the emergency regulations. They apply to all people. There is no age restriction. However according to information Lawyers for Human Rights and Development no children (that is children under the age of 16) have ever been arrested under these laws. Emergency regulation overrides domestic law and those detained are held at camps and Police stations. There is no distinction being made between adults and children. Many young persons of 16 and over have been arrested and detained in Army camps and some of the have subsequently disappeared. There are also serious allegations of torture.

Although Emergency Regulations have not directly affected children, their indirect affect has been enormous according to reports received by commissioners inquiring into involuntary disappearances in the three years 1988 to 11th January 1991. The three commissioners have so far received 35000 complaints. Most of the disappeared have been young fathers who were often the sole bread winner in the family.

XI Economic exploitation :

23. Article 32(I) of the Convention, states that: "States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development".

According to the Government's report there are various legal provisions which stipulate different minimum ages of employment depending on the nature of the work and the time during which the child is to be employed. Paragraph 127 states the governments belief that prevailing legislation is in conformity with the convention and the legal age minimum is 14.

24. Grime however observes that there due to a great number of laws and formatting, the de facto legal age is 12. She describes the three main statutes:

The Employment of Women, Young Persons and Children Ordinance (Number 47 of 1956) hereafter the employment Ordinance, The Factories Ordinance (number 42 of 1942) and the Shop and Office Employees Ordinance (Number 19 of 1954). These she believes, do not provide clear coverage although they partially cover work in industry, sea, in the offices, and entertainment. She comments that:
«the provisions difficulty is increased by the distinction made between age groups and between spheres of employment and employers.»Grime Page 17

An absolute minimum is established by the «Employment Ordinance (employment of children regulations 1957). This document lists :

«a series of occupations in which a child over 12 but under 14 cannot be employed, making specific reference to physical or moral damage.....no reference is made to the employment of children over 14 in these occupations, so that no control is attempted» As above

There are a number of restrictions placed on the hours of work including the rule that :
«children of this age group cannot be employed for (c more than two hours on any day that he is required to attend school)) (section 13 Employment Ordinance) » As above

However Grime notes this ruling is nullified, because although compulsory education is legislated for under the Education ordinance, it has in reality never been applied.

25. She notes that employment protection does not apply to children employed within the family, in industrial concerns or activities at sea. Since these activities are broadly defined this means that:

«Families can therefore engage their offspring in a wide range of activities which may be difficult to distinguish from prohibited employment and from employment outside the family; » Grime Page 18

Further more she comments that:

]26. « children under 14 cannot be employed in industrial undertakings outside the family. No such prohibition exists in respect to factories, the ordinance being silent on the subject of children under 14. However, the definition of «factory» and «industrial undertaking» is almost identical in the respective ordinances, allowing employers to argue the merits of selective interpretation, that is that their operation is a «factory» rather than an «industrial undertaking» As above

She concludes:

27. «In terms of requirements of the Convention..... employment legislation does appear to be inadequate. An absolute minimum age does exist but it is obscured by the series of other minimum ages which apply to various employment sectors. The exemption from employment controls where a child works in a family concern, together with the fact that education is not in fact compulsory, renders important restrictions on the employment of children under the age of 14 meaningless..... Of particular concern is the situation of child domestic servants, a concern increased because of their lack of visibility. They are vulnerable to abuse of all types, which together with their potential loss of education and of their own family environment means that

their employment is likely to be harmful to their development.»

She argues that without effective regulation of domestic work, it is very unlikely that these children would have access to justice of any kind.

Although the Government attributes this to the difficulty in enforcing the law, it seems that the law itself is not adequate to ensure the protection of the children from economic exploitation, neither does there appear to be the will.

27 Furthermore, since the legal age at which a person can institute and defend a court action by himself is set at 18, children employed in hazardous conditions, are deprived of legal protection in the case of any dispute with their employers. This is aggravated by other factors. Any parent whose child is employed under such a section is unlikely to have either the money or the time to go through such a procedure.

The Government report does not mention any laws or measures made to protect the children who are working at the age fourteen. Neither is there any indication that they are covered by social security which is normally provided to cover working adults. This is in addition to lower pay in the child sector.

XII Sexual Exploitation:

28. OMCT/SOS-Torture is concerned by the diversity of ages of consent to marriage and notes that girls are eligible for marriage at a much earlier age.

29. The Government states in its report that the incidence of child prostitution is causing grave concern to both the Government and the Public.

According to the Government, the victims have been largely male children. The report adds that : " the penal code and the children and young persons ordinance, however, refer only to prostitution of female children and do not cover male prostitution.

The information provided to OMCT/SOS-Torture suggests, that it is not possible to prosecute hotel owners who promote or turn a blind eye to child prostitution. Lawyers for Human Rights and Freedom cite the case of a domestic servant of 10 chained to a bed. The employer was charged with wrongful confinement, the punishment of which carries only a light penalty.

30. According to information received from this same group, a number of foreigners, who were charged recently with soliciting child prostitutes and taking nude photographs of children. They were acquitted due to both loop holes in the law and lack of experience of the police officers conducting such operations. The Lawyers for Human Rights and Development suggest that perpetrators are often released with only a nominal fine even when they plead guilty.

It is suggested that the police themselves are at a loss as to what to do and have approached Lawyers for Human Rights and Development on many occasions for training. At such a training day a Senior Police Superintendent openly admitted the lack of training and knowledge of his staff in dealing with these cases. The police have on many occasions sought the help of NGO's for training.

However this situation has been well known and well documented over the past 15 years and nothing has changed. OMCT/SOS-Torture would like to know what legislative changes are planned.

30. It is believed that an important contributory element may be the minimum age for consent, which is fixed at 12 years, as stipulated by section 83 of the Penal Code.

Accordingly, all the children who become prostitutes above this age are considered by law as consenting to the act.

There is however another anomaly which can be considered as a contributory factor: section

364(A)3 of the Penal Code, stipulates that: "Sexual intercourse by a man with his own wife, or between a man and a girl who are living together as husband and wife with the consent of the parents or guardian of the girl, shall not be an offence under this section if the girl is of, or above the age of twelve years".

This constitutes a good legal pretext for child prostitution especially when the consent needed, is the consent of the legal guardian, who could be induced to sell his/her child into this trade because of economic considerations.

31. It is therefore vital that the government take measures now to make changes in the current laws to assure the prosecution of the guilty parties. It would be helpful if the government considers in the meantime, increasing aid to groups involved in the training of police officers like the Lawyers for Human Rights and Development, to assure better equipped police staff. In the meantime the government could consider using existing stipulations in the Penal Code with a different interpretation.

XIII. Conclusion:

32. OMCT/SOS-Torture while welcoming the thorough report submitted by the Government of Sri Lanka, would like to make the following observations:

Concerning torture OMCT/SOS-Torture is concerned that there are inadequate provisions to protect children from torture and the absence of effective means of redress for those who have suffered.

Moreover OMCT/SOS-Torture considers that the application of corporal punishment is unacceptable against children and it is more so when it is applied with more freedom against children than it is against adults.

OMCT/SOS-Torture is concerned by the low age of responsibility in Sri Lanka, set at 8.

Current legislation does not allow a de facto right to recourse. Furthermore, it does not clearly identify the limit of time in which the authorities must inform the parents, the representative or the judge or competent tribunal on detaining the child.

Furthermore OMCT/SOS-Torture is concerned that a child will lose their rights as a child on the basis of the crime they have committed, not on the basis of their function as a child.

It is also worrying that a child committing a crime with an adult could be denied his/her rights as a child.

The age of eighteen years, as envisaged by the Convention, constitutes a well defined limit between childhood and adult status, and can be adopted by the Government of Sri Lanka to dissipate the state of confusion which is to be found in the laws of Sri Lanka.

The age of consent should be raised to protect the best interests of the child.

The laws concerning child labour (particularly the age) are below internationally recognised standards. They have to be simplified and accordingly raised to allow the protection of children. Particular concern must be expressed for children working in domestic service and measures have to be taken to ensure that children have access to schooling.

Laws punishing those who exploit the children at work should be promulgated, and effective legal measures should be put in place to monitor the application of these laws.

Other relevant laws have to be amended and/or strengthened to combat child prostitution, and new legislation should be enacted to punish those who are involved in the tourist prostitution. Funding for NGOs currently training the police should be considered.

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