

# UNIVERSAL PERIODIC REVIEW OF SRI LANKA

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## Joint Submission



### **Protecting Environment and Children Everywhere (PEaCE/ECPAT Sri Lanka)**

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**Submission**  
**28 March 2017**

## Justification for Submission

1. The present submission is an update to review the progress that has been made by the Government of Sri Lanka (hereinafter “GOSL”) to end Child Sexual Exploitation<sup>1</sup> (hereinafter “CSE”) and assess the level of implementation of the UPR recommendations pertaining to CSE. New recommendations to end CSE in Sri Lanka will be made.
2. The scope of this submission is limited to CSE and its different manifestations, including exploitation of children in prostitution,<sup>2</sup> online child sexual exploitation (hereinafter referred to as “OCSE”), ‘child pornography’,<sup>3</sup> child trafficking for sexual purposes and sexual exploitation of children in the context of travel and tourism<sup>4</sup> (hereinafter “SECTT”).
3. In 2016, PEaCE facilitated a participatory process by and for children to advocate for “*The World We Want*” where 207 Sri Lankan children listed their recommendations in a joint Declaration, which was presented to the Head of State.<sup>5</sup> PEaCE has included the children’s recommendations in this submission, which are marked with the symbol **C**.

### CSE in Sri Lanka

4. Despite the 27-year civil war and the Indian Ocean Tsunami of 2004, Sri Lanka has been categorised by the UNDP as a *high human development country*. Nevertheless, the political instability in the recent past compounded by continual poverty and labour migration contribute to the vulnerability of children.
5. The growth of the tourism industry – with a total of almost 1.8 million international tourist arrivals in 2015 – has led to a growing demand for commercial sex in Sri Lanka, contributing to an increase in SECTT. The country has gained notoriety as an easy destination for SECTT due to lax enforcement of laws pertaining to CSE.
6. The sexual abuse of boys has been considered to occur in religious institutions,<sup>6</sup> although this phenomenon has never been openly (or officially) acknowledged.
7. PEaCE notes that reporting of CSE cases remains low largely because of the stigma attached to the victim, reluctance to get involved in court proceedings, and/or pressure from influential people to ignore the offence.
8. The public of Sri Lanka is concerned about the rapid increase of sexual violence against children, but a deeper understanding of the scope and scale of the problem has been limited due to lack of research and data on CSE.<sup>7</sup> Sri Lanka began investigating cases of CSE in the 1980s, but data collection and research have rarely been comprehensive.<sup>8</sup> The Police Unit of the National Child Protection Authority maintains a database on all complaints of violence against children, including that of cyber violence. In 2014, the Police Unit received a total of 10,315 complaints of which, 1,777 were clearly SGBV-related issues.<sup>9</sup> A 2014 report of the then Leader of the Opposition’s Commission on the Prevention of Violence against Women and the Girl Child commented that most of the complaints with the police concern cases of statutory rape, where the victim is below 16 years of age (e.g. 84% of the cases in 2012).<sup>10</sup> The data collected by the Police Unit do not show the manifestation of CSE and in any event, the majority of cases remain unreported.
9. In contrast to other South Asian countries, a distinct characteristic of CSE in Sri Lanka is the prevalence of boy victims of sexual abuse. Studies indicate that CSE of boys is

largely connected to tourism.<sup>11</sup> Girls, on the other hand, are prostituted to the local population.<sup>12</sup> Girl prostitution generally takes place in unregistered hotels, guest houses, karaoke bars, massage parlours and brothels, while boy prostitution occurs most frequently in coastal and other tourist destinations.

10. In 2014, 26% of the population had access to the Internet, via PCs, laptops and handheld devices, offering connectivity to a vast number of pornographic websites. Such connectivity is also available via mobile phones, with a penetration rate of 103%.<sup>13</sup> This has become a serious concern due to the disproportionate number of young mobile phone consumers.<sup>14</sup> Some qualitative cases showed that 'child pornography' has been produced in the Sri Lankan sex market but recent studies would be useful.<sup>15</sup> Additionally, travelling sex offenders are often linked with the production of child pornography for both private and commercial purposes.
11. In the 1980s, Sri Lanka had the dubious distinction of becoming internationally known for the high prevalence of SECTT<sup>16</sup> and notwithstanding programmes to combat SECTT (discussed further in chapter 5), there are no indications that this problem has in any way been eliminated or reduced.<sup>17</sup> The Global Study on SECTT confirms the high influx of paedophiles and/or preferential child sex offenders to Sri Lanka.<sup>18</sup> From the year 2009, which marked the end of the 27-year-long civil war with the LTTE, the tourism industry has continued to grow with almost 1.8 million international tourist arrivals in 2015.<sup>19</sup> While this is a laudable indicator of economic growth; there has been no discernible growth in child protection in the area of SECTT. Boys, in particular, are more likely than girls to be forced into prostitution in coastal areas for domestic child sex tourism. This strong link of CSE of boys by travelling sex offenders is an anomaly in a region where local offenders are more common.<sup>20</sup> The average age of a boy at the time of his first sexual encounter (or sexual abuse) is 14 years.<sup>21</sup> Offenders tend to be male, and often relatives, peers or family friends,<sup>22</sup> but for boys who live near tourist destinations, foreign child sex offenders seem to be the first perpetrators.<sup>23</sup> Data shows that about 20% of boys enter the sex industry due to economic reasons, whereas over one-third enter due to peer influence or the social environment.<sup>24</sup> There are cases where young boys are 'sold' by their families to older boys, or cases when parents encourage their children to enter the sex industry, although this appears more prevalent with girls.<sup>25</sup> There are cases of boys who, instead of a monetary incentive, enter into sexual relations with foreign tourists mainly for companionship or friendship.<sup>26</sup> There are also some indications of female sex offenders with 'beach boys', meaning that a foreign tourist takes on a 'temporary boyfriend' during her holiday.<sup>27</sup>
12. A recent report indicates that Sri Lankan children who are married by the age of 15, constitute 2%, while those married by the age of 18 constitute 12%.<sup>28</sup> Child marriage must be recognised as both a factor enhancing vulnerability to CSE and a form of CSE itself, which is defined as using a child for sexual purposes in exchange for goods or payment in cash or in kind. Thus, when a child marriage is contracted, the financial transaction (dowry payments in cash or kind), establishes full control over the life of the girl child, with the implied obligation that she enters into a subservient sexual relationship with her spouse or partner.<sup>29</sup> By displacing children from their places of origin, child marriage not only creates the conditions for their exposure to various forms of abuse and exploitation, but also to CSE.

## Legal framework

13. The provisions contained within the Sri Lankan *Penal Code* and other laws relating to children are reasonably comprehensive in addressing various forms of violence against children. In 1992, one year after the ratification of the CRC, the GOSL adopted a *Charter on the Rights of the Child* with similar content to the CRC.<sup>30</sup> The *Charter* establishes a Monitoring Committee to monitor the implementation of the *Charter*. Since then several amendments have been made to the existing legislation to align laws with principles and provisions of the CRC and other relevant international legal instruments. However, the biggest obstacle in the fight against CSE is not the legal system in Sri Lanka, but the enforcement of it.
14. A potentially important future policy that could improve enforcement of child protection is the National Child Protection Policy currently being developed by the National Child Protection Authority. The Policy focuses on the prevention of, and protection from child abuse as well as service provision for child abuse victims. Consultation rounds have taken place and it is expected that the policy will be completed in the first quarter of 2017.<sup>31</sup>

### Recommendation

- Adoption of the draft National Child Protection Policy.

15. The Sri Lankan Constitution does not contain a definition of the term, '*child*' and there are some inconsistencies among Sri Lankan domestic laws. Although the *Charter on the Rights of the Child* and recent laws set the age of majority at 18 years,<sup>32</sup> older – still applicable laws have different definitions. The *Children and Young Persons Ordinance* (1939) defines children as persons under the age of 14. However, a draft *Children (Judicial Protection) Act* has been tabled to replace the *Ordinance* and will grant protection to children under the age of 18.<sup>33</sup>

### Recommendation

- Ensuring that there are no legal ambiguities about the definition of the *child* to allow full rights and protection to all children – boys and girls without discrimination - under 18 years of age by reviewing all laws.

16. The *Penal Code* sets the age of consent for sexual activity for girls at 16 years.<sup>34</sup> Although other countries have also set the age of consent at 16 years of age, PEaCE and ECPAT International believe that this age is too young and hampers proper protection against CSE of older children, e.g. the protection against statutory rape. In that light, it is of concern that there has been a call to change the provision of statutory rape for sex with children below the age of 16. Another concern is that the provision of statutory rape only protects girls, not boys.

### Recommendation

- **C** Adoption of the age of consent as 18 years, while providing criteria to determine sexual consent between peers, so as to avoid misunderstanding and exclude non-exploitative cases, or, alternatively, ensuring that offences committed against children between 16 and 18 years of age are criminalised when the sexual acts are exploitative (such as prostitution or pornography), or where there has been abuse of a relationship of trust, authority, or dependency.

- Revision of article 363 of the *Penal Code* to include the offence of statutory rape for boys.

17. The current articles 365 and 365A of the *Penal Code*, prohibiting homosexual relations (described as '*acts of gross indecency*'), may put children in danger as the article does not explicitly exempt children from the crime, thus a child might be treated as an offender instead of a victim in exploitative situations.<sup>35</sup>

### Recommendation

- Abolition or revision of articles 365 and 365A of the Penal Code to prevent children from being treated as offenders instead of victims in exploitative situations.

18. To stop child marriages and other forms of CSE, birth registration is crucial. Birth registration is mandatory and births within Sri Lankan families are usually registered. However, there is a significant number of unregistered births, particularly amongst refugee/returnee/internally displaced children, children of families living on the street, children living in plantations and children born in the gypsy and indigenous 'Vedda' communities.<sup>36</sup> In the period of 2010 – 2015, 3% of children remained unregistered.<sup>37</sup>

19. Child labour puts children in vulnerable positions and increases the chance of becoming victims of CSE. In 2006, section 358A of the *Penal Code* was introduced to prohibit the employment of slave labour and recruitment of child soldiers. The amended *Employment of Women, Young Persons and Children Act* prohibits the employment of children in hazardous forms of labour. This includes working in day/night clubs, bars and casinos, night time work (between 8 p.m. and 6 a.m.), hotel work, working in restaurants, shops, call-centres, in telemarketing or the tourist industry. Child domestic labour is prohibited. According to UNICEF, in the period 2009-2015, still 3% of 5-14-year-old children were involved in child labour.<sup>38</sup>

20. The GOSL does not have special provisions to tolling<sup>39</sup> the statute of limitations for child victims of CSE. Pursuant to Section 456 of the Criminal Procedure Code, "*the right of prosecution for any... crime or offense (save and except those as to which special provision is or shall be made by law and for murder or treason) shall be barred by the lapse of twenty years from the time when the crime or offense shall have been committed*". There are no special limitation periods applicable to CSE crimes, while generally victims may take a long time to report such crimes.

### Recommendation

- Amendment of the Criminal Procedure Code to toll the statute of limitations until the age of majority in cases involving child victims.

21. There is no definition of 'child prostitution', although Sections 360B and 360E of the *Penal Code* prohibit the exploitation of children in prostitution. It is commendable that children are defined as below 18 years of age for these sections of the law.

### Recommendation

- Provision of legal definition for 'child prostitution'.

22. The *Penal Code* prohibits, 'child pornography' under article 286A, where a number of conducts classified as "*offence of obscene publication and exhibition relating to children*" but it does not provide a definition of 'child pornography' that incorporates the elements of the OPSC. However, the *Penal Code* prohibits a number of acts related to obscene or indecent exhibition, photographs and films in which a child is portrayed or is made to

perform.<sup>40</sup> The list of acts includes also possession of child pornography and perpetrators can be sentenced up to ten years. The *Children and Young Persons (Harmful Publications) Act No. 48 of 1956* is also invoked to combat child pornography.<sup>41</sup> Children are, in theory, protected from exposure to obscene materials under this law, which forbids the dissemination of pictorial publications that may be harmful to children and young people. In addition to these provisions, the *Vagrants Ordinance* also criminalises the act of publicly exhibiting any obscene print, picture, or other indecent exhibition, to the repulsion or annoyance of others.<sup>42</sup> The *Computer Crime Act No. 24, 2007* unfortunately does not address child pornography as a modality of cybercrime. Virtual “child pornography” is not explicitly addressed. However, based on the judicial authority’s interpretation, an offender might be possibly charged using the broad wording of media described in section 2(a) of the *Obscene Publications Ordinance*.

### Recommendation

- Provision of legal definitions for ‘child pornography’.
- Amendment of the *Computer Crime Act* to make its investigatory provisions applicable to content-related cybercrime, such as the OCSE. The Act provides a wide range of investigatory powers, but currently does not apply to investigations of online “child pornography”.
- **C** Regulating access to Internet cafés for children.

23. CSE often has many international aspects, especially SECTT, OCSE and trafficking. The *Convention on Preventing and Combating Trafficking in Women and Children for Prostitution Act 2005*, does give the Sri Lankan Courts jurisdiction over offenders trafficking of children for prostitution who are present in Sri Lanka, when the act is committed by a citizen of Sri Lanka or the victim is a citizen of Sri Lanka.<sup>43</sup> While the extraterritorial provision of the law is commendable, there is a need for the same extraterritoriality of all other CSE crimes. Extradition is governed by the *Extradition Law No. 8 of 1977*. An ‘extradition offence’ is an act or omission which falls within any of the descriptions set out under the Schedule in the Law. The schedule does include CSE related crimes, such as ‘rape’, ‘carnal intercourse with a female between twelve and fourteen years’, ‘procuring a girl or a woman to become a common prostitute’, and ‘an offence covered by the *SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution Act, No. 30 of 2005*’<sup>44</sup>, but does not include all CSE related crimes.

### Recommendation

- Enactment of progressive extraterritorial legislation and unconditional extradition laws covering all CSE related crimes.

24. The Sri Lankan government has successfully increased the age of marriage to 18<sup>45</sup> and has actively encouraged marriage registration. However, personal laws in Sri Lanka are still lacking specific minimum age requirements, particularly under Muslim Personal Law, where the age of puberty is the age at which a marriage can take place.<sup>46</sup> The GOSL has to date not yet eradicated the harmful traditional practice.

## Coordination to end CSE

25. The Ministry of Women and Child Affairs (hereinafter “MWCA”) is the apex ministry for child affairs. Key departments and statutory institutions operating under MWCA are the National Child Protection Authority (hereinafter “NCPA”), the Department of Probation

and Child Care Services (hereinafter “DPCCS”) and the Children’s Secretariat. The NCPA is the agency responsible for the prevention of child abuse and the protection and treatment of victims. The NCPA coordinates and monitors actions against all forms of child abuse.<sup>47</sup> As the main legal entity, it advises the government, in coordination with various ministries, local authorities, and public and private sectors. It also maintains a database on violence against children. Unfortunately, the budget of the NCPA has decreased in the last decade, which has affected NCPA’s impact.<sup>48</sup>

### Recommendation

- Increase the budget of the Ministry of Women and Child Affairs’ National Child Protection Authority (NCPA).

26. The Ministry of Justice is the lead government agency for the coordination of all initiatives taken to address human trafficking in Sri Lanka. With the aim of strengthening coordination the inter-ministerial National Anti-Trafficking Task Force was established in 2010.
27. Currently there are two NPAs in place that address CSE: the National Action Plan to Address SGBV 2016 – 2020 (hereinafter NPA SGBV) and the National Plan of Action to Combat Human Trafficking. The MWCA initiated a multi-sectoral and comprehensive NPA SGBV. The process of the formulation of the policy framework and action plan was participatory and consultative with government agencies, civil society groups, local and international non-governmental organizations, trade unions, private sector, UN agencies, researchers all involved in the formulation of the NPA.<sup>49</sup> The NPA includes actions to combat CSE. The NPA focuses on prevention of early marriage, sexual violence against children as well as CSE and cyber violence against children.
28. Progress has been made by the GOSL to combat trafficking, for instance with the adoption in 2015 of the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*. A process is underway to follow-up the NPA for the Promotion and Protection of Human Rights 2011-2016 with a new NPA 2017-2021.<sup>50</sup>
29. Although the NPAs are comprehensive and applaudable policy frameworks to initiate and coordinate action, there is a need to improve implementation, monitoring and coordination. According to a UNICEF evaluation, the National Plan of Action for Children 2004 - 2008 the lack of proper monitoring and coordination hampered the effectiveness of the plan.<sup>51</sup>

### Recommendation

- Prioritise implementation of the National Plan of Action against Sexual and Gender Based Violence by:
  - Communicating on a regular basis with all ministries and government agencies included in the NPA;
  - Ensuring proper monitoring mechanisms to measure and report on the implementation of the NPA;
  - Establishing a monthly or quarterly working group, including all relevant stakeholders, e.g. civil society organisations, donors, etc.

30. The most active and consistent non-governmental stakeholders working to end CSE in Sri Lanka are UNICEF, Save the Children and PEaCE.

## Prevention

31. Long-term prevention strategies include improving the status of children who are most vulnerable to CSE. This can be achieved by implementing policies to reduce poverty and social inequality and by improving access to education, health, and social services. Effective short- to medium term strategies include raising awareness through campaigns, education, and training initiatives.

### Recommendations

- Raise the awareness of the public, vulnerable groups, offenders, government officials and the private sector.
- **C** Include awareness raising of children through schools and also strengthen their coping mechanisms for CSE situations.

32. PEaCE works with a variety of stakeholders to raise awareness often in close cooperation with other key stakeholders. Examples of such awareness raising programmes are:

Target Group	Focus	Partners
Rural Children's Committee	Support to survivors of CSE, including educational support and working with street children.	Department of Probation and Child Care Services
School principals, teachers and students	Seminars and programmes on SECTT and OCSE	Zonal Education Office / Department of Education
Paramedics including family health workers	CSE trainings	Medical Officer of Health
Police Officers	Training on child protection, child friendly prosecution etc.	Children and Women Bureau
Youth	Awareness raising	National Youth Services Council (NYSC)
School children	Awareness raising	Women's Education and Research Centre (WERC)



33. Although the Sri Lankan government and civil society have taken steps to address the prevention of child abuse and CSE, these efforts have not been coordinated and have been neither systematic nor sustainable. National coordination of these efforts would greatly enlarge the impact of all the efforts. The resources, expertise and influence of the private sector, particularly the tourism and IT industries, should also be engaged to help implement prevention strategies. Furthermore, information, education and outreach programmes should be directed at CSE offenders to promote changes in social norms and behaviour and to reduce the demand for child victims of commercial sexual exploitation. Before this can be done, a study should be undertaken into the demand side of CSE.

### **Recommendations**

- Coordinate – and if possible – fund the awareness raising of CSE amongst the public, vulnerable groups, offenders, government officials and the private sector on CSE in general, the prohibition and prison sentences, identification, and report of CSE cases.
- Commission or conduct a study into the demand side of CSE in Sri Lanka.

34. More effort is also needed to prevent OCSE and the production, distribution, sale, and possession of ‘child pornography’. Some small interventions have taken place, such as the cyber safety programs for kids as well as the yearly Cyber Security Week (CSW – conducted for 6 years) organised by the Information and Communication Technology Agency (ICTA) of Sri Lanka.<sup>52</sup> Other interventions have included the ban on the Internet of some pornographic websites.<sup>53</sup> Despite this, many of these Internet sites are still accessible to Sri Lankan users, including ‘child pornography’. In 2010, the GOSL issued a ban on pornography accessed through mobile phone connections. PEaCE, together with the Police Children and Women’s Bureau, intervened to bring about a judicial order to block 970 pornographic Internet sites featuring Sri Lankan women. Most pornographic sites remain available, providing pictures, videos and contact information of girls. Some of these photographs have been taken with mobile phones without the girls’ knowledge.

### **Recommendation**

- Curtail online available ‘child pornography’.

35. The GOSL does not have a child sex offenders’ registry to prevent repeat offences by preferential offenders or paedophiles.

### **Recommendation**

- Introduce a child sex offenders’ registry that complies with international standards on confidentiality and privacy and cooperation with INTERPOL’s Green Notices system as well as their planned international police clearance system.

## **Protection**

36. CSE complaints can be lodged with police officers of the National Police of Sri Lanka.<sup>54</sup> The Police Unit of the NCPA – currently employing 25 police officers<sup>55</sup> – plays an important role in combating CSE through referring cases to law enforcement authorities

and raising awareness.<sup>56</sup> The NCPA also maintains a database on all complaints of violence against children, including that of cyber violence. NCPA received a total of 10,315 complaints in 2014, out of which 1,777 were SGBV related issues. A 24-hour helpline is available to report CSE cases, operated by NCPA.<sup>57</sup> Despite the policing and reporting mechanisms and the existing legal framework, CSE case reporting and prosecutions remain very low. Following up investigations with prosecutions of CSE crimes is still challenging due to lack of capacity and resources as well as official complicity in crimes. Jurisprudence and sentencing in cases of violence against children and girls have been criticised for lack of urgency and priority.<sup>58</sup> The constraints and challenges faced by the authorities and the victims can be surmised from the fact that of the total complaints of over 10,000 in the year 2014, only 2,080 complaints were concluded by the end of the year.<sup>59</sup>

### Recommendation

- **C** Fund and properly staff the child helpline to report CSE cases 24 hours a day and 7 days a week, as well as promote the helpline among the public.

### Recommendation

- **C** Build capacity and provide resources for the justice sector to investigate and prosecute all CSE crimes and fast-track SGBV and/or CSE cases in the justice system to end impunity and provide access to justice for the victims.

37. While CSE crimes are certainly not decreasing, the bulk of the perpetrators never face consequences – or at best face a short time of imprisonment. Most suspects are often sent away on bail as the backlog in the justice system is over ten years. A multi-country study conducted in 2014 among Sri Lankan men showed that almost 97% of male rapists had not suffered any legal consequences. Of the 3.2% that had been arrested only 2.2% had been penalized.<sup>60</sup> Of the six countries surveyed, Sri Lanka had the worst conviction rate,<sup>61</sup> giving the impression that Sri Lankan men can rape boys, girls, and women with impunity.

### Recommendation

- **C** Deny bail for an accused when the Medical Certificate shows sexual abuse of the victim, especially if it is a minor.

38. In 2015 the GOSL adopted the *Assistance to and Protection of Victims of Crime and Witnesses Act No. 4* and thus fully implemented Germany’s recommendation to “adopt the draft bill on witness and victim protection”.<sup>62</sup> The GOSL established a *National Authority for the Protection of Victims of Crime and Witnesses*; however, to date victim protection is inadequate. Victims are often treated as criminals, while there are no special services and child victims are often mixed with criminals in state institutions. Thus challenges remain in implementation of the provisions of the new Act and a sector-wide and coordinated approach is needed.

### Recommendations

- **C** Prioritise capacity building of the justice sector in victim and witness protection.
- Develop referral systems to avoid victims being treated as criminals.
- Implement the Assistance to and Protection of Victims of Crime and Witnesses Act No. 4 of 2015.

- **C** Allow children to testify outside the courtroom, or at least not in the courtroom where the accused is present.

39. Further training of law enforcement officers and judges is needed to ensure that judicial officers understand the complexity of CSE cases. Such training needs to be incorporated in the curriculum of the Police Academy and the Sri Lanka Judges' Institute (SLJI).
40. Considering the hurdles on the pathways to justice, it is important that civil society upholds monitoring of CSE cases to ensure they are followed through by the justice/judicial sector. PEaCE is one of the NGOs providing this service through legal and counselling support for child victims/witnesses.
41. Of concern as well is the fast growing OCSE crime and the production, sale and possession of 'child pornography'. The Cyber-watch Unit of the NCPA receives and investigates complaints related to OCSE. It blocks porn sites, provides counselling to victims and initiates legal action.<sup>63</sup>The Sri Lanka Computer Emergency Readiness Team | Coordination Centre (Sri Lanka CERT) is the Centre for cyber security, mandated to protect the nation's information infrastructure and to coordinate protective measures against, and responses to cyber security threats and vulnerabilities. CERT collaborates with the Ministry of Education to conduct awareness programmes on safe Internet usage and intervenes in cases of online abuse, especially on social media.
42. In addition, the Financial Intelligence Unit issues notices to inform commercial banks whose customers contribute to child pornography websites through electronic payment systems and Internet transactions.<sup>64</sup> A task force of Sri Lankan commercial banks, in collaboration with the Financial Intelligence Unit, is working to eradicate the commercial viability of child pornography. However, in general, the Sri Lankan police currently lack the necessary technical expertise and resources to combat these crimes. The police should also be granted a wider range of investigative powers, e.g. undercover operations, to address OCSE.

## Recommendation

- Significantly expand capacity building, resources and investigative powers of law enforcement to end OCSE.

## Recovery and Reintegration

43. A National Guideline for "The Management of Child Abuse and Neglect" has been developed and disseminated<sup>65</sup> by the Sri Lanka College of Paediatricians and Plan-Sri Lanka, which gives directions in caring for abused children.
44. "Guidelines and Standards for Childcare Institutions in Sri Lanka"<sup>66</sup> published in 2013 by NCPA sets criteria for the establishment of child care institutions, quality of care providers, quality of care of the children, and standards for physical environment and security and the quality of monitoring and evaluation. Case Management Guidelines have also been developed and distributed.
45. Despite these important guidelines, GOSL's efforts to rehabilitate and reintegrate CSE victims have been inadequate. The service provision by NGOs far outnumber the service provision by the government.<sup>67</sup> In 2012 there were 27 state-run institutions (including 10 remand homes) to care for 2,150 children, while there were 339 private institutions taking care of 11,619 children.

## Recommendation

- **C** Establish shelters for CSE victims where children – boys and girls – are provided with rehabilitation and social reintegration services.

## Child and Youth Participation

46. The GOSL runs a structured programme promoting the right of the child to participate through Children's Clubs. These clubs are formed at community level and in schools. However, club members are mostly involved in religious activities and not in any community work.<sup>68</sup> Also noteworthy is the Sri Lanka Youth Parliament established in 2010, providing a platform for young people to have their voices heard, develop leadership skills, and engage in political discourse. The majority of the members of the Youth Parliament are elected, with the fourth Youth Parliament being elected in December 2016.<sup>69</sup>

## Recommendation

- **C** Integrate the voice of the child by consulting children on all topics related to them.

## General recommendations to address some of the root causes of CSE

- **C** Eradicate child labour totally.
- **C** Provide free education for all children.
- Develop a mechanism to ensure that parents obtain birth certificates for children born outside of medical facilities.
- Eradicate early and forced child marriage.
- **C** Create economic opportunities for young parents, to allow them to stay in Sri Lanka to raise their children.

## Protecting Environment and Children Everywhere (PEaCE/ECPAT Sri Lanka)



Launched in 1991 as a campaign, *Protecting Environment and Children Everywhere (PEaCE)* was established to support the global initiative of *ECPAT International* a network of organizations and individuals working together to eliminate child prostitution, child pornography and the trafficking of children for sexual purposes.

*PEaCE* aims to foster collaboration among local civil society organizations and activists to broaden the spectrum of the child rights community to form a network for the protection of children from sexual exploitation. As a registered non-governmental organization under the *Voluntary Social Services Organizations in Sri Lanka*, the main focus of *PEaCE* is the preventive aspect of *Commercial Sexual Exploitation of Children (CSEC)*, with particular reference to *Sexual Exploitation of Children in Travel and Tourism (SECTT)*. Since its inception, *PEaCE* has taken action to raise public awareness about the fate of thousands of exploited children, while liaising with the government to improve and strengthen child protection laws, policies and mechanisms. Our advocacy encompassed political parties on either side, individuals in inter and semi-governmental organizations, local and international NGOs, religious and educational institutions, civil society, law enforcement, the corporate sector, professional and academic bodies and many others.

*PEaCE* has raised awareness, established and strengthened community based mechanisms for child protection, trained workers and officials, monitored the movements of paedophiles, helped survivors of abuse to cope with law's intricacies, counselled mothers and caregivers and assisted youth to develop job-oriented vocational skills.

*PEaCE* has received national recognition when it was co-opted by successive governments to sit in on *Technical Committees, Steering Committees, Task Forces and Board Directorates* set up to tackle the problem of abused and exploited children.

*PEaCE* continues to facilitate awareness raising seminars and workshops; provide counselling education programs for mothers / families whose children are at high risk; and vocational skills training for children and youth in vulnerable communities. It has also widened its scope to monitor cases of child sex abuse in our law courts and help reintegrate into society those children who have suffered neglect, abuse and exploitation.

*PEaCE (ECPAT-Sri Lanka)* counts 26 years of campaigning to eliminate child prostitution, child pornography and the trafficking of children for sexual purposes.

### ECPAT International



*ECPAT International* is a global network of civil society organisations working for the eradication of all forms of sexual exploitation of children. For the past 27 years, *ECPAT* has acted as the international watchdog, monitoring States' response to sexual exploitation of children, and advocating for robust international measures to protect children from sexual exploitation. *ECPAT International* currently has 95 network members operating in 86 countries.



<sup>1</sup> The used term is in line with the recently widely adopted Terminology Guidelines. ECPAT International (2016), “*Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, adopted by the Interagency Working Group in Luxembourg, 28 January 2016*”, Bangkok: ECPAT, 24, accessed on 1 March 2017, <http://luxembourgguidelines.org/>.

<sup>2</sup> Ibid. 29. ECPAT prefers the term ‘exploitation of children in prostitution’ instead of ‘child prostitution’ in line with the recently widely adopted Terminology Guidelines.

<sup>3</sup> Ibid. 39. ECPAT prefers the term ‘child sexual exploitation material’ or ‘child sexual abuse material’, but in a legal context still uses ‘child pornography’ in line with the recently widely adopted Terminology Guidelines.

<sup>4</sup>Ibid. 54.

<sup>5</sup> The handing over of the Declaration “*The World We Want*” to the President and Head of State took place at PEaCE’s 25th Anniversary Celebration on 20 November 2016. With the approval of the Department of Probation and Child Care Services, PEaCE communicated with Children’s Councils in all 25 Administrative Districts to generate ideas from 207 children for the Declaration.

<sup>6</sup> Pathirana, Saroj (2017), “*Sri Lanka’s hidden scourge of religious child abuse*”, BBC News, 1 June 2012, accessed on 7 February 2017, <http://www.bbc.co.uk/news/world-south-asia-15507304>.

<sup>7</sup> Goonesekere, Savitri (undated), “*Children and the Legal System of Sri Lanka*”, accessed 9 February 2017, [https://www.unicef.org/srilanka/media\\_9147.htm](https://www.unicef.org/srilanka/media_9147.htm).

<sup>8</sup> Frederick, John (2010), “*Sexual Abuse and Exploitation of Boys in South Asia: A Review of Research Findings, Legislation, Policy and Programme Responses*”, UNICEF Innocenti Working Papers, at 128, accessed on 5 February 2017, <https://www.unicef-irc.org/publications/594>.

<sup>9</sup> GOSL, Ministry of Women and Child Affairs, “*Policy Framework and National Plan of Action to Address Sexual and Gender-based Violence (SGBV) in Sri Lanka, 2016-2020*”, accessed 9 February 2017, <http://www.childwomenmin.gov.lk/English/news/ministry-news/policy-framework-and-national-plan>.

<sup>10</sup> Opposition Commission on Prevention of Violence against Women and the Girl Child (2014), “*Report of the Leader of the Opposition’s Commission on Prevention of Violence against Women and the Girl Child*”, 23, accessed on 10 February 2017, <http://www.childwomenmin.gov.lk/resources/30/REPORT.pdf>.

<sup>11</sup> Ibid. 47.

<sup>12</sup> Ibid.

<sup>13</sup> United Nations Children’s Fund (UNICEF) (2016), “*The State of the World’s Children 2016; A Fair Chance for Every Child*”, 136, accessed on 7 February 2017, [https://www.unicef.org/publications/files/UNICEF\\_SOWC\\_2016.pdf](https://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf).

<sup>14</sup> ECPAT International (2016), “*Global Study on Sexual Exploitation of Children in Travel and Tourism, Regional Report South Asia*”, 38, <http://globalstudysectt.org/>.

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<sup>16</sup>Squire, Jason and Wijeratne, Sarasi, (2008), “*Sri Lanka Research Report: The sexual abuse, commercial sexual exploitation and trafficking of children in Sri Lanka*”, Terre des Hommes, 8, accessed on 7 February 2017 [http://www.childtrafficking.com/Docs/tdh\\_08\\_tra\\_report\\_0309.pdf](http://www.childtrafficking.com/Docs/tdh_08_tra_report_0309.pdf).

<sup>17</sup> Laccino, Ludovica (2014), “*Top Five Countries with Highest Rates of Child Prostitution*”, International Business Times, 6 February 2014, accessed 7 February 2017, <http://www.ibtimes.co.uk/top-five-countries-highest-rates-child-prostitution-1435448>.

<sup>18</sup> ECPAT International, “*Global Study on Sexual Exploitation of Children in Travel and Tourism, Regional Report South Asia*”, Bangkok: (2016), 37, accessed on 12 February 2017, <http://globalstudysectt.org/>.

<sup>19</sup> Sri Lanka Tourism Development Authority(2015), “*Annual Statistical Report 2015*”, 15, [http://www.sltda.lk/sites/default/files/Tourist\\_Board\\_Annual\\_Report\\_2015.pdf](http://www.sltda.lk/sites/default/files/Tourist_Board_Annual_Report_2015.pdf).

<sup>20</sup> Frederick, John (2010), “*Sexual Abuse and Exploitation of Boys in South Asia: A Review of Research Findings, Legislation, Policy and Programme Responses*”, UNICEF Innocenti Working Papers, at 126, accessed on 5 February 2017, <https://www.unicef-irc.org/publications/594>.

<sup>21</sup> Ibid. 127.

<sup>22</sup> Ibid. 127.

<sup>23</sup> Ibid. 127.

<sup>24</sup> Ibid.

<sup>25</sup> Ibid. 202.

<sup>26</sup> Ibid. 53.

<sup>27</sup> ECPAT International (2014), “*CSEC in South Asia: Developments, Progress, Challenges and Recommended Strategies*”, 35, accessed on 7 February 2017, [http://www.ecpat.org/wp-content/uploads/2016/04/Regional%20CSEC%20Overview\\_South%20Asia.pdf](http://www.ecpat.org/wp-content/uploads/2016/04/Regional%20CSEC%20Overview_South%20Asia.pdf).

<sup>28</sup> United Nations Children’s Fund (UNICEF) (2016), “*The State of the World’s Children 2016; A Fair Chance for Every Child*”, 152, accessed on 7 February 2017, [https://www.unicef.org/publications/files/UNICEF\\_SOWC\\_2016.pdf](https://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf).

<sup>29</sup> ECPAT International (2014), “*CSEC in South Asia: Developments, Progress, Challenges and Recommended Strategies*”, 35, accessed on 7 February 2017, [http://www.ecpat.org/wp-content/uploads/2016/04/Regional%20CSEC%20Overview\\_South%20Asia.pdf](http://www.ecpat.org/wp-content/uploads/2016/04/Regional%20CSEC%20Overview_South%20Asia.pdf).

<sup>30</sup> GOSL, “*Charter on the Rights of the Child*”, accessed on 9 February 2017 <http://www.hrcl.lk/PFF/The%20Charter%20on%20the%20Rights%20of%20the%20Child.pdf>

<sup>31</sup> National Child Protection Authority’s website (2016), “*News*”, 7 December 2016, accessed on 11 February 2017, <http://www.childprotection.gov.lk/news/>.

<sup>32</sup> Age of Majority (Amendment) Act No 17 of 1989.

<sup>33</sup> GOSL, “*Fifth and Sixth Combined Periodic Report Submitted under Article 44 of the Convention*”, 2016, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fLKA%2f5-6&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fLKA%2f5-6&Lang=en).

<sup>34</sup> GOSL, Penal Code, Section 363(e).

<sup>35</sup> GOSL, Penal Code, Section 365A.

<sup>36</sup> Ibid.

<sup>37</sup> United Nations Children’s Fund (UNICEF) (2016), “*The State of the World’s Children 2016; A Fair Chance for Every Child*”, 152, accessed on 7 February 2017, [https://www.unicef.org/publications/files/UNICEF\\_SOWC\\_2016.pdf](https://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf).

<sup>38</sup> Percentage of children 5–14 years old involved in child labour at the moment of the survey. A child is considered to be involved in child labour under the following conditions: (a) children 5–11 years old who, during the reference week, did at least 1 hour of economic activity or at least 28 hours of household chores, or (b) children 12–14 years old who, during the reference week, did at least 14 hours of economic activity or at least 28 hours of household chores. United Nations Children’s Fund (UNICEF) (2016), “*The State of the World’s Children 2016; A Fair Chance for Every Child*”, 152-153, accessed on 7 February 2017, [https://www.unicef.org/publications/files/UNICEF\\_SOWC\\_2016.pdf](https://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf).



<sup>39</sup> Tolling is the process of officially increasing the period of time within which someone can be accused of a crime after the date when it was committed, Cambridge Dictionary, <http://dictionary.cambridge.org/dictionary/english/tolling>.

<sup>40</sup> GOSL, Penal Code, article 286A

<sup>41</sup> GOSL, Children and Young Persons (Harmful Publications) Act No.48 of 1956

<sup>42</sup> Ibid.

<sup>43</sup> GOSL, Convention on Preventing and Combating Trafficking in Women and Children for Prostitution Act, 2005, Section 5.

<sup>44</sup> Ibid., Section 6.

<sup>45</sup> GOSL, Marriage Registration (Amendment) Act, Section 15.

<sup>46</sup> United Nations Committee on the Rights of the Child (2010), “*Concluding Observations: Sri Lanka*”, Sri Lanka 55<sup>th</sup> Session, 19 October 2010, 14, accessed on 8 February 2017 [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fLKA%2fCO%2f3-4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fLKA%2fCO%2f3-4&Lang=en).

<sup>47</sup> National Child Protection Authority’s website, accessed on 9 February 2017, <http://www.childprotection.gov.lk/>.

<sup>48</sup> Goonesekere, Savitri (undated), “*Children and the Legal System of Sri Lanka*”, accessed 9 February 2017, [https://www.unicef.org/srilanka/media\\_9147.htm](https://www.unicef.org/srilanka/media_9147.htm).

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<sup>50</sup> European Commission (2017), “*Report on assessment of the application for GSP+ by Sri Lanka*”, 5, accessed on 22 February 2017, [http://trade.ec.europa.eu/doclib/docs/2017/january/tradoc\\_155236.pdf](http://trade.ec.europa.eu/doclib/docs/2017/january/tradoc_155236.pdf).

<sup>51</sup> UNICEF (2007), “*Summary of mid-term reviews and major evaluations of Country Programme: South Asia Region*”, 9, accessed on 10 February 2017 [http://www.unicef.org/about/execboard/files/07-PL33\\_ROSA\\_MTR.pdf](http://www.unicef.org/about/execboard/files/07-PL33_ROSA_MTR.pdf).

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<sup>54</sup> GOSL (2016), “*Sri Lanka’s State Party’s Fifth and Sixth Combined Periodic Report under Article 44 of the Convention on the Rights of the Child*”, 52, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fLKA%2f5-6&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fLKA%2f5-6&Lang=en).

<sup>55</sup> Ibid., 50.

<sup>56</sup> Ibid., 51-52.

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