

The Investigation into the Machinery of Protecting the Rights of Children in Sri Lanka

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Abstract

From ancient times Sri Lanka had been a state which based it's economic development structure of agriculture. And within it's social structure the role of children had played a major part in it's economy. Under these conditions and with the growth of children's population, there became a necessity to protect their rights by developing a machinery consisting of relevant laws, ordinances and enactments. Assuch a research on this established machinery to protecting Sri Lanka's children's right and how it operates need to be carried out at depth, taking into account which particular areas need to develop. Finally the findings of the research needs to be presented before the public, which is main our objective. When the report was being prepared secondary information was obtained and the analysis was carried out by applying the descriptive methodology. The conclusion of report thus prepared is, even though the Government of Sri Lanka have taken the necessary steps to protect and develop the rights of the children by implementing the relevant laws, ordinances and enactments, there are practical difficulties which are encountered which had limited the protection there in offered just to laws, ordinances and enactments only.

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1. Introduction

Sri Lanka is a state having a population of 20, 359, 439 (As per the Census Report 2012: 37 of population and Houses) and it is and multi-ethnic, multi-language and multi-religious country. The Report further states (under ref.2012: 127 on population and houses Census Report) out of the total population 74.9% is Sinhalese, 15.4% are Tamils 9.2% are Muslims and 0.5% are other ethnic groups. The average children's population is 33.4% as shown in the Census Report 2012: 53, of population and Houses. The other factors that were prevalent with the growth of the gradual growth of the children's population were founded on the agricultural lifestyle which had given birth to the ancient traditional heritages were the economic life style, the growth of the health and sanitary immunization field and the influence created by the Western Medical Sciences. At the same time the machinery of the Protection for Children's Rights appeared so vital, that it was established within the state structure of Sri Lanka. In this manner a formal machinery to protect the rights of the Children of Sri Lanka came in to being with the implementation of Laws, ordinance and enactments and also both local and foreign non-government organization(NGO's) and even Internationally doors were opened to protect and improve children's rights in a more effective manner. Even though there

were machinery developed to meet the national and International standards, the question remains how far they were practically possible. Therefore the objective of this report is to show which areas of those machineries need improvement and give others the knowledge how they are made active. Through an attempt is made to identify who a child is their rights and what machinery is available to protect them already.

2. Identifying who a Child is

The nudes of the body known as the society is the generation of children. The world evolves into children that grow up biologically from the stage of the child to maturity. Therefore, it is difficult to define who a child is in a clear manner. As there are different definitions given to explain who a child is exactly, there seem to be some confusion involved in any attempt made to explain same in a particular manner. However in order to have a balanced perception of it's meaning an age factor is used as a reference point (Ekanayake, 1998; 18). As such, in the of the Enactment of the United Nations, which became effective on the 02nd September 1990, and which was presented for the United Nations World Conference held on 20th November 1989 the following definition is given. "Any person below the age of 18 is considered to be a child" (Vanniarachchi, 2003; 22). According to the biological definition "A child is a living organism which is in the process of growth from it's birth to adulthood (Ekanayake, 1998; 18). According to the American migration law "Any person below the age of 20 is considered to be a child" (Organization for the education and training in Sithuwama development, 2000: 12. As per the enactment of protection for children right in Sri Lanka, "any person below the age of 18 is treated as a child". And according to the panel Code the Child is treated for different age levels of 8, 10, 12, 14 and 16. (Organization for the Education and training in Development Report 2000; 13)

3. Children's Right in Sri Lanka

Children rights are known as what a child is entitled for to his/ her period of childhood. When a child thus, becomes a recipient of their rights, they also become an entity responsible to pass on what they received to the rest of the world, when they become adults. Therefore when the rights of those children are protected, the children are also expected to carry out those rights by themselves accordingly in a responsible manner (Karunatissa, 2000; 24). As such, the entire world received a perception of this matter, when in the year 1989 November 20th when the United Nations Organization was established and with enactment of the UN child Protection Act on the 2nd September 1990(Vanniarachchi, 2003: 24). So far 190 countries have placed their signatures to abide by the Term of this Enactment. Sri Lanka has signed for it on July 12th 1991, and all Member countries except United States of America and Somalia have sing on behalf of it(Samarakoon, 2007; 32). After signing in favour of this Enactment, the Member states, make preparations and various projects to implement the said Laws, into action. And the Report on the methodology of those projects carried out, is supposed to be forwarded to the Authorities on the Committee in Geneva. This is a controlling committee consisting of 10 different states (Wanniarachchi, 2003; 24). Even though at a level of global expansion these laws and enactments are prepared, in so many developed and developing countries, still, child harassment, child abuse, child labour, child prostitution are presently taking place.

With the signing of the Enactment of Child Protection, as a condition laid out by the United Nations, Sri Lanka introduced it's own Enactment of Child protection, which had to be legally adhered to the country. In this Enactment the safety of children and their future welfare was brought in to focus by introducing a new set of regulations. Thereafter on the 08th September in 1992, Sri Lanka legalized the Enactment of protecting Children's rights (Karunatissa, 2000; 35). Also different Laws and Ordinances were introduced on behalf of Children's Rights by the Constitution. An example is the Penal Code No. 22 (Amendments) imposed in the year 1995 which are as follows. It states the maximum and minimum punishments imposed on offenses of child abuse. Similarly the Judicial Organization Code (Amendments) records, if a female child under the age of 16 is abused, which falls under sexual abuse of women, the testimony of a witness during a "trail" , is stated only as a option and not a necessity legally. (The legal body on human rights and development, 2000; 10). Also in accordance with the Criminal Procedure Code (Amendment) No. 28 of 1998, the Police Department is enforced with more powers on child abuse cases, during the period under the police are supposed to keep the child under safe custody and in a proper environment. (Legal body on Human Rights and Development, 2000; 11).

According to the Penal Code Ordinance No. 29, 1998 (Ammendment) media personnel are bound to inform the Police Department of any form of indecent exposure of children reported anywhere. In such an instant, the legal action taken is according to the depth of the offense thus committed. According to the Ordinance No. 30, 2005 steps are being taken to prevent the trafficking of woman and children for the trade of prostitution. The code informs what action is to be taken against those who use children for prostitution activities. This was enforced as an outcome of the Agreement arrived Kathmandu, Nepal, and which was organization of Co-operation between countries in the South Asian Region, in January 2002(Samarakoon, 2007; 27). Also the Ordinance No. 50 of the 1998, National Child Protection Authority brings into focus another vital area concerning, Sri Lanka's Child Protection activities. It was through this ordinance that the

National Child Protection Authority was established. The responsibilities for the NCPA are as follows; Investigating into the incidents of child abuse and Revision of Laws pertaining to it, providing the necessary advice, carrying out research work assisting in legal aid, providing information about a National and Regional level and opening of the hotline 1929, enabling the public to inform instantly on the incidents of child abuse (NCPA Annual Report, 2013; 48)

Another step of progress is the Department of Probation and child care and its commitment to protect the rights of the Children. This entity puts into action the enactments in force and conducts programs accordingly. They take the responsibility to find schools for those children, who have no schools available, and organizing different sponsorship for scholarship and fundraising activities, and ensuring all the provisional committees in the Island, follow up the enactments laid out in Sri Lanka Child Protection Act and drawing up effective programs on behalf of the children kept under the detention of probation to go back and adjust to the society, conducting research and review programs, organization of training programs and providing assistance to set up children's villages and children's homes are among the many activities conducted by this department. (Department of Probation and Child Protection Report, 2014; 56). The child registrar's office also contributes much effort in the initial stages of a child's development. Also facilities are made available to setup per- schools, and activating the programs to get a free glass of fresh milk to pre-school children, to provide centers of safety for children during early childhood stage and setting up of model villages for the development of children of a very young age are some of the ongoing Programs (The Annual Report 2015: 54 Ministry of Women's and Children's Affairs). Also the Women and Children Unit of the police department, attends to matters where there is a violation of the rights of children and all police stations in different provinces, acts to verify those incidents on the violations made at a Provincial Level(The Annual Report 2014: 13 of the Ministry of Women's and children's affairs and the establishment of children and women's unit in the department of Police. In addition to this both the police women's and children's unit and the national child protection Authority receive complaints, both openly with the name of the person or body making the complaint as well as anonymously. These units then set out to investigate into the validity of the complaints and if the offenders are found to be guilty legal action is taken against them protecting the rights of the Children of Sri Lanka. (Department of Labour women and children unit Annual report 2012; 58) As such laws and machinery to protect the rights of Children of Sri Lanka, came to be established in the Island, relatively to the growth of the child population and both the continuance and establishment of the protection for children rights were created. The table below shows the population differences between different age groups of children between 1946 to 2012.

Table 01: The growth of Child Population between 1946 and 2012

Age	1946	1953	1963	1971	1981	2001	2012
00-04	12'9]	14'9]	15'2]	13'1]	12'5]	8'5]	8'6]
05-09	12'2]	13'4]	13'7]	13'2]	11'3]	8'8]	8'6]
10-14	12'1]	11'4]	12'6]	12'7]	11'4]	9'0]	8'1]
15-19	10'2]	8'7]	9'7]	10'7]	10'8]	9'7]	8'1]

Sources: Census Report 2012, on housing and population

The needs stability and safety of the child population that kept on increasing, became a huge challenging task to the Child Protection machinery of all their respective roles.

4 The Role of the Sri Lanka's Child Protection Machinery

With the establishment of the enactments of Child Protection right within Sri Lanka, many attempts were made to practically implement them from top to bottom, with in all spheres of the Sri Lanka's society (Ekanayake, 1998; 29). This is the manner those enactments concerning children imposed by the United Nations came to be followed in our country. This responsibility was delegated to 6 committees. Those are; The National operations committee, District operations committee, Provincial operation Committee, Regional Operations Committee and Village Operations Committee. (Sithuwama Development Educational and Training Organization, 2000: 33). The task of these committees, is to carry out enactment of this Child Protection machinery as a National Policy over a 5 year term from 1991 to 1995. All other committees come under the supervision of the National Operations Committee. Under the district Operations Committee there is Senior official of the Health, Education and Police Departments and there are other Non Government Organizations (NGO's) who represent on behalf children's rights, which are monitored by the same committee. It's main task is to perform the National policies on Children at a district level (Ekanayake, 1998; 37). In the same manner the Regional Operations Committee, carries out their duties connected with children welfare and protection at a village level uplifting the village society, helping them with the development of the welfare facilities of the Children's Rights, Regional wise. Through such influence, they impart

knowledge of the rights of children, and if revisions of the contents of the enactments need to be carried out, they are brought to the notice of the District operations committee and the protection for children welfare and Children's rights are given it's rightful place by presenting any new suggestions of the District committee (Sithuwama Development Educational and Training Organization, 2000: 30).

In a similar manner the department of Child Probation and Protection, intervenes to protect the children rights and ensure safety to them continually. Accordingly up to the year 2014, all responsibility connected with the protection for children's rights have been carried out. The details are shown in the table below.

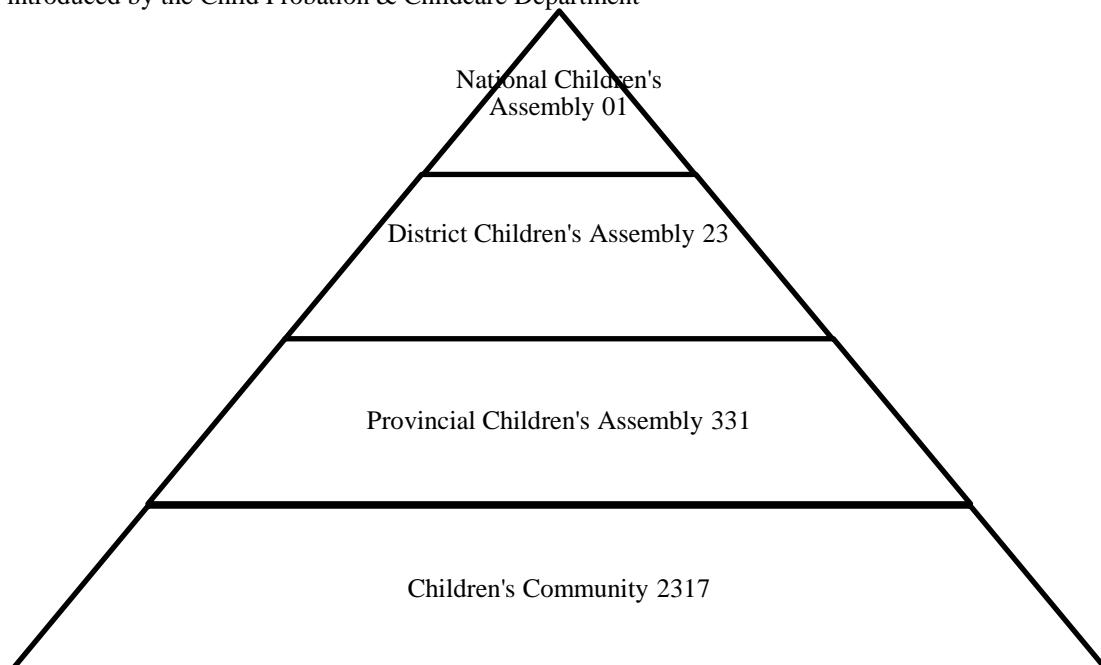
Table 02: Complaints received by the probation and Childcare Department in 2014 and the remedial action taken.

Nature of Complaint	Number of complaints received	solutions/ complaints to which legal aid is offered to	Direct to other institutions
Not attending school	2665	2092	573
Sexual abuse	328	139	189
Physical abuse	225	149	76
Child marriages(Under age)	207	88	119
Negligence	1924	1524	400
TOTAL	5349	3992	1357

Source: Probation and Child Care Department Report, 2014

In order to encourage the participation in children, this institution has started a machinery of top a bottom, by forming of the National Children's Assembly, District Children's Assembly, Provincial Children's Assembly and Children's Community. Also handing over children to poster parents for adoption is done through it (Probation & Childcare Department Report, 2004; 22). The structure of the machinery enabled the participation in children from the National level to the children communities at a ground level is shown in the table 01 below.

The Structure of the child protection Machinery of the National Level to Children Community Level, introduced by the Child Probation & Childcare Department



Source: Women & Children's Affairs Ministry- Annual Report, 2015

The main machinery which deals with the incidents of child abuse and such violations is the incidents of child abuse and such violations is the National Child Protection Authority. There are many sources of information, from which it receives complaints. Normally they are received through their Hotline 1929 of child probation Unit and through written and verbal complaints. In the year 2013 alone there had been 10, 273 complaints on child abuse and among them the most number of complaints is on child molestation, which had a total figure of 2030. 1263 complaints were about nonattendance in schools, which is

compulsory, 691 were on abusing women, 1101 on negligence of children and 681 on sexual abuse and 400 on sexual harassment. More than half of the complaints have been attended to and necessary legal action taken (Annual Report 2013 of National Child Protection Authority) Offenses where children are employed as servants are handled by the Women and Children Unit of Labour Department, And there were many complaints received at the Women and Children Unit, of the Labour Department, and the action taken is mentioned below.

Child labours cases and investigations for the year

Number of complaints received by the department	232
Number of complaints for which legal action is already taken	01
Number of complaints for which legal action is under presentation	04
Instances where the employment of children could not be proved	108
Number of cases of Investigation	119

Source: Annual Report for 2014, Women's and Children affairs Unit Labour Department

Similarly the Child Protection Authority carries out a huge task on behalf of the welfare activities of the children. There are quite number of centers operating, safeguarding and providing benefits of all children. Among them a special place is giving to the Child Protection Centre known as "Sureki Piyasa". For the maximum benefit of the children and as per the clauses (b) and (ta) of Act 14 No. 50, 1998, of Child Protection Act, a separate place is run by the child protection authorities on behalf of the children. Here the affected children are kept under safe custody, while at the time their rights are protected to the maximum degree. And in order to would their personality to the best possible level, they are supported with psycho-social training, so they are trained to direct their thinking in the right direction, when they enter the society someday. In this manner the "Sureki Piyasa" Child center has provided protection for 88 children in the year 2012 and 95 in 2013 (The Child Protection Authority Report, 2013; 56)

In a similar manner the probation and Child Care Services Department has undertaken to supply the needs connected with child welfare, in a big way. They are engaged in many projects where children who don't attend schools, to make it compulsory for them to attend. There are also some children about who have been identified with a Regional Secretarial Divisional level as children that have not reached the school going age yet but they cannot pursue any per school education at all, because of financial difficulties and many other domestic issues. The source of these obstacles verified and these children are then found schools to attend as per the instructions giving in the reformation Commission. Also the commission further directs to provide school stationary specially for those children who come from estates. (Probation and childcare services Department Report, 2014; 50). The Sevana Sarana Foster parent programme and the adoption programme. Also the educational scholarship programme "Nena Diriya" based on wisdom and courage is included with the other two mentioned. All these programmes, which are carried out at a Regional Secretarial Divisional Level are considered as the basic tools to promote the education of the children. The selected lot of children are paid around Rs 500 to Rs 700, though the regional Divisional Secretariat's probation officials. (The Report 2014, 53 of the probation and Child care Services Department)

The welfare activities are carried out by the child Secretariat Office as well. The per- School development Centers and Day Care centers are being developed and supervised by determining their required standards. This is also done through the child secretariat office. In a similar manner a village is chosen as a per school model village by the Regional Divisional Secretariat and those per school already existing within those are treated as "Model Per-School". And the police station located closest to this treated children friendly place, which is another step of development. Also a unit known as "Way of nutrients" is set up to provide the necessary nutrition for the development of the children (The Annual Report 2015; 67 of the women and children affairs ministry). Though this machinery a major part of the work had been done on behalf of the children protection. But with the introduction of the open economy policy on 1977, Sri Lanka became

exposed to the influence of all other countries in the world. And with the growth of Tourist Industry and competitive living environment, detrimental influences harmful to the country such as, child sexual abuse, child prostitution, selling children to tourists, become rampant within the country. Specially in the coastal areas of Negombo child prostitution spread under the guise names such as “Beach Boys” and “Beach Girls” (Samarakoon, 2007; 42). Another areas the children become victims are, they are being used to peddle drags, getting murder after being sexually abused and some succumb to untimely deaths of the civil war and as a result many children end up as orphans. Some of these are happening all over even today. Therefore even with the state protection machinery is available to protect these children, they lose their parents and end up as innocent helpless orphans, And to extend protection to them more and more children’s orphanage camps, homes and children’s villages keep increasing.(Cooray, 2005; 33)

5Conclusion

The government of Sri Lanka has introduced the necessary Laws, ordinances and Enactments to protect and develop the Rights of Children. But because of the practical difficulties encountered and discussed, implementing these laws, ordinance and Enactments end up only as paper work. Also there appears to be a lack of cooperation in the participation in children at a National level and their involvement in the committee set up at a lower level. Further there were other weak areas within those committees itself which slowed down the progress of the process of protecting Children’s Rights. Other factors which retarded its progress not making use of the assistance given by the Government and paying little heed to the help offered by the NGO’s, and there seem to be very poor effort to inform the public what children right are both at a National and Provincial level. Although there was a machinery to protect children’s rights within a strong framework, public awareness of same had been at a very low level. Also the abuse of the rights of many children, within a number of households and so many at a village level, have not been reported to the relevant authorities, which can be said as a very weak point. Therefore the trust held by the public on such Institutions had been seriously affected. Whatever it is, a common problem affecting the entire country is the diminishing attention and lack of concern to those, responsible Units and machinery responsible for the protection of Children Rights within Sri Lanka.

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