



ශ්‍රී ලංකා මානව හිමිකම් කොමිෂන් සභාව
இலங்கை மனித உரிமைகள் ஆணைக்குழு
Human Rights Commission of Sri Lanka

Ratification of Optional Protocol 3 to the Convention on the Rights of the Child: Optional Protocol on a Communications Procedure

Human Rights Commission of Sri Lanka

March 2026

TABLE OF CONTENTS

1. INTRODUCTION	2
2. EXISTING COMMUNICATION MECHANISMS.....	2
2.1 INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS	3
2.2 CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT	3
2.3 CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN.....	3
3. EXISTING DOMESTIC MECHANISMS	4
4. JUSTIFICATION FOR THE RATIFICATION OF OP3.....	5
4.1 Recommendations of international human rights mechanisms.....	5
4.2 Holistic implementation of the CRC.....	5
4.3 Enhancement of access to justice.....	6
4.4 Incentivizing more effective domestic remedies	6
4.5 Development of domestic jurisprudence.....	6
4.6 Regional leadership in South Asia	6
5. CONCLUSION	7

1. INTRODUCTION

The Convention on the Rights of the Child (CRC) was adopted on 20 November 1989 by United Nations (UN) General Assembly Resolution 44/25, and came into force on 2 September 1990. It consists of three optional protocols, the first on the involvement of children in armed conflict (OP1) was adopted by the General Assembly on 25 May 2000 and came into force on 1 February of 2002. The second Optional Protocol on the sale of children child prostitution and child pornography (OP2) was adopted by the General Assembly on 25 May 2000 and came into force on 18 January 2002. The Optional Protocol on a communications procedure (OP3) was adopted on 19 December 2011 by General Assembly Resolution A/RES/66/138 and came into force on 14 April 2014.

Sri Lanka ratified OP1 in 2000 and OP2 in 2006. It has not as yet ratified OP3. In the South Asian region, only Maldives has ratified OP3. In the Asia Pacific region, countries including New Zealand, Thailand Mongolia, Marshall Islands, and Samoa have ratified OP3. Since its adoption in 2014, 53 countries are party to OP3.

Since coming into effect, 116 communications have been registered under OP3. These communications involve important child right issues, such as non-refoulement, age determination, administrative detention of migrant children, separation of children from their parents, family reunification and access to asylum proceedings, child abduction, custody and visiting rights, surrogacy, juvenile justice, corporal punishment, male circumcision, right to education and climate change.

Sri Lanka has ratified all core human rights conventions. Additionally, Sri Lanka is party to the International Labour Organization's Convention on the Minimum Age of Employment, 1973 (No.138), and the Convention on the Worst Forms of Child Labour, 1999 (No.182). Ratifying OP3 would be another important milestone that demonstrates Sri Lanka's continued commitment in the sphere of child rights. Ratification of OP3 would provide access to a systematic framework through which complaints can be filed regarding child rights violations when all domestic remedies have been exhausted.

Section 10(e) of the Human Rights Commission of Sri Lanka (HRCSL) Act, No. 21 of 1996 provides that the HRCSL may make recommendations to the government on the need to subscribe or accede to treaties and other international instruments in the field of human rights. Drawing on this function, the HRCSL strongly encourages the Government of Sri Lanka to consider ratification of OP3 to further advance child rights in Sri Lanka.

2. EXISTING COMMUNICATION MECHANISMS

Some conventions have communication procedures built-in to the convention itself. Therefore, ratification of such conventions paves the way for communications to be entertained by the treaty bodies established under such conventions, provided necessary declarations are made by the state party recognizing the competence of the relevant treaty body to receive individual communications. Other conventions do not have communication procedures in the main convention itself, but they have optional protocols, which upon ratification makes way for communications to be entertained by the treaty bodies established under such conventions.

Sri Lanka has ratified multiple conventions and optional protocols that contain individual communication procedures. Presently, complaints pertaining to children’s rights can be lodged via different conventions and optional protocols. Some Conventions directly address certain child rights that are present in the CRC as well.

2.1 INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Sri Lanka is a party to the International Covenant on Civil and Political Rights (ICCPR) and ratified the Covenant on 11 June 1980. Article 24 of the ICCPR outlines the following rights of the child.

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality.

As Sri Lanka is a party to the First Optional Protocol of the ICCPR, which is concerned with individual communications, Sri Lankan children or their guardians or representatives have the option of submitting communications to the Human Rights Committee, provided domestic remedies are exhausted or unduly delayed. It is noted, however, that following the Supreme Court’s decision in *Sinharasa v. The Attorney General* (S.C. SpL (LA) No. 182/1999), Sri Lanka has not formally responded to such individual communications. In any event, the Human Rights Committee continues to receive and deem admissible complaints from Sri Lankan individuals.

2.2 CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT

Sri Lanka is party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT) and ratified the Convention in 1994. The Convention itself refers to an individual communication mechanism and states parties are required to submit separate declarations recognizing the competence of the Committee Against Torture to receive such communications. Sri Lanka submitted this declaration in 2016. Therefore, Sri Lankan children or their guardians or representatives can submit communications to the Committee, provided domestic remedies are exhausted or unduly delayed.

2.3 CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Sri Lanka is party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) since 1981 and ratified its Optional Protocol relating to individual communications in 2002. Notably, article 16(2) of the Convention specifically refers to child marriage, a violation predominantly experienced by girls. Children or their guardians or representatives can submit individual communications to the CEDAW

Committee, provided domestic remedies are exhausted or unduly delayed. It is noted that only one individual communication has been submitted to the Committee in 2018.¹

Sri Lanka has already recognized the competence of several individual communication procedures under international human rights treaties. Accordingly, ratifying OP3 of the CRC and recognizing the competence of the Committee on the Rights of the Child to receive individual communications on violations of the CRC would be entirely consistent with Sri Lanka's policy of recognizing the competence of such treaty bodies.

3. EXISTING DOMESTIC MECHANISMS

Sri Lanka has in place several domestic mechanisms to address and provide justice for child rights abuses. The judiciary functions as the upper guardian of the child and is legally empowered to intervene to ensure that the child's rights are protected. The Ministry of Women and Child Affairs is the main executive body upholding the rights of children in Sri Lanka. Under the Ministry, three entities are dedicated to child affairs: the National Secretariat for Early Childhood Development, the National Child Protection Authority (NCPA), and the Department of Probation and Childcare Services. The National Secretariat for Early Childhood Development is dedicated to the formulation of national policies on early childhood care and development and acts as the implementation mechanism for coordinating early childhood development programmes in the governmental, non-governmental and private sectors. The National Child Protection Authority (NCPA) is established by law, and is the principal body responsible for child protection and promotion of child rights in Sri Lanka. The Department of Probation and Child Care Services (DPCCS) is the domestic mechanism that works to ensure the rights of all children and to provide equal opportunities to them, with specific attention given to orphaned, abandoned and destitute children and children in conflict with the law. The DPCCS implements programmes to ensure children's right to survival and development. It also works towards providing welfare facilities for needy children, coordinates probation and childcare services with provincial councils, implements programmes in children's homes, and provides foster care services. The DPCCS also has child rights monitoring committees.

Sri Lanka has enacted the ICCPR Act, No. 56 of 2007. This Act gives effect to certain articles in the ICCPR. Section 5 of the Act outlines the rights of a child, and provides for a legal framework that incorporates the best interests of the child standard into Sri Lanka's domestic law. Under this provision, all institutions are responsible for ensuring that the best interests of the child are given paramount consideration in all matters that concern children.

The Children's Charter of Sri Lanka was adopted in 1992 based on the CRC. This Charter, together with the Convention, reflects the main standards and norms for protecting children in Sri Lanka.

Meanwhile, the HRCSL plays an important monitoring role in assessing compliance with the Convention. It has a dedicated sub-committee on the rights of children. This sub-

¹ See Human Dignity Trust, 'Sri Lanka: Case before UN Committee on the Elimination of Discrimination against Women (CEDAW)' (2024), <https://www.humandignitytrust.org/what-we-do/cases/sri-lanka-case-before-un-committee-on-the-elimination-of-discrimination-against-women-cedaw/>.

committee is chaired by a commissioner and includes civil society representatives, human rights defenders, thematic experts, and academics. The HRCSL also has a ‘Child Rights Unit’, which was established in October 2022. The unit is a dedicated mechanism for monitoring inquiries and investigations concerning child rights issues, and for mainstreaming the ‘best interests of the child’ standard within the Commission.

4. JUSTIFICATION FOR THE RATIFICATION OF OP3

4.1 Recommendations of international human rights mechanisms

Several international mechanisms have recommended that Sri Lanka ratify OP3. In its Concluding Observations on the combined fifth and sixth periodic reports of Sri Lanka in 2018, the Committee on the Rights of the Child called upon Sri Lanka to ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure in order to further strengthen the fulfilment of child rights in Sri Lanka.² Additionally, the report of the Working Group on the Universal Periodic Review at the Human Rights Council’s Fifty-third session held in June and July in 2023, recommended that Sri Lanka ratify OP3.³

Sri Lanka ought to strongly consider implementing these recommendations, as such implementation would reflect its cooperation with international human rights mechanisms. It will also demonstrate Sri Lanka’s high level of political commitment to the protection and promotion of child rights.

4.2 Holistic implementation of the CRC

Sri Lanka has already ratified OP1 on the involvement of children in armed conflict and OP2 on the sale of children, child prostitution and child pornography. Comprehensive and complete protection of the rights outlined in the Convention can only be secured if Sri Lanka also ratifies OP3. Therefore, the ratification of OP3 will ensure holistic implementation of the CRC. Sri Lanka would then signal its total and unreserved commitment to the CRC and all of its optional protocols.

Moreover, Sri Lanka has already accepted individual complaint procedures under other treaties. While individual communications can be made with regard to certain violations of child rights using communication procedures made available via the ICCPR, CEDAW, CAT, these mechanisms do not cover the wide range of violations faced exclusively by children. Therefore, the ratification of OP3 will be crucial to ensuring that the full range of child rights is covered by the individual communications procedures available to Sri Lankan children.

² Committee on the Rights of the Child, *Concluding observations on the combined fifth and sixth periodic reports of Sri Lanka* (2 March 2018), para. 50.

³ The Report of the Working Group on the Universal Periodic Review, UPR Fourth Cycle (2023), <https://docs.un.org/en/A/HRC/53/16>, para. 65.7.

4.3 Enhancement of access to justice

Ratification of OP3 will ensure children of Sri Lanka will have a course of action to submit complaints to an international redress mechanism when all domestic remedies have been exhausted. This enhancement of available remedies will strengthen children's access to justice. Furthermore, the experts on the Committee on the Rights of the Child will be presented with the opportunity to examine individual cases and contribute towards the strengthening of access to justice for children in Sri Lanka. The availability of this individual communications procedure will enable Sri Lankan children to access global remedies and global expertise when domestic remedies are inadequate.

4.4 Incentivizing more effective domestic remedies

The ratification of OP3 will further strengthen domestic remedies concerning the rights of children. Article 7(e) of OP3 requires the exhaustion of all available domestic remedies in order to be able to submit complaints via OP3. If ratified, OP3 will encourage more effective implementation of domestic remedies to reduce the need for litigants to submit communications to the Committee on the Rights of the Child. Therefore, ratification will motivate the establishment or improvement of child-sensitive complaint mechanisms at the domestic level (e.g., child ombudspersons, specialized courts, safe reporting channels). These reforms would not only protect children but also restore trust in public institutions.

4.5 Development of domestic jurisprudence

Ratification of OP3 will contribute to domestic case law concerning the rights of the child. The recommendations of the Committee on the Rights of the Child on specific issues will serve as important guidance for future domestic cases dealing with similar issues. Essentially, ratification of OP3 will provide concrete technical and legal assistance that comprises recommendations and solutions as well as a follow up procedure.

4.6 Regional leadership in South Asia

It is projected that South Asia will have the largest population of children in the near future.⁴ This increase translates into the possible increase in challenges pertaining to child rights issues as well. Currently, the only country in the South Asian region that has ratified OP3 is Maldives. Therefore, ratification of OP3 will set a positive precedent in the region and position Sri Lanka as a leader in child rights protection and promotion. Such leadership will also strengthen Sri Lanka's ability to engage in transnational cooperation on important child rights issues, such as combatting the trafficking and exploitation of children.

⁴ UNICEF, The State of the World's Children 2024: The Future of Childhood in a Changing World (2024), <https://www.unicef.org/media/165206/file/SOWC-2024-executive-summary-EN.pdf#:~:text=the%20regions%20with%20the%20largest%20child%20populations%2C,as%20well%20as%20West%20and%20Central%20Africa.>

5. CONCLUSION

Sri Lanka is party to multiple individual communication procedures that already cover some aspects of child rights violations. While these procedures remain important, they are not tailor-made to address issues of children, nor are they handled by child rights experts who have the expertise to pay attention to certain nuances that are unique to child rights cases. OP3 is a communication procedure specifically established to cater and remedy rights violations of children and will ensure children of Sri Lanka receive specialized attention with regard to their rights violations.

The ratification of OP3 will also ensure access to justice for children in an international forum when all domestic remedies have been exhausted or are inadequate. Such ratification will pave the way for international cooperation, resulting in recommendations formulated by experts in the field of child rights. Such recommendations will help strengthen domestic mechanisms and ensure the adoption of international best practices. Such ratification will also incentivize the development of domestic mechanisms to be more child-centred and accountable.

In conclusion, the ratification of OP3 will demonstrate Sri Lanka's strong commitment to safeguarding human rights and position it as a leading example in the protection and promotion of child rights within the South Asian region.

The HRCSL, therefore, recommends that the Government of Sri Lanka takes prompt and decisive action to ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.