

**THE CHARTER ON THE
RIGHTS OF THE CHILD**

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PREAMBLE

WHEREAS concern, care, nurturing, growth and development of children have been recognized in the indigenous traditions of Sri Lanka and its socio-economic and welfare policies;

WHEREAS it is enshrined in the Constitution of the Democratic Socialist Republic of Sri Lanka that every one is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;

WHEREAS it is also declared in the Constitution of the Democratic Socialist Republic of Sri Lanka that the State shall promote with special care the interest of children and youth so as to ensure their full development, physical, mental, moral, religious and social, and to protect them from exploitation and discrimination;

WHEREAS it is essential to promote social progress, and better standards of living for the realization of freedom;

WHEREAS the family as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community;

WHEREAS the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the United Nations on 20 November 1959 and recognized in the Universal

Declaration of Human Rights, in the International Covenant on Civil and Political Rights, in the year 1976 (in particular in Articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights also in the year 1976 (in particular in Article 10) and in the statutes and relevant instruments of Specialized Agencies and International Organizations concerned with the welfare of children:

WHEREAS it is internationally accepted that the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before and after birth;

WHEREAS there are children living in exceptionally difficult conditions, and that such children need special consideration;

WHEREAS it has become essential for the State to recognize the importance of cultural values, for the protection and harmonious development of a child and to improve the living standards of a child;

WHEREAS it is essential that a child should grow and develop as an individual in a family and social environment of nurture and caring in order to eventually participate as a responsible adult in the community;

AND WHEREAS Sri Lanka has ratified and accepted commitments under the United Nations Convention on the Rights of the Child and therefore shall provide for laws and policies that recognise these rights.

THEREFORE The government of Sri Lanka do hereby declare as follows –

ARTICLE 1

Definition of a Child

For the purposes of this Charter a child means every human being below the age of 18 years.

ARTICLE 2

Non-discrimination

The State shall –

- (a) respect and ensure the rights set forth in this Charter of each child without discrimination of any kind, irrespective of the child's parents' or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status;
- (b) take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, guardians, or family members.

ARTICLE 3

Best interest of the child

(1) The State shall ensure –

- (a) the protection and care that is necessary for the well-being of a child, the rights and duties of such child's parents or guardian and shall take all appropriate measures to achieve such objective;
 - (b) that all institutions responsible for the care and protection of a child shall conform to the basic standards in the areas of safety and health;
- (2) The best interest of the child shall be the primary consideration in any matter, action or proceeding concerning a child, whether undertaken by any social welfare institution, court of law, administrative authority or any legislative body.

ARTICLE 4

Implementation of rights

The State shall take all appropriate measures for the implementation of the rights recognised by this Charter. With regard to economic, social and cultural rights, the State shall undertake such measures to the maximum extent of its available resources and where necessary seek international co-operation.

ARTICLE 5

Parental guidance and the Child's evolving capacities

- (1) The State shall respect the rights and duties of the parents and guardians of a child, to provide, appropriate direction and guidance to the child in the exercise of his rights recognised by this Charter in a manner consistent with the evolving capacities of the child.
- (2) The State shall make it obligatory on every parent or guardian of the child to bring up such child in a proper religious environment by educating the child of the teachings and practices of the religion to which such child belongs with the goal of developing good spirit in the mind of such child.

ARTICLE 6

Right to life, survival and development

The State shall recognize that every child has the inherent right to life and ensure to the maximum possible the survival and development of the child.

ARTICLE 7

Name and Nationality

- (1) A child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a

nationality and as far as possible, the right to know and be cared for by his parents.

- (2) The State shall ensure the implementation of these rights in accordance with the law to prevent a child being regarded as stateless.

ARTICLE 8

Preservation of Identity

- (1) The State shall undertake to respect the right of a child to preserve his identity, including nationality, name and family relations as recognized by law without unlawful interference.
- (2) Where a child is illegally deprived of any one or more elements of his identity the State shall provide appropriate assistance and protection, with a view to speedily re-establishing his identity.

ARTICLE 9

Protection from separation from parents

- (1) The State shall ensure that a child shall not be separated from his parents against their will, except in accordance with applicable law and procedures, that such separation is necessary for the best interest of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and decision must be made as to the child's place of residence.
- (2) In any proceedings concerning a child all persons who have an interest in such child shall be given an opportunity to participate in the proceedings and make their views known.

- (3) The State shall respect the right of the child who is separated from one or both parents, to regularly maintain personal relationship and direct contact with both parents except where it is contrary to the best interest of the child.
- (4) Where a child is separated from one or both parents as a result of any action initiated by the State, for detention, imprisonment, exile, deportation or as a result of death (death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, the State shall, upon request, provide the parents, the child or, if appropriate, another member of the family with information regarding the whereabouts of such parents or the child as the case may be, except where such information would be detrimental to the well-being of the child. When granting such request the State shall ensure that such request shall not entail any adverse consequences for the parent or the child as the case may be.

ARTICLE 10

Family re-unification

- (1) A child and his parents shall have the right to leave or enter the country at any time for the purposes of reunion or the maintenance of the child-parent relationship.
- (2) An application, made by a child or his parents for any of the purposes referred to in paragraph (1), shall be dealt with by the State in a positive, humane and expeditious manner. The State shall ensure that such a request shall not entail any adverse consequences for the applicant or any member of his family.
- (3) The right to leave the country shall be subject only to such restrictions as are prescribed by law in the interest of national security, public order, public health or morals or

the rights and freedoms of others and are consistent with the other rights recognized by this Charter.

ARTICLE 11

Protection from kidnapping

The State shall take steps to prevent the kidnapping of a child by a parent or a third party and the retention of such child by such parent or such third party.

For achieving this purpose the State shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

ARTICLE 12

Right to opinion

The State shall assure to a child who is capable of forming his own views the right to express those views freely in all matters affecting the child. The views of such child shall be given due weightage in accordance with the age and maturity of the child.

For this purpose the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative in a manner consistent with the procedure established by law.

ARTICLE 13

Freedom of expression

- (1) A child shall have the right to freedom of expression and this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally or in writing or in print or in the form of art, or through any other media of the child's choice.

- (2) The exercise of such right shall be subjected to such restrictions as are necessary:
 - (a) to respect the rights or reputation of others: or
 - (b) to protect the national security, public order, public health or morality.

ARTICLE 14

Freedom of thought, conscience and religion

- (1) The State shall respect the child's right to freedom of thought, conscience and religion, subject to appropriate parental guidance.
- (2) Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect national security, public order, public health or morality, or the fundamental rights and freedoms of others.

ARTICLE 15

Freedom of association

- (1) The State shall recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
- (2) No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security, public order, the protection of public health or morals or the protection of the fundamental rights and freedoms of others.

ARTICLE 16

Protection of privacy

- (1) No child shall be subject to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
- (2) Every child has the right to the protection of the law against such interference or attacks.

ARTICLE 17

Access to appropriate information

The State shall recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his social, spiritual and moral well-being and physical and mental health. For this purpose, the State shall encourage –

- (a) the mass media to disseminate information and material, social and cultural benefits to the child;
- (b) the international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) the production and dissemination of children's books;
- (d) the mass media to have particular regard to the linguistic needs of a child who belongs to a minority group;
- (e) the development of appropriate measures for the protection of the child from information and materials injurious to such child's well-being.

ARTICLE 18

Promotion of patriotism

It shall be the duty of every parent or guardian and every educational institution in which children are being educated to initiate and develop love for the nation and to make them grow up as patriotic citizens.

ARTICLE 19

Responsibility of parent

- (1) The State shall ensure the recognition of the parental right to the care, custody, guardianship and development of a child by providing support through its economic policies. Parents or guardians of a child shall have the primary responsibility of maintaining, upbringing and developing the child. The best interest of the child shall be their primary concern.

For the purpose of guaranteeing and promoting the rights set forth in this Charter, the State shall render appropriate assistance to parents or guardians of the child in the performance of the child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of the children.

- (2) The State shall take all appropriate measures to ensure that children, *inter alia*, of working parents have the right to benefit from child-care services and facilities for which they are eligible.

ARTICLE 20

Protection from abuse and neglect

- (1) The State shall take all appropriate legislative, administrative, social and educational measures 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 parents or guardians.

- (2) For the purpose of achieving the objectives referred to in paragraph (1) the State shall organise appropriate social programmes for the prevention of physical or mental violence, maltreatment and exploitation and for the treatment of victims.

ARTICLE 21

Protection of child without family

- (1) A child, temporarily or permanently deprived of his family environment, or who cannot be allowed to remain in that environment, for reasons which would be detrimental to his interest shall be entitled to special protection and assistance provided by the State.
- (2) The State shall, where necessary, ensure alternative care for such child, which shall include, *inter alia*, foster placement, adoption, or if necessary placement in suitable institutions for the care of such child, having due regard to the desirability of upbringing of such child in his ethnic, religious, cultural and linguistic background.

ARTICLE 22

Adoption

- (1) The State shall in granting adoption ensure that the best interest of the child be the paramount consideration.
- (2) The State shall ensure that the adoption of a child is authorized only in accordance with applicable law and procedures and on the basis of all information, ascertained as regards the child's status, relating to his parents, relatives

and guardians and where necessary consent of the parents or guardians shall be obtained for the adoption.

(3) The State shall –

- (a) recognize foreign adoption and such adoption may be considered as an alternative means of child care if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- (b) ensure that a child who is granted foreign adoption enjoys safeguards and standards equivalent to those existing in the case of local adoption;
- (c) take all appropriate measures to ensure that, in foreign adoption, no improper financial gain is obtained by persons who are parties to such adoption.

(4) The State shall ensure that no person shall maintain, or keep a woman expecting a child, for the purpose of giving such child for adoption.

ARTICLE 23

Refugee children

- (1) The State shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable law and procedures shall, whether unaccompanied or accompanied by his parents or by any other person receives appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in this Charter and in other international human rights or humanitarian instruments to which the State is a party.

- (2) To achieve this purpose the State shall with the co-operation of other countries protect and assist such child to trace the parents or other members of the family of such child and obtain information necessary for reunification of his family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his family environment for any reason, as set forth in this Charter.

ARTICLE 24

Disabled children

- (1) The State shall ensure that a mentally or physically disabled child enjoys a full and decent life, and ensure dignity, promote self-reliance, and facilitate such child's active participation in the community.
- (2) The State shall recognize the right of the disabled child to special care and shall encourage and ensure assistance to such child.
- (3) The State shall provide assistance to a disabled child taking into account the financial resources of the parents or guardians and ensure that the disabled child has effective access to and receives education, training, health-care services, rehabilitation services, preparation for employment and recreational opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his cultural and spiritual development.
- (4) The State shall promote, with the assistance of other countries, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including

dissemination of information concerning methods of rehabilitation, education and vocational services, with the aim of enabling the State to improve the capabilities and skills of persons engaged in that field and to widen their experience in these areas.

ARTICLE 25

Health and health services

- (1) The State shall recognize the right of the child to the enjoyment of the highest attainable standard of health and other facilities for the treatment of illness and ensure that no child is deprived of his right of access to such health-care services.
- (2) The State shall pursue the implementation of this right and, in particular, take appropriate measures:—
 - (a) to diminish infant and child mortality;
 - (b) to ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
 - (c) to combat disease and malnutrition through the application of readily available technology and through the provision of adequate nutritious food and clean drinking water, taking into consideration the dangers and risks of environmental pollution;
 - (d) to ensure appropriate pre-natal health care for mothers;
 - (e) to ensure that all segments of society, in particular parents and children, are provided with the basic knowledge of child health and nutrition, the

advantages of breast-feeding, hygiene and environmental sanitation and the prevention of accidents;

- (f) to develop preventive health-care services, guidance for parents and family planning education and services.
- (3) The State shall recognize the right of a child who has been placed in any institution for the purposes of protection or treatment for his physical or mental health, to care, protection, and for a periodic review of the treatment provided to the child and all other amenities provided for such child.
- (4) The State shall promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in this Article.

ARTICLE 26

Social Security Measures

The State shall recognize the right of every child to benefit from any social security measures provided, and shall ensure the full realization of this right.

ARTICLE 27

Standard of living

- (1) The State shall recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
- (2) The parents or guardians of a child shall have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

- (3) The State shall in accordance with the directive principles of State Policy take appropriate measures to assist parents and guardians to implement this right and shall in case of need provide material assistance and support particularly with regard to nutrition, clothing and housing.
- (4) The State shall take all appropriate measures to secure the recovery of maintenance for the child from the parents who are living within or outside the country. For achieving this purpose the State shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

ARTICLE 28

Education

- (1) With a view to completely eradicating illiteracy and to ensure all persons the right to universal and equal access to education the State shall provide compulsory education to the children from the age of six to sixteen years.
- (2) With a view to achieving the objective in paragraph (1) the State shall make every endeavour to:
 - (a) provide for free primary education and ensure every child has access to this benefit;
 - (b) encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offer financial assistance in case of need;
 - (c) provide for higher education and make it accessible to all on the basis of capacity;

- (d) provide for educational and vocational information and guidance available and accessible to every child;
 - (e) take appropriate measures to encourage regular attendance at schools and the reduction of drop-out rates.
- (3) The State shall take all appropriate measures to ensure that strict discipline is administered in schools for the well-being of the community, in a manner consistent with the child's human dignity and conformity with this Charter and in particular –
- (a) ensure that the teachers provide the children with the proper guidance in the religious, social and cultural values of life;
 - (b) ensure that the children grow up in a harmonious environment respecting each other's feelings and views;
 - (c) make it obligatory on the part of the teacher to recognize the paramount importance of the religion as a way of life.
- (4) The State shall promote and encourage international co-operation on matters relating to education in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the country and facilitating access to scientific, technical knowledge, and modern teaching methods.

ARTICLE 29

Aims of education

- (1) The education provided by the State to a child shall be directed towards the –
- (a) development of the child's personality, talents, mental and physical abilities to his/her fullest potential;

- (b) development of respect for human rights and fundamental freedoms, and principles enshrined in the Constitution of the Democratic Socialist Republic of Sri Lanka;
 - (c) development of respect to his/her parents, his/her own cultural identity, language and values, for the national values of the country and for civilizations different from his/her own;
 - (d) preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples ethnic, national and religious groups and persons of indigenous origin;
 - (e) development of respect for the natural environment.
- (2) The provisions of this Article and Article 28 shall not be construed as interfering with the liberty of individuals and bodies to establish and direct educational institutions subject however to the observance of the provisions set out in paragraph (1) and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

ARTICLE 30

Children of minority groups

A child belonging to a minority group or who is indigenous shall not be denied the right to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language, in community with other members of his or her group.

ARTICLE 31

Leisure, recreational and cultural activities

The State shall –

- (a) recognize the right of the child to have leisure hours to engage in play and recreational activities appropriate to the age of the child to participate freely in cultural life and arts; and
- (b) respect and promote the right of the child to participate in cultural and artistic life and provide for appropriate and equal opportunities for cultural, artistic recreational and leisure activity.

ARTICLE 32

Protection from child labour

- (1) The State shall protect the child from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, and to protect from any act which is harmful to the child's health or physical, mental, spiritual, moral and social development;
- (2) The State shall take appropriate legislative, administrative, social and educational measures to ensure the implementation of this Article; and in particular provide –
 - (a) for a uniform minimum age for employment in respect of different categories of employment;
 - (b) for conditions of employment and working hours;
 - (c) penalties or other sanctions to ensure the effective enforcement of this Article.

ARTICLE 33

Protection from drug abuse and trafficking

The State shall take all appropriate measures, including legislative, administrative, social and educational measures, –

- (a) to protect children from the use of narcotic drugs and psychotropic substances;
- (b) to prevent the use of children in the illicit production and trafficking of such substances;
- (c) wean the children away from the use of alcohol, tobacco, and tobacco products.

ARTICLE 34

Protection from sexual exploitation

The State shall take measures to protect the child from all forms of sexual exploitation and sexual abuse, and in particular to prevent –

- (a) the inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) the exploitative use of children in prostitution or other unlawful sexual practices;
- (c) the exploitative use of children in pornographic performances and material.

ARTICLE 35

Protection from sale, and abduction

The State shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, or the sale of children for any purpose or in any form.

ARTICLE 36

Protection from torture and deprivation of liberty

The State shall ensure that :-

- (a) a child shall not be subjected to torture or other cruel, inhuman or degrading treatment. Capital punishment or life imprisonment without possibility of release shall not be imposed for offences committed by such child;
- (b) a child shall not be deprived of his liberty, unlawfully or arbitrarily. A child shall not be arrested or detained unless in accordance with the procedure established by law;
- (c) a child deprived of liberty –
 - (i) shall be treated with humanity and respect for the inherent dignity of the human person. Every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his family through correspondence and visits, save in exceptional circumstances;
 - (ii) shall have the right to legal access and to other appropriate assistance and the right to challenge the legality of the deprivation of his liberty before a court of law and to a prompt decision on any such action.

ARTICLE 37

Protection from armed conflicts

The State shall –

- (a) take all feasible measures to ensure that a child will not take a direct part in hostilities;

- (b) refrain from recruiting a child into its armed forces;
- (c) take all feasible measures to ensure protection and care for children who are affected by an armed conflict.

ARTICLE 38

Rehabilitative care

It shall be obligatory on the part of the State to take appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of, any form of neglect, exploitation, abuse, torture or any other form of cruel, inhuman or degrading punishment or armed conflicts. Such recovery and reintegration shall take place in an environment which provides facilities for the health and education of the child and fosters the self-respect and dignity of the child.

ARTICLE 39

Administration of juvenile justice

- (1) The State shall recognize the right of every child alleged or accused of having violated the law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights, the child's age and the desirability of promoting the child's reintegration and assuming a constructive role in society.
- (2) As enshrined in the Constitution of the Democratic Socialist Republic of Sri Lanka every person shall be presumed to be innocent until he is proved guilty.
- (3) Every child alleged or accused of having violated the law shall be guaranteed –
 - (a) to be informed promptly and directly of the charges against him and, if appropriate through his parents or guardians and to have legal or other appropriate

assistance in the preparation and presentation of his or her defence;

- (b) to have the matter determined without delay by a competent court at a fair hearing according to law;
 - (c) not to be compelled to give testimony or to confess guilt; to examine witnesses and to obtain the participation and examination of witnesses on his or her behalf.
- (4) The State shall –
- (a) promote necessary legislation;
 - (b) establish authorities and institutions, specially applicable to children accused of or convicted for having violated the law.
- (5) The State shall establish a minimum age below which a child shall be presumed not to have the capacity to violate the law.
- (6) The State shall take measures to deal with such children wherever possible without resorting to judicial proceedings having due consideration to human rights and legal safeguards.
- (7) The State shall make available a variety of dispositions to the authorities allowing for flexibility so as to avoid to the greatest possible extent the institutionalization of a child accused of or convicted for violating the law.
- (8) The State shall ensure that care, guidance, counselling, education and vocational training are available to a child

accused of or convicted for having violated the law and also ensure that such child is dealt with in a manner considering the well-being of such child.

ARTICLE 40

Establishment of committee

- (1) There shall be established a committee consisting of the following persons for the purpose of monitoring the implementation of the Charter –
 - (a) six persons appointed by the President;
 - (b) the Secretary to the Ministry of the Minister in charge of the subject of Education or his representative;
 - (c) the Secretary to the Ministry of the Minister in charge of the subject of Justice or his representative;
 - (d) the Secretary to the Ministry of the Minister in charge of the subject of Defence or his representative;
 - (e) the Secretary to the Ministry of the Minister in charge of the subject of Health or his representative;
 - (f) the Secretary to the Ministry of the Minister in charge of the subject of Women's Affairs or his representative;
 - (g) the Secretary to the Ministry of the Minister in charge of the subject of Social Welfare or his representative;
 - (h) the Secretary to the Ministry of the Minister in charge of the subject of Policy Planning or his representative;
 - (i) the Secretary to the Ministry of the Minister in charge of the subject of Labour or his representative;

- (j) the Secretary to the Ministry of the Minister in charge of the subject of Provincial Councils or his representative; and
 - (k) the Commissioner of Probation and Child Care Services.
- (2) The Chairman of the Committee shall be appointed by the President.
- (3) The functions of the Committee shall be –
- (a) to render advice on any matter referred to it;
 - (b) to create an awareness as regards the provisions of the Charter;
 - (c) to promote legislative reforms and to make recommendations as regards any matter set out in the Charter;
 - (d) to monitor the progress of the implementation of the provisions of the Charter.