

# COUNTRY SITUATION

## SRI LANKA

Revised by local contacts



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## GENERAL SITUATION

### Geographical situation

Sri Lanka (Democratic Socialist Republic of Sri Lanka), formerly known as Ceylon, is an island country in South Asia. It is surrounded by the Indian Ocean, the Gulf of Mannar, the Palk Strait and lies in the vicinity of India and the Maldives. The capital is Colombo.

### Political situation & governance

- Sri Lanka is a unitary republic ([Constitution of the Socialist Republic of Sri Lanka](#)) which is governed by a semi-presidential system. The President of Sri Lanka is the head of state and head of government (since July 2022: [Ranil Wickremesinghe](#)). The Parliament of Sri Lanka is a unicameral 225-member legislature. The Sri Lankan judicial system has the Supreme Court at the apex, followed by the Court of Appeal, Provincial High Court, District Courts, Magistrates' Court and Primary Courts.
- The territory of Sri Lanka is divided in 9 provinces and 25 administrative districts.
- Buddhism is the largest and official religion, receiving a special protection as derived from the Constitution (art. 9).
- The [World Justice Project](#) in its Rule of Law Index (2022) ranked Sri Lanka 74 out of 140 assessed whilst regionally it is ranked 2 out of 6, outperforming most of its South Asian peers. Following the [Economist Intelligence Unit's Democracy Index 2022](#), Sri Lanka 60 out of 167 countries and is considered a "flawed democracy". According to [Transparency International](#), Sri Lanka's corruption perception index for 2022 was 36 out of 100.

### Population

- The total population is 22,156,000 ([World Bank, 2021](#)) of which, 6,214,692 (28%) are children and adolescents (hereinafter, C&A) ([UNICEF, 2016](#)).
- The under-five mortality rate is 6.7 per 1000 live births ([UNICEF, 2021](#)). The total number of births registered in 2021 was 284,848 ([Department of Census and Statistics \(DCS\) Statistics Pocket Book 2022](#)).
- Sinhala (used by 87% of the population) and Tamil (28.5%) are the national and official languages ([CIA, The World Factbook, 2023](#)). The Constitution also defines English as the link language.
- The two largest ethnic groups are Sinhalese (74.9%) and Tamil (11.2%). The remaining groups are Sri Lankan moors (9.2%), Indian Tamil (4.2%) and others (0.5%) ([CIA, The World Factbook, 2023](#)).

### Economic & social situation

- Between 2012 and 2016, poverty (measures at \$3.20 per person per day) had fallen from 16.9% to 10.8% ([World Bank, 2020](#)). Currently however Sri Lanka is facing a macroeconomic crisis which has eroded decades of progress. The ongoing economic crisis is estimated to have doubled the poverty rate in the country between 2021 and 2022. Unprecedentedly high inflation has adversely affected real incomes, food security and living standards. ([World Bank, 2022](#); [World Bank, 2023](#)). Current forecasts are indicating that Sri Lankan economy will be 14% smaller by 2024 that it was pre-COVID on a per-capita and inflation-adjusted basis ([UNICEF, 2022](#)).
- In 2019, more than four out of every ten (42.2%) children under the age of five are multidimensionally poor ([DCS, Oxford Poverty and Human Development Initiative \(OPHI\) and UNICEF, 2021](#)). Currently children and adolescents (hereinafter C&A) in Sri Lanka are at the heart of the crisis due to disruption of services and increased needs in education, protection, health, nutrition, social protection and water, sanitation and hygiene ([UNICEF, 2022](#)).
- The COVID-19 crisis and now the economic crisis has resulted in higher poverty and inequality amid widespread jobs and earnings losses ([World Bank, 2021](#)). Sri Lanka's principal social protection program, [Samurdhi](#), is intended to make cash payments to very low-income households. However, according to Human Rights Watch ([HRW, 2022](#)) it is widely recognised as ineffective and corrupt, with perceived political allegiances often being a consideration



for benefits. In relation to gender equality, and although women have equal rights under civil and criminal law, matters related to the family (including marriage, divorce, and child custody) are adjudicated under the customary laws of each ethnic or religious group, and the application of these laws sometimes entails discrimination against women ([Freedom House, 2023](#)).

- [Human Development Index](#): 0.782 (2021), ranking 73rd out of 191 countries.

### Children's rights

- **Impact of the economic crisis in C&A's development and rights:** C&A's rights and protection are massively affected by the household economic stresses ([Save the Children, 2022](#)). The UN estimates that half of children in Sri Lanka already require some form of emergency assistance and UNICEF reported that the current crisis is pushing more and more families to place their C&A in childcare institutions as they are no longer able to care for them ([UN News, 2022](#)). Education continues to be disrupted for children due to continued school closures, fuel shortages and families forced to prioritise other basic needs ([UNICEF, 2022](#)). Reports have also shown that many C&A dropped out of school ([HRW, 2022](#)).
- **Violence against C&A:** The Committee on the Rights of the Child (hereinafter the CRC) showed its deep concern on the high number of C&A subjected to abuse and violence in the country ([CRC/C/LKA/CO/5-6](#), para 21., 2018). Recent reports are emerging of an increase in abuse, exploitation and violence against C&A due to the mounting economic pressure ([UN News, 2022](#)). Prohibition of corporal punishment is still to be achieved in the home, alternative care settings, penal institutions and schools ([End Corporal Punishment, 2022](#)).
- **Sexual exploitation and trafficking:** In the [2022 Trafficking in Persons Report](#), the US State Department noted that the government was making significant attempts to address human trafficking and to implement a 2021–25 antitrafficking action plan. However, prosecutions of traffickers and sentences for those convicted were reported as insufficient ([Freedom House, 2023](#)).

## CHILDREN DEPRIVED OF PARENTAL CARE AND ALTERNATIVE CARE OPTIONS

### Applicable laws and policies & competent authorities

- Relevant articles of the [Constitution](#): article 27 (13); 12(4).
- The protection of children deprived of their family and in need of alternative care is legally framed by the [Children and Young Persons Ordinance No. 48 of 1939 \(CYPO\)](#), now called **Children's Ordinance**. In 2022, the parliament of Sri Lanka passed long-awaited amendments to the CYPO, especially in relation to the age of the child which has been raised from 16 to 18, in compliance with international standards ([Parliament of Sri Lanka, 2022](#)). Other relevant laws are the [Orphanages Ordinance No. 22 of 1941](#) and the [Tsunami \(Special Provisions\) Act No. 15 of 2005](#). At the provincial level, Child Development Centre statutes have also been developed and adopted.
- In 2019, the DPCCS adopted its first-ever [National Policy on the Alternative Care of Children](#) (National Policy hereinafter) which outlines a comprehensive range of alternative care options and encourages the reforming of all formal structures that provide at-home and out-of-home services for children deprived of care and protection or at risk of being so. The Sri Lankan Central Authority indicates that 9 Provincial Action Plans have already been launched for the implementation of the Alternative Care Policy. Similarly, actions are also being taken in strengthening family-based care at the provincial level. As of July 2023, further steps are being taken to formulate a National Action Plan.
- If approved by the cabinet, the **Draft Children's (Judicial Protection) Bill of 2014** will also bring forth provisions for children in alternative care as well. As per the ISS/IRC local contact, in 2022 a new draft was sent for review to the Attorney General's Department and in 2023 the Draft is expected to be submitted to the Cabinet.
- The [2016-2020 Children Action Plan](#) focuses on six main areas: early childhood care and development; access, quality and relevance in education; quality health care and nutrition status of children; protection and care for children and access to reliable water supply and sanitation facilities. To date, the updated version of the Action

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Plan has not been adopted. The NCPA also adopted a [National Child Protection Policy](#) and a 5-year action plan. The ISS/IRC local contacts however pointed that there are limited resources to implement the plan.

- At the national level, the main institutions that govern the child protection system within the Ministry of Women, Child Affairs and Social Empowerment (MoWCASE) are:
  - 1) the [National Child Protection Authority](#) (NCPA, established by the Act No. 50 of 1998), whose purpose is to advise the government on policies and laws on the prevention of child abuse and the protection and treatment of children who are victims of such abuse and the co-ordination and monitoring of action against all forms of child abuse.
  - 2) the [Department of Probation and Child Care Services](#) (DPCCS) whose [mission](#) is to ensure “the rights of all children and [provide] them equal opportunities in line with national policies and international standards with specific attention to orphaned, abandoned and destitute children and children in conflict with law”.
  - 3) and the [National Secretariat for Early Childhood Development](#) whose mission is to ensure the holistic development of Sri Lankan Children in early childhood through formulation, implementation, monitoring and evaluation of policies and programmes.
- At the provincial level, [9 Provincial Probation Departments](#) have been established which are mandated with service provision, while the national government provides policy and budget.

### Family support & prevention of unnecessary family separation

- In the [National Policy on the Alternative Care of Children](#) the MoWCA has established as one of the six general policy statements the prevention of alternative care based on the application of the necessity principle aiming to provide “policy solutions to programming for children at risk of family separation and facing deprivations”.
- There are over 30 welfare programmes overseen by eleven departments which are currently being implemented and focus on the reduction of poverty and vulnerability of families (National Policy). [Samurdhi](#) is the largest social safety net programme in Sri Lanka. First launched in 1995, its main goal is to support vulnerable families. Although in 2022 allowances under the programme have been increased, according to [UNICEF](#) (2020, p.i) the programme has not been designed to effectively address the needs of children and adolescents. Another key welfare programme is the [“Leave No One Behind” programme](#), targeting low-income families.
- The MoWCA has been implementing a series of [child assistance programmes](#) to support families and childcare. In Sri Lanka there also is subsidised day-care offered by the state and non-state agencies ([National Policy](#)).
- In 2022, despite the temporary expansion of programmes, the crisis raised concerns of a cliff-fall scenario if this additional support ends prematurely, and benefit values continue to erode. The pregnancy voucher programme, covering women during six months of pregnancy and four months of lactation, was temporarily put on halt mid-2022, further increasing the vulnerability of children ([UNICEF, 2022](#)). According to [UNICEF](#) (2022), whilst child welfare and protection staff have remained on the ground throughout the crisis, their budgets have been reduced. They can no longer afford to provide all the services that families need to stay safe and stay together.
- Examples of local programmes for the prevention of family separation: [HelpKids Centre](#), created and coordinated by [Faith to Action Initiative](#), is a local, community-based organization that strengthens local families living in slums and severe poverty.

### Gatekeeping mechanism & family reintegration

- Care placement is a procedure with **administrative and judicial aspects**. The child in need of care can be taken to the Magistrate’s Court by a police officer or an officer of a local authority who must send an immediate notice to the **Probation Officer (PO)**. POs have a duty to register children, who lost parents and to take steps to ensure their care and protection according to law. According to Section 35 (1) of the CYPO, “a Magistrate’s Court sitting as **Juvenile Court** may issue a care and protection order with the following decisions: a) To send a child over 12 years



of age to an approved or certified school; b) To place the child in the care of a person fit and willing to take him/her, whether he/she is a relative or not; c) To release the child to his/her parent or guardian on condition to exercise proper care; d) To place the child under the supervision of a probation officer for a period not exceeding three years”.

- The National Policy mandates that existing national and provincial laws, rules and regulations governing children in vulnerable situations need to be aligned and reviewed to strengthen gatekeeping mechanisms (6.2.1.).
- **Family reintegration:** The National Policy establishes reintegration as a principle and the first goal of alternative care (6.5). Out of 10,632 institutionalised children in 2019, efforts have been made to reintegrate only about 2,133 (20%) children out of which majority of 1,381 are girls. ([DCS, 2019](#)). No more recent data are available.

## ALTERNATIVE CARE OPTIONS

**Competent authorities:** The **DPCCS**, at both the national and provincial level.

**Main reasons for being placed in alternative care:** poverty, inability to provide education, disabilities, domestic violence, physical or mental illness, second marriages and labour migration ([National Policy](#)).

**Statistics:** The [Sri Lanka’s Department of Census and Statistics \(DCS\)](#) revealed that in 2019 there were 10,632 children living in children’s homes, the majority being adolescent girls. Over 80% of these children have a parent or family member alive. In the current context, front-line child welfare and protection services reported increasing numbers of requests from parents, unable to cater to the basic needs of their children ([Save the Children, 2022, p. XX](#)), to place them in institutions, due to rising food insecurity, poverty and labour migration by parents ([UNICEF, 2022](#)). SOS Children’s Villages reported an over 40% increase in new child admissions to their family-like care programmes ([SOS Children’s Villages, 2022](#)).

### Kinship care

**Legislation/policy:** article 35 of the [Children’s Ordinance](#).

**Nature and types:** Like other societies in the region, Sri Lanka has a long history of close village and kinship ties which include the care and protection of those in need. Following the “fit person” procedure someone could attain the status of being fit to care for a given child ([SOS Children’s Villages Sri Lanka and CERl, 2019](#)).

**Official registration and available support:** Kin caregivers can register as such with the relevant government official ([SOS Children’s Villages Sri Lanka and CERl, 2019](#)). Based on the information provided by the ISS/IRC local contacts, kinship care is supported, and families can receive a monthly allowance per child amount to 1,000 – 3,000 RS depending on the province.

**Statistics:** Informal kinship care remains relatively widespread in Sri Lanka. Following the Tsunami in 2004, roughly 90% of children who lost both parents were taken in by relatives in these informal arrangements. Despite this, there are no statistics available ([SOS Children’s Villages Sri Lanka and CERl, 2019](#)).

### Foster care

**Legislation/policy:** article 35 and 46 of the [Children’s Ordinance](#).

**Requirements for carers and support:** A Juvenile Court may “commit [the child] to the care of any fit person, whether a relative or not, who is willing to undertake [his/her] care”. However, as the National Policy itself states (p. 10) there is a need to clarify the aim and definition of the fit person provision in order to streamline it within the alternative care



services. Additionally, in cases in which children are in contact or conflict with the law, section 15 of the CYPO allows for children to be placed in either a Remand Home or in an emergency foster care placement while their case is being heard.

**Examples of recent government-led and NGO-led initiatives:** [learning exchange](#) on family-based care between Sri Lanka and India or [Hearts beat Together](#) campaign launched by Their Future Today.

**Statistics:** No information available. In practice, and according to the ISS/IRC local contacts, children are not being placed in formal foster care, only kinship care.

### Institutional care

**Legislation, including deinstitutionalisation:** article 35 of the [Children's Ordinance, Orphanages Ordinance No. 22 of 1941](#) and the [National Guidelines and Minimum Standards for Child Development Centres in Sri Lanka](#). The National Policy, "supports a systematic deinstitutionalization through the implementation of stringent time caps on the duration of stay and restructuring existing residential facilities by downsizing and creating more child friendly places while awaiting reunification or transfer to family-based care".

**Types:** The country has different residential care according to whether C&A are either child victim, child suspect or child offender below 18 years of age on court order; or orphaned, abandoned, or destitute child.

There are different types of childcare institutions: remand homes, certified schools, approved schools, receiving homes, detention homes, national training and counselling centres for children, safe houses, voluntary children's institutions, children's homes for disabled children, hostels managed by the Ministry of Education, private boarding houses and religious institutions ([SOS Children's Villages Sri Lanka and CERI, 2019](#)).

**Private children's homes:** The majority of childcare institutions are funded by sources other than the government. 229 Child Care Institutions reported their major source of funding as non-government local funds ([DCS, 2019](#)).

**Children's profiles:** [According to the DCS](#), in 2019 71.3% (7,467) of C&A in institutional care were between the age 5-14 when they were first institutionalised. 70% (7,446) of the C&A in these institutions had lived with a parent or both parents at the time of institutionalisation and almost 20% had lived with a relative. On average 93.7% of the institutionalised children aged 6 years and over are reported to be literate, which stands at 92% for male children compared to 94.7% for female children.

**Monitoring & complaint mechanism:** It is compulsory to register all homes or other childcare institutions. The administration and supervision of these childcare institutions is carried out by the Provincial DPCSS since 1987 as a decentralised subject at the provincial level ([DCS, 2019](#)). The establishment of child-friendly complaints mechanisms for children in residential care has been incorporated into the model standards ([UNICEF ROSA, 2020](#)). According to the ISS/IRC local contacts, the monitoring and supervision of children's homes is not happening on a systematic basis in all provinces.

**Statistics:** Although the total number of C&A under institutional care gradually dropped from 2010 (15,874) to 2019 (10,632) ([DCS, 2019](#)), currently and due to the economic crisis there are increasing requests from parents to place their children in institutions. Data from four Provinces showed that over 500 children were placed in children's homes in the period from March – August 2022 ([UNICEF, 2022](#)). In 2019, there were 379 childcare institutions in Sri Lanka, out of which 331 (87.3%) are voluntary children's homes. The Western Province has the highest number of childcare



institutions (121) with Gampaha, Colombo and Kalutara districts reporting 55, 44 and 22 institutions respectively ([DCS, 2019](#)).

## Leaving care

**Legislation/policy:** [National Policy](#) (2019)

**Current situation:** Children who are institutionalised face a stigma within society even after leaving the institutions. Some children remain institutionalised for a very long time due to the lack of regular supervision ([DCS, 2019](#)). According to the [DCS](#), it is mandatory that systems are in place to follow up on the safety and reintegration of care leavers. This could be done through a system of registration within the Department of Probation and Child Care Services working together with the Department of Social Services.

**Aftercare support:** The National Policy established as one of its goals (6.5.12) “to ensure that 18-year-olds are prepared for leaving care setting with an aftercare plan and are allowed access to a network of peers, caregivers and service providers (...) including provision of education and vocational training, job placement, housing and access to psychosocial, legal and health services together with appropriate financial and emotional support during integration with special services for those with disabilities and special needs”.

## Focus on specific groups of children

- **Children with disabilities:** According to the [National Policy on Disability of 2003](#), few, if any, children who have disability are generally included in mainstream children’s programmes and activities run both by the state sector and by NGOs.
- **Children in street situations:** In 2019, 337 children who were institutionalised were living on the streets as street children at the time of institutionalisation ([DCS, 2019](#)). The [CRC](#) recommended in its last Concluding Observations the State to “ensure that children in street situations are under no circumstances placed in detention merely for being in the street, that institutionalization is employed only as a measure of last resort where reintegration with family or foster care is not available and that, when implementing reintegration measures, the child’s best interests are fully respected and due weight is given to his or her views, according to age and maturity”.
- **Children belonging to minority or indigenous groups:** The CRC recommended the State to increase efforts to prevent hate speech, incitement to violence and violent attacks, against ethnic, ethnoreligious and indigenous minority groups ([CRC/C/LKA/CO/5-6](#), para 40., 2018).

## Comments of the ISS/IRC

### Progress:

The ISS/IRC welcomes the adoption of the National Policy on Alternative Care, a relevant and comprehensive instrument regulating all forms of alternative care in line with relevant international standards, such as the UN Convention on the Rights of the Child and the UN Guidelines on Alternative Care. To address the lacuna in the system, the DPCSS received the Cabinet approval on the 6th of March 2019 and published the National Alternative Care Policy for Children in Sri Lanka, Cabinet Decision N° 19. The 5-year plan focuses on family-like care options being made available to children. Whilst the policy acknowledges the need for short-term institutional cases where the need arises, the policy also calls for restructuring of existing childcare institutions to create family-like conditions and promote foster care ([LEADS and CERI, 2022](#)).

Therefore, the National Policy offers more clarity to all sectors and professionals involved in alternative care and can indeed be a key tool to boost foster care, a still underdeveloped alternative care modality in Sri Lanka.



ISS/IRC also highly welcomes the amendment to the Children's Ordinance to establish an overarching definition of the child ensuring that it is raised to 18 years, as recommended by the [CRC](#) back in 2018. Until quite recently, Sri Lanka did not have a uniform definition for children. On September 28, 2022, an Amendment was proposed by a committee in Parliament to the Children's Ordinance to consider the age of a person who shall be a child will be raised from 16 to 18 years. ([Parliament of Sri Lanka, 2022](#)). This means that all children in Sri Lanka will be treated as children under the law. Indeed, the definition of 'the child', as enshrined in the Convention on the Rights of the Child, is vitally important for providing the necessary protection to children and for safeguarding the rights specific to children.

In Sri Lanka, there is an important culture of kinship care which is commonly practiced informally ([National Policy](#)). According to [SOS Children's Villages Sri Lanka and CERI](#) (2019), a fruitful cultural background in kinship care can help foster the care reform and make policy prognoses more positive.

#### **Remaining challenges to be addressed:**

The past few years have been certainly tough for children in Sri Lanka. Children, whose lives had already been disrupted by COVID-19, once again, face an extremely challenging situation due to the ongoing economic crisis ([UNICEF, 2022](#)). More than two in three families in Sri Lanka do not have enough to eat, according to a survey by [Save the Children \(2022\)](#), which warned the economic crisis is rapidly becoming a full-blown humanitarian emergency. Families are being forced into increasingly desperate measures to survive and children's rights and protection are massively affected by the household economic stresses. In this context, front-line child welfare and protection services reported increasing numbers of requests from parents to place their children in institutions, driven by struggles to cater to their basic needs ([UNICEF, 2022](#)).

ISS/IRC reminds that poverty should never be justifiable reason for separating children and families. Prevention of the need for alternative care should take place by, inter alia, tackling child poverty and supporting families and providing family strengthening services. Poverty should be mitigated through various community-based social and family support services: access to adequate healthcare, including mental healthcare and psychosocial assistance, access to education and employment opportunities for adult family members, among others. Certainly, in the current economic context, a key challenge is ensuring these services are available and accessible to families at high risk of separation, particularly those with vulnerable groups of children.

Regarding vulnerable groups of children, and according to [SOS Children's Villages Sri Lanka and CERI](#) (2019), mechanisms aiming at preventing children from entering institutional systems are still absent.

Despite the government's commitment and efforts to implement the care reform, residential care is far from being used as a measure of last resort. Sri Lanka, like all South Asian countries, uses institutions as the default form of care for children without parental care ([SOS Children's Villages Sri Lanka and CERI, 2019](#)). At the legal and policy level, the National Policy has indeed outlined general principles for making decisions about alternative care placements in the best interest of the child, but these principles have yet to be integrated into relevant national laws ([UNICEF ROSA, 2020](#)). According to ISS/IRC local contacts, while children in institutions have certain protection under the law, children away from families in private religious institutions are not covered as they are not considered as children's homes. Furthermore, in relation to care leavers, there is no policy in place and there is minimal follow-up.

One of the biggest obstacles to removing children from institutions and closing them down is the absence of foster care programmes and lack of support for alternative forms of care – particularly family-based care ([DCS, 2019](#)). In fact, no system of identifying such non-relative parents or fit persons and handing over the child to them is seen to be in practice ([National Policy](#)). [Local NGOs](#) also point that there is limited knowledge of foster care in the country. The





current crisis calls for increased effort to be put into transforming the current alternative care system by strengthening foster care and formalising kinship care practice.

## ADOPTION

**Ratification of the 1993 HC:** The [Convention](#) was signed by Sri Lanka on 24 May 1994 and ratified on 23 January 1995. Its entry into force was on 1 May 1995.

**National laws/policies:** [Adoption of Children Ordinance No. 24 of 1941](#), its [1992 amendment No. 15](#) and [National Policy of 2019](#). According to the Sri Lankan Central Authority, as of July 2023, the Adoption of Children Ordinance is being amended by a committee appointed by the Ministry of Justice.

## CENTRAL AUTHORITY

### Commissioner

Department of Probation and Child Care Services

The Central Authority for Intercountry Adoption

3rd Floor, Sethsiripaya Stage 11

Battaramulla, Sri Lanka

Web site: <http://www.probation.gov.lk/>

E-mail: [pcc@sltnet.lk](mailto:pcc@sltnet.lk)

**Contact persons:** Mr. N. I. Liyanage, Commissioner of the DPCSS, tel. 0112187283

Source: [HCCH \(Authorities\)](#)

## FULL/SIMPLE ADOPTION

Adoption in Sri Lanka is **full**, except concerning inheritance rights. See “adoption effects”.

Sources: [Adoption of Children Ordinance No. 24 of 1941](#), articles 4 and 6(4); [National Policy](#); [HCCH Country Profile \(2020\)](#).

## SUBSIDIARITY PRINCIPLE

An adoption shall be made in favour of any applicant who is not a citizen of Sri Lanka and not domiciled or resident in Sri Lanka if no other person who is a citizen of Sri Lanka and resident and domiciled in Sri Lanka has applied to adopt the child in respect of whom the application is made. The National Policy also states that domestic adoptions are preferable in line with the child’s right to their ethnic, culture and linguistic inheritance.

When the child is found suitable for adoption, s/he is referred for domestic adoption by the Placement Committee at Provincial level. When there are no national applicants to accept the child, the Placement Committee of the Provincial DPCSS decides to give the child for intercountry adoptions and refer the child’s file to the Central Authority in Sri Lanka to start the intercountry adoption process. Therefore, Sri Lankans or persons with a Sri Lankan origin are given preferences when allocating a child.

Sources: [Adoption of Children Ordinance No. 24 of 1941](#), article 5(a); [National Policy](#); [HCCH Country Profile \(2020\)](#); [Australian Central Authority](#).

## CHILD ADOPTABILITY

The relevant Provincial Commissioner decides if a child is abandoned in consultation with the Placement Committee in each children’s home. What constitutes abandonment in each case is left up to the discretion of the Provincial Commissioner in consideration of the specific the situation. If the Provincial Commissioner cannot come to a decision,



s/he can refer the issue to a court. After ascertaining the child is an orphan or an abandoned child, such children are identified as adoptable children.

According to the Australian CA, most children in need of intercountry adoption are less than 3 years old. Older children (between 4 and 14 years) are also available for adoption.

A high number of children have minor or correctable special needs (for example: cleft lip, sight conditions) and/or have a family history of mental health issues. Also, there are more boys available for adoption.

Sources: [HCCH Country Profile \(2020\)](#); [US Department of State](#); [Australian Central Authority](#).

## PROSPECTIVE ADOPTIVE PARENTS (PAPs)

### Age limits

PAPs must not be less than 25 year and not less than 21 years older than the prospective adoptive child. In the case of intercountry adoption, foreigners may only adopt Sri Lankan children between three months and 14 years of age. These provisions do not apply if the child concerned is a descendant of the applicant, his/her brother or sister, or the child of the wife or husband of the applicant.

### Status

The PAPs must be married and opposite-sex couples.

### Residence or any other criteria indicated in the law

An adoption order shall not be made in any case where the sole applicant is a male and the child in respect of whom the application is made is a female, unless the court is satisfied that there are special circumstances which justify the making of an adoption order.

Also, there is a limit on the number of children already present in the family of the applicants. The latter can apply if you have up to 2 children, but preference is given to childless couples.

### Limit on the number of PAPs' files which are accepted from receiving States

Since the adoption of the 1992 amendment, there is in force a prescribed quota for the number of annual intercountry adoption.

### Preparation

According to local experts, Provincial Departments of Probation and Child Care Service are responsible for preparing PAPs and children.

Sources: [Adoption of Children Ordinance No. 24 of 1941](#), article 3(1), 3(2); [Intercountry Child Adoption Procedure Sri Lanka \(DPCSS\)](#); [HCCH Country Profile \(2020\)](#); [Australian Central Authority](#).

## CONSENTS

### Consent of the child

The consent is required if he/she is over 10 years old. The law requires that the wishes of the child should be given due consideration" having regard to the age and understanding of the child". Consent of the child will be given before an attorney-at-law or a justice-of-peace. The respective court and the Probation Officer will make the child aware of the effects of the adoption. According to local contacts, there are no structured trainings, sessions, or courses to prepare the child.



## Consent of biological parents

The consent of every person or body, who is a parent or guardian of the child, or who has the actual custody of the child, or who is liable to contribute to the support of the child is required to make an adoption order.

*When both parents are known they should give the consent:* The surviving parent should give the consent together with the death certificate of deceased parent. Generally, the birth parent(s) are required to attend the court hearing to formally relinquish custody of the child in front of the judge. If the DPCSS cannot locate the birth parents, the judge has the authority to waive the requirement that the birth parents be present.

*When both parents are unknown or deceased:* the guardian/s should give the consent.

The competent court also has discretionary powers to give the child for adoption when parents have been deprived of their responsibilities over the child or when they cannot be located.

## Withdrawal of consent

No information

Sources: [Adoption of Children Ordinance No. 24 of 1941](#), articles 3(3), 3(5) and 4(b); [HCCH Country Profile \(2020\)](#).

## PROCEDURE

### Domestic adoption

1. The adoption application must be made to the competent court to make adoption order. The competent court is the District Court having jurisdiction according to the applicant's or the child's residence.
2. The Court will appoint a probation officer from the DPCSS as a guardian to safeguard the child's interest and Court will take into consideration of the welfare of the child.
3. The Commissioner of Probation and Child Care Services will submit within the period fixed by the Court (not less than 14 days and not more than 28 days):
  - a. A report on the social and psychological aspects of the adoption to be authorised.
  - b. A police report from the police authority for the respective police areas within which the applicants reside.
4. If the court issues an adoption order, it shall direct the Registrar-General to make in the Adoption Register an entry recording the adoption.

### Intercountry adoption

1. PAPs who desire to adopt Sri Lankan children are required to forward their joint applications to the Commissioner of Probation and Child Care Services through the Sri Lankan Embassy in that country. The applicants should deal with the DPCSS through their respective adoption accredited bodies (AABs) (see below). The average waiting time is 2 years from when Sri Lanka accepts an application.
2. The applications must be accompanied by the following documents (with English translations when these are in another language):
  - a. General information sheet of the applicants ([Annexure 1](#));
  - b. **Home Study Report** (in duplicate) in respect of the applicants from an institution recognised by the country of the applicants and authenticated by the accredited representative for the Republic of Sri Lanka in that country. It is a report on the mental health of the applicants, their social, religious and financial background and their suitability to adopt a child. Overseas Social Welfare Agencies / Departments must include information on these specific aspects in the Home Study Report prepared in respect of proposed adoptive parents by the country of permanent residence of the applicants;
  - c. Passport size photographs of the PAPs;
  - d. Formal letter (in duplicate) requesting a child for adoption together with their preference if any;

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- e. Certified copies of the birth certificate of both PAPs;
  - f. Certified copies of the marriage certificate of both PAPs;
  - g. Certified copies of health certificates of both PAPs;
  - h. Certified copies of employment records of both PAPs;
  - i. Police reports on the conduct and activities of the PAPs.
3. When the Commissioner finds a suitable child after the assessment of the Home Study Report of the applicants, a letter will be issued communicating the Commissioner's decision to the AAB (**letter of allocation**). The AAB is expected to communicate it to the applicants.
  4. Upon receipt of the Commissioner's letter, the applicants should make the arrangements for their travel to Sri Lanka and will have to stay about 4 to 5 weeks in Sri Lanka, until all formalities are completed.
  5. The Commissioner will assign a social worker to the case. After their arrival in Sri Lanka, applicants should present themselves for an interview at the DPCSS. Applicants should present at the interview their passports and the letter sent to them by the Commissioner.
  6. After the interview of the applicants, they will be issued with a letter by the Commissioner authorising them to see the child at the children's home. However, they should not take the child out of the custody of the person in-charge for any purpose without the prior approval of the Commissioner. Authority will be given to the applicants for the purpose of medical examination of the child if such necessity arises.
  7. At the same time the applicants should arrange to institute **court proceedings to obtain the adoption order** for which they should engage the services of an attorney-at-law.
  8. A copy of the certificate of adoption should be obtained from the Registrar-General
  9. The adoptive parents should meet the Commissioner, with a copy of the certificate of adoption and request for a letter for the issuance of a passport. Thereafter they will have to apply for a Sri Lankan passport for the adoptive child to the Department of Immigration and Emigration (Passport section), Ananda Rajakaruna Mawatha, Colombo -10, Sri Lanka, with the following documents: 1) Certificate of adoption (after registration); 2) the letter from the Commissioner, and 3) the original birth certificate of the child.

Sources: [Intercountry Child Adoption Procedure Sri Lanka \(DPCSS\)](#), [Adoption of Children Ordinance No. 24 of 1941](#), articles 2, 3, 13; [HCCH Country Profile \(2020\)](#); [Child Adoption Procedure for the Guidance of Foreign Applicants](#) (Permanent Mission of Sri Lanka to the UN); [Sri Lanka Intercountry Adoption Information](#) (US Department of State); [Office federal de la justice OFJ](#), Adoption Sri Lanka; [Australian Central Authority](#).

## MATCHING

The competent authority or body for the matching of the child and the PAPs is the **Placement Committee** appointed by the Commissioner of Probation and Child Care Services. Specialised officials in the field of child protection are appointed for the Committee and final decision is taken by the Commissioner who will issue a **letter of allocation**. According to the ISS/IRC local contacts, this final decision is adopted on average in 6 months to 1 year.

The Home Study report and the recommendation given by the social worker of the PAPs are seriously taken into consideration. In addition, health of the applicants, their financial situation, age, police reports, applicant's preferences regarding child to be adopted (special needs, sex and gender of the child) are also considered. The matching period is **two weeks**.

It generally takes **at least one year** to match a child with a family. After a child is identified, PAPs should be prepared to stay in Sri Lanka from four to six weeks for the court proceedings.

Source: [HCCH Country Profile \(2020\)](#); [US Department of State](#).

## PROBATIONARY PERIOD



Upon any application for an adoption order the court may postpone the determination of the application and may issue an **interim order** giving the custody of the child to the PAPs for a period not exceeding 2 years by way of a probationary period. According to local experts, the probationary period is applied for domestic adoptions mostly.

Source: [Adoption of Children Ordinance No. 24 of 1941](#), article 7(1).

## ADOPTION DECISION

The adoption order in Sri Lanka is a **judicial decision** made by the competent court. The court having jurisdiction to issue an adoption order shall be the District Court having jurisdiction in the place where the applicant or the child resides.

Source: [Adoption of Children Ordinance No. 24 of 1941](#), articles 2 and 13(1); [HCCH Country Profile \(2020\)](#).

## REGISTRATION

Upon transmission by the court, the adoption orders are registered in the **Adoption Register** established and maintained by the Registrar-General, in the form set out in the schedule of the Adoption of Children Ordinance.

Where, upon any application for an adoption order, the date of birth of the child concerned and the identity of that child for whom any entry or entries in any register of births kept under the Births and Deaths Registration Acts is proved in the satisfaction of the court, the court shall – in the adoption order – direct the Registrar-General to:

- cause such birth entry or entries in the register of births to be marked with the word “adopted”; and
- include in the entry made in the Adoption Register the child’s date of birth as specified in the order.

Every court empowered to make an adoption order shall send to the Registrar-General a quarterly return or report of all adoption orders made by that court every three months.

Source: [Adoption of Children Ordinance No. 24 of 1941](#), article 10 and 10A.

## ADOPTION EFFECTS

### Rights & obligations

Following art. 4 of the Adoption Ordinance “(...) the effect of the adoption order will be permanently to deprive him or her of his or her parental rights”. Similarly, the National Policy defines adoption as “a process whereby a person assumes the parenting of another, usually a child, from that person’s biological or legal parent or parents, and, in so doing, permanently transfers all rights and responsibilities, along with filiation, from the biological parent or parents”.

Therefore, all rights, duties, obligations and liabilities of the parent or parents, guardian or guardians of the adopted child in relation to their future custody, maintenance and education shall be extinguished and all such rights, duties, obligations and liabilities shall vest and be exercisable by and enforceable against the adopter as through the adopted child was born to the adopter in lawful wedlock.

### Inheritance rights

Unless the contrary intention clearly appears from any instrument, an adopted child shall not by such adoption:

- acquire any right, title or interest in any property in the cases mentioned in Article 6(3)(a) of the Adoption Ordinance;
- become entitled to any succession (whether by will or *ab intestate jure representationis* of the adopter).



The adoption order shall not deprive the adopted child of any right to or interest in any property to which, but for the order, the child would have been entitled under any intestacy or disposition whether occurring or made before or after the date of the adoption order.

### **Name**

Unless the court considers inexpedient to do so, the adoption order confers on the child the surname or family name of the adopter or such other name as would have regards to the customs of the community to which the adopter belongs, be conferred on a child born in lawful wedlock of the adopter.

### **Nationality**

Adopted children will not retain the Sri Lankan nationality.

Sources: [Adoption of Children Ordinance No. 24 of 1941](#), article 6(1), 6(2), 6(4); [HCCH Country Profile \(2020\)](#).

## **POST-ADOPTION FOLLOW-UP**

Post-adoption follow-up is carried out by the Probation Officers at the Provincial level. For intercountry adoption, the adoptive parents are required to provide to the DPCSS:

- quarterly progress reports on the child until the adoption is legally confirmed in the state of residence of the adopter(s) and himself or herself;
- semi-annual progress reports on the child, including his/her photograph, for a period of three years from the date on which the final adoption order in Sri Lanka is issued;
- annual reports on the child until he or she reaches 10 years of age.

Those reports (official format [here](#)) have to be prepared by an institution recognised by the country of the adopter(s) and authenticated by the accredited representative of the Republic of Sri Lanka in the country.

For domestic adoption, the law does not require to provide follow-up reports. According to local contacts, the amendment of the law will include this element.

Sources: [Adoption of Children Ordinance No. 24 of 1941](#), article 10C; [Intercountry Child Adoption Procedure Sri Lanka \(DPCSS\)](#); [HCCH Country Profile \(2020\)](#); information provided by local contacts

## **ADOPTION BREAKDOWN**

No information available.

## **ADOPTION ACCREDITED BODIES (AABs)**

There is no limitation in Sri Lanka to register as a foreign accredited body. Currently 4 AABs are registered in Sri Lanka.

Source: [HCCH Country Profile \(2020\)](#).

## **SEARCH FOR ORIGINS**

See *dedicated annex*.

## **SANCTIONS**

Before making an adoption order, the court shall be satisfied that the applicant or any other person has not received or agreed to receive/given or agreed to give or make, any payment or other reward in consideration of the adoption. In case of existence of such payment or reward in consideration to adoption, the adopter(s) or concerned person(s) shall be guilty of an offence under the Adoption Ordinance and after summary trial before a Magistrate shall be liable



to a fine not exceeding 10,000 rupees or to imprisonment of either description for a term which may extend to two years, or to both such fine and imprisonment.

Furthermore, art. 360D of Penal Code provides safeguards relating to adoption, including the criminalisation of situations where a person arranges for, or assists to a child to travel to a foreign country without the consent of his parent or lawful guardian; obtains the consent, whether written or oral of a pregnant woman, for money or any other consideration, for the adoption of the unborn child of such woman; recruits a woman or a couple to bear children; being a person concerned with the registration of births, knowingly permits the falsification of any register used for the registration of births or any birth record contained in any such register; engages in procuring children from hospitals, shelters for women, clinics, nurseries, day care centres or other child care institutions or welfare centres, for money or other consideration or procures a child for adoption from any such institution or centre, by intimidation of the mother or any other person; or impersonates the mother or assists in such impersonation, the penalty for such offences has been stipulated as imprisonment of either description for a term not exceeding twenty years or to a fine or to both such imprisonment and fine.

Also, art. 360C deals with human trafficking. The Penal Code of Sri Lanka was amended to bring the national anti-human trafficking laws in line with international law. The amended Act, No. 16 of 2016 formulated a comprehensive definition of human trafficking as set out in section 360C.

Sources: [Adoption of Children Ordinance No. 24 of 1941](#), article 14; [Penal Code](#), article 360 D (introduced by the [2006 Amendment](#)).

## COSTS

An application to the court for an adoption order shall be deemed to be an action of a value of 100 rupees. No stamp duty shall be chargeable in respect of any application.

According to the Australian CA, the estimated fees for adopting a child in Sri Lanka vary from US\$2,000 to US\$2,500.

Source: [Adoption of Children Ordinance No. 24 of 1941](#), article 13(5); [Australian Central Authority](#).

## STATISTICS

- According to the [DCS](#) (2019), out of 2,133 children who were attempted to be reintegrated in 2019, 250 were declared adoptable for national adoption (114 boys and 136 girls) and 23 for intercountry adoption (9 boys and 14 girls).
- Mostly children with special needs are referred for intercountry adoptions.
- The top three receiving countries from 2018 to 2022 have been France, Germany and the USA. In 2019, for instance, these three countries accounted for the 89% of the number of adoptions (8 out of 9 adoptions).



Year	Intercountry Adoption (* means children adopted by Sri Lankans living abroad or intrafamily adoption)	Domestic Adoption
1991	789	407
1992	396	478
1993	325	527
1994	194	549
1995	105	540
1996	37	613
1997	25	593
1998	32	623
1999	23	714
2000	43	846
2001	51	881
2002	55	827
2003	54	823
2004	69	887
2005	57	1002
2006	56	905
2007	57	1137
2008	69	1215
2009	70	1571
2010	72	1812
2011	83	1707
2012	07	1625
2013	08	1023
2014	20 (*12)	985
2015	23 (*12)	1079
2016	10 (*3)	1061
2017	11 (*4)	678
2018	12 (*7)	1237
2019	9 (*5)	-
2020	1 (Local)	1031
2021	4 (*1)	-
2022	10 (*5)	-
2023	6 (*1)	-
<b>Total</b>	<b>2783</b>	<b>27,376</b>

Sources: Census of children in childcare institutions 2019 ([DCS](#)); Les chiffres de l'adoption internationale ([MAI](#)); Annual Intercountry Adoption Reports ([US Department of State](#)); [HCCH Country Profile \(2020\)](#); HCCH Statistics ([Sri Lanka](#)); HCCH Statistics ([Germany](#)); Information provided by Sri Lankan Central Authority in July 2023.





## Comments of the ISS/IRC

### Progress

ISS/IRC highly welcomes the adoption system regulated and set up by Sri Lankan laws as it reflects and takes into consideration essential principles of the relevant international standards, namely, the UN Convention on the Rights of the Child and the 1993 Hague Convention: the prevention of illicit practices, the best interests' principle, the right to be heard, especially in relation to judicial and administrative proceedings, and the implementation of the principle of subsidiarity.

The 1992 amendment of the Adoption Ordinance restricted intercountry adoption with an annual quota and domestic adoption was given priority. Also, the law also prohibited foreign PAPs from paying Sri Lankan contacts for adoption mediation. More recently, the National Policy has also included adoption as an alternative care option, highlighting once again the need and obligation to a hierarchy of placement for children: if immediate family/kin is unable, or unavailable, domestic placement with a foster or adoptive family is the next best option. Intercountry adoption therefore should be the last option to be considered. Indeed, there seems to be a solid understanding and awareness of the subsidiarity principle both in theory and in practice.

### Remaining challenges to be addressed

*Consent* – It is worrying that biological parents do not have their right to revoke their consent to an adoption recognised in the law. In fact, the law remains silent on the time that biological parents should be given to consider the possibility to give their child(ren) in adoption.

*Child adoptability* – The law should include both a definition and a procedure in relation to abandonment, instead of leaving it to the discretion of an administrative body.

*Preparation for PAPs and children* – It is worth noting the lack of information regarding the preparation of children to be adopted by a foreign or Sri Lankan family by probation officers, as well as preparation courses and counselling services for PAPs.

*Matching* – Further regulation on the matching process would be needed to ensure that it is made by a professional and multi-disciplinary team, according to relevant criteria, and that children's need and interests are duly taken into consideration.

*Delays in domestic adoption process and procedures* – According to the National Policy, some provinces in Sri Lanka have long waiting lists of PAPs but do not have any children suitable for adoption to make an effective match while other provinces have short waiting lists and less processing time of cases. There is a strong need to research the underlying causes for delays in the domestic adoption process and procedures and address the existing barriers in line with the best interest's principle.

*Probationary period* – The probationary period set up in the law is to be welcomed as it is part of an effective adoption process: it is crucial to detect potential difficulties right at the beginning and - when adequately supervised - helps the child and the PAPs to create the first bonds. However, its length reaching up to 2 years is excessive. Indeed, if after 2 years the child is not adopted, such decision can be experienced as a new abandonment. Therefore, the probationary period for cohabitation must be of reasonable length, professionally supervised and logistically facilitated.

*Adoption effects in relation to inheritance rights* – The fact that the adopted child is not entitled to inheritance rights in relation to his or her adoptive family raises concerns about the legal security conferred by adoption. Not recognising



such rights to the adopted child can be an obstacle for him or her to be fully considered as a member of the adoptive family.

*Role of AABs* – The role foreign AABs, the registration process and accountability mechanisms in place seem to be regulated rather vaguely in the applicable legislation.

*Statistics* – There is no sufficient and updated statistical information in relation to both domestic and intercountry adoption.

*Search for origins* – It is important to establish a process to frame searches for origins and ensure information is kept indefinitely, and not only for a period of 10 years. (See dedicated Annex).

Finally, the ISS/ICR recalls that in the current context, the efforts of the Sri Lankan authorities, international organisations and NGOs should focus on providing basic protection to children and their families. The current international conventions and ethical adoption practice guidelines would not recommend adoption at the height of an emergency, or at least, no action should be undertaken at this point to accelerate the adoption procedure.

## LEGISLATION

### International instruments

	Signature (S) / Ratification (R) / Accession (A) / In Force (F)
<a href="#">United Nations Convention on the Rights of the Child (1989)</a>	12 July 1991 (R)
<a href="#">Optional Protocol</a> to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000)	22 September 2006 (R)
<a href="#">Hague Convention</a> on Protection of Children and Co-operation in respect of Intercountry Adoption (1993)	23 January 1995 (R) 1 May 1995 (F)
<a href="#">Hague Convention</a> on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (1996)	-
<a href="#">United Nations Convention on the Rights of Persons with Disabilities</a> (2006)	30 March 2007 (S) 8 February 2016 (R)
<a href="#">Apostille Convention</a> (1961)	-

### Regional instruments

	Signature (S) / Ratification (R) / Accession (A) / In Force (F)
<a href="#">SAARC Convention on Prevention and Combating Trafficking in Women and Children for Prostitution</a>	5 January 2002 (S)

### Domestic legislation/regulation

	Language
<a href="#">Constitution of the Socialist Republic of Sri Lanka</a>	In English
<a href="#">Penal Code</a> and its <a href="#">2006 Amendment</a>	In English
<a href="#">Civil Procedure Code</a>	In English



<a href="#">Children and Young Persons Ordinance No. 48 of 1939</a>	In English
<a href="#">Orphanages Ordinance No. 22 of 1941</a>	In English
<a href="#">Adoption of Children Ordinance No. 24 of 1941</a>	In English
<a href="#">Tsunami (Special Provisions) Act No. 15 of 2005</a>	In English
<a href="#">National Policy on the Alternative Care of Children</a>	In English
<a href="#">National Policy on Disability of 2003</a>	In English
<a href="#">National Guidelines and Minimum Standards for Child Development Centres in Sri Lanka</a>	In English
<a href="#">Assistance to and Protection of Victims of Crime and Witnesses Act No. 04 of 2015</a>	In English
<a href="#">2016-2020 Children Action Plan</a>	In English
<a href="#">Convention on Prevention and Combating Trafficking in Women and Children for prostitution Act, No. 30 of 2005</a>	In English

## PARTICULARLY RELEVANT SOURCES OF INFORMATION

### Periodic review by the CRC Committee

- Concluding Observations of the Committee on the Rights of the Child: Sri Lanka, [CRC/C/LKA/CO/5-6](#), 2 March 2018
- Reply to List of Issues: Sri Lanka, [CRC/C/LKA/Q/5-6/Add.1](#), 29 December 2017
- Combined fifth and sixth periodic report of States: Sri Lanka, [CRC/C/LKA/5-6](#), 1 March 2017

### Other organisations

- [UNICEF Sri Lanka](#) – General information about children and adolescents.
- [UNICEF Sri Lanka](#) – Information on the economic crisis.
- [Hague Conference on Private International Law](#) – Information on the intercountry adoption process.
- [US Department of State, Bureau of Consular Affairs](#) - Sri Lanka Intercountry Adoption Information.
- [Intercountry Adoption Australia](#) – Information on the intercountry adoption process.
- [MAI](#) – Information on the intercountry adoption process.
- [Swiss Central Authority \(Office federal de la justice OFJ\)](#) – Information on the intercountry adoption process.

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