Reflections on Child Rights in Sri Lanka, during the past 25 year

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The origin of rights based services for Sri Lankan children began soon after independence. It started when the post-independence political leadership at that time decided to provide free health and education to all children, including boys and girl. This decision upheld the principle of universality, bereft of gender discrimination. Further developments occurred much later in the late 1970’s, when the principle of primary health care services was adopted, particularly family health, nutrition, access to safe water and sanitation. UNFPA has initiated a well-funded population programme, which included family health services, executed by UNICEF.

It was in the early 1980’s that “the child survival revolution” was introduced by UNICEF, composed of universal and cost effective interventions to reduce preventable infant and under five mortality and morbidity. This accelerated Sri Lanka’s already declining under 5 child mortality and morbidity as well as maternal mortality and morbidity. The programme included universal child immunization, oral rehydration therapy, breast feeding, and growth monitoring. Maternal death audits were established, which strengthened accountability. Improved access to emergency obstetric care further reduced already declining maternal deaths and morbidity. Other services included improved quality of care for newborns, promotion of exclusive breast feeding and establishing “baby friendly status in hospitals and maternities, thus controlling the marketing and distribution of artificial milk detrimental to children's nutritional status. The international code on the marketing and distribution of infant formula was adopted and implemented. Universal access to education for girls, led to more literate mothers, and facilitated the
communication of key child health messages. Families were becoming better planned, marriages were postponed and services for children accessed.

Global ratification of the CRC occurred in 1989, and Sri Lanka soon followed suit in 1991. Sri Lanka had already recognized the inextricable link between needs and rights, the importance of universality, the indivisibility of rights, and the importance of responding to the needs of children within a rights based contextual framework.

The prolonged internal conflict from the mid 1980’s until 2009 created one of the most difficult periods in Sri Lanka’s history. But, the accent on child rights was sustained. An unwritten agreement prevailed in conflict affected areas that, children living there should not be denied their right of access to health and education. Hence state authorities continued to fund and support, primary, secondary and even tertiary education in such areas. Hospitals, maternal and child health clinics continued to function with supplies mostly sent by air. Sri Lanka remained engaged in the global thrust to eradicate polio as a commitment to children, “Days of Tranquility” were declared by both sides to the conflict to enable mass polio immunization. Universal child immunization was achieved in 1989, and polio free status attained in 1993, which still remains.

Sri Lanka ratified the CRC in 1991, followed by the formulation of a National Children’s Charter, based on the CRC and approved by the cabinet. This enabled application of the CRC into state policy.

A National Child Rights Monitoring Committee was appointed to determine progress to implement the CRC, identify unmet needs, and follow up concluding observations when Sri Lanka reported at international level.

It only during this time that child protection issues became visible. Media exposure mostly centred on the commercial sexual exploitation of children as a global industry, including child pornography. Children in disadvantaged families in developing countries in south east were documented as the main victims.

The optional protocol on the sale of children, child prostitution and child pornography came into force in 2002, and was ratified by Sri Lanka. It clearly defines state responsibility to take necessary legal and administrative measures related to implementation. Sri Lanka acted promptly with legal changes, continued vigilance, including cyber surveillance. While digital media is important for children to expand their knowledge, there was concern to protect children from perpetrators of child abuse through internet “grooming”.

It was very much later that the widespread prevalence of abuse and violence to children in families was recognized. This also included schools, child care institutions and juvenile detention centres. It was also after the CRC, that the use of corporal punishment for discipline in homes, schools, residential care institutions, and juvenile detention centres was recognized as a form of violence against children. Non-violent forms and alternative forms of discipline, began being promoted, but are yet to be fully adopted and practiced.
As a response to protection concerns, a presidential task force on child protection was established in 1996. The taskforce recommendations were adopted, and in 1998, and the National Child Protection Authority established as an Act of Parliament. Both the government and the opposition members of parliament voted together on this important child protection bill. This symbolized a good practice which should be continued, that on child rights issues. The penal code was amended in 1995 and 1997 to include child sexual abuse as a penal code offences. Since laws alone are not effective, a law enforcement dedicated to women and children was set up with trained women police. A help line for reporting was also established by the police as well as the NCPA.

The Tsunami of December 2004 raised fresh concerns for children. Many died, while others lost one or both their parents. There was no warning or knowledge of this natural disaster, the first of its kind to occur in Sri Lanka. It led to the deaths of over 37,000 persons, adults and children. The Tsunami Special Provisions Act was enacted which included special legal provisions to protect children who had lost their parents. Public pressure promoting institutionalization for children who had lost their parents, was circumvented by government policy defining the aftercare for such children through foster care. Thus institutionalization was minimized. This was in accordance with the CRC and the right of a child to a family environment, with institutions only as a last resort. The fostering was undertaken to extended family legally through courts, so children were protected. All children who had lost one or both their parents were documented in a data base established by the NCPA, which enabled determining their protection needs, many of an individual nature, based on individual circumstances.

Access to education, and not education, but quality education remains a child rights concern, and always will be. This includes not only accessibility, but efforts to reduce school drop outs, which still occurs in disadvantaged families. It is associated with child labour. Another area of importance is the need for continued attention to both home based early childhood development and quality pre schooling. This lay the most important foundation for learning throughout life. Elimination of hazardous child labour, particularly domestic labour was undertaken by the Ministry of Labour, supported by ILO/IPEC and UNICEF. Children in child labour are at risk of violence and abuse, deprivation of education, and separation from families.

A parliamentary bill was passed to strengthen compulsory education laws, primarily to reduce school drop outs. Action was taken to improve small schools in the more remote rural areas, many attended by children of disadvantaged families. For children who had dropped out of school, access to non-formal education to develop literacy and numeracy skills was undertaken. A much needed priority was placed on adolescents, based on research undertaken by UNICEF, and recommendations followed up.

Although Sri Lanka observed the optional protocol to the CRC on children affected by the armed conflict, and did not recruit any person under the age of 18 years to their security forces, non-state parties did recruit child soldiers, both boys and girls, between the ages of 10 and 18 years. On their insistence, it was excluded as an agenda item in peace negotiations and peace accords, including the last one brokered by Norway. But one of the most significant characteristics of Sri Lanka’s conflict was the use of child soldiers by non-
state parties for combat and other military duties. This occurred with impunity during 26 years of the conflict. Efforts by several UN Special Rapporteurs and humanitarian agencies including UNICEF, were unable to influence a change.

The forcible recruitment of children as combatants occurred through kidnapping, coercion of families, indoctrination in schools and abductions. Many of these children lost their lives, their childhood, their families, became disabled, and were traumatized. It was estimated that over 60% of the fighting cadres of all non-state parties to the conflict, were children under 18 years of age. Some children who did manage to escape to the government side, were afforded rehabilitation and reintegration services, and were reunited with their families. The Office of the Commissioner General of Rehabilitation was established in 2006 through a special gazette issued by the President’s Office specifically for such children. It functioned under the Secretary, Ministry of Justice, and was supported by UNICEF and other humanitarian agencies. The heinous crime of child recruitment only ceased when the conflict ended in May 2009. No child soldier was indicted for any crimes they committed.

In 2005, Sri Lanka agreed to become a party to UN Security Council Resolution 1612 on children affected by armed conflict, and to report on progress regarding children affected by the conflict to the UN Secretary General. This entailed monitoring violations against children caught in the conflict, mostly undertaken by UNICEF, and other humanitarian agencies working in conflict affected areas. The UNICEF data base on child soldiers set up from 2006 till 2008 recorded over 6700 children, boys and girls who had been forcibly recruited as child soldiers.

Today there are child rights concerns still to address. This includes abuse and violence in homes, schools, child care homes and other settings and abandonment. Root causes lies in family dysfunction, poverty, single parent families, those with migrant mothers, alcoholism, drug abuse, domestic violence, and chronic unemployment. Children in such families need protection. Children also need better access to report. The promotion of parent education is also necessary. Other issues which affect family wellbeing which include lack of proper housing and overcrowding, access to safe water and sanitation also need to be addressed.

The reporting of Incidents of child abuse and violence must connect with access to services. This should include therapy/counselling as well as child friendly law enforcement and legal processes. The child’s age and maturity need consideration when collecting evidence and questioning children in court. Law delays must be avoided where child victims are concerned. A child friendly juvenile justice system, and the development of child friendly courts for judicial proceedings involving children are among the many progressive steps taken by Sri Lanka in accordance with the CRC. This also includes steps to expedite cases involving child victims of abuse. Establishing community based mediation boards for petty offences has also been a positive measure in relation to juvenile offenders.

A recent trend of “over institutionalization” of children which needs addressing. Many of these children are not orphans, but from single parent families. Regulations for child care institutions should be based on child rights. Regular monitoring and access to confidential reporting mechanisms for children are necessary, including remedial action. Access to health, education and psycho social support for such children should be assured.
It is important to give priority to the views of children in matters which affect them, provide opportunities for the freedom of expression and to access appropriate information. Child participation needs greater priority. Access leisure, play and recreation is a child’s right. This is jeopardized some families, where there is an over emphasis on academic qualifications.

Who is really responsible for the implementation of the rights of children? Since it is the state which ratified the CRC, they have a primary obligation to undertake legislative, administrative, and other measures. This includes developing policies and action plans, and the allocating of sufficient resources. It is also a state obligation to improve access to independent reporting, and promote greater accountability. There is also a greater collective responsibility for a wider network of duty bearers. These includes civil society organizations, professional bodies, religious entities of all denomination, the business sector, the media and community organizations who are necessary to make child rights a reality.

Some challenges still remain. Geographical inequabilities in service delivery still remain. Improved family protection systems for vulnerable and disadvantaged families are necessary. Nutrition still remains an issue to be more fully addressed. The physical, sexual and emotional abuse of children needs more stringent and prompt responses from law enforcement authorities, the judiciary and care systems.

Corporal punishment in the name of “discipline” still continues in homes, schools, childcare institutions and juvenile detention centre, so non-violent forms of discipline need to be introduced. Children with disabilities need greater priority, both prevention and early detection, and better access to inclusive and special education. They are often at greater risk of neglect, and abuse, and therefore need protection. Finally a much neglected phase of childhood is adolescence. It is an important transition period between childhood and adulthood. Adolescents have the right to access to confidential reproductive and sexual health services, including mental health care, life skills education and opportunities to express their opinions and participate in decisions which affect them.

It has been my privilege to have witnessed and participated in Sri Lanka’s efforts to implement the CRC. I hope that the progress made so far will gather momentum, to abide by the guiding principles of the CRC, of accountability, universality, the indivisibility and interdependence of children’s rights. This also includes adherence to the foundation principles of non-discrimination, best interests of the child, right to life, survival and development and views of the child which underpin all other articles in the CRC. I hope the 25th anniversary of the CRC will play a catalytic role to create a child rights enabling environment for all Sri Lankan children, one in which, each individual child has the opportunity to achieve his or her fullest potential which is their birthright.