Sri Lanka

National Child Protection Legislation

National Legislation

- **Age of Child:** Under 18 years of age  
  *The Children Act (2012)*  
  Art. 3 – Interpretation  
  “child” means a person under the age of eighteen years.

- **Age of Consent:** Under 16 years of age  
  *Penal Code*  
  Sec. 363– Rape and Incest  
  With or without her consent when she is under sixteen years of age, unless the woman is his wife who is over twelve years of age and is not judicially separated from the man.

- **Age of Marriage:** 18 years of age*  
  *Marriage Registration Ordinance*  
  Art. 15– Prohibited Age of Marriage  
  No marriage contracted after the coming into force of this section shall be valid unless both parties to the marriage have completed eighteen years of age.

  Art. 22– Who may give consent to marriage of a minor  
  a) The father of any person under eighteen who may years of age; or  
  b) if the father be dead or under legal incapacity, or in parts beyond Sri Lanka and unable to make known his will, the mother.

- **Age of Criminal Responsibility:** 12 years of age  
  *Penal Code*  
  Art. 75– Act of a child under eight years of age  
  Nothing is an offence which is done act of a child by a child under eight years of age.

  Art. 76– Act of a child above eight and under twelve years of age, who has not sufficient maturity of understanding  
  Nothing is an offence which is done by a child above eight years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequence of his conduct on that occasion.
● Extraterritoriality

Penal Code

Art. 2– Liability for offences under the code

1) Every person shall be liable to punishment under this Code, and not otherwise, for every act or omission committed
   a. wholly or partly within Sri Lanka;
   b. within the territorial waters or air space of Sri Lanka;
   c. on board any ship or aircraft registered in Sri Lanka, wherever it may be at the time of the commission of such act or such omission;
   d. within the premises of a Sri Lankan mission or the residence of the Head of such mission, diplomatic agent or any other member of such mission, situated outside Sri Lanka; or
   e. within any premises occupied on behalf of, or under the control of, the Government of Sri Lanka, or any statutory body established in Sri Lanka and situated outside Sri Lanka,

2) A national of Sri Lanka shall be liable to punishment under this Code and not otherwise, for every act or omission contrary to the provisions thereof, committed outside Sri Lanka of which he shall be guilty, whether or not such national enjoys diplomatic immunity in respect of such act or omission, which is granted by a foreign State by reason of his diplomatic status in such State.

3) Nothing in this section shall be construed, as affecting the liability of any Sri Lankan national under the laws of the country in which such act was one or omitted to be done in respect of such act or omission

● Dual Criminality

The Mutual Assistance in Criminal Matters

Sec. 2– Application of the Act

1) The Minister may by Order published in the Gazette declare that the provisions of this Act shall apply to:
   a. every country that is a party to an international or a regional Convention or other agreement which is in the interest of mutual assistance in criminal matters, to which Sri Lanka has become a party, whether before or after the date of commencement of this Act;
   b. a country which has entered into an agreement with Sri Lanka for mutual assistance in criminal matters;
   c. a country which has not entered in to any agreement with Sri Lanka, where the Minister may determine that it is in the best interests of the sovereign nations that Sri Lanka extends and obtains assistance on the basis of reciprocity;

2) Section 3 of the principal enactment is hereby repealed and the following section substituted therefor:– (d) an intergovernmental organization combatting corruption,

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money laundering or financing of terrorism, on such terms and conditions as may be necessary and on the assurance of reciprocity.

- **Mandatory reporting requirements**

  **Penal Code Amendment of 2006**

  **Art. 286A– Obscene publication exhibition & relating to children**

  1) Any person who

     a. hires, employs assists, persuades, uses, induces or coerces, any child to appear or perform, in any obscene or indecent exhibition or show or to pose or model for, or to appear in, any obscene or indecent photograph or film or who sells or distributes, or otherwise publishes, or has in his possession, any such photograph or film; or

     b. being the parent, guardian or person having the custody of a child, causes or allows such child to be employed, or to participate, in any obscene or indecent exhibition or show or to pose or model for, or to appear in, any such photograph or film as is referred to in paragraph (a);

     c. takes, or assists in taking of any indecent photograph of a child; or

     d. distributes or shows any such photograph or any publication containing such photograph;

     e. has in his possession for distribution or showing, any such photograph or publication.

     f. publishes or causes to be published, any such photograph or publishes or causes to be published, any advertisement capable of conveying the message that the advertiser or person named in the advertisement distributes or shows any such photograph or publication or intends to do so, coughs the offence of obscene publication and exhibition relating to children and shall on conviction be punished with imprisonment of either description for a term not less than two years and not exceeding ten years and may also be punished with fine.

  2) Any person who, being a developer of photographs or films, discovers that any photograph or film given to him for developing is an indecent or obscene photograph or a film of a child, shall, forthwith on such discovery, inform the officer in charge of the nearest police station that he has in his possession, such photograph or film.

  3) Whoever being a developer of photographs or films acts in contravention of the provisions of subsection (2) shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both.

  4) in this section - " child "means a person under eighteen years of age: and " film" includes any form of video recording.

  **Art. 286B– Duty of person providing service by computer to prevent sexual abuse of a child**

  1) A person who provides a service by means of a computer shall take all such steps as are necessary to ensure that such computer facility is not used for the commission of an act constituting an offence relating to the sexual abuse of a child.
2) A person referred to in subsection (1) who has knowledge of any such computer facility referred to in subsection (1) being used for the commission of an act constituting an offence relating to the sexual abuse of a child, shall forthwith inform the officer in charge of the nearest police station of such fact and give such information as may be in his possession with regard to such act and the identity of the alleged offender.

3) A person who contravenes the provisions of subsections (1) or (2) shall be guilty of an offence and shall on conviction be liable to imprisonment of either description for a term not exceeding two years or to a fine or to both such imprisonment and fine.

4) In this section, "child" means a person under eighteen years of age.

Art. 286C– Duty to inform of use of premises for child abuse

1) Any person who, having the charge, care, control or possession of any premises, has knowledge of such premises being used for the commission of an act constituting the abuse of a child, shall forthwith inform the officer in charge of the nearest police station of such fact.

2) Any person referred to in subsection (1) who fails to inform the officer in charge of the nearest police station of the fact that such premises is being used for the commission of an act constituting the abuse of a child shall be guilty of an offence and shall on conviction be liable to imprisonment of either description for a term not exceeding two years or to a fine or to both such imprisonment and fine.

3) In this section, "child" means a person under eighteen years of age.

Statute of Limitations

Criminal Procedure Code

Art. 456–Period of prescription for crimes or offences
The right of prosecution for murder or treason shall not be barred by any length of time, but the right of prosecution for any other crime or offence (save and except those as to which special provision is or shall be made by law) shall be barred by the lapse of twenty years from the time when the crime or offence shall have been committed.

Criminal Procedure Code

Art. 456A– Failure to comply with code not to affect validity of compliant, &c.
The failure to comply with any provision of this Code shall not affect or be deemed to have affected the validity of any complaint, committal or indictment or the admissibility of any evidence unless such failure has occasioned a substantial miscarriage of justice.

Obligations of Educational Institutions (need assistance)

Penal Code Amendment of 2006

Sec. 286C– Duty to inform of use of premises of child abuse
1) Any person who, having the charge, care, control or possession of any premises, has knowledge of such premises being used for the commission of
an act constituting the abuse of a child, shall forthwith inform the officer in charge of the nearest police station of such fact.

2) Any person referred to in subsection (1) who fails to inform the officer in charge of the nearest police station of the fact that such premises is being used for the commission of an act constituting the abuse of a child shall be guilty of an offence and shall on conviction be liable to imprisonment of either description for a term not exceeding two years or to a fine or to both such imprisonment and fine.

3) In this section, “child” means a person under eighteen years of age.”.

**Prohibition to hold certain positions**

*The Constitution of the Democratic Socialist Republic of Sri Lanka*

**Art. 89 – Disqualifications to be an elector**

No person shall be qualified to be an elector at an election of the President, or of the Members of Parliament or to vote at any Referendum, if he is subject to any of the following disqualifications, namely –

a) if he is not a citizen of Sri Lanka;

b) if he has not attained the age of eighteen years on the qualifying date specified by law under the provisions of Article 101;

c) if he is under any law in force in Sri Lanka found or declared to be of unsound mind;

d) if he is serving or has during the period of seven years immediately preceding completed serving of a sentence of imprisonment (by whatever name called) for a term not less than six months imposed after conviction by any court for an offence punishable with imprisonment for a term not less than two years or is under sentence of death or is serving or has during the period of seven years immediately preceding completed the serving of a sentence of imprisonment for a term not less than six months awarded in lieu of execution of such sentence: Provided that if any person disqualified under this paragraph is granted a free pardon such disqualification shall cease from the date on which the pardon is granted;

e) if a period of seven years has not elapsed since

i. the last of the if any, of his being convicted of any offence under section 52(1) or 53 of the Ceylon (Parliamentary Elections) Order in Council, 1946, or of such offence under the law for the time being relating to Referenda or to the election of the President or of Members of Parliament as would correspond to an offence under either of the said two sections;

ii. the last of the dates, if any, of his being convicted of a corrupt practice under the Ceylon (Parliamentary Elections) Order in Council, 1946, or of such offence under the law for the time being relating to Referenda or to the election of the President or of Members of Parliament as would correspond to the said corrupt practice;

iii. the last of the dates, if any, being a date after the commencement of the Constitution, of a report made by a Judge finding him guilty of any corrupt practice under the Ceylon (Parliamentary Elections) Order in Council, 1946,
or under any law for the time being relating to Referenda or to the election of the President or of Members of Parliament;

iv. the last of the if any, of his convicted or found guilty of bribery under the provisions of the Act or of any future law as would correspond to the Bribery Act;

f) if a period of five years has not elapsed since –

i. the last of the dates, if any, of his being convicted of any offence under the provisions of sections 77 to 82 (both inclusive) of the Local Authorities Elections Ordinance or for such offence under any future law as would correspond to any offence under the said sections; or

ii. the last of the dates, if any, of his being convicted of an offence under the provisions of sections 2 and 3 of the Public Bodies (Prevention of Corruption) Ordinance or of such offence under any future law as would correspond to the said offence;

g) if a period of three years has not elapsed since –

i. the last of the dates, if any, of his being convicted of an illegal practice under the Ceylon (Parliamentary Elections) Order in Council, 1946, or of such offence under the law for the time being relating to Referenda or to the election of the President or of Members of Parliament as would correspond to the said illegal practice;

ii. The last of the dates, if any, being a date after the commencement of the Constitution, of a report made by a Judge finding him guilty of any illegal practice under the Ceylon (Parliamentary Elections) Order in Council, 1946, or under any law for the time being relating to Referenda or to the election of the President or of Members of Parliament;

if a resolution for the imposition of civic disability upon him has been passed in terms of Article 81, and the period of such civic disability specified in such resolution has not expired;

If a period of seven years has not elapsed since -

i. the date of his being convicted of any offence under the provisions of sections 188 to 201 (both inclusive) of the Penal Code or for such other offence under any future law as would correspond to any offence under the said sections, or

ii. the date of his being convicted of an offence of contempt against, or in disrespect of, the authority of any Special Presidential Commission of Inquiry consisting of such member or members specified in Article 81 by reason of -

1) the failure of such person, without cause which in the opinion of such Commission is reasonable, to appear before such Commission at the time and place mentioned in any summons which such Commission is empowered by law to issue, or
2) the refusal of such person to be sworn or affirmed, or the refusal or failure of such person, without cause which in the opinion of such Commission is reasonable, to answer any question put to such person touching the matters directed to be inquired into by such Commission, or
3) the refusal or failure of such person, without cause which in the opinion of such Commission is reasonable, to produce and show to such Commission any document or thing which is in the possession or power of such person and which in the opinion of such Commission is necessary for arriving at the truth of the matters to be inquired into by such Commission.

- Employment Law

An Act to Regulate the Employment of Women, Young Persons and Children

Labour Code of Sri Lanka

Art. 15– Restrictions by Commissioner of Labour on employment of children

An authorised officer if satisfied by a report of a registered medical practitioner or otherwise, that any child is being employed in such a manner as to be prejudicial to his health or physical development, or to render him unfit to obtain the proper benefit from his education, may either prohibit, or attach such conditions as the authorised officer may think fit to, his employment in that or any other manner, notwithstanding that the employment may be authorised by the provisions of this part of the Act.

Art. 16– Furnishing of information regarding the employment of children

1. The employer of any child and the parent, custodian or guardian of that child shall, if required by the authorised officer, furnish to the authorised officer such information regarding that child’s employment as the authorised officer may require.
2. Any employer, parent, custodian or guardian who fails to comply with subsection (1) of this section or wilfully give false information to an authorised officer regarding the employment of any child, shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding ten thousand rupees or imprisonment of either description for a period not exceeding twelve months or both such fine as imprisonment.

Art. 17– Restriction on employment of children attending school

1. No person–
2. shall employ a child in such a manner as to prevent a child from attending school in accordance with the provisions of any written law, or
3. having received notice of any prohibition or restriction as to the employment of a child issued under section 15, shall employ that child in such a manner as to contravene that prohibition or restriction.
**Criminal Law - Defamation**

**Penal Code**

**Art. 372 - Extortion**

Whoever intentionally puts any person in fear of any injury to that person or to any other and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security or anything signed or sealed which may be converted into a valuable security, commits "extortion".

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**Private Fostering**

**Hague Convention**

**Art. 26**

1) The recognition of an adoption includes recognition of
   a. the legal parent-child relationship between the child and his or her adoptive parents;
   b. parental responsibility of the adoptive parents for the child;
   c. the termination of a pre-existing legal relationship between the child and his or her mother and father, if the adoption has this effect in the Contracting State where it was made.

2) In the case of an adoption having the effect of terminating a pre-existing legal parent-child relationship, the child shall enjoy in the receiving State, and in any other Contracting State where the adoption is recognised, rights equivalent to those resulting from adoptions having this effect in each such State.

3) The preceding paragraphs shall not prejudice the application of any provision more favourable for the child, in force in the Contracting State which recognises the adoption.

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**Sexual Offenses Against Children**

**Penal Code**

**Art. 360A - Procreation**

1) procures, or attempts to procure, any person, whether male or female of whatever age (whether with or without the consent of such person) to become, within or outside Sri Lanka, prostitute;

2) procures, or attempts to procure, any person, under sixteen years of ages to leave Sri Lanka with or without the consent of such person) with a view to illicit sexual intercourse with any person outside Sri Lanka, or removes, or attempts to remove, from Sri Lanka any such person (whether with or without the consent of such person) for the said purpose;

3) procures, or attempts to procure, any person of whatever age, to leave Sri Lanka (whether with or without the consent of such person) with intent that such person may become the inmate of, or frequent, a brothel elsewhere, or removes, or attempts to remove, from Sri Lanka any such person (whether with or without the consent of such person) for the said purpose;

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4) brings, or attempts to bring, into Sri Lanka any person under sixteen years of age with a view to illicit sexual intercourse with any other person, in Sri Lanka or outside Sri Lanka;
5) procures, or attempts to procure, any person of whatever age (whether with or without the consent of such person) to leave such persons usual place of abode in Sri Lanka with a view to illicit sexual intercourse within or outside Sri Lanka;
6) detains any person without the consent of such person in any premises with a view to illicit sexual intercourse or sexual abuse.

Penal Code

Sec. 360B– Sexual Exploitation of Children
1) Whoever-
   a. knowingly permits any child to remain in any premises for the purpose of causing such child to be sexually abused or to participate in any form of sexual activity or in any obscene or indecent exhibition or show;
   b. acts as a procurer of a child for the purposes of sexual intercourse or for any form of sexual abuse;
   c. induces any person to be a client of a child for sexual intercourse or for any form of sexual abuse, by means of print or other media, oral advertisements or other similar means;
   d. takes advantage, of his influence over, or his relationship to, a child, to procure such child for sexual intercourse or any form of sexual abuse;
   e. threatens, or uses violence towards, a child to procure such child for sexual intercourse or any form of sexual abuse;
   f. gives monetary consideration, goods or other benefits to a child or his parents with intent to procure such child for sexual intercourse or any form of sexual abuse, commits the offence of sexual exploitation of children and shall on conviction be punished with imprisonment of either description for a term not less than five years and not exceeding twenty years and may also be punished with fine.

2) In this section child means a person under eighteen years of age.

Penal Code

Art. 360C– Trafficking
1) Whoever-
   a. buys, sells or barters or instigates another person to buy, sell or barter any person or does anything to promote, facilitate or induce the buying, selling or bartering of any person for money or other consideration;
   b. recruits, transports, transfers, harbours or receives any person or does any other act by the use of threat, force, fraud, deception or inducement or by exploiting the vulnerability of another for the purpose of securing forced or compulsory labour or services, slavery, servitude, the removal of organs, prostitution or other forms of sexual exploitation or any other act which constitutes an offence under any law;
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c. recruits, transports, transfers, harbours or receives a child or does any other act whether with or without the consent of such child for the purpose of securing forced or compulsory labour or services, slavery, servitude or the removal of organs, prostitution or other forms of sexual exploitation, or any other act which constitutes an offence under any law,

2) Any person who is guilty of the offence of trafficking shall on conviction be punished with imprisonment of either description for a term not less than two years and not exceeding twenty years and may also be punished with fine and where such offence is committed in respect of a child, be punished with imprisonment of either description for a term not less than three years and not exceeding twenty years and may also be punished with fine.

3) In this section,"child" means a person under eighteen years of age ; "forced or compulsory labour" has the same meaning as in section 358A; "slavery" has the same meaning as in section 358A; and "exploiting the vulnerability of another" means impelling a person to submit to any act, taking advantage of such person's economic, cultural or other circumstances.".

Penal Code

Art. 363– Rape

A man is said to commit " rape " who enactment has sexual intercourse with, a woman under circumstances falling under any of the following descriptions:

a) without her consent even where such woman is his wife and she is judicially separated from the man;

b) with her consent, while she was in lawful or unlawful detention or when her consent has been obtained, by use of force or intimidation, or by threat of detention or by putting her in fear of death or hurt;

c) with her consent when her consent has been obtained at a time when she was of unsound mind or was in a state of intoxication induced by alcohol or drugs, administered to her by the man or by some other person;

d) with her consent when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is, or believed herself to be, lawfully married;

e) with or without her consent when she is under sixteen years of age, unless the woman is his wife who is over twelve years of age and is not judicially separated from the man.

Explanation–

i. (i)Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape;

ii. (ii)Evidence of resistance such as physical injuries to the body is not essential to prove that sexual intercourse took place without
*Female Genital Mutilation (FGM)/ Female Genital Circumcision*

No direct law for Sri Lanka in relation to female genital mutilation.

Within the Penal Code Amendments of 1995, some legislation explains purposeful injuries pertaining to a child.

**Penal Code**

**Art. 308A– Cruelty to a child**

1) Whoever, having the custody, charge or care of any person under eighteen years of age, willfully assaults, ill-treats, neglects, or abandons such person or causes or procures such person to be assaulted, ill-treated, neglected, or abandoned in a manner likely to cause him suffering or injury to health (including injury to, or loss of, sight at nearing, or limb or organ of the body or any mental derangement), commits the offence of cruelty to children.

2) Whoever commits the offence of cruelty to children shall on conviction be punished with imprisonment of either description for a term not less than two years and not exceeding ten years and may also be punished with fine and be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person.

Explanation:

"injuries" includes psychological or mental trauma

**Child/Early/Forced Marriage**

**Marriage Registration Ordinance**

**Sec. 15– Prohibited age of marriage**

No marriage contracted after the coming into force of this section shall be valid unless both parties to the marriage have completed eighteen years of age.

**Marriage Registration Ordinance**

**Sec. 16– Prohibited decrees of relationships**

a) where either party shall be directly descended from the other; or

b) where the female shall be sister of the male either by the full or the half-blood, or the daughter of his brother or of his sister by the full or the half-blood, or a descendant from either of them, or daughter of his wife by another father, or his son's or grandson's or father's or grandfather's widow; or

b) where the male shall be brother of the female either by the full or the half-blood, or the son of her brother or sister by the full or the half-blood, or a descendant from, either of them, or the son of her husband by another mother, or her deceased daughter's or granddaughter's or mother's or grandmother's husband.
Marriage Registration Ordinance

Sec. 22- Who may give consent to marriage of a minor

1) …
   a) The father of any person under eighteen who may years of age; or
   b) if the father be dead or under legal incapacity, or in parts beyond Sri Lanka and unable to make known his will, the mother; or
   c) if both father and mother be dead or under legal incapacity, or in parts beyond Sri Lanka and unable to make known their will, the guardian or guardians appointed over the party so under age by the father, or if the father be dead or under legal incapacity, by the mother of such party or by a competent court, shall have authority to give consent to the marriage of such party, and such consent is hereby required for the said marriage:

Provided that no such consent shall be required in the case of a widow or widower or a person who shall have been previously married, and whose marriage shall have been legally dissolved.

2) If there be no person authorized as aforesaid to give consent, or if the person so authorized unreasonably withholds or refuses his or her consent, the Judge of the District Court within whose jurisdiction the under age party so resides, may, upon the application of any party interested in such marriage, and after summary inquiry, give consent to the said marriage, and such consent is hereby required for the said marriage.