



# **Prison Study by the Human Rights Commission of Sri Lanka**



## **Publication of Executive Summary and Table of Recommendations of the HRCSL's Study on Prisons conducted in 2018**

The Human Rights Commissions of Sri Lanka initiated a study of the Sri Lankan prison system in 2018 to understand the compatibility between our current prison system and Sri Lanka's human rights obligations and to identify the underlying issues that impact the human rights of prisoners in Sri Lanka. The Nelson Mandela Rules (formulated by the United Nations Office on Drugs and Crime) was the benchmark for the review.

The study was done between April and September 2018. This included prison inspections in twenty correction institutions including prisons, remand prisons and work camps and interviews with inmates, prison officials and stakeholders such as government institutions and other independent and non-governmental groups.

The findings and recommendations address the knowledge gap and increase general understanding of the prison system. We also hope to highlight shortcomings of the framework. It is hoped the findings will lead to the formulation and implementation of better practices and policies, to protect and promote prisoners' rights and strengthen the correctional system, including focusing on issues the officers face.

The Commission appreciates the fact that that officers of the Prisons Department welcomed and supported the study. At their request, HRCSL conducted a series of human rights awareness programmes for prison officials.

The three key findings of the study are:

- the system is overcrowded and under resourced;
- the prisons system emphasises the correctional/ punitive aspect rather than the preferred correctional/ rehabilitative model;
- officials are well aware of the shortcomings and are open to change.

The last gives the Commission hope that although the system is overburdened, if effort is placed to reduce inmate numbers and the focus shifts to a rehabilitative process, with adequate resources for the same, our system could achieve the required standards.

In this regard, we believe the Prisons Department's new Strategic Plan 2021 – 2025 "A Right Based Correctional System for a Safer Society"<sup>1</sup> is a step in the right direction.

The HRCSL is happy to publish the Executive Summary and Collation of Recommendations of the study today.

25 November 2020  
Colombo

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<sup>1</sup> <http://prisons.gov.lk/web/wp-content/uploads/2020/10/Prison-reform-implementation-plan-2021-2025.pdf>

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## **Executive Summary**

### **Overview**

The Human Rights Commission of Sri Lanka initiated the first country wide study of prisons in Sri Lanka in response to the absence of information in the public domain about, as well as lack of public discourse on the prisons system, and conditions and treatment of prisoners.

The study was conducted in twenty prisons around the country. The methodology of the study consisted of inspections of prisons, administering questionnaires and conducting interviews with prisoners. Interviews were also conducted with prison officers from each prison as well as external stakeholders involved in the criminal justice and correctional process, including state actors from all relevant ministries. Based on the information gathered, the conditions of prisons and treatment of prisoners were evaluated within the fundamental human rights standards outlined in the Constitution of Sri Lanka and the domestic legal framework regulating the administration of prisons, as well as relevant international human rights obligations of the state.

The study revealed that the treatment and detention conditions of prisoners fall far below the threshold of basic living standards. The provision of services to which prisoners are entitled, including access to healthcare and opportunities for rehabilitation, are poor because the level of occupancy of the prisons is manifold its capacity. Due to the severe shortage of staff prison officers are overworked and experience job dissatisfaction and mental distress. The inadequate remuneration that is not commensurate with the difficult and even dangerous conditions of their work environment exacerbates the challenges they face discharging their functions effectively. Thus, prisons were found to be overcrowded and dysfunctional, where the risk of breeding criminality, corruption and recidivism was high as the opportunities for rehabilitation were minimal. Hence, there is the absence of conditions conducive to the effective social re-integration of reformed prisoners.

In this context, the Commission observed that certain categories of prisoners are more vulnerable than others, such as prisoners on death row, women, young offenders, foreign nationals, prisoners detained under the Prevention of Terrorism Act and prisoners with disabilities. The specific challenges that they face must be considered in policymaking in order to ensure they have equal and equitable access to a chance for reform.

Qualitative information gathered during interviews with prisoners overwhelmingly suggested that the majority of prisoners are from a lower socio-economic background, as illustrated by details they revealed of their personal circumstances, including their inability to retain the services of a legal representative due to the lack of financial resources. Prisoners often cited their lack of financial stability and poverty as reasons they initially became involved in criminal activities. Poverty was a factor that intersected across all age, ethnic and religious groups of prisoners. Male prisoners, in particular, stated that, as they were the

primary income earners in their family, they were unable to provide for their families during incarceration, resulting in their families experiencing multiple hardships, about which many prisoners expressed anguish. Often, the prisoner lamented that while he/she was being offered three meals in prison, there was no one to provide even one meal to their family.

The Commission also found that numerous shortcomings in the functioning of the criminal justice process contributed to extended incarceration of persons, particularly pre-trial detention, which in turn, contributed to the creation of adverse living conditions and treatment in prison. The manner in which bail is awarded, the administrative inefficiencies of state institutions, such as the Attorney General's Department, the lack of legal aid and the poor utilization of alternatives to incarceration all contribute to more prisoners spending longer periods of time in prison. Not only is this a huge burden on the taxpayer, but it also results in diminishing returns because prisoners do not leave prison being prepared to reintegrate into society and live as productive citizens. Instead, the system, as it currently exists, could potentially result in released prisoners resorting to further criminality after release in order to survive.

The correctional system therefore requires extensive reform if it is to fulfil its objective of rehabilitating prisoners and ultimately preventing crime. It is hoped that this study will be the foundation for formulating correctional policies that seek to provide effective rehabilitation programmes that enable persons to live with dignity during and after their term of imprisonment, rather than exacerbating the socio-economic and psychological conditions that lead to criminality in the first place.

It must be highlighted that throughout this study, the Commission observed DOP officers to be extremely aware of and empathetic towards the hardships faced by inmates within prison, even in their personal lives. Prison staff were found willing to discuss the shortcomings and weaknesses of the Department of Prisons, and officers themselves provided insightful and progressive suggestions to improve the existing penal system and transform it into a correctional system. Their recommendations were wide ranging, encompassing the living conditions of prisoners, rehabilitation programmes to reduce the rate of recidivism and even means of strengthening the criminal justice process. For this reason, the Commission believes that prison officers at all ranks should be consulted in any prison reform initiatives undertaken by the government.

## **Part I – Treatment and Conditions of Prisoners**

### **1. Entrance and Exit Procedure**

The process of admitting and registering a new inmate to prison was observed to be uniform and consistent across all prisons but contained a number of shortcomings. For instance, the information management system in prisons is highly inefficient as manual files, rather than a digital centralized database, are used to store prisoners' records, leading to delays in the search and retrieval of files. Although a few prisons were observed to be operating an



electronic system of data management, the lack of IT proficient officers amongst the staff limited the long-term success of these initiatives.

As part of the entrance procedure, prisoners are queried whether they were assaulted by the police during arrest, and if they wish to take legal action. If the prisoner so desires, details of the assault and the alleged perpetrators would be forwarded to the Superintendent of the relevant police station. However, such processes do not necessarily result in the perpetrators being held accountable, since it cannot be confirmed whether any resultant action will be taken nor is the prisoner provided with the means to follow up on their complaint.

Prisoners are photographed as part of the registration, often with their shirt removed, and any visible marks of injury are marked, which places a timestamp on the injuries. However, in many prisons, registration may only be conducted on the day after the admission, especially if the prisoner was admitted in the evening. Thus, there may be no timestamp of a prisoner's injuries prior to their admission to prison, which would make it difficult to distinguish injuries acquired after their entrance to the prison.

Prisoners are required to undergo a comprehensive medical screening to detect any illnesses, but it was found that this is not often conducted due to the lack of medical equipment and technological resources to conduct screening tests. Prisoners, at most, would simply undergo a basic medical examination by a doctor the following admission to prison. A comprehensive examination is necessary to detect any serious illnesses and particularly to identify any drug dependency, withdrawal symptoms or suicidal tendencies amongst new entrants.

The Commission was informed that the body search of any inmate entering the prison is mandatory to prevent contraband from being smuggled inside. However, several complaints were received by the Commission alleging searches are carried out in a derogatory manner without respect for the privacy and dignity of an individual. This highlighted the urgent need for new technology to be used to undertake body searches efficiently, without causing indignities or distress to an inmate. In this regard, although the Commission observed body scanners in some prisons, it was found that most were in need of repair and were also not sophisticated enough to detect different kinds of contraband. Further, electronic systems currently in place at some prisons are not operational, either due to a lack of trained staff to operate them or insufficient/irregular maintenance.

A standard orientation programme on the rules and regulations of daily life in prison, the list of prison offences and resultant sanctions, internal grievance mechanism, etc., is required to be conducted for new entrants, but the Commission found it was not done in all prisons. Certain prisons offer varying amounts of information to new prisoners, via an oral presentation, but this is available only in Sinhala.

The Commission received information from prisoners in a number of prisons that prisoners are subjected to physical assault upon entry, usually referred to as the 'welcome slap' depending on the offence for which they have been imprisoned. Drug and sex offenders and reconvicted prisoners in particular reported being subjected to such torture.

## **2. Accommodation**

Prisoners in Sri Lankan prisons are separated according to outdated national legislation, which is at variance with relevant international standards. While the segregation of males and females is strictly maintained, prisoners under eighteen years of age are held with prisoners up to the age of twenty-two, which is permitted by national legislation, which also recommends the segregation of persons from a socially influential background from other prisoners.

Convicted prisoners are transferred to a prison based on whether they are first offenders or recidivists, although they often request to be held in prisons close to their hometown in order to be closer to their families.

Ward conditions do not comply with accepted standards of space per prisoner, ventilation, lighting and temperature, and often amounted to inhuman living conditions. The primary cause of this was not only the overcrowding of virtually every institution, but also the dilapidated state of prisons as most of them were built decades ago. The crumbling roofs and walls in prison buildings constitute a threat to the lives of inmates and in the event of a natural disaster or calamity, the prison would not be able to respond in a swift and safe manner. Disaster management policies and evacuation protocols were absent in all prisons visited by the Commission. Elderly and prisoners with disabilities would hence potentially suffer the most harm in such an event. Such systemic issues were not only found in older prisons but also in recently built prisons, which fail to comply with international standards.

The overcrowding of wards results in many new remandees standing all night-long as they do not have space to sleep, or being forced to sleep near or inside the toilet. Prisoners frequently complained of, which the Commission observed as well, a large number of mosquitoes and bedbugs as well as rats and pigeons inside the wards, which contributed to their distress and adversely affected their health as well. Conditions of the wards and other facilities are not regularly monitored by medical officers or public health inspectors, despite legal requirements. The lack of external and independent monitoring of prisons and the resultant action taken by the Ministry indicates a serious disregard for prisoners' health and living conditions. Such conditions are conducive to the spread of illnesses among prisoners, which, in turn, impact the overburdened prison healthcare and transport system.

## **3. Food**

Prisoners from every prison except Anuradhapura Remand Prison complained about the quality of the food served to them, stating it was tasteless and watery and that often the rice was uncooked. The Commission observed that the reasons for the unsatisfactory quality of prisoners' meals could be attributed to the unhygienic conditions of prison kitchens, where prepared food was often left open and exposed to spoilage, particularly due to the clogged drains and damp floors in kitchens that are ideal breeding ground for bacteria. Prisoners



who engaged in hard labour at work camps and open prisons often complained that the quantity of food they received was inadequate.

The Commission observed a large amount of food is wasted every day, especially at remand prisons, likely due to the unsatisfactory quality of the food, and also because remand prisoners are allowed to receive food from home, and a proportional reduction is not efficiently made to reduce the amount of food prepared. The inefficiency in the preparation of food therefore contributes to the waste of food supplies and resources.

The Commission was informed that prisoners who cook the food usually do not possess prior culinary experience, which would inevitably impact the quality of food. Medical officers do not inspect the conditions of the kitchen as required by national legislation, and hence, a quality check of the preparation of meals is not undertaken. The lack of oversight reportedly allows room for the alleged appropriation by officers of ingredients, spices and condiments meant for prisoners, which contributes to the low quality of food.

It should be noted that prisoners in many prisons reported that the quality of the food improved during the three to four-day period of the Commission's visit.

#### **4. Water, Sanitation and Personal Hygiene**

Due to the overcrowding of prisons, obsolete prison structures which were not designed for the current level of occupancy impede the access of inmates to a consistent supply of water and sanitation facilities. The ratio of prisoners to toilets and water points is extremely high, and complaints were received from virtually every prison about the insufficient quantity of water provided to them. Toilets in the prison system also do not have flushes installed and prisoners complained they are required to use their limited water supply to sluice away excrement after using the toilets.

In prisons situated away from towns in rural areas, there would be no direct water line from the main supply line and water would have to be acquired from natural sources. Numerous complaints were received about the quality of water from certain prisons, particularly where it was derived from natural sources of water, and would become muddy or contaminated, or taste briny or brackish.

Toilets found inside wards were not furnished with doors or cubicles and due privacy is not afforded to inmates while they use them. A common characteristic of the prison system is that, since individual cells are locked at night and there are no toilet facilities in each cell, but rather toilets for common use in the ward outside the cells, prisoners are required to relieve themselves in plastic buckets and polythene bags at night time when they cannot access toilets. These bags and buckets are then kept inside their cells for the duration of the night. Multiple inmates occupying a single cell would be required to share one bucket, and often the newest entrant in the cell would be tasked with cleaning it the next morning.

As there is no budgetary allocation for the provision of toiletries, inmates are required to source necessary provisions through visiting family members, but persons who do not receive visits and foreign nationals would find it difficult to acquire these items. In such situations, in return for provisions, they would complete personal chores of inmates who have adequate supply. Inmates are also not provided with cleaning agents by the prison due to the lack of a budgetary allocation, which contributes to unsanitary condition of the sanitation facilities.

## **5. Access to Medical Treatment**

Despite the international requirement for prisoners' access to medical treatment to be the same as the standard of healthcare available for persons outside the prison, and national legal framework which requires that prisoners' access to medical attention is efficiently facilitated, the Commission found that prisoners' access to healthcare fell far below the requisite threshold. Prison healthcare is integrated within the national health care system whereby medical officers are recruited by the Ministry of Health, which is also responsible for procuring the supply of drugs and medical equipment. Nurses and dispensers for prison hospitals are recruited by the Department of Prisoners, which also manages the prison hospitals. The overlap between the duties and responsibilities of both the Ministry of Health and the Department of Prisons and the lack of coordination between the two are key reasons for the inefficient administration of, and unsatisfactory quality of healthcare provided to prisoners.

There is a severe shortage of medical infrastructure and supply of specialized medicine inside prison hospitals, thereby limiting the options for treatment available inside the prisons and requiring prisoners to be transferred to the general hospital for diagnosis and treatment. Prison hospitals are also short-staffed and there is a deficit of female nurses in the prison healthcare system. Doctors would be available to see patients in the prison hospital at certain times of the day, and would remain on call but not onsite at night time. As a result, the provision of medical treatment at night time was virtually non-existent and inmates reported they have to suffer symptoms throughout the night until the next day when they are taken to visit the doctor. It has also been alleged that delayed medical treatment at night time has caused multiple prisoners to succumb to their illnesses.

There is a gross shortage of transportation facilities and officers for the timely transfer of inmates to national hospitals for medical treatment regarding which the Commission received a large number of complaints, in every prison, from prisoners whose medical appointments and operations had been delayed for months, if not years. Superintendents attributed such delays to the lack of vehicles as well as the lack of staff required to escort prisoners to external hospitals. Escorts to the hospitals have to be carried out alongside performing court duty and other transfers. This is especially cumbersome since more officers and even policemen or the Special Task Force are required to transfer condemned or special<sup>2</sup> prisoners to the general hospital. Medical transfers are hence not always

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<sup>2</sup> High risk prisoners or prisoners requiring higher security

prioritized by the Superintendent and the medical officers' referral is often overridden in favour of logistical efficiency rather than symptom severity.

The Commission received complaints about discriminatory and differential treatment by doctors who reportedly inquire from prisoners about the details of their offence. In the case of certain offenders, such as drug offenders, medical officers reportedly taunt them about the crimes for which they have been convicted or remanded, and even state that the said prisoners should be able to bear the illness given the gravity of the crime they have committed, and therefore do not require treatment. This has an adverse impact on an inmate's psychological well-being and discourages them from requesting medical attention. Prisoners from influential socio-economic backgrounds reportedly receive better treatment from medical officers, and many such prisoners were discovered to be permanent residents of the prison hospital.

A medical officer may provide medical attention to a prisoner displaying visible signs of injury, but is not required to request the prisoner to be produced before a Judicial Medical Officer. This is contrary to international guidelines, which require medical officers to report signs of assault to relevant authorities. In an institution where there is inadequate scrutiny by external entities, medical officers play an important role as objective third parties and can intervene to ensure that a prison who alleges assault has access to the required treatment and legal remedies.

Prison conditions have the effect of triggering psychological predispositions and, coupled with the lack of meaningful activities and separation from family members, can cause psychological symptoms to foster. Furthermore, since the prison healthcare system is not equipped to provide mental health care, prisoners suffering mental illnesses are at the risk of their mental health condition deteriorating during imprisonment. Certain prisons conduct regular psychiatric clinics and are periodically visited by psychiatric consultants, but very few prisons have trained in-house counselling officers. Where a mentally ill inmate becomes particularly violent, officers resort to isolating or restraining the prisoner, while persons suffering drug withdrawal symptoms are reportedly assaulted as means of controlling them. Many prisons house persons with psychiatric illness in one ward, which is termed the 'Mental Ward', and occupants of this room are often stigmatized. Transfer of mentally ill prisoners to the National Institute of Mental Health in Angoda for treatment is subject to the availability of resources for transport.

## **6. Contact with the Outside World**

The current system which facilitates prisoners' access to contact with their families does not serve its purpose. The infrastructure of visit rooms in remand prisons does not accommodate familial bonding, and instead becomes a source of anguish for prisoners. The reason for this is that visit rooms contain opaque mesh barriers which make it difficult to hear and see visitors, and packed visit rooms have lower ventilation, inadequate lighting and high temperatures. Visits last only for a few minutes as remand prisons have to accommodate a large number of visits in a single day, and a large number of visits are

conducted simultaneously, due to which prisoners and visitors have shout over each other to be heard. Prisoners stated that prison officers treat visitors in a condescending and discourteous manner and disparaging remarks or sexual innuendos are often made to female visitors.

Food received by remandees from their families is inspected by prison officers, but the haphazard and unhygienic inspection of items received causes disintegration and spoilage of the food, which becomes a source of frustration for inmates. Prison administrations state they resort to manual and haphazard search measures to detect the presence of contraband inside food parcels, as they do not have adequate officers or technological solutions to more efficiently counter the problem of contraband.

Most prisons do not enable efficient postal communication, thereby severely limiting family communication for prisoners whose family members cannot visit them. As letters are required to be censored and scrutinized by the prison, in instances where officers are not proficient in languages other than Sinhala, the letters may not be sent by the prison. Phone booths are found only in the Welikada prison and the cost of each call has to be borne by the families of prisoners. The phonebooths however do not have facilities to make IDD calls, which is disadvantageous for foreign nationals.

Although lawyers are allowed to meet with their clients in a separate room at most prisons, many prisoners cannot afford to remunerate their lawyers to visit them in prison as lawyers charge additional fees for such visits. This results in many defendants only meeting their lawyers in court, which adversely impacts the due process rights of a defendant to prepare a vigorous defence as they are virtually cut off from their lawyer due to the lack of adequate communication facilities provided in prison.

## **7. Grievance Mechanisms**

It was observed that prisoners are readily able to report their grievances to the Commission when the Commission visits prisons. However, they are reluctant to use the internal grievance mechanism of the prison due to the delays associated with the procedure and the experience of other inmates who did not receive a remedy after lodging complaints. Many inmates are of the opinion that making a complaint against an officer will not result in a fruitful outcome as Superintendents are biased in favour of the officers and no action will be taken, or that the officers may not convey their requests to the Superintendent in the first place. Some feared it might lead to reprisals from officers and the Commission has been notified of prisoners who were allegedly harassed and threatened for complaining to the Commission. There is a privacy concern inherent in the grievance mechanism when prisoners speak to the Superintendent during his rounds or when a subordinate officer is present in the Superintendent's office when an inmate is making a complaint. Badulla Remand prison was found to provide every ward with a complaints book through which requests and complaints could be submitted anonymously and Jaffna Remand Prison had a complaints box for prisoners' complaints.

The Commission was informed that some judges undertake monthly visits to prisons and may even conduct rounds and inspections, which allows prisoners to report grievances to them. However, while remandees have access to a judge since they attend court, since judges do not generally undertake regular visits to prisons, convicted prisoners who no longer go to court would be able to access the judge only if they undertake prison visits.

Although prisoners would wish to complain to the Commission about a range of grievances, they may not always have the means to do so confidentially since officers would vet letters sent to the Commission by prisoners. Further, except for prisoners at Welikada Prison, prisoners do not have the means to call the Commission's hotline and since phone conversations at Welikada Prison are also monitored, complaints cannot be lodged confidentially.

## **8. Inmate-officer Relationships**

The Commission observed that an officer's treatment of an inmate is often determined by the prisoner's social standing, race, religion and the offence for which they have been convicted or been accused of committing. Most prison officers do not treat inmates with the respect and dignity to which they are entitled as human beings, and complaints against verbal abuse by officers were ubiquitous. Superintendents of certain prisons admitted that officers do use abusive language towards inmates, which is an issue that needs to be addressed. Many Superintendents stated they have reportedly issued explicit instructions to prison officers to desist from using abusive language in their interactions with prisoners.

The power dynamic between officers and inmates was manifest in their interactions, and prisoners were sometimes observed giving foot massages to, and polishing shoes of the officers. While remandees face the brunt of the ill-treatment, condemned and long-term convicted prisoners are treated better by prison officers since they have become more acquainted with them over time. Prison officers may even be apprehensive of upsetting the prisoners on death row who, due to their unbounded sentence and difficult conditions of imprisonment, have 'nothing to lose' and therefore cannot be effectively deterred from disrupting order in prison with the threat of further sanctions.

Prisoners of a higher social standing, however, are treated with respect and are even able to access special facilities and privileges not available to other inmates. The ability of such prisoners to access privileges points to the existence of a certain degree of corruption in the prison system, with officers reportedly accepting bribes from prisoners in return for various benefits and favours.

Prisoners also informed the Commission that discrimination based on race and religion is present among inmates, and Tamil prisoners and foreign nationals complained most about inter-inmate prejudice.

Ward leaders for each ward are conferred a considerable amount of power by prison officers to monitor and discipline their ward mates, and hence also enjoy a better relationship with

prison officers, especially because they often provide information about the activities of fellow prisoners to the officers. This has the effect of creating an unequal power dynamic among inmates, which can be exploited by inmates who wield more influence.

## **9. Discipline and Punishment**

The Commission observed that physical violence is often used as a form of punishment for committing offences inside prison and is also an integral component of maintaining discipline and order. Prison officers were noted engaging in beatings for a range of reasons but are primarily seen to be inflicting violence on persons from impoverished backgrounds.

Prisoners reported being beaten by various instruments, such as clubs and wires in the presence of other inmates, often while kneeling or being hung up by their wrists. Prisoners could be beaten by all ranks of officers, with even Superintendents and Chief Jailors being implicated in perpetrating violence. In many prisons it was alleged that officers inflicted violence while intoxicated. Violence is seen as the primary means of maintaining order inside the prison, which may be why prisoners reported being beaten for even inconsequential reasons, in order to affirm the unequal inmate-officer power dynamic and remind prisoners of officers' superiority and the coercive and retributive power they possess.

Prison officers do not receive training on non-violent means of restraining prisoners and maintaining order. The Commission was also informed that the conditions of their work environment and associated stress and burnout causes prison officers to resort to violence in dealing with inmates. As mentioned above in the section on Inmate-Officer Relationships, persons from higher socio-economic backgrounds did not report being subject to violence or ill-treatment by officers.

A key contributory factor to the use of violence by prison officers is the fact they are rarely sanctioned for inflicting violence on inmates, which creates a culture of impunity. Since, during the prison study the presence of the Commission at prisons across the country increased, it was reported that the frequent presence of the Commission has had the effect of curbing violence in certain prisons, as officers reportedly feared the Commission would initiate inquiries into allegations of violence. This indicates that disciplinary sanctions against officers as part of a zero-tolerance policy against violence, and/or prosecutions under the Torture Act would have a deterrent effect on the use of violence by prison officers.

Another commonly cited punishment is the use of solitary confinement. The Commission found punishment cells to be dark, damp and less-ventilated, often without toilet facilities, thus exacerbating the conditions of punishment. This is contrary to international standards on the use of confinement as a means of punishment, which prohibit inhuman living conditions.

A Prison Tribunal may be convened to decide the culpability of an inmate accused of committing a prison offence and decide the sentence. A district judge is typically called upon



to adjudicate and the maximum punishment that can be awarded is five years imprisonment. It should be noted that the period of punishment awarded by the Tribunal would constitute an extension of the period of imprisonment.

Prisoners stated that when proceedings are conducted at the prison itself, rather than in a courtroom, they are concerned about the impartiality of the proceedings. The setting is rife with power disparity because the prisoner is at a disadvantage as they are without anyone to speak on their behalf. It is general practice to allow a prisoner to hire legal representation, but calling lawyers to the prison is an additional financial burden, and hence the individual would ordinarily have to represent himself before a judge. Prisoners alluded that judges simply listen to the statement of the Superintendent without conducting their own inquiries, thereby creating an appearance of bias.

While possessing contraband is one of the main reasons for receiving a beating, prisoners from every prison alleged the involvement of officers in smuggling contraband into the prison, which was also acknowledged by senior members of the Ministry of Justice and the Department of Prisons. It was highlighted to the Commission that the prevention of contraband entering prison is currently one of the key challenges faced by the Department of Prisons. Further, despite initiating disciplinary action against officers and introducing new policies, such as body and parcel scanners, to restrict the supply of contraband in prison, measures taken by the Department of Prisons reportedly fall short of addressing it effectively. This points to the need to take into account the root causes of and the systemic factors that fuel corruption, in order to prevent the smuggling in of contraband. Within such a complex environment in which illegal activities can take place, coupled with the inmate-officer unequal power dynamic, it is highly possible for prisoners to be sanctioned for possessing contraband, which was smuggled into prison by prison officers, while the officers responsible are not penalized. Such a phenomenon does not effectively prevent the spread of contraband in prison.

## **10. Death in Prison**

While inquiring into the deaths that occurred in prison during the study, the Commission was able to uncover a number of patterns which contribute to the cause of death of inmates in custody. Violence inflicted by prisoners and prison officers which ultimately caused death was noted. In all such cases reported to the Commission, the deceased were in a state of distress, often appearing to suffer from drug withdrawal symptoms or the effect of a psychological disorder. Due to this they caused disruption and violence was used as a means of subduing them.

The Commission found that recording identifying marks and photographing an inmate upon entry is crucial as it could place a timestamp on any injuries acquired by prisoners prior to imprisonment, and hence allows a determination of whether an assault was committed on a prisoner inside the prison or prior to entry. However, new prisoners who arrive in the evening may only be examined the following day. Therefore, if a new prisoner is assaulted on their first night prior to registration, it may not be possible to ascertain whether the

injuries were inflicted in prison or during arrest. The prison administration also responds to prisoners engaging in self-harm and displaying suicidal tendencies by placing them in solitary confinement. The aggravation of the symptoms displayed by persons suffering mental illnesses coupled with the lack of medical treatment would create room for suicidal tendencies to foster and inmates to succumb to them.

Delayed access to medical treatment, and especially emergency medical treatment at night-time has reportedly led to the death of inmates. As discussed in the section on medical treatment, the lack of access to timely medical attention at night is an inherent flaw of prison healthcare, and the Commission has observed patterns where inmates have succumbed to injuries as a result. Most events which caused the death of inmates reportedly took place at night time, and the lack of prompt action taken by officers, coupled with a shortage of officers engaged in supervision and patrol duties, was seen as contributory factors to such deaths in prison.

The Commission was informed that although judicial inquiry will be undertaken in all deaths that occur in custody, the prison administration would only compile a preliminary file, which outlines the circumstances surrounding the death to be reported to the Head Office. The file on the deceased would not contain a conclusion on the cause of death, nor an analysis of the circumstances of the death. This creates room for the causal factors, such as the lack of access to medical treatment, to not be identified. The lack of a complete internal process in the event of a death in prison, is reflected in the examination of death records maintained by prisons where some 'Cause of Death' forms did not contain adequate data on the circumstances surrounding the death. As details are not recorded accurately, the prison would limit its ability to self-correct as it would not be able to improve its internal systems and procedures by learning from such events.

These shortcomings coupled with the severe shortage of resources and staff cause prisons to become a highly perilous environment for vulnerable prisoners. Most strikingly, the Commission observed the lackadaisical attitude with which the death of prisoners is regarded, which appears to indicate that the value of life diminishes behind bars.

Non-judicial investigations into deaths in prison are primarily conducted by the Commission.

## **Part II: The Rehabilitation Process**

### **11. Rehabilitation in Prison**

Not individualization of rehabilitation is one of the main shortcomings of the penal system in Sri Lanka. In the Sri Lankan penal system prisoners are not assessed to ascertain their personal skill set, preferences or former professions and thereafter assigned to a suitable rehabilitation program. If rehabilitation programmes in prison were individualized, then the chance of more prisoners being rehabilitated and re-integrating into society successfully upon release would increase. However, in the current system, of hundreds of prisoners, only a few inmates would be able to successfully learn a skill that they could pursue upon release

to earn a living wage. The Commission found that only a few ad-hoc programmes are provided by certain prisons. For instance, literacy classes were available for prisoners to learn basic literacy skills and language, but only a few who took initiative and effort and requested the authorities to make the necessary arrangements had the opportunities to complete disrupted secondary education according to the national curriculum or higher studies.

Religious and spiritual education is viewed as the primary tool of rehabilitation and is the main programme which prisons attempted to organise, although this was primarily facilitated for followers of Buddhism. Other methods, such as group counselling and drug rehabilitation, are not conducted uniformly across all prisons, but are conducted on a small scale in institutions where the administration collaborated with external entities. Vocational training programmes offered in prison include masonry, brick-making, cultivation and welding. These programmes point to the need to diversify skills so that prisoners are not limited to seeking low-paying occupations upon release and thus have a limited potential to restart their life and become economically self-sufficient. Aside from that, existing rehabilitation programmes are also underfunded and therefore inmates were observed working with old fashioned tools, broken equipment and without skilled instructors to guide them. These factors also discouraged prisoners from fully engaging in and committing to the programmes. This limits the potential positive impact of prison rehabilitation programmes on prisoners, and their ability to curb released prisoners from resorting to further crime.

Of all those who are part of the criminal justice system, the Commission found that Rehabilitation Officers and prison officers strongly believed in the capacity of prisoners to reform and understood the potential benefits of effective rehabilitation programmes in prison. However, their vision is hindered by systemic barriers. The lack of funding and resources, particularly the lack of Rehabilitation and Counselling officers, is seen as the primary impediment to effective rehabilitation in prison, compounded by the reluctance of external organizations to collaborate with prisons. This highlights the need for an attitudinal change so that the government and society view prisons as correctional facilities where prisoners can be rehabilitated, rather than punitive institutions, with commensurate increase in investment, both financial and human resources, in rehabilitation programmes.

Rehabilitation Officers themselves stated that they require more training on effective methods of correctional policy. Currently, there is minimal follow up and evaluation carried out to measure the effectiveness of rehabilitation programmes in prison and ways in which they can be improved. The primary reason for this is that the cadre for Rehabilitation Officers is not adequate to perform the many functions of the Rehabilitation Division.

These shortcomings were echoed by prisoners who stated they do not feel they are spending the time in prison productively as rehabilitation opportunities are not targeted towards ensuring prisoners are disinclined to reoffend upon release, thus putting at risk the core purpose of incarceration – the prevention of crime.

## 12. Prison Work

The primary purpose of prison work is to instil a sense of responsibility and keep the prisoner suitably engaged during the day, while allowing them to learn a skill. Prisoners can be engaged in a range of work opportunities in prison, from working in offices and producing items for the prison to utilize, to working outside the prison on a work release scheme. Prisoners can also be sent to open prison camps or work camps if they are serving a short sentence or have a few years left to serve, if they do not belong to certain categories, such as those accused of disobedience to officers. Open camps contain industrial parties<sup>3</sup>, such as carpentry and welding as well, but are primarily devoted to cultivation. This limits the potential of prison work opportunities to effect the rehabilitation of prisoners, as prisoners may not be able to learn a skill that will benefit them upon release. For instance, prisoners engaged in cultivation at work camps and open prisons would not be able to utilise their experience productively upon release, if they reside in urban areas. Opportunities for female prisoners to work do not extend beyond work within prison and keeping the premises clean.

The conditions of work sections and premises in prisons do not meet the requirements of adequate natural light, ventilation and safety as they are often housed in old dilapidated buildings and huts. The Commission observed multiple hazard risks in work sections and the provision of safety equipment to prisoners was minimal, if not non-existent. Working conditions of prisoners are not monitored by medical officers and the lack of oversight and recommendations for improvement means that work conditions remain unfavourable. Prisoners stated they were not allowed enough breaks and time to engage in personal tasks, and as a result viewed prison work as a punishment rather than an opportunity to spend their time productively. Inmates in work and open camps alleged they have to work all seven days of the week.

Inmates also complained about the lack of equipment and modern tools, due to which most work has to be undertaken manually thereby requiring more effort and time. The requirement for skilled instructors was iterated by the Commissioner of Industries and Skills Development, for which more funds would have to be allocated.

Prisoners may be adequately remunerated when employed in outside schemes, but receive only a few cents a day for working within the prison. Remuneration rates for prisoners have not been revised in the last thirty-five years and the lowest daily wage for Grade 1 prisoners is currently Rs. 1.00, while the highest daily wage for Grade 4 prisoners is Rs. 2.50.

Opportunities for prisoners to work outside the prison and earn an income are limited, and the Commission noted that despite having the necessary policies in place, work release schemes seem to be underutilized. A work release scheme allows prisoners to be employed by a private or state entity outside the prison, where they go to work every day and earn the

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<sup>3</sup> Industrial Work Parties refers to the different groups of convicted prisoners, primarily in closed prisons and work/open camps, that manufacture products to be used in the prison and by other government entities. Sometimes these products are also sold to the public. Common work parties include, carpentry, blacksmith, welding, tailoring, bakery, weaving, coir products and brick-making.

income of a regular employee, during their sentence. Prisoners currently engaged in a work release scheme return to prison at the end of each work day, even though the scheme does allow prisoners to be held in accommodation outside the prison.

Medical officers informed the Commission that prisoners categorized as unfit for work during the initial assessment by doctors continued to be employed in prison work despite their recommendations to the contrary. Inmates of certain prisons also complained they are required to work even when they fall ill.

### **13. Early Release Measures**

The ultimate purpose of the rehabilitation process is to incentivize good conduct and reformative behaviour in prisoners, for the chance to be released early from prison. Prisoners sentenced to death and life imprisonment must first be commuted to a specific term of imprisonment, so they are able to benefit from early release measures like other convicted prisoners. These measures include remission and the system of evaluations and convicted prisoners may be released early on license, subject to their behaviour during Home Leave.

#### **13.1. Commutation Committees**

Commutation committees are appointed by the Ministry of Justice to recommend the commutation of death sentences to life imprisonment and then life imprisonment to a sentence of 20 years, and are sent to the President for approval. Commutation was formerly undertaken regularly, in conjunction with the evaluation process mentioned above, but routine commutations were also disbanded along with evaluations. Ad hoc committees are now established at the discretion of the Minister.

The offence committed by the prisoner is considered immaterial to their subsequent rehabilitation and instead factors, such as the prisoner's disciplinary record in prison and participation in vocational training during their sentence, etc. are utilized to determine if they have been rehabilitated.

A number of shortcomings are inherent in the process of commutation. The present procedure to appoint members of the committee is not transparent as the establishment of a new committee is carried out in an ad hoc manner, at the discretion of the Minister. The lack of an established working practice and criteria may cause arbitrary decisions to be made and different factors may be prioritized by different committees. The prisoner also does not have the right to appeal the decision of the committee, as 'commutation is a privilege and not a right' according to the Commissioner General of Prisons, and no reasons for rejection are provided.

### **13.2. Evaluations**

The Prisons Ordinance provides that every convicted person should be presented for evaluation on the fourth, eighth, twelfth, fifteenth and twentieth year of their imprisonment, in order to monitor their rehabilitative progress every four years. The relevant Ministry is tasked with making recommendations regarding each prisoner to reduce, commute or release persons considered to be rehabilitated, and these recommendations are forwarded to the President for approval. This process is applicable to all prisoners, irrespective of the length of their sentence.

The system of evaluations was discontinued in 2001 following numerous protests and judicial, social and political pressure due to the public perception that people convicted of serious crimes and persons sentenced to death were being released 'too early'. However, the Commission was informed that the prisons continue to prepare evaluation reports on every prisoner, in accordance with the statutory requirement. These reports are sent to the Ministry of Justice and even forwarded to the office of the President. However, no subsequent action or evaluation is taken thereafter. The Commission was informed by senior officers of the Department of Prisons that the system of evaluations was a highly effective and efficient correctional policy whereby prisoners could be incentivised to maintain good conduct and partake in rehabilitation, as they could be rewarded with early release following evaluation. They highlighted the need to reinstate periodic and systemized evaluations in order to find a solution for the ever-increasing numbers and mitigate the harmful physical and psychological effects of long-term imprisonment.

### **13.3. Remission**

Remission marks refers to the daily system of awarding marks to prisoners, based on good conduct and productivity, the result of which is that prisoner would be able to forgo a portion of the sentence and be released. The remission marks for each prisoner are calculated when they enter the prison and date of early release is recorded.

However, the Commission found that the system of remission marks is not currently being utilised in a manner that would create incentive for prisoners to maintain good behaviour. For instance, the Commission was informed that the maximum number of daily marks a prisoner can earn are usually awarded to all prisoners, irrespective of whether they engaged in productive activity or remained idle all day due to lack of equipment in their work section. The blank award of remission marks would reduce the capacity of the system to enforce good behaviour in prisoners. Furthermore, the calculation of remission marks is based on quantifiable output, such as number of units produced in a work party section, which is a limited form of output assessment.



### **13.4. Home Leave**

Prisoners are allowed to visit and stay with their families for a stipulated period of time on Home Leave, once a certain length of their sentence has been completed. The process of obtaining Home Leave entails a list of names of eligible persons is prepared by each prison and submitted to the Prison Headquarters. The Home Leave Committee in each prison, assesses a prisoner's eligibility for Home Leave, and generally comprises the Chief Jailor, a Senior Welfare Officer, a Disciplinary Jailor and Vocational Instructor while the Superintendent is the Chairman of the Committee. The list of eligible prisoners is thereafter forwarded to the Ministry of Justice for approval.

The lack of a standardized format to prepare social reports, and to assess the prisoner's progress, coupled with changes in the government causes delays in the procedure, about which prisoners often complained. There is also a lack of transparency in the process as persons whose Home Leave applications have been rejected are not given reasons for the rejection, although they are allowed to appeal the decision.

### **13.5. License Board**

Prisoners may also be released early on license, through the License Board procedure where a committee of personnel from the prison, Ministry of Justice and Attorney General's Department evaluate a prisoner's conduct in prison during their sentence and assess suitability for early release. Delays in this procedure were attributed to the lack of resources and Rehabilitation Officers who are required to conduct field visits to the eligible inmate's hometown and report the available level of family and community support.

Female inmates are inherently at a disadvantage because the lack of rehabilitative activities and leadership positions available to women within prison prevent female prisoners from presenting a strong case for release. Another shortcoming of the process is that there is no written policy or guideline for members of the License Board to utilize when assessing a candidate's suitability to be released, and to guide subsequent committees to ensure the process is standardized and consistent. This lack of objective standards and transparency means that the personal bias and opinions of committee members may influence decisions. No reasons are given when an application is rejected by the Board. Although a departmental circular requires the names of released prisoner to be displayed so the persons rejected may be able to appeal if they wish, thus indicating prisoners can appeal the decision of the License Board, the Additional Secretary (legal) of the Ministry of Justice stated that prisoners do not have the right to appeal. The Commission also observed that where the level of rehabilitation is judged by the number of activities and positions a prisoner was involved in over the years, prisoners who may be naturally introverted and unsocial, but who may be genuinely rehabilitated, may not be able to present a strong case before the Board. As such, a psychiatric evaluation as part of the License Board procedure would also improve the quality of the process.

It was reported to the Commission that early release may be denied to prisoners who do not have supportive family to accept them or a home to return to, even when they present a strong case of being rehabilitated during the sentence period.

### **13.6. Special and General Pardons**

The Constitution enshrines the power of the executive to use special pardons, whereby a prisoner or group of prisoners may be released or have their sentences commuted for a special reason at the discretion of the President.

General pardons are usually awarded to mark religious observances, public holidays and other special occasions. Predetermined criteria need to be satisfied by prisoners to become eligible for this pardon and they need not make a case for rehabilitation in order to enjoy the benefit of general pardons. Persons who have committed certain grave offences are not eligible.

The abovementioned measures follow an ad-hoc procedure and are solely dependent on the Ministry and President's discretion, which means the pardoning process is at the mercy of the political climate at the time. A uniform and standardized system of pardons should be in place to ensure certainty of practice and incentivize good behaviour in prisons. The discontinuation of periodic pardons was allegedly due to the abuse of the system by pardoning persons arbitrarily. The process must instead be strengthened by including relevant safeguards, which prevent the abuse of power by any authority.

The award of pardons is consistent with the criminal justice principle of restorative justice and eases the burden of overcrowding on prisons.

## **Part III: Special Categories of Prisoners**

### **14. Prisoners on Death Row**

The Human Rights Commission of Sri Lanka has consistently called for the abolition of the death penalty as it is a cruel and irreversible punishment that violates the right to life and right to be free from torture, cruel inhuman degrading treatment and punishment.

Although the Sri Lankan government has signed a UN moratorium on the implementation of the death penalty, persons continue to be sentenced to death and serve indefinite sentences, thereby increasing the burden on the prison system, without an efficient process in place for their eventual release. Condemned prisoners endure harsh prison conditions that even short-term prisoners find unbearable to sustain, and have to survive them potentially indefinitely.

Condemned prisoners are held in adverse prison conditions; they are required to be inside the wards for the entire day and are only allowed thirty minutes outside time for exercise, and that too is dependent on the availability of adequate officers to guard them. The Commission was informed that a number of condemned prisoners suffer from impaired

vision as a result of the time they spend inside dark wards. As condemned prisoners in many prisons are held in cells which are locked at night time and cannot access the toilets in the ward, they are required to use a plastic bucket to relieve themselves inside their cells for many decades, due to the indeterminate nature of their sentence.

The lack of meaningful activity to occupy them during the day, coupled with the conditions of detention and the thoughts of their family members, result in a number of condemned prisoners suffering serious symptoms of mental illnesses, which worsen as the time spent on death row increases. As highlighted above, prisons cannot adequately provide mental health facilities, and access to medical treatment for condemned prisoners is rife with delays because, as special prisoners, their transfer to hospital requires an armed escort and is a logistical burden on under resourced prisons.

Quantitative and qualitative data gathered from condemned prisoners highlighted a series of concerns surrounding their trials, primarily the lack of access to meaningful legal representation. Condemned prisoners stated that they were unable to afford legal fees for private lawyers as their trials took place over many years, and were therefore reliant on counsel assigned by the state. They informed the Commission that their lawyers would be absent on court dates, even the day on which the judgment was delivered, and did not mount a vigorous defence with their best interests in mind. As a result, they felt the quality of legal representation they were provided, and their financial incapacity to afford a private lawyer, were the reasons they received the death penalty.

Furthermore, criminal trial and appeals typically continue for a long period of time, even more than a decade, and the quality of evidence and witness testimonies would suffer deterioration over time. The narratives of death row prisoners alleging that their due process rights were not upheld during the course of their trial, points to the shortcomings in the judicial process, that further warrant the need to abolish an irreversible and extreme sentence of death.

A prevalent risk associated with the award of death penalty is the dire social and psychological impact of wrongfully sentencing an innocent person to death, and the resultant adverse impact on public trust in the integrity of the criminal justice system. With minimal options to review concluded cases to identify any miscarriages of justice, there is no safety net with which wrongful convictions can potentially be identified and rectified.

The impact of the death penalty on the families of condemned prisoners requires in-depth research and enlightened policy, to ensure they do not suffer the brunt of the punishment. The Commission was informed of instances where dependents of condemned prisoners would face discrimination and stigma within the community including when accessing government services, due to the detention status of their parent. Condemned prisoners, especially male prisoners who were breadwinners in their families, discussed the adverse impact of their sentence on the livelihood of their families, which was a cause of mental anguish for them. Others lamented the estrangement of family members and the lack of visits by family members.

## 15. PTA Prisoners

Prisoners charged with offences under the Prevention of Terrorism Act were identified as a special category of prisoners because the PTA curtails certain rights and freedoms that are guaranteed by the Constitution and by international human rights norms. PTA prisoners are therefore at risk of suffering violations of their right to enjoy due process safeguards, which directly impacted the prolonged period of time they spent in remand. In many ways, the detention status of PTA prisoners directly causes an adverse impact on their treatment and conditions.

In prison, due to the act under which they are charged, PTA prisoners reported suffering discrimination and feel they are at a continued risk of harassment or abuse by fellow prisoners, and even prison officers. Due to such treatment, all PTA prisoners stated they prefer to be housed with other PTA prisoners rather than non-PTA prisoners. Their “special” status, i.e. being categorized as prisoners who require special security, restricts their access to some entitlements such as access to medical care, because due to the severe shortage of personnel and transportation, the additional security requirements mean they are not transferred promptly to the general hospital or taken regularly to their clinics. In addition, across prisons, the majority of the PTA inmates had very little access to any vocational/skills training, education or prison work due to the nature of their “special” status and limited outside hours, limitation of language options available in such programs or because of the type of prison at which they are housed.

Family contact for PTA prisoners continues to be difficult since most of them are from the North and East and are held in prisons in the Southern part of the country. Many PTA prisoners mentioned the difficulties, particularly financial difficulties they faced retaining legal counsel, especially due to the nature of the cases, since there is stigma attached to appearing for a PTA accused, as well as the long duration taken to file an indictment and the commencement of the trial. Qualitative and quantitative data gathered during the study also highlight the negative effects of long-term incarceration that PTA inmates are subjected to, with many prisoners reportedly being in remand for up to 15-20 years.

The narratives of the prisoners illustrate that the legal provision, i.e. Section 7 (3) of the PTA, which allows them to be taken out of judicial custody to be interrogated creates space for the continued violation of their rights as many reported being subjected to torture during such periods of being taken out of prison for interrogation. It also undermines the protections afforded by judicial custody and the purpose of judicial oversight of detention.

The role of a JMO where PTA detainees are concerned is crucial to ensure PTA detainees are able to prove whether they were forced to sign confessions under conditions of physical duress. However, the Commission received numerous allegations alleging collusions between police officers and JMOs, or JMOs not being able to communicate with PTA prisoners due to language barriers. Thus, PTA prisoners would not enjoy the right to a fair trial due to the ineffective safeguards in place during their period of administrative detention, which would enable confessions obtained under torture being admissible in court.

During the trial process too, PTA prisoners reported facing numerous challenges to the full enjoyment of their right to a fair trial, including long delays and the inability to understand the language of court proceedings.

## **16. Young Offenders**

The Commission found young offenders above the age of fifteen being held in adult prisons, which is contrary to international standards which class persons under the age of eighteen as children. They cannot, therefore, be housed with persons above the age of eighteen and in adult facilities.

Convicted young offenders and persons up to the age of twenty-two can be held at the Wataraka Training School, where they are not considered to be convicted prisoners, but rather required to undergo “training” for up to three years as a part of rehabilitation to counter antisocial behaviour. The Wataraka Training School is found inside the Homagama Work Camp for adult offenders, although young offenders are completely sectioned off from adults. Convicted prisoners between the ages of eighteen and twenty-two are also found in closed prisons and open camps, as the judge has the discretion to sentence an offender to ‘training’ in Wataraka, or to serve a prison sentence at a closed prison or work camp.

The Wataraka Training school has a lack of officers specializing in behavioural issues and youth guidance counsellors to encourage rehabilitation and reformation of young people. Instead, young offenders are subject to violence as a means of discipline and punishment. Due to the difficult relationship of inmates and officers, young offenders are reluctant to report any grievances or concerns for fear of being subjected to further violence. Despite the requirement for young offenders in Wataraka not to be treated as convicted prisoners, they are housed in cells, with multiple inmates in a single cell, required to use a plastic bucket to relieve themselves at night time. They are allowed to remain outdoors for a limited period of time, a few times a week, and not at all on Sundays, which restricts their physical and mental development. Such conditions limit the supposed aims of the Training School and may in fact have the opposite effect on the psychosocial development of the young offender.

Wataraka Training School contains the Suneetha School where young offenders are able to complete their secondary education, from Grade 9 up to Advanced Level. It was pointed out by the Superintendent of Wataraka that, due to the impoverished background of many young offenders, they may not possess the standard of education required to complete Grade 9. The minimal options for vocational training opportunities also deprives them from learning employable skills upon release. Young offenders informed the Commission however, that attending school was the only semblance of normalcy in their lives, and the separation from their families was a reported cause of anguish to them, from which school days provided temporary relief.

The Commission was informed of the behavioural and psychological issues with which young offenders were dealing, that were exacerbated by the conditions of Wataraka. For

instance, it was stated to the Commission that many young offenders engage in self-harm and are beaten up when caught doing so, rather than being provided medical and psychiatric treatment and counselling. Young offenders caught committing offences during their time at Wataraka would be transferred to the Pallansena Youth Correctional Centre where they are given the status of convicted prisoners.

The Commission found that remandees under the age of right are held in remand and closed prisons meant for adults. They are housed in wards designated for young offenders, which may also contain persons aged up to twenty-two years. These young offenders suffer similar conditions as young offenders in Wataraka, and do not receive the legal aid, counselling and post-release support they require. Their interaction with adults in the remand prison is restricted by confining all young offenders to a single ward, and limiting their outside hours. This was a noted point of contention among young offenders who complained about minimal time for exercise, sporting activities and fresh air.

Holding persons under the age of eighteen in adult prisons can lead to the criminalization of young persons as they may be exposed to criminal behaviour while in prison. Further, the social stigma of imprisonment can have severe adverse consequences on the life opportunities available to young persons. This is particularly concerning in female prisons where there is no segregation of prisoners at all.

## **17. Foreign Nationals**

Foreign nationals in the Sri Lankan prison system experience similar challenges to those of their local counterparts, but their conditions in prison are exacerbated by the language and cultural barriers they face, as well as the lack of family support. Foreign nationals typically spend lengthy periods in remand prison and prolonged remand periods become a precursor to pleading guilty, simply to expedite court proceedings, because a definite sentence is considered better than indeterminate remand.

Foreign nationals grapple with language barriers in a criminal justice procedure which primarily operates in Sinhala language. The Commission was informed that their requests for translators in court have resulted in delays of up to two years, during which their proficiency of English and Sinhala improves, and the request subsequently becomes redundant.

As foreign nationals do not receive family visits, they do not have access to basic provisions and toiletries and become reliant on local inmates to source necessary items. Prisons also do not provide foreign nationals with means to communicate with persons abroad resulting in them becoming virtually cut off from contact with family as well as access to their finances. The lack of communication with their family was the single biggest reported grievance mentioned by every foreign national, and the underlying cause for their suffering in prison.

Foreign nationals complained they are not able to communicate with prison officers due to language barriers, and in an altercation between local inmates and foreigners, officers are



more likely to accept the version of events presented by the local inmates as foreigners are often unable to coherently present their version of events. Foreigners described the discrimination they faced, on the basis of their nationality, from prison officers, inmates and even medical officers, who taunted them for the offence for which they are in prison.

Foreign nationals have constrained access to legal representation due to the lack of information they possess on legal procedures and local lawyers. Many foreign nationals complained about being defrauded by local lawyers whom they were forced to hire without adequate background information. The status quo is exacerbated when they do not have means of communicating with their lawyers from inside prison, and their family members are too far away to provide efficient assistance. Most foreign nationals the Commission came across wished to be repatriated to their country, where they could complete their sentence and be closer to their families which would enable easier social reintegration upon release. However, repatriation procedures are highly bureaucratic and subject to delays and setbacks due to changes in the political climate.

## **18. Women**

The population of women in prison remains quite low, and this may be the reason they are not provided the same standard of correctional services as men in prison. Women also face certain gender specific issues during incarceration that must be addressed by policy makers.

Women in prison have access to meagre rehabilitation opportunities and are not able to engage in industrial work, such as weaving and cultivation or be sent on work release schemes. Instead, they are primarily engaged in sewing or maintaining the cleanliness of the premises. If women had the opportunity to engage in a diverse range of work and receive training in professions/skills, it could also provide better employment opportunities post release.

Female prisoners also complained about the lack of access to sanitary napkins, as these are not distributed by the prison unless a donation is made to the prison by an external organization. While remandee women rely on their family members to supply them with sanitary napkins through family visits, convicted women and foreign nationals obtain them by completing tasks, such as washing dishes and clothes, for other inmates who have an adequate supply in return for sanitary napkins and toiletries.

Women also complained about the impeded access to healthcare as most female sections do not have Prison Hospitals, and doctors visit the female section only on certain stipulated days and times, and cannot be accessed outside of that time. Consequently, access to medical treatment at night time is severely limited and women would have to suffer symptoms until the next time the doctor visits. There is also an inadequacy of female medical personnel in the prison healthcare system, because fewer applications of female medical personnel are received, according to the Department of Prisons. This is thought to be because less females are inclined to work at a prison.

Women are allowed to keep their children who are under five years old with them in prison. However, children in prison do not receive the facilities they require for healthy growth and development, such as access to suitable and nutritious food, to preschool, toys and books. Children may also not be taken for periodic visits to a paediatrician as this is subject to logistical limitations.

## **19. Prisoners with Disabilities**

Prisoners with disabilities are arguably one of the most vulnerable and disadvantaged groups in the prison system, primarily because of the poor provision of disability access. The Commission observed that elderly prisoners experience similar problems as prisoners with disabilities due to age-related illnesses and impaired mobility.

Dilapidated stairs and the lack of railings were commonly seen in the prison hospital and wards. Prisoners with lower body disabilities complained about the difficulties they face in completing the most basic functions, such as using the toilet, since most prisons only contain urinals or squat toilets. These prisoners are completely reliant on the good will and assistance of their wardmates to perform basic functions.

Elderly inmates often find it difficult to receive medical treatment for the symptoms they develop over time due to the overburdened prison healthcare system. The prison is usually unable to provide prisoners with disability aides, such as wheelchairs, prosthetics and white canes, which are sourced by prisons through donations.

The Commission was informed that a Medical Board, which is tasked with deciding if a prisoner can be discharged on compassionate release due to their physical or mental impairments, is rarely convened. The procedure involves an application on behalf of the relevant prisoner being submitted to the Ministry of Health, which then convenes a Medical Board comprising of an expert on the candidate's condition. The non-functioning of the Medical Board is due to the procedure involving coordination and cooperation between three entities: Department of Prisons, Ministry of Justice and Minister of Health. For instance, the Commission was informed by the Ministry of Health and the Department of Prisons, of two different and contrasting procedures to convene the Medical Board indicating the lack of clear systems. As a result of overlapping duties and bad communication, eligible prisoners are not presented before a Board of specialists, despite their repeated requests.

## **Part IV: Prison Management**

### **20. Challenges Faced by the Prison Administration**

Prison administrations from around the country complained about the severe shortage of staff, which seriously impacts their daily functioning, services provided to prisoners and the wellbeing of prison officers.

Although the number of prisoners has increased over time, the cadre of officers has not been duly revised nor increased proportionately, as a result of which the ratio of officers to inmates is very low. The shortage of staff requires a single officer to perform multiple roles, work long hours and undertake consecutive shifts. This adversely impacts efficient administration of the prison, increases security concerns and is the primary cause for procedural delays within the institutions, such as in the transfer of prisoners to hospitals, License Board procedures, inadequate outside time, etc.

The level of training received by prison officers is inadequate, because although they are required to undergo induction training, according to senior officers, they cannot be released from their duties for in-service training. As a result, a long serving officer who received induction weapons training many years ago, may not be in a position to respond in a safe manner, respecting necessity and proportionality, in an urgent situation, as s/he has not undergone in-service training.

Prison officers informed the Commission that they are not able to support their families on the current remuneration they receive. Due to the lack of funding for the Department and the unrevised system of allowances, many a time, prison officers may not be paid for working overtime. Further, the dangerous nature of their daily work and the constant threat to their lives is not reflected in the allowances and benefits they receive.

The compounded impact of stressful working conditions, long shifts and insufficient pay causes prison officers to suffer high levels of burn out and loss of job satisfaction. As a result, they often experience psychiatric symptoms for which they do not have access to counselling or treatment. Complaints were also received about the living conditions of the officers' quarters, specifically the accommodation reserved for unmarried prison officers, which added to their level of job dissatisfaction.

Female officers in particular stated that the impact of the job on their family life was a major concern, as they could not give their family members and children due time and attention, specifically when they were stationed at duty stations away from their residence. Female officers discussed sexual harassment they faced in the workplace, but found it difficult to pursue remedies as they feared facing reprisals for complaining and could not risk their job security.

The Commission observed prison officers at open and work camps fared better because these prisons are situated away from the city, in wide and open spaces. Camps are not usually overcrowded, and the officers do not have the burden of court duty as they house convicted prisoners. Senior officers routinely highlighted that the impact of the conditions of their work environment, personal problems and adverse mental state, is a determinant of the treatment of prisoners by prison officers.

## **Part V: The Criminal Justice Process**

### **21. Arrest and Detention**

Although the conduct of police officers was not part of the focus of the study, the Commission received a large volume of complaints from prisoners alleging they experienced misconduct by police officers while in police custody, elements of which are raised below and require further investigation.

A number of allegations were received alleging the failure of police officers to follow due process standards during arrest and detention, including the failure to produce arrest warrants or reasons for the arrest to the detainee, and the prevention of contact with family and legal representatives while in police custody. Some prisoners stated they only became aware of the charges against them when they were produced in court. Prisoners also alleged they were held in police custody for longer than the 24-hour limit, before being produced before a magistrate, and this was executed by altering dates/times of arrest on the police records or court document.

A large number of inmates described being asked to provide a signature on a blank piece of paper onto which a confession would be written or typed by the police; the contents of the statement are not informed to the suspect. Inmates reported being subject to intimidation and threats of physical violence, suspension of meals in custody, prolonged detention without bail, and threats to the security of their families when they resisted providing a statement as requested.

The failure to follow process standards during arrest and detention was widely reported by PTA prisoners. The patterns in the arrest process narrated by the interviewees illustrated that it did not adhere to due process safeguards, with many reported being abducted from their homes, workplaces or while travelling, families not being provided an arrest receipt or provided information on the place of detention, being held in unauthorized places of detention, and being subjected to torture and forced to sign confessions in a language they did not understand. Their contact with family and lawyers was prohibited during the days, weeks and in some cases even months following the arrest, with some families not being informed of the arrest even months after the arrest. Being held in prolonged incommunicado administrative detention, without judicial oversight to monitor the detainee's wellbeing, creates a situation that allowed confessions to be obtained under physical duress. Despite the directives and safeguards enshrined in law, without an oversight and accountability mechanism in place for arresting authorities, or effective judicial oversight, protecting the wellbeing of detainees arrested under PTA will not be possible.

A number of specific trends were observed among the procedures used to arrest women. It was often reported there were no women police constables at the time of the arrest and transportation to the police. Women police constables were reportedly also not present when many women were held overnight at the police station. Serious allegations were made by several women who stated the female police undertook invasive body cavity searches while arresting them in order to search for drugs. Several female detainees also alleged they

were subject to sexual harassment by police officers. Such allegations illustrate the vulnerable position of women in police custody and the need to enforce safeguards to protect their dignity and personal security.

While such claims presently remain mere allegations, the trends and patterns in the complaints against conduct of police from around the country, specifically the element of violence inherent in arrest and detention procedures, cannot be ignored and requires serious investigation. Confessions obtained under duress are likely to distort the functions of the criminal justice process and incarceration, and render it inefficient in the prevention of crime. There is also a need for prisoners to be able to lodge complaints against the police and be provided information on the progress of the investigation of their allegations, while they are being held in prison.

## **22. Access to Legal Representation**

The Commission observed that the lack of access to effective legal representation was a grievance of persons from impoverished backgrounds who struggled to pay legal fees and have had to resort to selling their assets and compromising their livelihood, to do so. Where such persons do not have adequate literacy and cannot follow legal proceedings, they are not able to hold their lawyers accountable. Their bargaining power is reduced and as a result, such individuals become vulnerable to unscrupulous lawyers.

The Commission also came across persons who could no longer afford legal fees during a prolonged criminal trial, which can continue for up to twenty years in the Sri Lankan judicial system, and thus became reliant on state assigned counsel. There exists a general perception that state assigned counsel do not undertake their duties with diligence – they do not visit the prison to inquire with a remandee, and hardly speak to the inmate for even a few minutes before the hearing is due to commence. This raises questions about their ability to prepare a vigorous defence following virtually non-existent communication with the defendant. This is perhaps a reason many prisoners complained that their lawyers did not stand up or speak up in court, or cross examine witnesses. Since the quality of legal representation impacts the sentence awarded to the defendant, this may result in persons from lower socio-economic backgrounds receiving harsher sentences due to their financial status rather than culpability, which undermines the integrity and purpose of the criminal justice system.

The attendance of lawyers and state counsel in court directly correlates to the length of the trial; when lawyers are absent, the case has to be postponed to another date. In appeal cases, the next date could be after six to twelve months, the duration of which has to be spent in prison by the appellant. Non-attendance at trials is particularly adverse for defendants who raise the money to pay lawyers' fees with much difficulty. It must also be pointed out that the transfer of an inmate to court places a hefty burden on the understaffed prison department as well as the taxpayer, requiring a number of escorting officers and prison buses, which sometimes have to travel long distances when a prisoner is tried in a court out of town. When individuals are transferred to court only to find their lawyer or the state counsel is not in attendance, it results in the waste of public resources.

The Legal Aid Commission attempts to provide assistance to remandees to post bail or reduce bail conditions, but stated it does not receive adequate funds to conduct legal clinics in prisons regularly and provide legal information and representation for remandees in regional prisons. Furthermore, the Legal Aid Commission is not equipped to provide legal aid for a defendant accused of serious crimes, as the such a case typically continues for a number of years. As a policy of the current Commission, persons arrested on drug related charges are not provided legal aid.

### **23. Legal and Judicial Proceedings**

The large number of pretrial detainees in prison is an indication of the shortcomings of the criminal justice system, where persons unconvicted of a crime spend a prolonged duration in prison, until the conclusion of their trial.

One reason for the prolonged time in remand is due to stringent bail conditions. The Commission came across many remandees in prison who were eligible for bail but could not furnish bail due to the stringent conditions imposed on them. Persons who cannot meet bail conditions have limited access to means of communication from inside prison to arrange a lawyer to file a motion on the accused's behalf and request an alteration of bail conditions. Persons who are not detained in close proximity to their family members, as well as foreign nationals, would become extremely helpless in such situations as they do not have local contacts to communicate with lawyers on their behalf.

Without access to legal representation to request bail or alter bail conditions, persons on remand who may be eligible to be released on bail remain in prison. Therefore, the denial of bail or the imposition of bail conditions that persons are unable to fulfil, have a direct impact on overcrowding in prisons. Further, the need to remand persons who have committed minor offences, where small-time offenders can be exposed to persons with serious criminal records, requires careful scrutiny, and the use of non-custodial measures to mitigate this risk has to be explored.

The refusal of bail or the extension of periodic remand in a Magistrate's Court requires adequate scrutiny and review by a judge to ascertain the continued need for an individual to remain in prison. However, it was reported to the Commission that defendants have inadequate opportunity to present their case, before a decision to refuse bail or extend remand is pronounced. Many prisoners informed the Commission that the presiding Magistrate did not acknowledge their attempts to speak in court. The prosecution or police reportedly often become de facto arbiters of the need for detention, as their direction is followed with inadequate independent and impartial assessment of the need to prolong pretrial detention.

Persons who cannot afford expensive legal services, or adequately follow or understand legal proceedings, become mere spectators in the determination of their freedom. Persons who do not understand their charges and cannot follow what ensued in court would not be able



to prepare an adequate defence. Furthermore, they will also not be able to hold their lawyers accountable and ensure they are not being subject to lawyer misconduct or malpractice. Court hearings may be incomprehensible for persons who cannot follow the legal jargon at the hearing or do not speak the language of the region. Requests for translators have the counter effect of causing year-long delays in the case proceedings, rather than improving the defendant's chances of preparing a vigorous defence.

A combination of the above-mentioned factors results in defendants from low income strata of society not being able to enjoy the due process rights to which they are entitled. The right to trial without undue delay is not followed, but rather trials continue for a prolonged duration of time, and many remandees and appellants spend that period of time in prison. The Commission was informed that the prolongation of the trial can also result from administrative delays in the Attorney General's Department or the Government Analysts Department, particularly in drug related cases. Thus, the deprivation of liberty is attributable to the inefficiencies of state institutions. Prolonged court cases reportedly encourage many people to plead guilty, solely to conclude the proceedings, as a defined sentence period is thought to be preferable to indeterminate remand.

The overcrowding of prisons is also impacted by the large number of convicted prisoners serving imprisonment due to the inability to pay fines and the non-payment of debt and maintenance payments. The incarceration of such persons, rather than awarding them a non-custodial alternative which will enable them to earn an income and even pay back maintenance arrears, illustrates that the poor are disproportionately imprisoned for their lack of finances.

Inmates also complained to the Commission about their transfer from prison to court, whereby multitudes of prisoners are transferred in a single bus, and many elderly prisoners are required to stand during lengthy journeys. Persons attending appeal court hearings from outside Colombo reported they were not provided meals during the journey and have to use polythene bags to relieve themselves, while in handcuffs. The prison authorities informed the Commission that, as a result of the lack of officers and the inadequate vehicles provided to the prisons, they are forced to transfer prisoners in this manner.

At the Magistrate's Court, remandees would be held in the Magistrate's Court cell, where defendants are required to stand all day and are not provided access to toilet facilities, although some may receive meals during lunchtime.

## **Part VI: The Continuum of Violence**

### **24. The Continuum of Violence**

The Commission has observed that violence is an entrenched feature of the criminal justice process, with persons who are arrested being subject to violence in police custody, remand prison and during incarceration. Violence in police custody was found to be an inherent

element of the investigation process, whereby torture is inflicted to extract information, confessions and evidence from detainees.

Violence in prison includes physical and verbal abuse, as well as intrusive body searches, which are not undertaken with respect for the personal dignity of prisoners. Perpetrators of such conduct very often go unpunished and there is no intervention or break in the cycle of violence. This is likely due to the government and social narrative which considers prisoners as “undesirables” who are deserving of punishment, by virtue of the crime they have committed, and hence violence inflicted on offenders does not cause a public outcry. Since the use of violence is viewed as the primary means of maintaining order within the prison, prison officers appear to believe that it is imperative to establish a dynamic of power to subdue inmates, and punish any resistance. It was noted that violence is primarily inflicted on persons from lower socio-economic groups who are unable to stand up to authorities, and whose ill-treatment in prison goes unnoticed in the public domain.

An overhaul of the entire penitentiary system is required to cause a shift from the mentality of retribution to rehabilitation and correction, and is dependent on political will and the allocation of resources. Officers require training in non-violent means of restraining prisoners and maintaining order, as well as human rights, to improve their understanding and capacity to perform correctional services/functions.

## **Part VII: Alternatives to Incarceration**

### **25. Alternatives at the Sentencing Stage**

The use of non-custodial measures instead of incarceration is a shift from a punitive approach to restorative and rehabilitative policies, thereby reducing the burden of overcrowding and its associated problems on the prison system. The national legal framework on non-custodial measures comprises three main programmes:

#### **25.1. Community Based Corrections**

When imprisonment for an offence is not mandatory or does not exceed two years, a correctional order may be imposed instead of a prison sentence. A court would issue a correctional order best suited to the offender, which could include conditions, such as the requirement to undergo rehabilitation in the case of drug offenders, community work or supervision.

However, presently there is a serious underutilization of Community Based Corrections in the criminal justice process, which limits its success. One reason for this, as informed to the Commission, is the reluctance of judges to call for pre-sentencing reports which causes a prolongment of the case, while imprisonment is viewed as a quicker way of concluding the case. Also, the lack of awareness of what Community Based Corrections entails, and the

mentality that offenders require punishment rather than rehabilitation, are reasons there appears to be an inherent bias against Community Based Corrections.

The Department of Community Based Corrections currently grapples with a lack of funding, due to which it cannot provide drug rehabilitation/treatment or vocational training without assistance from other institutions. Restricted funding also prevents efficient monitoring and evaluation of those undergoing Community Based Correction.

## **25.2. Rehabilitation of Drug Dependent Persons**

The Commission found that no distinction is made between drug dependent persons and drug traffickers; while the latter may be imprisoned the former requires medical care and treatment.

A judge is empowered to order an offender to undergo rehabilitation at the treatment centres managed by the National Dangerous Drugs and Control Board. The paucity of medical personnel at treatment centres to treat drug offenders hinders the success of court ordered rehabilitation as an alternative to imprisonment, as treatment centres have visiting consultants and not resident doctors. Doctors also prescribe medication as treatment, which the drug dependent person may not be able to afford. The few existing treatment centres do not possess the capacity to meet the demand for drug rehabilitation.

There is also a lack of standardized policy to assess the drug dependency of a user to determine the treatment required. Individuals referred to the Kandarkadu Drug Treatment Centre and in transit at the Welikada prison informed the Commission they were not examined by a medical officer, nor administered any medical test to ascertain drug dependency before they were ordered to undergo rehabilitation at Kandarkadu. The lack of a uniform sentencing policy for drug dependent persons is observable as the order for treatment is based on judicial discretion.

## **25.3. Probation**

The third non-custodial measure available under the national legal framework is probation, which is the least restrictive alternative, as a person is required to remain in their residence under certain probationary conditions designed for the individual.

The award of probation is not governed by certain stipulated criteria that must be satisfied, but rather courts must assess the nature of the offence, sex and condition of the offender on a cases-by-case basis to determine if probation is more suitable than imprisonment. This is a much needed and progressive alternative to imprisonment, and provides a solution to reduce the cost of incarceration on the taxpayer and society, but there is a lack of awareness surrounding this option. The Department of Child Probation, which is mandated by law to administer the system of probation does not in practice deal with the probation of adults and

instead focuses only on probations issues related to children. Hence, at present, there is no designated entity tasked with undertaking and managing adult probation.

## Recommendations

The study of prisons initiated by the Human Rights Commission of Sri Lanka was carried out with the objective of filling the gap that exists in the understanding of prisons, penal and correctional system as well as the broader criminal justice system in Sri Lanka. The study adopted both qualitative and quantitative methodologies and included extensive data collection at the ground-level, supported by all stakeholders including officials from the selected prisons and the Department of Prisons. As a comprehensive study on prisons in Sri Lanka, this study focuses on both physical and social dimensions of prisons and inmates, the meaning of incarceration and correctional systems as well as the legal framework within which the prison system exists. Based on the evidence from the study, the following recommendations are compiled with the objective of improving and enhancing the prison system in particular and the criminal justice system in general. These recommendations therefore are divided into three broad sections, focusing on specific implementation mechanisms. They are:

1. Improve physical conditions and administration of prisons
2. Enhance the welfare of prisoners
3. Reform the criminal justice system

These broad sections correspond to separate implementation strategies that could be applied by the Department of Prisons in line with the UN Standard Minimum Rules for the Treatment Of Prisoners, and adapted to the Sri Lankan context so that the recommendations put forward can be achieved meaningfully. Each broad section comprises relevant categories from the prison system which correspond to the chapters in the study. These categories are then subdivided into specific areas of concern with recommendations proposed for each of them. It is envisaged that follow-up action would be taken by relevant authorities to improve the conditions of prisons, enhance the welfare of prisoners and reform the criminal justice system with a view to promoting a better understanding of the correctional system.

# 1. Improve Physical Conditions and Administration of Prisons

No	Category	Areas of concern	Recommendations
1.1	Accommodation		
1.1.1		Overcrowding	<ul style="list-style-type: none"> <li>Implement the recommendations contained in the 'First Report of the Taskforce on Judicial and Legal Causes for Prison Overcrowding and Prison Reform' issued on 9<sup>th</sup> November 2016.</li> </ul>
1.1.2		Segregation of prisoners	<ul style="list-style-type: none"> <li>Segregation of the entire prison effectively along with thoughtful use of existing ward facilities.</li> <li>Hold Young Offenders in separate areas and not in adult prison facilities.</li> <li>Impose strict segregation between First Offender, Reconvicted Offenders and Recidivists within the same prison with suitable infrastructure and the formulation and implementation of different types of rehabilitation programmes conducted by qualified staff.</li> <li>House prisoners with special needs in spaces that are disability accessible.</li> <li>Transfer persons arrested for only drug use to rehabilitation centres and not keep in prison.</li> <li>Update and complete the personal files of prisoners as they are used to determine the factors upon which segregation is based, such as information on sex and age, criminal record, the legal basis for their detention and their programme of rehabilitation, cell number or bed number to which they are assigned upon admission as well as details of their classification.</li> </ul>



1.1.3		Distance from families and household	<ul style="list-style-type: none"> <li>• Accommodate prisoners, as much as possible, close to their families to enable regular family contact and social re-integration.</li> <li>• Transfer prisoners serving the last six months of their sentence to a prison close to their home to facilitate their re-entry into society.</li> </ul>
1.1.4		Design, plan and conditions of prison	<ul style="list-style-type: none"> <li>• Develop a National Standard on Prison Design based on international standards such as 'Water, Sanitation, Hygiene and Habitat in Prisons' by International Committee of Red Cross (2013), along with the insight of local experts, such as architects and engineers, on making use of traditional architectural knowledge on temperature management, ventilation and vector control etc.</li> <li>• Use local and traditional knowledge for a more economical solution.</li> <li>• Appoint a design team that is multi-disciplinary and include security experts, psychologists, teachers, prison officers, and medical professionals.</li> <li>• Develop a plan to refurbish and repair dilapidated wards and buildings in prisons, and adequate financial resources should be allocated to Department of Prisons to enable implementation within a stipulated period.</li> <li>• Consider the need for easy access to essential services such as hospitals and other institutions during an emergency when relocating prisons from urban areas to rural areas and building new prisons in rural areas, as well as easy accessibility for families of prisoners through public transport.</li> </ul>

			<ul style="list-style-type: none"> <li>• Introduce policies for newly-convicted prisoners who are eligible to serve their sentence in an open camp or work camp to be transferred directly to the camp from the court, instead of being held at Welikada Prison in transit.</li> </ul>
1.1.5		Disaster management response	<ul style="list-style-type: none"> <li>• Adopt a comprehensive Disaster Risk Management Plan for each prison, and the prison staff and prisoners should undergo regular training on responding to a disaster, both natural and manmade.</li> <li>• Include a protocol for the arrangement of vehicles to transfer prisoners en masse in an emergency, and alternative premises where prisoners could be temporarily housed.</li> <li>• Provide relevant training for prison officers in disaster management.</li> <li>• Ensure through special provisions the safety of persons with disabilities, special needs and elderly prisoners who may potentially suffer the most harm in the event of a disaster.</li> <li>• Ensure that prisons are provided with the required implements and equipment, such as fire extinguishers, to deal with a disaster.</li> </ul>
1.1.6		Oversight and scrutiny of living conditions	<ul style="list-style-type: none"> <li>• Subject living conditions of prisoners to greater oversight and scrutiny, without which amounts to torture, cruel, inhuman and degrading treatment and punishment.</li> </ul>

1.2	Food		
1.2.1		Quality of food	<ul style="list-style-type: none"> <li>• Inspect the quality and hygiene of food preparation daily as per Sections 25, 55 and 97 of The Subsidiary Legislation under the Prison Ordinance of 1956.</li> <li>• Employ trained cooks and nutritionists to plan and prepare meals taking into account the local produce available in the region as well as the nutritious value of the meals, instead of assigning inexperienced prisoners to prepare meals.</li> <li>• Appoint an officer in-charge of the kitchen to monitor and ensure that proper standards, both domestic and international, are followed.</li> <li>• Until trained cooks are employed, the prison officers and the Medical Officer should train prisoners on hygienic practices in food preparation, especially those assigned to the 'kitchen party'.</li> </ul>
1.2.2		Kitchen hygiene	<ul style="list-style-type: none"> <li>• Allocate funds for pest control methods and rodent infestation control mechanisms in the kitchens by contracting the Municipal Councils or private contractors to undertake this task.</li> <li>• Implement a proper waste disposal system, preferably where food waste could be turned into compost.</li> <li>• Develop and implement a policy on sustainable food waste disposal across all prisons.</li> </ul>

1.2.3		Kitchen inspection and control	<ul style="list-style-type: none"> <li>• Public Health Inspector to undertake random visits to the prison and inspect the sanitary conditions of prison kitchens, the quality of the food rations as well as the manner in which food is prepared.</li> <li>• Implement necessary security measures and maintain detailed records of rations received and subsequently utilized to track any missing rations.</li> <li>• Conduct inquiries into allegations of corrupt practices in the kitchens of prisons.</li> </ul>
1.3	Water, Sanitation and Personal Hygiene		
1.3.1		Clean and adequate sanitary facilities	<ul style="list-style-type: none"> <li>• Address overcrowding in prisons to provide adequate facilities.</li> <li>• Ensure that the supply of water provided to prisoners is in line with international standards and available throughout the day.</li> <li>• Maintain water points and sanitary facilities with prompt attention to malfunctioning or broken fittings.</li> <li>• Appoint Prison officers to monitor the conditions of toilet facilities and report required repairs to the administration.</li> <li>• Clean septic tanks and drains regularly to be monitored by prison officers and PHIs.</li> </ul>
1.3.2		Clean and sufficient water supply	<ul style="list-style-type: none"> <li>• Maintain “buffer stocks” of water when water cuts and water shortages are inevitable, give prior notice of the shortage to prisoners, and provide water from the “buffer stock” or bowsers.</li> </ul>

			<ul style="list-style-type: none"> <li>• Establish a water purification system inside the prison and ensure that the quality of water is routinely assessed by PHIs.</li> <li>• Ensure that the prison administration abide by the timetable as far as possible where water is supplied only at assigned times.</li> <li>• Provide prisoners the opportunity to obtain sealed containers to store water for drinking purposes.</li> </ul>
1.3.3		Personal hygiene to minimize the spread of germs and illnesses	<ul style="list-style-type: none"> <li>• Allow prisoners the chance to bathe twice a day if they wish and allocate sufficient time to wash their clothes and the use toilets.</li> <li>• Store water in proportion to the number of inmates who are housed in a ward.</li> <li>• Allow as far as possible, additional outside time for exercise and fresh instead of being required to wash their clothes and bathe during assigned outside hours.</li> <li>• Renovate bathing facilities in a manner that is disability accessible and provide prisoners the opportunity to wash themselves with adequate privacy.</li> <li>• Ensure prisoners are allowed buckets with sufficient capacity and allowed an adequate number of buckets to clean themselves where there are no showers, in line with international standards.</li> <li>• Ensure that sanitary facilities guarantee the maximum possible privacy and where they are not, re-construct them in a manner that enables prisoners to use them with dignity, and without their privacy being compromised.</li> <li>• Arrange for sanitary facilities both inside and outside the ward (including in punishment cells), so that they are available for</li> </ul>

			<p>use throughout the day and night since the dehumanisation of prisoners and the loss of their dignity when completing basic human functions is an impediment to the rehabilitation process.</p> <ul style="list-style-type: none"> <li>• Develop a system of flushing and sluicing water after using toilets to enable toilets to be kept clean and prisoners should be provided water for flushing away excrement in addition to water provided for other personal sanitation needs.</li> <li>• Allocate funds for the provision of cleaning agents to prisoners to maintain cleanliness and hygiene of their wards and the bathrooms.</li> <li>• Ensure places that cut hair inside prisons are well-maintained and all equipment used is sterilized frequently.</li> <li>• Establish a system similar to the one in Badulla Remand Prison where basic provisions are provided to new entrants, to be replaced by the items they receive when their families visit them.</li> <li>• Initiate a system of regular provision of toiletries to convicted and condemned prisoners, sanitary napkins for female prisoners, as well as remandees who cannot obtain such articles from family visits.</li> <li>• Implement regular fumigation including fogging for mosquitoes with the assistance of other public health institutions, and PHIs should be required to undertake regular inspections of prison facilities to assess the health risks posed to inmates.</li> </ul>
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1.4	Entrance and Exit Procedure		
1.4.1		Admission procedure	<ul style="list-style-type: none"> <li>• Establish a mechanism for prisoners, both local and foreign to notify their families immediately, or within a reasonable period of time, of their imprisonment via phone, or provide the contact details of the relevant diplomatic service if the inmate is not aware of such details, to phone the relevant consulate.</li> <li>• Ensure prisoners are examined thoroughly for injuries sustained prior to admission due to possible violence faced in police custody or by a third-party.</li> <li>• Provide prisoners to be photographed and any injury marks to be recorded at the time of admission, rather than during the registration process, to place an accurate timestamp on any injury marks.</li> <li>• Establish a procedure/system that makes it mandatory for prison doctors to present inmates before the Judicial Medical Officer if they are found bearing visible marks of injuries allegedly sustained in police custody, or if the inmate complains of being subject to torture in police custody.</li> <li>• Establish a mechanism to follow up on the complaint regarding police violence lodged by inmates at the time of admission and inform the National Police Commission and the Human Rights Commission of such cases.</li> <li>• Issue a circular specifying the procedure to be followed when conducting body searches and inform all prison officers and the prison police, that only a doctor is authorized to conduct a body cavity search on an inmate.</li> </ul>

			<ul style="list-style-type: none"> <li>• Facilitate the installation of new technology to counter the smuggling of contraband into prison and ensure that existing machinery, such as body scanners, are fully functional.</li> <li>• Introduce a uniform method of medical check-up upon admission by extending the International Committee of Red Cross pilot project on the initial health screening of inmates to all prisons with particular attention on those suffering from mental illnesses/distress and may experience suicidal tendencies.</li> <li>• Examine and inquire from those who undergo a medical examination on the day after their admission whether they were subject to violence on their first night in prison.</li> <li>• Conduct orientation programmes for all new prisoners in the language of their proficiency, to inform about the way in which the institution functions, rules and regulations, grievance mechanisms, and conduct that can amount to disciplinary offences, etc.</li> <li>• Establish a centralized electronic database of information documented during entrance, to maintain records efficiently and refer to previous records to check if a person is a reconvicted/recidivist prisoner. Officers should be provided relevant ICT training to manage the system and only designated officers should have access to this system. Prisoners' access to the database should be prohibited.</li> <li>• Introduce a uniform method of storing the personal belongings of prisoners, and issue a receipt outlining details of items deposited to the stores to ensure the security of inmates' personal belongings.</li> </ul>
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1.5	Access to Medical Treatment		
1.5.1		Medical facilities	<ul style="list-style-type: none"> <li>• Upgrade the largest Prison Hospital in each region to a base hospital, containing all necessary facilities for prisoners within the region who have serious ailments and reserve a separate ward in the General Hospital closest to a prison as an interim measure for inmates that require in-patient care.</li> <li>• Assign at least one resident Medical Officer and a psychiatrist to treat prisoners during out of office hours and emergencies.</li> <li>• Establish a roster for consultants from the nearest General Hospital.</li> </ul>
1.5.2		Training and sensitizing medical staff	<ul style="list-style-type: none"> <li>• Provide medical personnel with adequate training to deal with prisoners and sensitize them on working in prisons.</li> <li>• Inform medical personnel their duties under the Prisons Ordinance, Departmental Standing Orders of 1956 and the Statutory Rules.</li> <li>• Send regular reports mentioned in the Prisons Ordinance, Departmental Standing Orders of 1956 and Statutory Rules to the Director General of Health Services at the Ministry of Health by the Medical Officer.</li> <li>• Maintain up to date records of all inmates seeking treatment as well as counselling at the Prison Hospital.</li> </ul>
1.5.3		Transfer to other medical facilities	<ul style="list-style-type: none"> <li>• Assign a specific day every month for specialty clinic that cannot be held at the Prison Hospital and can only be held at the General Hospital to prevent the re-scheduling of clinic dates.</li> </ul>

			<ul style="list-style-type: none"> <li>• Devise efficient means by Department of Prisons to prevent the delay in transferring inmates to hospitals caused by the shortage of officers by addressing human resource shortages as well as acquiring additional buses.</li> <li>• Provide financial resources by Department of Prisons for at least one ambulance for every prison and provide the services of an ambulance from the closest national medical institution to every prison to transfer prisoners in critical cases, in the interim.</li> <li>• Send the medical files of prisoners being transferred to other prisons without delay, so that prisoners on medication can continue to receive their treatment in the new prison without interruption, and the Medical Officer at the new prison has access to the medical histories of all transferred patients.</li> </ul>
1.5.4		Mental health	<ul style="list-style-type: none"> <li>• Establish measures including required legal reform, to divert mentally ill offenders away from the criminal justice system to treatment facilities.</li> <li>• Provide judicially supervised treatment services to non-violent offenders diagnosed with severe mental illnesses.</li> <li>• Establish a twenty-four-hour crisis centre, where Ministry of Health personnel provide psychiatric services to individuals experiencing emotional or mental health crises who are brought in by the police.</li> <li>• Implement comprehensive suicide prevention programmes in each prison, which includes the screening of new entrants to prisons and monitoring of inmates identified at risk of suicide.</li> </ul>

			<ul style="list-style-type: none"> <li>• Increase the cadre for counsellors so that each prison has at least one qualified counselling officer competent to deal with prisoners who require psychological services.</li> <li>• Provide all prison officers and Medical Officers regular trainings on suicide prevention by the Ministry of Health.</li> </ul>
1.6	Contact with the Outside World		
1.6.1		Visits by family	<ul style="list-style-type: none"> <li>• Enable regular family visits by housing offenders close to their homes.</li> <li>• Provide an alternative arrangement to families that live a long distance from prison such as permitting longer visits over several days.</li> <li>• Enact a policy of transferring prisoners who are nearing the end of their sentence to prisons close to their homes to facilitate reintegration into society.</li> <li>• Conduct family visits in a more humane manner, where prisoners are separated from their families by a glass barrier and phones are installed to ensure inmates can have conversations with their visitors without having to shout to be heard.</li> <li>• Provide seating areas so prisoners and their visitors, especially elderly visitors, pregnant women or persons with special needs, are able to comfortably engage in conversation during visits.</li> <li>• Use contact visits or extra time for visits as rewards for good conduct but refrain from curtailing the visitation rights of a prisoner as a punishment.</li> </ul>

1.6.2		Proper monitoring of receiving food and parcels from outside	<ul style="list-style-type: none"> <li>• Invest in technology, such as parcel scanners, x-ray scanners, to check food and other items brought by visitors to preserve the hygiene conditions of the food.</li> <li>• Minimize the number of food parcels brought for prisoners from families by improving the quality of food provided in the prison.</li> <li>• Establish hygienic and orderly means of inspecting food received from outside.</li> <li>• Extend the system available in Agunukolapelessa Closed Prison, which allows prisoners to obtain items from the prison canteen upon families purchasing the items and providing the receipt to the prisoner, and expand this system to allow families to top up the prisoner's credit even remotely, and allow the prisoner to use it to purchase any item in the canteen.</li> </ul>
1.6.3		Communication via post and phones	<ul style="list-style-type: none"> <li>• Improve the existing system of postal communication to ensure it is managed efficiently and without delays such as informing prisoners when their letters have been sent so that prisoners have knowledge of whether and when it was posted.</li> <li>• Recruit officers proficient in Tamil and English and provide language training to existing officers to facilitate communication between prisoners who are proficient only in Tamil or English and their families, by enabling officers to review letters written in Tamil or English, so that they can be posted to the families.</li> <li>• Establish phone booths, similar to the system in WCP, to enable prisoners to maintain contact with families and minimise the</li> </ul>



			<p>need to resort to banned methods of contacting their families, such as via the use of phones smuggled into prison.</p> <ul style="list-style-type: none"> <li>• Provide remandees and inmates on appeal with a separate facility to make phone calls to their lawyers at scheduled times, so that lawyers do not always have to visit prison to consult with their clients.</li> </ul>
1.7	Grievance Mechanism		
1.7.1		Internal grievance mechanism	<ul style="list-style-type: none"> <li>• Inform the inmates of the internal grievance mechanism during the orientation programme and such instructions to be displayed in writing, in all three languages within the prison premises for the inmates to refer.</li> <li>• Provide prisoners with unfettered access to the existing internal grievance mechanisms of the prisons system, following International standards, such as the Standard Minimum Rules.</li> <li>• Allow direct access to a senior officer of the prison administration without going through a subordinate officer.</li> <li>• Facilitate SPs and Chief Jailors to undertake regular inspection rounds to ensure that all inmates have the opportunity to voice their concerns directly to the Superintendent of Prisons or the Chief Jailor.</li> <li>• Maintain a complaints letterbox in easily accessible common areas of the prison, for private and confidential complaints to be lodged by prisoners, that can only be opened by the Chief Jailor or Superintendent of Prisons on a daily basis, without the risk of interference or interception by other prison officers,</li> </ul>

			<p>and direct the relevant officers or branches to take necessary action.</p> <ul style="list-style-type: none"> <li>• Ensure inmates receive full confidentiality and privacy when lodging complaints so that the fear of reprisals does not hinder them from complaining to SPs and external parties about their grievances.</li> <li>• Conduct immediate inquiry into any allegations from inmates that they are being subject to reprisals for making complaints against prison officers, by the Superintendent prioritizing the safety and wellbeing of the inmate and take strong action by the Department of Prisons against officers who are found to have engaged in such reprisals.</li> <li>• Provide training to prison officers on the importance of the internal grievance mechanism and the proper discharge of their duties to ensure that the requests and grievances of prisoners are forwarded to the relevant divisions or authorities.</li> </ul>
1.7.2		External grievance mechanism	<ul style="list-style-type: none"> <li>• Establish an impartial and independent mechanism to address complaints against officers when a complaint is made against an officer above the rank of a jailor, i.e. the Chief Jailor or the Superintendent of Prisons.</li> <li>• Provide inmates with a means to forward their complaints directly to the Commissioner General of Prisons, any Commissioner of Prisons or the Human Rights Commission without censorship, such as through complaints or letters addressed to the Commissioner General of Prisons or Minister of Justice which must not be opened by prison officers.</li> </ul>

			<ul style="list-style-type: none"> <li>• Ensure gender and ethnic balance in the Visiting Committees appointed by the Ministry of Justice and Prison Reforms as a body advocating for prisoners' welfare to inquire if prisoners have any complaints against the administration, without the power to impose any punishments on prisoners for making 'frivolous complaints.</li> <li>• Facilitate access for inmates to submit their petitions or grievances directly to judicial authorities without censorship by post.</li> <li>• Install two complaint boxes in the prison premises, where they are accessible to any prisoner, to submit complaints to the Ministry of Justice and Prison Reforms or the Human Rights Commission, to be collected monthly by the respective institution.</li> <li>• Ensure that Ministry of Justice and Prison Reforms visits the prisons on a monthly basis and collect the written grievances directly without the intervention of the prison authorities to safeguard transparency of the process</li> <li>• Issue a letter of acknowledgement by the institutions to which prisoners submit complaints.</li> <li>• Establish a mechanism for prisoners who require legal assistance for their ongoing cases as well as for appeals, to seek legal assistance directly from the Legal Aid Commission through letters, and ensure that these letters are sent to the Legal Aid Commission with immediate effect to prevent delays in the judicial process.</li> <li>• Ensure the Magistrates who undertake prison visits submit visit reports to the Judicial Services Commission which should</li> </ul>
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			<p>be shared with the Department of Prisons, Ministry of Justice and Prison Reforms and the Commission to enable these institutions to craft their initiatives to support existing processes in responding to the needs and concerns of prisoners.</p> <ul style="list-style-type: none"> <li>• Introduce a policy by the Judicial Services Commission, whereby remandees who are produced before a Magistrate in court, are first inquired about their treatment and conditions in prison by the Magistrate.</li> </ul>
1.8	Inmate-Officer Relationship		
1.8.1		Capacity building of prison officers	<ul style="list-style-type: none"> <li>• Provide relevant training for prison officers to shift their understanding of incarceration from a purely punitive measure to a rehabilitative process that seeks to ensure the successful social reintegration of prisoners.</li> <li>• Provide induction training for prison officers with rehabilitation and correctional policies as core principles.</li> <li>• Conduct regular training for officers on conflict resolution, non-violent communication and how to build a relationship with inmates that is conducive to rehabilitation i.e. dynamic security</li> <li>• Strengthen the existing complaint mechanism to enable both inmates and officers to report discriminatory and corrupt practices in prisons to prison authorities and where relevant to external authorities, such as the Human Rights Commission and the Commission to Investigate Allegations of Bribery or Corruption in a confidential manner, with action taken swiftly</li> </ul>

			by the relevant entities to inquire into allegations made by prisoners against officers.
1.8.2		Conducive working conditions of prison officers	<ul style="list-style-type: none"> <li>• Revise and increase the salaries of prison officers as recommended in the Chapters on Grievance Mechanisms and Challenges Faced by the Prison Administration, enabling them to work in a conducive environment and manage a system that seeks to rehabilitate persons.</li> <li>• Establish a permanent division within the Ministry of Justice and Prison Reforms for monitoring the functions of prisons and to submit reports periodically with suggestions for required reform. Officers of this division should conduct periodic prison visits during which officers should also receive grievances from prisoners and their families.</li> <li>• Undertake a corruption risk assessment to help identify potential corrupt practices.</li> </ul>
1.9	Discipline and Punishment		
1.9.1		Use of physical force by prison officers	<ul style="list-style-type: none"> <li>• Implement a zero-tolerance policy against physical violence and ensure the allegations on the use of undue or excessive force by officers are inquired into and action taken.</li> <li>• Initiate the prosecution of officers accused of committing offences under the Convention Against Torture Act.</li> <li>• Provide guidelines and training on the international standards related to the use of force, and train officers in the use of necessary and proportionate use of force as well as alternate measures of maintaining discipline and order in prison, and best practices to restrain and restrict prisoners in a manner</li> </ul>

			<p>which is not inhuman or degrading and that do not cause injuries should be introduced.</p> <ul style="list-style-type: none"> <li>• Adhere to safeguards in the use of force to maintain discipline, such as reporting and recording events where force had to be administered to restrain prisoners.</li> </ul>
1.9.2		Offences and sanctions within prisons	<ul style="list-style-type: none"> <li>• Provide information on prison offences and the respective sanctions in writing and display within the prison to ensure that all prisoners are aware.</li> <li>• Limit disciplinary sanctions to temporary removal of privileges and Prison Tribunal proceedings.</li> <li>• Avoid the use of solitary confinement as a sanction as much as possible, and when used in exceptional instances, adhere to international standards and guidelines.</li> </ul>
1.9.3		Prison tribunals	<ul style="list-style-type: none"> <li>• Ensure Prison Tribunal hearings are always conducted in a court where a prisoner has more opportunity to find legal representation with due process safeguards.</li> <li>• Provide access to legal representation and legal aid to prisoners produced before a Prison Tribunal.</li> <li>• Inform the inmates they are able to hire lawyers to represent them at Tribunal proceedings and provide access to communication facilities to summon lawyers through the Department of Prisons and Legal Aid Commission.</li> </ul>
1.9.4		Improve working conditions of prison officers	<ul style="list-style-type: none"> <li>• Improve overall conditions of the prison, specifically working conditions of prison officers, so that they refrain from ill-treating prisoners and justify such acts.</li> </ul>



			<ul style="list-style-type: none"> <li>Establish a protocol by which MOs, of their own volition, are able to send prisoners who have been assaulted in custody to the Judicial Medical Officer, without requiring the approval of the SP, and ensure oversight mechanisms are in place to implement the MO's referral without delay.</li> </ul>
1.10	Death in Prisons		
1.10.1		Policy and guidelines on deaths in prisons	<ul style="list-style-type: none"> <li>Adopt and implement policy directives and guidelines on the steps to be followed in an event of a death, such as calling for emergency medical assistance, securing the scene of death, separating prisoners who are suspects/witnesses from others and from each other etc., and all prison officers and prisoners to be made aware of these directives through training, public notices, drills etc.</li> <li>Standardize the process of investigating a death in prison according to the Minnesota Protocol.</li> <li>Compile a crime scene log by a prison officer, record the names of the people entering or leaving the death scene and the respective times, until the police take control of the scene.</li> <li>Maintain a methodical and detailed recording of deaths by the prison in the log.</li> <li>Record exact times of important events such as the time at which other prisoners in the vicinity became aware of the death, notified the officers of the death, officers reached the scene, the time the deceased/body was taken to the hospital etc.</li> <li>Mention the exact place of death in the prisons' record if there is reasonable cause to believe the prisoner died in prison since</li> </ul>

			such recording is crucial in identifying delays or gaps in the response of prison authorities and preventing such delays in the future.
1.10.2		Adequate training on first aid for medical emergencies	<ul style="list-style-type: none"> <li>• Provide staff who have routine contact with inmates with standard first aid and cardiopulmonary resuscitation training, as well as a programme on first aid training to prisoners, possibly in collaboration with the St. John Ambulance Brigade since at most times, officers might not be readily available to provide first aid.</li> </ul>
1.10.3		Formal mechanism for recording and accountability on deaths in prison	<ul style="list-style-type: none"> <li>• Establish accountability mechanisms for prison officers who have failed to adhere to their duties resulting in the death of a prisoner by negligence and take disciplinary action against them.</li> <li>• Differentiate the types of deaths in the Annual Prison Statistics Report to facilitate the identification of patterns and trends.</li> <li>• Create awareness about the mandate and the investigative powers of the Human Rights Commission of Sri Lanka to prison staff to ensure the smooth conduct of any investigation by the Commission with all staff members providing maximum cooperation.</li> <li>• Include a special team of officers from the Department of Forensic Medicine and Toxicology in the protocol on investigating custodial deaths, and notify them immediately and summon to conduct an initial investigation of a death scene in order to preserve the scene and evidence before other investigating authorities take control of the investigation, to</li> </ul>

			minimize the risk of evidence tampering by prison officers, or even prisoners.
1.10.4		Procedures and mechanisms to deal with deaths due to violence in prison	<ul style="list-style-type: none"> <li>• Maintain vigilance on prisoners who complain of pre-imprisonment violence and produce them before Judicial Medical Officers to provide necessary treatment and proceed legal action against perpetrators to prevent deaths from such violence prior to admission.</li> <li>• Take preventive action on violence among inmates by minimizing interaction between rival inmates and permit change of wards if requested due to threats, as well as take immediate action on such complaints.</li> <li>• Ensure prisoners are effectively segregated by adhering to the information on prisoner's background conveyed via confidential report to prison as per Crime Circular 19/2014 (IG Circular 2508/2014), including their membership in organised crime gang and relevant rivals.</li> <li>• Create awareness of the legal limitations on the use of force and instrument of restraint by prison officers and Superintendent of Prisons to take swift action on ill treatment, assault or other irregularities as per Section 15 of the Departmental Standing Orders of 1956.</li> <li>• Maintain records of ward transfers of deceased to identify responsible parties in the event of a death due to violence.</li> </ul>
1.10.5		Procedures and mechanisms to deal with	<ul style="list-style-type: none"> <li>• Ensure during the orientation programme that prisoners who are feeling overwhelmed are aware of available help and support through identified officers.</li> </ul>

		deaths due to suicide in prison	<ul style="list-style-type: none"> <li>• Implement mechanisms to identify prisoners who are at risk of committing suicide, such as an assessment of risk and screening for suicide during admission procedure and the initial medical examination.</li> <li>• Enable prison officers to conduct screening in the absence of qualified MOs, with a simple guideline including both static (historical and demographic) and dynamic (situational and personal) variables.</li> <li>• Transfer prisoners identified as at high risk of suicide upon admission to a medical facility where they can receive expert attention, or alter their detention conditions to facilitate observation, monitoring, and emotional support as they should not be kept alone without around the clock close observation.</li> <li>• Undertake routine checks to watch for indications of suicidal intent or mental illness, signs of which include, but are not limited to, sudden change in mood, eating habits or sleep, divestment such as giving away personal possessions, loss of interest in activities or relationships, repeated refusal to take medication or a request for an increased dose of medication.</li> <li>• Provide initial suicide prevention training followed by annual refresher course to all correctional staff, as well as health care and mental health personnel.</li> <li>• Record cases of suicide and identify the reasons while correctional and health staff should debrief each incident to reconstruct the events leading to the suicide, identify factors that may have led to the inmate's death that may have been missed or inadequately addressed, assess the adequacy of the emergency response and formulate policy to improve future</li> </ul>
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			<p>prevention efforts including such measures as introducing specially trained inmate “buddies” or “listeners”, as potential suicidal inmates may not want to confide in officers but will be open up to fellow inmates.</p> <ul style="list-style-type: none"> <li>• Introduce strategies to reduce the risk of contagious suicidal behaviour by providing secure psychiatric care for prisoners with psychiatric illness.</li> </ul>
1.10.6		Procedures and mechanisms to deal with deaths due to inadequate medical attention in the prison	<ul style="list-style-type: none"> <li>• Conduct a comprehensive medical screening upon arrival to the prison.</li> <li>• Conduct regular medical check-ups of all the prisoners and allocate required resources.</li> <li>• Establish appropriate infrastructure for inpatients and outpatients.</li> <li>• Observe and report to the Medical Officer any signs of physical and mental ill health in prisoners without waiting for the prisoner to approach the Medical Officer.</li> <li>• Transfer to external medical care upon referral without delay or exception.</li> <li>• Develop a contingency plan for transferring prisoners who are suddenly taken ill, especially at night, with special attention paid to providing emergency medical assistance (ambulance services and/or paramedic services).</li> <li>• Handover prisoner’s previous medical records upon transferring prisoners from one prison to another, to avoid delays in treatment of physical or particularly psychological illnesses, which could contribute to unnatural deaths, such as suicide.</li> </ul>

1.10.7		Procedures and mechanisms to deal with deaths due to accidents in the prison	<ul style="list-style-type: none"> <li>Implement recommendations to reduce deaths in prison due to work place accidents as set out under Chapters on Prison Work and Accommodation.</li> </ul>
1.11	Challenges Faced by the Prisons Administration		
1.11.1		Remuneration and work conditions of prison officers	<ul style="list-style-type: none"> <li>Create public awareness on the value of the work undertaken by prison officers and their services to the country to boost the self-esteem and feelings of self-worth of prison officers.</li> <li>Allow mandatory days off to officers who complete multiple, subsequent shifts.</li> <li>Revise the salary scales to reflect the complex and often dangerous nature of the work of prison staff at all levels and to match to those of other public officers as well as officers in the criminal justice sector.</li> <li>Provide prison staff added benefits in light of the isolated and geographically mobile nature of their job, such as access to free or subsidised housing, medical insurance, transport allowances, etc. which could compensate for low levels of pay as an interim measure.</li> <li>Introduce recreational activities for prison officers by the Department of Prisons in collaboration with other state institutions and external stakeholders, such as indoor sports with the aim of reducing their work stress, taking into consideration the recommendations of the research conducted by the Ministry of Health on the burnout of prison officers.</li> </ul>

			<ul style="list-style-type: none"> <li>• Organize group activities, such as social gatherings and work meetings to discuss and solve work related issues, organizing sporting activities as well as trips for prison officers and their families.</li> <li>• Design and implement adequate counselling services and stress management mechanism to prison officers.</li> <li>• Provide opportunities and incentivise further educational qualifications.</li> </ul>
1.11.2		Recruitment policy and procedure for prison officers	<ul style="list-style-type: none"> <li>• Revise recruitment policies and adhere to the strict recruitment and selection processes paying attention not only to applicants' professional qualifications but also their personal qualities, as this will determine how they handle and manage inmates.</li> <li>• Appoint the head of the Department of Prisons from amongst the staff in the correctional system, rather than an individual from outside the service since an internal officer would have a better grasp and insight of the challenges faced by the prisoners and prison officers, which in turn would result in more responsive interventions and decisions that address existing needs and concerns.</li> <li>• Consider the use of psychometric tests for recruitment as well as to identify officers who are suitable to be promoted or require further training for improvement as stipulated in the Handbook on Anti-Corruption Measures in Prisons of UNODC, as tests are designed by professional psychologists and involve testing intelligence, aptitude and personality among other aspects.</li> </ul>



1.11.3		Training and development of prison staff	<ul style="list-style-type: none"> <li>• Provide prison staff with the proper understanding of their role in the prison as rehabilitative and not as punitive.</li> <li>• Conduct training programmes for both hard and soft skills that are essential when dealing with offenders, technical skills such as the use of technology and documentation processes to ensure that they play a dynamic role in the management of prisons rather than a static one, and also include sessions in fundamental rights, human rights, Standard Minimum Rules, as well as the modern practices with regard to the treatment of prisoners and their rehabilitation.</li> <li>• Provide training in the appropriate use of force to prevent abuse, torture and violence, including techniques of using minimum force to restrain and non-violent methods of handling inmates.</li> <li>• Conduct biannual or annual training for prison guards who carry firearms on the use of weapons as well as the protocols to be followed when using firearms.</li> <li>• Provide suicide prevention training that includes areas such as why correctional environments are conducive to suicidal behaviour, potential predisposing factors to suicide, high-risk suicide periods, warning signs and symptoms, components of the facility/agency's suicide prevention policy as well as mock drills.</li> </ul>
1.11.4		Vetting mechanism to prevent corruption among prison staff	<ul style="list-style-type: none"> <li>• Conduct background checks on candidates who have applied for vacancies in the prison system to avoid recruiting persons with a criminal record or a history of violence, or allegations of human rights violations during previous employment.</li> </ul>

			<ul style="list-style-type: none"> <li>• Adopt methods in line with the recommendations in the Handbook on Anti-Corruption Measures in Prisons by the United Nations Office on Drugs and Crime to prevent conflicts of interest that may lead to corruption, such as the three r methods, i.e. register, restrict, and relinquish, by the Department of Prisons .</li> <li>• Rotate staff when assigning duties as a mechanism to minimise room for corruption.</li> <li>• Conduct in-depth background checks of new recruits as well as prison officers already recruited such as home visits, relatives and family ties, drug and alcohol tests, checking personal background and personal finances, as well as the use of polygraph tests, if such officers are assigned to high profile prisoners where there is a risk of the officers being negatively influenced by the prisoner, such as being bribed.</li> </ul>
1.11.5		Prison police	<ul style="list-style-type: none"> <li>• Formulate a legal framework setting out the duties and responsibilities of the prison police.</li> </ul>

## 2. Enhance the Welfare of Prisoners

No.	Category	Areas of concern	Recommendations
2.1	Rehabilitation of Prisoners		
2.1.1		Education and vocational training programmes	<ul style="list-style-type: none"> <li>• Develop a structured system of educational opportunities for prisoners in line with the different levels of education the prisoners possess.</li> </ul>

			<ul style="list-style-type: none"> <li>• Provide qualified educators, equipment and building facilities to foster a culture of education within the prison.</li> <li>• Provide vocational training in useful and income-generating trades according to the current needs of the market.</li> <li>• Make available a range of vocational training for prisoners to choose from.</li> <li>• Engage instructors consisting of permanent and additional part-time or voluntary instructors in every prison.</li> <li>• Expand the avenues to sell the products made by prisoners during vocational training, particularly to state entities.</li> </ul>
2.1.2		Religious and cultural activities	<ul style="list-style-type: none"> <li>• Provide equal opportunity, adequate and equal access to all prisoners who wish to engage in religious activities while respecting those who do not wish to participate in such practices.</li> <li>• Provide equal opportunities to participate in cultural and other festivities regardless of their ethnicity.</li> <li>• Facilitate the celebration of all religious festivals in prisons.</li> </ul>
2.1.3		Engagement with the outside world	<ul style="list-style-type: none"> <li>• Provide an adequate number of books and newspapers and means of being informed of current affairs such as TVs and radios.</li> <li>• Engage the community and other organisations to expand rehabilitation programmes to encourage interaction with the outside world which would enable the successful social re-integration of prisoners.</li> <li>• Invite well-known personalities and motivational speakers to address the prisoners.</li> </ul>
2.1.4		Other rehabilitation programmes	<ul style="list-style-type: none"> <li>• Provide adequate sports and physical training equipment.</li> </ul>

2.1.5		Evaluations of rehabilitation programmes	<ul style="list-style-type: none"> <li>• Provide equal opportunities in rehabilitation to female prisoners.</li> <li>• Monitor the effectiveness and the impact of rehabilitation programmes periodically.</li> </ul>
2.1.6		Individualized rehabilitation and release care plan	<ul style="list-style-type: none"> <li>• Prepare a rehabilitation plan for each prisoner upon admission, after taking into consideration their social and criminal history, physical and mental capacities and aptitudes, personal temperament, the length of sentence and prospects after release.</li> <li>• Keep a record of the rehabilitation plan in the prisoner's personal file and evaluate progress periodically and make modifications when required.</li> <li>• Facilitate a prisoner's gradual social re-integration with the help of relevant NGOs and community organisations.</li> <li>• Implement a release care plan in a transitional/half-way house to provide assistance with food, shelter and employment for prisoners who do not have a home to return to.</li> </ul>
2.1.7		Administration of Rehabilitation and welfare	<ul style="list-style-type: none"> <li>• Revamp the Department of Prisons to reflect rehabilitation as its main goal by providing sufficient cadre positions for rehabilitation officers and counselling officers.</li> <li>• Ensure the ratio of rehabilitation officers and uniformed officers to prisoners enables rehabilitation of prisoners as a top priority of the system.</li> <li>• Employ an adequate number of counsellors and Rehabilitation Officers to all prisons.</li> <li>• Provide essential support staff and resources to the Welfare Division.</li> <li>• Provide special training on rehabilitation to both uniformed and non-uniformed staff to make them aware of the aim of incarceration.</li> </ul>

2.2	Prison Work		
2.2.1		Types and conditions of work	<ul style="list-style-type: none"> <li>• Provide work that is useful in nature and under conditions that resemble the work conditions outside the prison, to enhance the self-esteem and the sense of responsibility in prisoners with consideration for applicability to post release employment.</li> <li>• Assign work with special attention to prisoner's existing skills, preferences and future plans and in line with the prisoner's individualized rehabilitation plan.</li> <li>• Avoid allocation of work party based on an inmate's social standing or preferential treatment to avoid inefficiency and distortion of the principle of benefits.</li> <li>• Allow changes in work party allocation where possible if it can be established that the assigned work is not the best fit for a particular prisoner.</li> <li>• Implement existing provisions that provide greater opportunities for reintegration, such as open prison camps and Work Release.</li> <li>• Expand the Work Release scheme to include opportunities to work in the private sector.</li> <li>• Collaborate with the private sector to initiate new ventures for prisoners to acquire marketable skills, benefit from earning higher wages commensurate with market rates, and have the prospect of being employed by the same enterprise upon release.</li> <li>• Ensure prisoners are not exploited for their labour in the private sector and have access to benefits and insurance, and enjoy the protection of labour laws with strict supervision by the Ministry of Justice and Prison Reforms and periodic reporting as well as a grievance mechanism.</li> </ul>

			<ul style="list-style-type: none"> <li>• Avoid employing prisoners in prison offices with access to confidential information on prisoners by digitizing information management system or recruiting more prison officers.</li> <li>• Increase access to post release support by providing a budget allocation for the provision of tools and equipment to released prisoners who successfully complete their vocational training courses in prison and wish to pursue relevant opportunities upon release.</li> </ul>
2.2.2		Equipment and personnel for work	<ul style="list-style-type: none"> <li>• Provide funding to procure adequate industrial equipment, machinery and material to ensure maximum productivity, as well as safety of the prisoners at work.</li> <li>• Enlist qualified trainers/instructors in work parties, including specialized external entities to provide effective training to prisoners, from which they can benefit after their release.</li> </ul>
2.2.3		Health and safety	<ul style="list-style-type: none"> <li>• Comply with the recommendations of Medical Officers on fitness for work.</li> <li>• Ensure prisoners undergo a medical evaluation prior to being transferred to an open camp and communicate to the receiving prison the Medical Officer's recommendation for type of work.</li> <li>• Visit and monitor prisoners at work by Medical Officers to identify those who find it difficult to work.</li> <li>• Renovate workshops and other working places to protect the health and safety of prisoners, and prioritize access to adequate supply of drinking water and sanitation facilities.</li> <li>• Provide training to every prisoner employed in a work party on work place safety.</li> <li>• Promote actively the use of safety equipment and display safety instructions in every work party.</li> </ul>

			<ul style="list-style-type: none"> <li>• Install first aid boxes in every work party and provide training in first aid and CPR to all prison officers, and offer similar training to prisoners incentivized as a positive indication of rehabilitation before the License Board.</li> <li>• Obtain necessary approval if working hours extend beyond the maximum number hours stipulated in legislation/regulation.</li> <li>• Provide sufficient rest intervals and rest days to prisoners, as per domestic legislation/regulation as well as international standards, to rest and engage in other rehabilitative aspects of prison life.</li> </ul>
2.2.4		Remuneration	<ul style="list-style-type: none"> <li>• Revise the prisoners' wages scheme periodically to be in line with the present market costs of labour and match with the national minimum standard of wages.</li> <li>• Create awareness among prisoners of the existing remuneration schemes and their entitlements.</li> <li>• Provide the prisoners with the opportunity to utilize a part of their earnings for their benefit, i.e. to purchase necessary items in prison stores and/or to send a part of their earnings to the family.</li> <li>• Allow prisoners to examine their passbooks to view their current balance upon request, which will also increase the accountability of the prison administration.</li> </ul>
2.3	Early Release		
2.3.1		Policies and procedures	<ul style="list-style-type: none"> <li>• Reconceptualize and strengthen the existing early release measures in the Sri Lankan penal system.</li> <li>• Review the evaluation system and address the weaknesses by devising a holistic system that can operate to review the prisoner's rehabilitation step-by-step.</li> </ul>



			<ul style="list-style-type: none"> <li>• Implement procedures to prevent delays with regard to Home Leave and License Board on the part of the HQ and Ministry of Justice and Prison Reforms.</li> <li>• Provide for rehabilitated prisoners to go on Home Leave even in the absence of a guardian or family, to be under the care of a recognized community organization or a half-way house.</li> <li>• Adopt a written and published policy document or guideline to assess the eligibility of persons to be released by the License Board, as well as the reasons for rejection, for transparency and accountability of the process.</li> <li>• Include individuals representing the interests of prisoners, such as human rights advocates, psychiatrists etc. in the License Board, to strengthen the fairness and integrity of the process.</li> <li>• Provide adequate resources and support with increased number of Rehabilitation officers in the Welfare Division of each prison to ensure the Home Leave and License Board procedures are efficient and devoid of delays and handled with correctional and rehabilitation objectives.</li> <li>• Explore methods of criminal justice administration to amend sentencing policies to take into account the elements of the crime as well as extenuating circumstances.</li> </ul>
2.4	Prisoners on Death Row		
2.4.1		Policy on death penalty	<ul style="list-style-type: none"> <li>• Propose to abolish the death penalty.</li> <li>• Commute all prisoners on death row to life imprisonment and thereafter to a specified term of imprisonment, after conducting individual evaluations of their rehabilitation in prison based on which they be made eligible for early release measures.</li> </ul>

			<ul style="list-style-type: none"> <li>• Address the physical and mental healthcare needs of prisoners on death row.</li> </ul>
2.5	Prisoners held under the Prevention of Terrorism Act		
2.5.1		Procedures and guidelines for detention under the PTA	<ul style="list-style-type: none"> <li>• Ensure that national security/ Anti-terror law complies with International Human Rights standards by repealing the PTA.</li> <li>• Ensure that safeguards are in place for a remandee to move from fiscal custody for interrogation by police under exceptional circumstances so that space is not created for the abuse of the inmate during such periods.</li> <li>• Ensure no exceptions are allowed to existing provisions of the Evidence Ordinance regarding confessions, in particular, the burden of proving that a confession was made under duress should not be on the defendant.</li> <li>• Produce every detainee arrested under national security laws before a Judicial Medical Officer within a specified time and submit the report of such examination to the Magistrate as a matter of course.</li> <li>• Review the cases of those indicted, and withdraw indictments which are based solely on a confession given to a police officer, and cases where no credible evidence exists.</li> <li>• Grant bail to detainees who have been in remand for an extended period of time.</li> </ul>
2.6	Young Offenders		
2.6.1		Policy, Procedures and guidelines	<ul style="list-style-type: none"> <li>• Use alternative non-custodial correctional methods for persons under eighteen years of age and not be held in prison and detain</li> </ul>

			<p>Young Offenders only in juvenile detention facilities if incarceration is used as a last resort.</p> <ul style="list-style-type: none"> <li>• Amend the legal framework to ensure a standard definition of a Young Offender across all statutes, and stipulate that offenders below the age of eighteen should not be held in adult prisons.</li> <li>• Enforce a zero-tolerance policy on violence and take strict disciplinary action, and criminal action where required and appropriate, against officers accused of assaulting Young Offenders.</li> <li>• Ensure that safeguards are in place for Young Offenders subjected to violence, to have access to a safe and secure grievance mechanism to lodge complaints.</li> <li>• Ensure Young Offenders are able to have regular communication with their family through telephone facilities and provide access to and assistance with legal representation.</li> <li>• Authorize the National Child Protection Authority (NCPA) to arrange and oversee the transfer of Young Offenders from the courts to juvenile facilities and not through the prison system or by prison officers.</li> </ul>
2.6.2		Rehabilitation and Education	<ul style="list-style-type: none"> <li>• Ensure all Young Offenders irrespective of gender, ethnicity, language proficiency, etc. have access to education and vocational training in places of detention.</li> <li>• Ensure the Young Offenders receive a comprehensive education.</li> <li>• Provide educational facilities at every institution where Young Offenders are held and be integrated with the national curriculum so that Young Offender have the option of continuing their disrupted education, according to their personal levels of education and literacy.</li> </ul>

			<ul style="list-style-type: none"> <li>• Introduce innovative and creative methods of inspiring Young Offenders to turn away from the path of criminal activities.</li> <li>• Provide Young Offenders with adequate access to psychological and counselling facilities which should be informed during their orientation upon admission to prison, and arrange weekly sessions with counsellors.</li> <li>• Offer programmes and workshops on self-esteem, managing emotions and the cultivation of healthy relationships.</li> </ul>
2.6.3		Human resources and personnel	<ul style="list-style-type: none"> <li>• Recruit personnel with relevant and recognized qualifications in childcare and child psychology and are able to deal with behavioural issues, at all correctional facilities housing Young Offenders and provide a refresher and in-service training regularly.</li> <li>• Revise remuneration and allowances for such staff members adequately to attract qualified professionals.</li> </ul>
2.7	Foreign Nationals in Prison		
2.7.1		Policy, procedures and guidelines	<ul style="list-style-type: none"> <li>• Ensure that foreign nationals do not suffer discrimination on the grounds of their nationality or language proficiency at any stage of the criminal justice procedure or incarceration, and Judicial Services Commission to consider introducing the policy of requiring judges to specifically inquire from foreign national detainees about their well-being in custody, as they do not have any contacts outside the prison who could protect their interests.</li> <li>• Inform the respective foreign missions without delay, at least within forty-eight hours when foreign nationals are arrested and admitted to prison, by Police and prison officers.</li> </ul>

			<ul style="list-style-type: none"> <li>• Allow foreign nationals to meet/speak with representatives from their embassies upon request following arrest, arranged by prison officers, since the embassy is the inmate's point of access to their national country and government.</li> <li>• Provide the services of an interpreter during police inquiry and trial without leading to any delays in the trial.</li> <li>• Provide foreign inmates the facility to call their families upon admission to prison and once a month in lieu of family visits, arranged with the assistance of their embassies.</li> <li>• Permit foreign inmates to have contact visits for a reasonable time period and multiple consecutive visits, when their family has travelled to Sri Lanka to visit them, especially if the inmate does not ordinarily receive any visits.</li> <li>• Arrange a service in all prisons for family members to wire transfer money to the prison canteen or stores to enable inmates to purchase provisions.</li> <li>• Provide foreign nationals a list of lawyers with their contact details and credentials, to choose legal representatives in collaboration with the Legal Aid Commission and/or Bar Association of Sri Lanka.</li> <li>• Provide foreign nationals upon admission to prison, an orientation booklet that is available in a range of languages, that includes information on admission, visits, complaint procedures etc., to enable them to understand the basic rules governing the prison.</li> <li>• Provide foreign nationals with periodic supply of basic necessary provisions.</li> </ul>
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2.7.2		Repatriation	<ul style="list-style-type: none"> <li>• Repatriate eligible and consenting foreign national prisoners swiftly by the Ministry of Justice and Prison Reforms as everyone has the right to return to his/her own country, and repatriation procedures should not be subject to political whims, but should be implemented as a matter of course as part of an established procedure.</li> <li>• Initiate the procedure to transfer a foreign prisoner wishing to return as soon as the prisoner is convicted, unless there are legitimate reasons for non-transfer, thereby requiring the foreign prisoner to spend the minimal amount of time in the host prison.</li> <li>• Revise the current process of sending persons who have completed their sentence to the Foreign Nationals Holding Centre in Mirihana where they would be subject to indeterminate deprivation of liberty in an overcrowded and ill-equipped facility, and to minimize the time taken by authorities to complete the administrative protocol of repatriating an individual.</li> </ul>
2.8	Women		
2.8.1		Medical and healthcare facilities	<ul style="list-style-type: none"> <li>• Ensure that female prisoners have access to a separate, fully equipped medical facility within their respective section in each prison, with the opportunity to consult a female Medical Officer, if they wish.</li> <li>• Ensure that quarantined spaces are available inside female healthcare sections for patients who need to be separated due to a medical condition.</li> <li>• Formulate a comprehensive programme to treat substance dependency amongst female prisoners, with the progress of the inmates being monitored regularly.</li> </ul>

			<ul style="list-style-type: none"> <li>• Provide psychological services, bearing in mind the higher rate of female victims of domestic violence, physical and sexual abuse as identified in the Bangkok Rules for women in incarceration.</li> <li>• Ensure that there is an efficient system for women [convicted and remandee women who receive no visits] to receive sanitary napkins once a month.</li> <li>• Ensure that there is an efficient system to dispose sanitary napkins and pads regularly and instruct inmates on how to dispose and how to handle such waste in a hygienic manner.</li> <li>• Expand the scope of preventive healthcare – make breast and cervical cancer screenings available to prisoners, as well as regular awareness programmes relating to breast and cervical cancer.</li> <li>• Make provisions for effective ante-natal and post-natal care facilities for pregnant women or mothers who recently gave birth regularly, arrange special meal plans and access to awareness programmes on how to look after the new-born child.</li> <li>• Consider expanding the use of non-custodial measures as alternatives to incarceration for women who are primary caregivers for children under their care and pregnant women, to prevent disrupting the lives of their children and minimize the burden created on the state to place such children in state childcare centres.</li> </ul>
2.8.2		Rehabilitation	<ul style="list-style-type: none"> <li>• Engage women in meaningful prison work that is not limited to cleaning and provide equal opportunities to participate in Work Release Schemes and private ventures in prison, subject to the guarantee of human rights compliant work conditions.</li> </ul>



			<ul style="list-style-type: none"> <li>• Formulate a comprehensive programme that gives women access to a wider array of vocational training and educational activities to enhance their skills with access to external instructors, and the opportunity to receive a professional certification at the end of their training.</li> <li>• Allocate spaces inside the prisons as places of worship equipped with necessary facilities.</li> </ul>
2.8.3		Childcare	<ul style="list-style-type: none"> <li>• Make provision for effective childcare facilities including: the service of paediatricians in prisons, appropriate meals to children, nurseries or separate spaces to house children and ensure they are well maintained, play areas and tools required for learning, formulating a proper curriculum and a syllabus for students until the age of five, and the services of certified nursery teachers.</li> <li>• Expand the pre-school system at WCP to all prisons in the system.</li> </ul>
2.8.4		Female prison personnel	<ul style="list-style-type: none"> <li>• Issue a circular specifying the procedure to be adhered to when conducting body searches and inform all prison officers and the prison police in writing that only a female doctor is authorized to conduct a manual body cavity search on a female inmate.</li> <li>• Recruit more female officers to the prison service and ensure they receive the training required to discharge their duties efficiently.</li> </ul>
2.9	Prisoners with Disabilities		

2.9.1		Facilities	<ul style="list-style-type: none"> <li>• Renovate all prisons in line with international standards to make them disability accessible including toilet facilities.</li> <li>• Prioritize the needs of persons with disabilities and elderly prisoners, particularly medical treatment, for their disability and age specific illnesses as required.</li> <li>• Provide financial resources to enable the prison administration to secure aids and instruments for prisoners with disabilities, without being dependent on donations from external entities.</li> <li>• Establish a suitable housing mechanism for disabled prisoners, who must not be housed separately from other prisoners with necessary assistance available at all times.</li> <li>• Formulate a clear protocol for the evacuation of elderly and disabled prisoners in case of an emergency or disaster.</li> <li>• Rehabilitative programmes and activities should be designed so they are accessible to prisoners with disabilities to ensure they have the opportunity to spend their time in prison in a productive manner.</li> </ul>
2.9.2		Welfare and rehabilitative programmes	<ul style="list-style-type: none"> <li>• Encourage Home Leave for disabled and elderly prisoners, particularly where such prisoners have family willing to care for them.</li> <li>• Modify Home Leave regulations and age should be made a factor that is taken into account when determining release, which could be done by undertaking age-related risk evaluations.</li> <li>• Utilize compassionate release for prisoners suffering full or partial paralysis and terminal illnesses and consistently by the Ministry of Justice and Prison Reforms in collaboration with the Ministry of Health.</li> </ul>

			<ul style="list-style-type: none"> <li>Undertake effective supervision by training staff of prisoners with disabilities to prevent abuse and ill treatment by other prisoners.</li> </ul>
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### 3. Reform the Criminal Justice System

No.	Category	Areas of concern	Recommendations
3.1	Arrest and Detention		
3.1.1		Procedures in arrests	<ul style="list-style-type: none"> <li>Require police officers to follow the due process standards outlined in the Code of Criminal Procedure Act No 15 Of 1979 and initiate disciplinary action against officers who are found to have violated these provisions.</li> <li>Develop legal procedures for arresting foreign nationals including provisions to contact their embassy and families as soon as arrest takes place.</li> <li>Enforce a zero-tolerance policy of violence, and conduct that amounts to torture, inhuman degrading treatment and punishment.</li> <li>Provide training to police officers in the use of force in accordance with international human rights standards of necessity and proportionality.</li> <li>Ensure the safeguards outlined in directives are followed when persons are arrested and detained under the Prevention of Terrorism Act No. 48 of 1979 and establish procedures to trace and initiate disciplinary action against officers who have not abided by such directives.</li> </ul>
3.1.2		Procedures in detention	<ul style="list-style-type: none"> <li>Prohibit incommunicado detention and provide detainees access to contact with family, legal representatives and independent</li> </ul>

			<p>organizations to minimize the risk of the detainee being subject to torture during custody.</p> <ul style="list-style-type: none"> <li>• Prohibit administrative detention and allow only a judicial officer to decide on any extension of detention as well as monitor detention.</li> </ul>
3.1.3		Women detainees	<ul style="list-style-type: none"> <li>• Provide guidelines for body searches of women suspects conducted by the police in the Code of Criminal Procedure Act No 15 Of 1979.</li> <li>• Amend the Code of Criminal Procedure Act No 15 of 1979 to include a provision that makes the presence of a Woman Police Constable mandatory when a woman is arrested and transported in order to safeguard the dignity and personal security of such women.</li> <li>• Ensure women who are detained overnight are kept in the presence of a Woman Police Constable so that a law enforcement officer is responsible and accountable.</li> <li>• Provide special facilities for arrested pregnant women and nursing mothers for their health and well-being.</li> </ul>
3.2	Access to Legal Representation		
3.2.1		Legal aid system	<ul style="list-style-type: none"> <li>• Strengthen the legal aid system through increased budgetary allocations for the Legal Aid Commission to enable them to increase their cadre and conduct legal aid clinics in prisons in rural areas.</li> <li>• Increase the salary scales for the officers of the Legal Aid Commission to enable the Commission to recruit experienced officers.</li> <li>• Allocate mandatory hours of pro bono legal work per annum for all Attorneys-at-Law/legal apprentices, and monitored by the Bar Association of Sri Lanka or the Judicial Services Commission to improve access to legal aid.</li> </ul>

			<ul style="list-style-type: none"> <li>• Enable prisoners to complain about lawyer malpractice directly to the Supreme Court.</li> <li>• Improve remuneration provided for state appointed lawyers.</li> </ul>
3.2.2		Access to legal representation	<ul style="list-style-type: none"> <li>• Provide the names, contact details and credentials of criminal lawyers to prisoners, especially foreign nationals, by the prison administration, to improve the access of remandees to legal representation.</li> <li>• Provide telephone booth facilities at all prisons, especially for remandees who need to contact legal representatives.</li> <li>• Allow suspects to contact legal advisors or legal aid representatives from the police station.</li> <li>• Decentralize the Court of Appeal to enable cases to be heard in the provinces as well to make the process of appeal accessible to those outside Colombo, and reduce the cost of appeals and hence increase accessibility.</li> </ul>
3.3	Legal and Judicial Proceedings		
3.3.1		Bail and bail conditions	<ul style="list-style-type: none"> <li>• Issue guidelines to enable the setting of reasonable bail conditions made on a case by case basis, in accordance with the provisions of the Bail Act to ensure the award of bail is the rule rather than an exception.</li> <li>• Require the reason to be provided for the refusal of bail/extension of remand in writing.</li> <li>• Ensure adherence to the provisions of the Release of Remand Prisoners Act to release inmates who cannot furnish bail conditions and require Magistrates to visit prisons in order to do the same.</li> </ul>

			<ul style="list-style-type: none"> <li>• Allow persons who cannot afford fines to pay them in installments, instead of imprisoning them.</li> </ul>
3.3.2		Delays in judicial proceedings	<ul style="list-style-type: none"> <li>• Conduct a study of judicial proceedings at the Magistrate Court to understand the causes of delays and propose solutions.</li> <li>• Conduct an internal review by the Attorney General's Department to ascertain the reasons for delays within the Department and devise solutions such as digitalization of the case management system to track the processing of files and hold officers accountable.</li> </ul>
3.3.3		Legal assistance and other support in courts and judicial proceedings	<ul style="list-style-type: none"> <li>• Strengthen legal assistance to ensure equal access to legal representation for prisoners and the Department of Prisons to seek the assistance of voluntary organizations in this regard.</li> <li>• Recruit adequate translators to address the failures of inmates to understand court proceedings as a result of lack of language proficiency.</li> <li>• Provide support to the courts to so that defendants have the opportunity to place their concerns to the Judges of the Courts to ensure equal access to justice in the context of their heavy case load.</li> <li>• Allocate adequate funding and resources so that the Department of Prisons is able to acquire more vehicles and personnel to alleviate hardships faced by prisoners during transfer and establish a transfer protocol to provide prisoners with meals at appropriate times and access to toilet facilities at reasonable hours, particularly when they have to travel long distances.</li> <li>• Allow defendants to be seated in a demarcated area in the Magistrate Court, rather than being held inside a cell.</li> </ul>
3.4	Continuum of Violence		

3.4.1		Policy and guidelines on prevention of violence in the criminal justice process	<ul style="list-style-type: none"> <li>• Implement a zero-tolerance policy on violence within the criminal justice process and conduct inquiries by both internal and external entities into allegations of violence against prison and police officers and take strict action.</li> <li>• Initiate action under the Convention Against Torture Act against officers where there is adequate evidence.</li> <li>• Exercise strict judicial oversight to curb custodial violence when a person is produced before a judicial officer and through magisterial visits to prisons.</li> <li>• Consider introducing a policy by the Judicial Services Commission whereby judges are required to ask all persons produced in court whether they were assaulted in custody.</li> <li>• Provide a secure and confidential avenue to inmates to lodge complaints of assault, including to external entities such as the Human Rights Commission.</li> <li>• Provide prison officers training on non-violent methods of maintaining order and discipline.</li> <li>• Provide police officers training by the Police Department in conducting arrests and collecting evidence without the use of unlawful force.</li> <li>• Raise awareness amongst prison and police officers about the consequences of assaulting a prisoner and the punishment that can be imposed under the Convention Against Torture Act.</li> </ul>
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3.5	Non-custodial Measures		
3.5.1		Alternatives to imprisonment	<ul style="list-style-type: none"> <li>• Revise and modernize penal policies and legislation to give priority to non-custodial measures.</li> <li>• Encourage Judicial officers to prioritize alternatives to imprisonment, such as Community Based Corrections Act No 46 Of 1999, drug rehabilitation and probation, where non-custodial measures are provided for under the specific related provisions of law.</li> <li>• Release the guidelines and criteria to assist judges in devising Community Based Corrections Act No 46 Of 1999 orders and Judicial Services Commission in collaboration with Department of Community Based Corrections Act No 46 Of 1999 to ensure conditions stipulated for non-custodial measures are not so stringent for offenders that they fail and result in incarceration.</li> <li>• Avoid incarceration of persons with severe mental and physical disabilities and the use of non-custodial measures is extended to persons whose physical and mental health would be exacerbated in prison, persons who cannot pay fines and Young Offenders, elderly prisoners and drug dependent persons who require rehabilitation.</li> <li>• Divert offenders mentioned above, out of the criminal justice system and into the non-custodial and rehabilitative system by the Police and prosecuting authorities.</li> <li>• Provide the Police with training on methods of identifying and differentiating between drug dependent persons, who need to be directed to treatment, and drug traffickers who need to be prosecuted.</li> </ul>



			<ul style="list-style-type: none"> <li>• Strengthen the Department of Community Based Corrections Act No 46 Of 1999 by revising its cadre, increasing the number of Community Based Corrections Act No 46 Of 1999 officers, and allocate the required financial resources for the recruitment of additional cadre, as well as administrative and logistical facilities.</li> <li>• Increase awareness on Community Based Corrections Act No 46 Of 1999 and its important role in rehabilitation and restoration in order to reach communities and enable offenders to fully understand how Community Based Corrections Act No 46 Of 1999 is different from imprisonment.</li> <li>• Establish a separate national entity to implement probation for adult offenders and monitor their adherence to the conditions of their probation.</li> <li>• Communicate to Judicial officers and legal practitioners the possible use of the Probation of Offenders Ordinance as an alternative to imprisonment.</li> <li>• Encourage courts to be gender sensitive and take into account the particular circumstances of women incarcerated in the Sri Lankan penal system, who are caught in a cycle of poverty, domestic violence and criminal behaviour.</li> <li>• Promote Community Based Corrections Act No 46 Of 1999 for primary caregivers and sole breadwinners to break the cycle and ensure their children are not drawn into it.</li> <li>• Treat substance dependency as a public health issue with concerned persons provided access to treatment, counselling and temporary shelter, if required and minor breaches of the law</li> </ul>
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			by those who are drug dependent should be addressed through alternatives to incarceration as much as possible.
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