

Performance Audit on Management of Overcrowding in Prisons



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01. Executive Summary

According to the study carried out by John Howard in England about the form of a prison, prisons should be clean, spacious, educational and religious teaching should be conducted and even after the respective persons have left, it has been identified as an entity that needs to be looked into them. The argument that by detaining a prisoner as a criminal, he should be subjected to physical and mental pressure to punish the crime and the concept that harm should be proportionate to the offense has existed in the prison system in the past. This concept was severely criticized by the analysts and social reformers at that time. Based on these facts, the argument was made that the prison should not be a torture chamber, but it should be a social reformatory. As a result, the prisons which were in the form of a torture chamber have become character reformatories and the prisoners are being controlled based on the reformation policy.

In considering the history of prisons in Sri Lanka, there is no evidence that there was a formal prison in the past. Formal prisons has been commenced during the British rule. As a result of the judicial reform introduced by Governor Cameron in the year 1832, the Welikada Prison was built in accordance with the British Bostel system as per the Law and Judicial Ordinance No. 18 of 1844. Detention of prisoners, employment of their labour were initially expected through prisons. Later on, the Department of Prisons was established on 16 July 1905 under the Prisons Act No. 16 of 1877. The Department of Prison which has evolved in this way has now spread across the island as 04 security prisons, 18 remand prisons, 02 correctional centers for young offenders, 10 work camps, 02 open work camps, 23 prison cells, and a prison school. In the view of social complexity at present, the prison system has become a unique and essential entity.

The capacity of prison is the number of inmates that can be held in a prison with space and facilities suitable for mental and physical fitness in accordance with recognized international standards and the standards based on national legal systems, regulations, or other guidelines. Although the number of prisoners that can be detained in the prison capacity as at 31st December 2022 was 11,291 inmates, there was a total of 26,176

inmates as 16,727 suspects and 9,449 prisoners under the care of prisons. Accordingly, the percentage of inmates which exceeds the prison capacity is 232 per cent. It was observed in audit physical inspections that the prisoners are being detained beyond the prison capacity in cells and wards. Even though introducing modern technology, improving physical resources and developing infrastructure to reduce prison overcrowding in relation to the implementation of prison reforms had been stated as the seventh task among the main tasks of the Department of Prisons. Overcrowding in prisons today has become a major problem in managing the prison system. The purpose of preparing this Performance Report is to identify the overcrowding in Sri Lanka's prison system and, to identify the its causes for it and identify the issues arising from those causes and to provide the necessary recommendations for that.

The issues such as incurring huge costs for the maintenance of prisoners, (Rs. 8.3 billion for the year 2022) by the government, problems related to the safety of prisoners, sanitary facilities problems, inability of using the labor contribution of suspected prisoners in the country's economy, problems related to the rehabilitation of prisoners, repeated imprisonment of prisoners, decrease in community corrections orders for minor offences, increases in violations of community corrections orders, failure of successfully implementation of release on home leave and release on license on board , failure of performing the recent programmes to minimize the overcrowdings in prisons as expected, imprisonment of 53 percentage of total inmates as at 31 December 2022 due to drug-related offences, imprisonment for failing to meet bail conditions , failure of submission of Department of Government Analyst reports to court on time, insufficient public awareness of community corrections orders, existing buildings being in a dilapidated condition, being remanded of suspects for a long periods of time, being the most of the prisoners are between 30-40 years of age, lack of physical and human resources for rehabilitation, failure of fulfilling conditions sufficiently in the employment of prisoners in private sectors, detaining of inmates without being fully classified can be observed that have affected to prison overcrowding .

By this report, it is recommended to comply with the provisions of Chapters 178 and 179 of the amendments made in relation to the 54th Authority of the Prisons Ordinance No. 16 of 1877, establishing a strong and adequate rehabilitation process and strengthening livelihood training to reduce re-imprisonment, Directing the relevant parties to reduce the delays in filing charges of pre-trial detentions, focusing on introducing alternative recognized methods such as house arrest instead of remand to the criminal justice system of Sri Lanka and taking appropriate measures, submission of analytical test reports on the samples submitted by the Police Department to the Government Analyst's Department in relation to the suspects who were imprisoned by the court without delay as per Section 54 of the Poisons, Opium and Dangerous Drugs Amendment Act No. 41 of 2022, improve the cooperation mechanism between the agencies in the criminal justice chain approach and utilize modern technology as much as possible, making aware prison administrators and judicial officers and maintaining an efficient monitoring mechanism in respect of prison overcrowding and other issues, Taking measures for the imprisonment of inmates in accordance with international and national standards for the accommodation and care of inmates, focusing on revising the laws related to drug offenses so as to facilitate prison management without harming social security, Adequate deployment of human and physical resources required to implement rehabilitation programs and make necessary amendments, establishment of Welikada Prison Complex, which has been temporarily suspended, in a suitable area, making immediate recruitment of officers for essential posts currently vacant in the approved staff of the Department of Prisons, Renovation of dilapidated buildings with less hygiene and safety in prisons or construction of new buildings to fulfill the humanitarian needs of inmates, develop the labor and knowledge of inmates for socially effective work and, to reduce the overcrowding in prison inmates and reintegrate inmates as good citizens through a formal rehabilitation process to adequately reduce prison overcrowding.

02. Introduction

2.1 Background

The Department of Prisons operates under the Ministry of Justice, Prison Affairs and Constitutional Reforms.

2.1.1 Mission , Vision, Objectives and Key Functions of Prisons Department

(a) Mission

Making a fine relationship between prison officers and inmates In order to achieve the main objectives of custody, care, and corrections and thereby to improve job satisfaction of the officers, regulate the welfare of the inmates thereby utilizing the productivity of their labour for benefit of the country.

- (i) Security of Prisoners :- Produced before the court, served the execution of prescribed prison sentence, detain in safe custody.
- (ii) Protection of Prisoners :- Provision of food with proper nutrition, provision of sanitation facilities, provision of health facilities.
- (iii) Rehabilitation :- Employment in Vocational Skills (Agriculture/ Animal Husbandry/ Industries), get participated in professional training courses, get participated in formal and informal education programmes, directing to cultural and religious activities, engaging in sports activities

(b) Vision

Social reintegration of inmates as good citizens through rehabilitation”

(c) Objectives

- (i)** Contribute to build a civilized society by means of proper rehabilitation of inmates and thereby making inmates to law abiding humanitarian persons.
- (ii)** Motivation prison officers and building up the team spirit within the Department.

(d) Key Functions

- (i.)** Under the authority of whatever court in a country, admission of offenders or remand prisoners at all status, provision of their custody, care and maintenance in terms of rules and regulations of the prison and production of remand prisoners to court.
- (ii.)** Provision of common order and proper administration in relation to all prisons and correctional centers.
- (iii.)** Provision of technical, agricultural, animal husbandry, and vocational trainings to inmates in all prisons and correctional centers.
- (iv.)** Provision of welfare services to all prisons and correctional centers.
- (v.)** Making provisions for trainings to strengthen correctional field.
- (vi.)** Making a desired social back ground for inmates after rehabilitation and social reintegration as better citizens as timely requirement.
- (vii.)** Reducing prison overcrowding, introducing modern technology, improving physical resources and developing infrastructure facilities in relation to carrying out prison reforms.

- (viii.) Human resources development in Department of Prisons to make experienced and satisfied officers through training in different divisions and promotional programs.
- (ix.) Establishment and carrying out of Information Management System in order to fulfill administrative activities of inmates correctly and efficiently.

2.1.2 Institutions under the Department of Prisons

Name of Institute/Head Centre	Institutions under the concerned institution/ centre
-----	-----
(i.) Prison Headquarters	Research and Correctional Training Center within Prison Headquarters
(ii.) Security Prisons	Welikada, Bogambara, Mahara, Angunacolapalassa, Boosa
(iii.) Remand Prisons	Anuradhapura, Colombo, Kalutara, Negombo, Galle, New Magazine, Badulla, Matara, Batticaloa, Kegalle, Trincomalee, Jaffna, Kuruwita, Monaragala, Polonnaruwa, Wariyapola, Vavuniya
(iv.) Work Camps	Homagama, Meetirigala, Weerawila, Kuruvita, Variyapola, Hangilipola, Kandewatta, Kadurugasara, Pitabeddara, Ambepussa
(v.) OpenWork Camps	Pallekele, Anuradhapura
(vi.) Correctional Center for Young Offenders	Pallansena, Thaldena

- (vii.) Prison Cells Ampara, Avissawella, Balangoda, Balapitiya, Halawata, Elpitiya, Embilipitiya, Gampaha, Gampola, Hambantota, Hatton, Kalmune, Kilinochchiya, Kuliapitiya, Kurunegala, Mahawa, Mannar, Matale, Mullaitivu, Nuwara Eliya, Panadura, Pedurutuduwa, Puttalam.

2.1.3 Interpretation

The manner of interpretation of each institution as defined in the prison is as follows.

(a) Prisons :-

A place of detaining adult prisoners. There is a wall around the prison for security. There are tight security organizations and secure cells. There are all types of prisoners, punished, unpunished and under appeal. The length of detaining is not limited. The attire of the punished prisoners' jumper and trousers. There is an adult education system. If escape from prison, it can be sentenced to a maximum of 5 years. Punished prisoners are admitted to prison as a punishment. They lose their right to get government jobs. Prisoners are granted amnesty.

(b) Remand Prisons :-

Surrounded by walls. Reserves for suspects. There are constant court proceedings. There are few vocational training, rehabilitation / counseling and training programmes. Employs short-term prisoners for domestic work.

(c) Outdoor Prison Camps :-

This is only for prisoners who have served $\frac{1}{4}$ of their sentence and the rest for less than 5 years. No walls. There is a free environment. Deploy for agriculture and livestock. There is an opportunity to meet guests openly.

(d) Work Camps :-

Detains prisoners under 5 years of age to be released. Reserved for prisoners only. No walls. free environment. Deploy for agriculture and animal husbandry. Open to visitors. Rehabilitation/counseling and training programmes are available. Employs minimal security. There are no court proceedings here.

(e) Correctional Centers for Young Offenders :-

Those between the ages of 16-22 are detained. There is a free environment. Used for agriculture and animal husbandry. There is an open opportunity for visitors. Rehabilitation/counseling and training programmes are available. Deploys minimal security. No court proceedings

(f) Training Schools for Young Offenders :-

Young offenders between 16-22 years with a 3-year sentence are detained. There is a daily schedule. No walls. There is an opportunity for open visitors. There are educational programmes, rehabilitation/counseling and training programmes. Employs minimal security.

(g) Prison Cells :-

Temporary detaining entities until appear in court. A senior sergeant is the officer in charge of the entity. Control by a main prison. There may have several lock ups in a single prison.

2.1.4 Departmental Organizational Structure

The Commissioner General of Prisons is the Head of the Department of Prisons and An Additional Prison Commissioner works under him. Ten Sub-departments are functioning under those posts. According to the functions and location of those Sub-departments, the staff has been distributed under a number of divisions.

2.1.5 Staff Details (As at 31 December 2022)

The approved cadre for 85 posts under various classifications remained as at 31 December 2022 was 7,872 and the number of officers serving in those posts was 6,268. Details are shown in Schedule 01.

2.2. Authority for Audit

The audit was carried out under my direction in pursuance of provisions in Article 154(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka and in accordance with the provisions of the National Audit Act No. 19 of 2018.

2.3 Audit Approach

Prison overcrowding is created due to the increase in the number of inmates in prisons, as it exceed the capacity of space that can detain inmates. In considering the data related to the period of almost 08 years, the number of inmates in prison has exceeded the capacity of the prison. However, due to the construction of



prison buildings after the year 2020, although the prison overcrowding has decreased to some extent in the year 2020, the prison overcrowding in the year 2022 has increased more than the previous period of time and the number of inmates held beyond the prison capacity has increased by 190 per cent in 2022 as compared to 2021 according to the number of inmates as at 31 December of those years furthermore.

Due to the socio-economic problems that have arisen in the face of the current economic situation in our country and the addiction of people to drugs, the number of inmates in prison has increased greatly. A project to replace the Welikada prison complex in Borella in the Horana Millawa area is currently being planned to reduce prison overcrowding. Due to the current economic crisis in the country, new constructions have been stopped, so the implementation of this project has also been temporarily stopped. In such a situation, the prison system has faced more problems than before due to prison overcrowding. By discussing these problems in such a background, performance audit was carried out to identify the causes of those problems, the parties responsible for them under the problem approach.

2.4 Audit Objectives and Criteria

The purpose of this audit is to identify the overcrowding in Sri Lanka's prison system and its causes, and to identify the problems arising from those causes and to provide recommendations for that.

Criteria	Sources
-----	-----
<p>(a) (i.) The surface area of a cell in which one prisoner is to be detained shall not be less than 54 square feet or 540 cubic feet. (Length 9 feet x Width 6 feet x Height 10 feet)</p>	<ul style="list-style-type: none"> • Rule 179 of the Prisons Ordinance No. 16 of 1877 and Amendments • Commissioner General of Prisons Circular No. 11/2013 dated 26 February 2013 • The minimum standards stated

in the United Nations Office for Project Services (UNOPS) Technical Guidance For Prison Planning

- (ii) Each prison hall (wards) shall have 24 square feet per inmate and the building shall be at least 10 feet in height. (Length 8 feet x Width 3 feet x Height 10 feet)
 - (iii) Classification of inmates
- (b) Instead of the court imposing a sentence of imprisonment, a suspended sentence of imprisonment or a fine for imprisonment less than 02 years (non-compulsory), issuance of a community-based corrections order as an alternative sentence and enforcement of the order.
- (c) The Government Analyst conducts tests on drugs, substances, goods or preparations submitted to him and submits his test results report to a respective court with copies to the police officer or the Police Narcotics Bureau within a period not exceeding 12 months from the date of submission.
- Commissioner General of Prisons Circular No. 11/2013 dated 26 February 2013
 - Rule 178 of the Prisons Ordinance No. 16 of 1877 and Amendments
 - Community Based Correction Act No. 46 of 1999
 - Poisons, Opium and Dangerous Drugs Amendment Act No. 41 of 2022 (Poisons, Opium and Dangerous Drugs Act No. 13 of 1984)

- | | |
|--|---|
| (d) Calling for medical reports regarding whether a person is addicted to dangerous drugs, assigning the transferring of respective persons to a Magistrate to the Police Officer in charge of the station. | <ul style="list-style-type: none"> • Drug Addiction (Treatment and Rehabilitation) Act No. 54 of 2007 |
| (e) Method of sending prisoners on temporary home leave | <ul style="list-style-type: none"> • Section 11 of the Prevention of Crime Ordinance |
| (f) Offering State Amnesty for prisoners by the President | <ul style="list-style-type: none"> • Article 34 of the Constitution |
| (g) Cases should be heard and close within a reasonable time as regards those accused of with human dignity to prisoners. | <ul style="list-style-type: none"> • Principle 38 of Body of Principles for the Protection of persons under Any Form of Detention or Imprisonment (1988) promulgated by the United Nations General Assembly • Section 11 of the Universal Declaration of Human Rights |
| (h) Providing a 3-month training in the relevant field in the employment of prisoner labor in private sector projects and , a professional level certificate and foreign language training should be provided for foreign employment | <ul style="list-style-type: none"> • Memorandum of Cabinet of Ministers No. 20/0792/207/025 dated 14 May 2020 |

2.5 Audit Methodology

The test was conducted following the below mentioned methods.

- (i.) Study of existing rules, regulations, standards
- (ii.) Obtaining necessary understanding and information through interviews.
- (iii.) Calling for written information included in the financial statements, performance and statistical reports of Department of Prisons and other written information.
- (iv.) Physical examinations
- (v.) To identify issues to focus on the frequent disclosures made through the media such as television, radio and newspapers. Details of some such media disclosures in the past were as follows.

2.6 Scope and Limitations of Scope

2.6.1 Scope

Examinations were carried out in respect of overcrowding in prisons based on details of inmates detained in 04 security prisons, 18 remand prisons, 02 correctional centers for young offenders, 10 work camps, 02 open work camps, 23 prison cells and a prison school under the Department of Prison from January to 31 December 2022. In addition, information on offenders who have been issued community-based correctional orders as an alternative sentence instead of a sentence of imprisonment, suspended imprisonment or fine for the a sentence of imprisonment of less than 02 years court may impose.

2.6.2 Scope Limitations

There were limitations on obtaining audit evidence as follows.

- (i.) Preparation of information using primary data belonging to the Department of Prisons
- (ii.) Focusing on sample tests in physical inspection due to time constraints

- (iv) Failure to obtain necessary information from external institutions such as courts.
- (iv.) The ability to obtain information through direct access to prison premises and inmates and direct consultation with inmates is minimal.
- (v.) Inability of audit to directly involved in gathering information by taking photographs.
- (vi.) Failure of prisons to collect information formally in respect of frequently imprisoned inmates.
- (vii.) Existence of significant time delays in obtaining data on current conditions.
- (viii.) Inability of obtaining of evidence for formal confirmation of certain matters informally confirmed.
- (ix.) Minimum utilization of necessary resources by audit in the face of ongoing economic crisis
- (x.) Although the mean value of the number of inmates in a given year can be used as a measure of central tendency to declare the daily number of inmates in prison, as the daily mean value number of inmates has not been calculated for the year 2022, the number of inmates in prison as at 31 December 2022 had to be used for that purpose. Accordingly, the number of inmates in prison as of December 31 of the respective years has been used to protect consistency in the comparison of information in previous years as well.

3. Descriptive Audit Observations

3.1 Capacity of Prisons

Prison capacity means the number of inmates that a particular prison can accommodate in accordance with standards based on the national legal system or regulations or other guidance document.

3.1.1 Normative Standards relating to Space

In determining the normative standard amount of space to be provided for the inmates of prisons in Sri Lanka, the following standards were taken into consideration.

- (a) Each male prisoner shall be locked in a separate cell at night according to the size of the cells in the prison as per Paragraph 54 of the Prisons Ordinance as amended in the year 1956. It is stated that the surface area of a cell in which one such prisoner shall be detained should not be less than 54 square feet or 540 cubic feet (9 feet in length, 6 feet in width, and 10 feet in height).

- (b) Each prison hall (wards) shall have 24 square feet per inmate (length 08 feet x width 03 feet) and the building shall be at least 10 feet in height as per Commissioner General of Prisons Circular No. 11/2013 and circular dated 26.02.2013 .

- (c) In addition, the surface space of the ground and the space that should be available for air and light which were the minimum standards for a prisoner in a cell and hall have been specified separately as per the United Nations Office for Project Services (UNOPS) Technical Guidance for prison planning. Accordingly, it is stated that there should be 5.4 square meters of space for one prisoner in a cell, and 3.4 square meters of space for one prisoner in case of more than one prisoner and it is mentioned that there should be 3.4 square meters for one person with a single bed, 2.6 square

meters for one person with 02 bunk beds, and 2.3 square meters for one person with 03 bunk beds.

3.1.2 Overcrowding in Prisons

As a result of the increase in the number of inmates in prisons exceeding the prison capacity and also the reduction in the amount of space that can hold inmates the prison overcrowding is created and related observations are given in the next paragraphs.

3.1.3 Overall status of Prison Overcrowding

The observations in this regard were as follows.

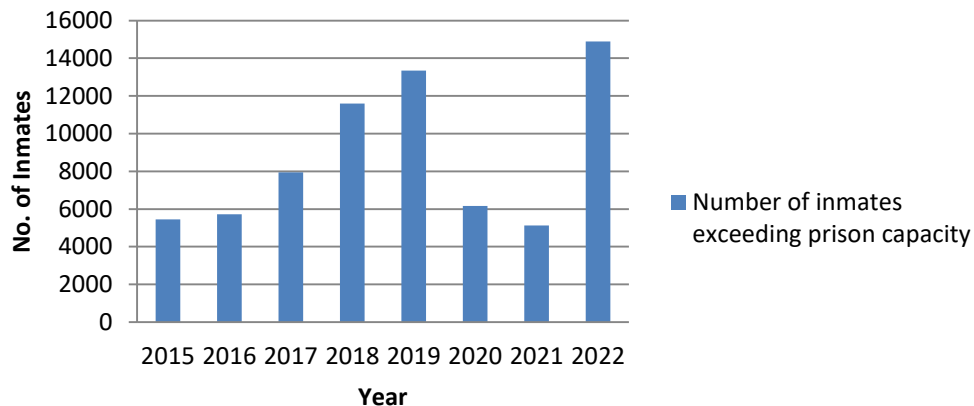
(a) In considering the data as at 31 December of each year in the period of last 07 years from 31 December 2015 to 31 December 2022, number of inmates in overall prison system in Sri Lanka has ranged from 139 per cent to 232 per cent of capacity in Prisons. This percentage has increased from 149 per cent to 213 per cent from the beginning of 2016 to the end of 2019. It had dropped to 139 per cent by 31 December 2021. The reason for that was, the increase of prison capacity from 11,762 to 13,241, that is by 12.5 per cent by the end of 2020. Although the prison capacity has increased so, due to the increase in the number of inmates, this has increased to 232 per cent at present. The number of inmates detained in the prison system exceeding the prison capacity as at 31 December 2021 was 14,885.

The Number of Inmates Detained Exceeding the Capacity of Prison during the period from 31 December 2015 to 31 December 2022

Year (by 31 December)	Prison Capacity (No. of Inmates)	Number of Inmates detained in the prison	The number of Inmates detained in exceeding prison capacity	Number of inmates detained as a percentage of prison capacity (%)
31 December 2015	11,762	17,212	5,450	146
31 December 2016	11,762	17,482	5,720	149
31 December 2017	11,762	19,712	7,950	168
31 December 2018	11,762	23,364	11,602	199
31 December 2019	11,762	25,108	13,346	213
31 December 2020	13,241	19,399	6,158	147
31 December 2021	13,241	18,373	5,132	139
31 December 2022	11,291	26,176	14,885	232

(Source - Statistics Division of Department of Prisons)

The Number of Inmates Detained Exceeding the Capacity of Prison during the period from 31 December 2015 to 31 December 2022



(b) Evidence of overcrowding in prisons was submitted to the audit due to unavailability of adequate space for inmates as per the minimum standards in prisons in Sri Lanka.

A huge overcrowding in prisons was observed during the sample physical inspection conducted by the audit and the following photographs show the overcrowding of prisoners in the E and H Wards of the Colombo Remand Prison and in the P Ward of the Mahara Prison in those physical inspections.



**Colombo Remand Prison
Date 25.01.2023
Ward E**



**Colombo Remand Prison
Date 25.01.2023
Ward H**



**Mahara Prison
Date 12.12.2022
Ward P**



**Mahara Prison
Date 12.12. 2022
Ward P**

3.1.4. Unusual Increase of Inmates in 2022

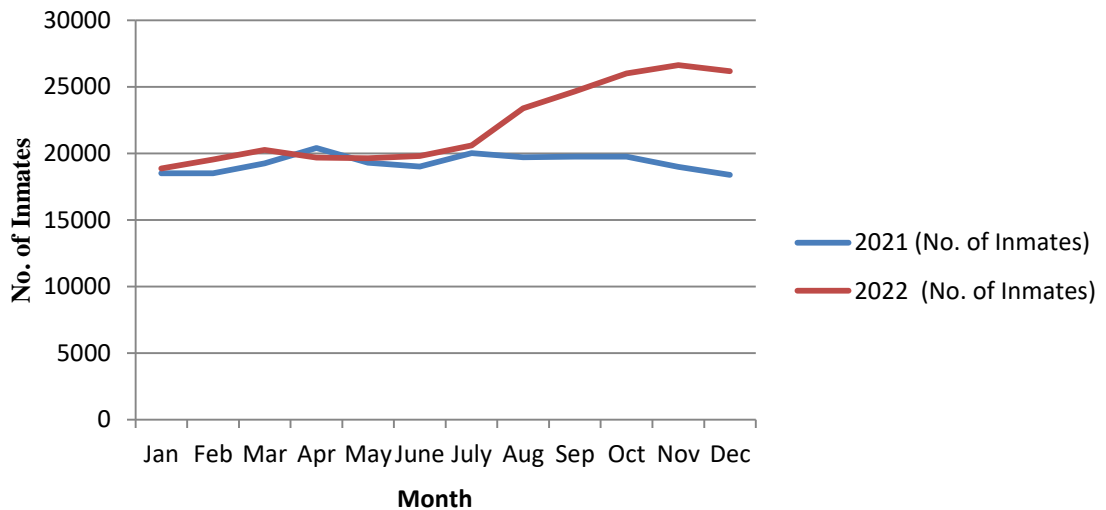
Further, the number of inmates detained has exceeded the prison capacity in the year 2022 as compared to the year 2021. Accordingly, the average monthly number of detainees held in the 12 months of the year 2022 is 22,097 and it has grown by 15 per cent as compared to the average monthly number of 19,295 detainees in 2021.

The Number of Inmates in Prison Increased in Each Month of 2022 as Compared to 2021.

Month	Year 2021			Year 2022		
	No. of Prisoners	No. of Suspects	Total	No. of Prisoners	No. of Suspects	Total
January	6,612	11,894	18,506	7,512	11,360	18,872
February	6,661	11,835	18,496	7,666	11,866	19,532
March	7,369	11,884	19,253	8,134	12,122	20,256
April	7,474	12,916	20,390	8,037	11,637	19,674
May	6,813	12,481	19,294	7,485	12,148	19,633
June	6,496	12,511	19,007	7,603	12,194	19,797
July	6,882	13,141	20,023	7,789	12,796	20,585
August	6,786	12,923	19,709	8,506	14,870	23,376
September	6,821	12,938	19,759	9,002	15,651	24,653
October	7,160	12,585	19,745	9,405	16,590	25,995
November	7,201	11,788	18,989	10,155	16,459	26,614
December	7,356	11,017	18,373	9,449	16,727	26,176

(Source - Statistics Division of Department of Prisons)

The Number of Inmates in Prison Increased in Each Month of 2022 as Compared to 2021



Accordingly, due to the unusual growth of inmates in a situation where the available space in the prisons is not sufficient, it is also an obstacle to manage it.

3.1.5 Detention of Inmates Exceeding the Capacity of Prison Entities

Inmates have been detained exceeding the capacity of prisons in each prison entity within the prison system and the number of inmates in each of the 27 prison entities as at 31 December 2022 is 14,124 as per the numerical information and it has ranged from 62 to 1,907. Details are shown in the below mentioned table.

Prison Entity	Prison Capacity	No. of Inmates Detained	No. of Inmates Detained exceeding the capacity
-----	-----	-----	-----
Welikada	1,422	2,490	1,068
C.R.P	423	1,676	1,253
Magazine	493	1,282	789
Mahara	1,000	2,907	1,907
Bogambara	1,006	1,884	878
Agunakolapelessa	952	1,557	605
Anuradhapura	830	902	72
Trincomalee	121	330	209
Kalutara	559	1,328	769
Kuruwita	624	753	129
Baticoloa	197	621	424
Badulla	157	356	199
Galle	120	998	878
Matara	146	488	342
Negambo	761	1,832	1,071
Vavuniya	54	336	282
Kegalle	149	705	556
Ambepussa	70	153	83
Wariyapola	182	912	730
Jaffna	336	714	378
Polonnaruwa	252	314	62
Monaragala	114	219	105
Pallekele	287	852	565
Homagama	108	248	140
Weerarwila	278	476	198
Pallansena	170	357	187
Thaldena	155	400	<u>245</u>
			<u>14,124</u>

(Source - Statistics Division of Department of Prisons)

3.1.6 Lack of Adequate Space for Inmates.

Provision of residential facilities for detainees with spaces suitable for the mental and physical fitness of the detainees in accordance with recognized International Standards and existing legal conditions have become difficult due to overcrowding in prisons. The insufficient space for female inmates in cells and wards in Negombo and Vavuniya prisons as at 01 July 2022 is 240 and 141 square feet respectively. In addition, it was revealed in audit that the 14 prisons have 108,689 square feet of insufficient space for male inmates.

Lack of Adequate Space for Male Inmates in the Prison System as at 1 July 2022

Serial No.	Prison Entity	No. of Inmates Detained	Amount of Space to be Available (Square Feet)	Existing Amount of Space (Square Feet)	Requirement for Inadequate space (Square Feet)
1.	Welikada	2,103	103,948	76,540	27,408
2.	New magazine	844	21,891	19,203	2,688
3.	Bogambara	1,334	32,466	21,853	12,463
4.	Anuradhapura	738	23,517	11,799	11,718
5.	Negambo	1,383	33,549	18,645	14,904
6.	Galle	611	10,998	9,459	1,539
7.	Matara	372	6,696	6,243	378
8.	Batticaloa	475	11,400	7,665	3,744
9.	Kegalle	628	15,072	5,621	9,451
10.	Trincomalee	226	5,424	4,368	1,056
11.	Jaffna	545	11,649	8,049	3,600
12.	Polonnaruwa	706	18,604	4,672	14,012
13.	Vavuniya	257	5,784	1,640	4,144
14.	Ambepussa	171	4,104	2,520	1,584
					<u>108,689</u>

(Source - Information obtained from the respective prisons mentioned in the above table)

3.1.7 Lack of Adequate Sanitation Facilities

When the number of inmates increases exceeding the prison capacity, it has become difficult to provide adequate sanitary facilities to the inmates. There was a shortage of 187 toilets in 27 prisons, and 287 of the existing toilets were in a condition of repair. Details are given below.

Prison -----	Number of Toilets to be Repaired -----	No. of Toilets further Required -----
Dalupatha	03	0
Batticoloa	10	0
Kuruwita	02	10
Kegalle	06	04
Gall	03	15
Kalutara	18	02
Colombo Remand	27	11
New Magazine	21	05
Welikada	15	03
Vavuniya	0	06
Jaffna	06	09
Anuradhapura	26	02
Ambepussa	01	0
Agunakolapelessa	70	0
Polonnaruwa	04	02
Negambo	0	51
Mahara	08	48
Pallekele	19	08
Bogambara	05	0
Wariyapola	06	2
Matara	03	01
Trincomalee	04	0
Monaragala	04	0
Badulla	07	0
Weerawila	04	0
Watareka	02	03
Thaldena	<u>04</u>	<u>05</u>
	<u>278</u>	<u>187</u>

(Source - Information obtained from the respective prisons mentioned in the above table)

3.2 Reasons for Overcrowding in Prisons

The causes for overcrowding in Prisons can be identified under two areas.

3.2.1 Influence of the Economic, Social, Political and Legal Environment

Due to the problems arising from the economic, social, political and legal environment of a country, the increase in imprisonment as a direct result of the increased criminal activity, has caused overcrowding in prisons. That is, criminal activities can increase by encouraging people in society to commit wrongdoing due to the breakdown of the family economies of poverty-stricken, illiterate or limited-educated, unemployed and homeless sections of society and facing devastating consequences from the activities in socioeconomic environments using drug and alcohol abuse. Obstacles and delays in access to justice that is, ensuring equal access to justice for all, and arbitrary arrests in a situation where it is impossible to provide the minimum responsibilities and standards imposed by international conventions, prolonged detentions before trials can be caused for this. Delays in the judicial process have a significant impact on sentencing and can extend detention periods to months or years by it. Thus, pre-trial detention and other forms of remand detention has also contributed to prison overcrowding.

3.2.2 Increase in Imprisonments Related to Drug Offenses

The increase in drug offenses directly affects the increase in other criminal activities in the country. Further, most of the drug offenders are those who have been imprisoned for drug use, possession, purchase and sale. Accordingly, a large number of Sri Lankan inmates have involved in drug offenses. The number of prison inmates in Sri Lanka is 26,176, of which over 53 per cent, i.e. 13,794, are inmates related to drug offenses as at 31 December 2022. A number of 4,406 inmates are the prisoners in connection with drug offences and 9,388 are suspects.

The reasons to be imprisoned of inmates for a long time for drug offences were,

- (i.) Imprisonment even for very minor nature offenses under the Narcotic Acts.
- (ii.) Non-existent or limited opportunities for alternative punishments to imprisonment.

- (iii.) Having been remanded until the completion of trials for drug offences, without considering whether the nature of the offense is minor or major.
- (iv.) The sentences for drug offenses are longer than sentences for serious and violent crimes such as murder or rape.
- (v.) Inability to consider amnesty for drug offenders

3.2.3 Defects of Administrative Process on the Law Enforcement and Imprisonment

Although the rise in imprisonment as a direct result of increased criminal activities has caused for prison overcrowding, apart from this, deficiencies in the administrative process related to law enforcement for criminals and imprisonment have also led to the creation of prison overcrowding. Details are shown below.

- (a) Imprisonment of suspects who have been granted bail but are unable to meet bail conditions.

Even though the Honorable Court has granted bail for the inmates to be imprisoned, imprisonment of the respective inmates for failure to meet bail conditions.

Examples:-

It was observed that a number of 1,795 inmates who have been granted on bail by 31 December 2022 but unable to keep bail, have been imprisoned.

Time spent in Prison -----	No. of Inmates -----
Less than 03 months	855
Between 03 and 06 months	530
Between 06 and 12 months	268
More than 12 months	<u>142</u>
Total	<u>1,795</u>

(Source - Operations Division of Department of Prisons)

- (b) Imprisonment of Suspects for a Long Time due to not Submitting the Analytical Test Reports to the Court.

Although the Analytical Test Reports related to the drug samples submitted by the police to the Department of Government Analyst in relation to the suspects who have been imprisoned by the court should be submitted within a period not exceeding 12 months in terms of Section 54 of the Poisons, Opium and Dangerous Drugs (Amendment) Ordinance No. 13 of 1984 No. 17 of 1929 (this section has been amended by the Poisons, Opium and Dangerous Drugs (Amendment) Ordinance No. 41 of 2022) as amended by Act, the number of remanded suspects was 5,676 as these Analytical Test Reports have not been submitted yet. Details are given below.

Time spent in Prison -----	No. of Inmates -----
Less than 03 months	2,400
Between 03 and 06 months	2,223
Between 06 and 12 months	835
More than 12 months	<u>218</u>
Total	<u>5,676</u>

(Source - Operations Division of Department of Prisons)

- (c) Imprisonment of People Unable to Pay Small Fines due to Lack of Public Awareness of Providing Community Corrections Orders.

The following matters were revealed in this regard.

- (i) Instead of the court imposing a sentence of imprisonment, a suspended sentence of imprisonment or a fine for imprisonment less than 02 years (non-compulsory) a community-based correction order is issued as an alternative punishment in terms of the Community Based Correction Amendment Act No. 46 of 1999 and the Department of Community Based Corrections is the agency established to implement those orders.

- (ii) In this process, on the conditions recommended in the pre-sentence report prepared by the community corrections officers, taking into consideration of the psychosocial problems, risk level and needs of the offender, the available resources are identified and the person is placed in the most appropriate intervention process specific to the person and put in the society and work to empower as a right person in order to correct a person who has been offended by the court. However, there were 1,385 offenders who were serving in prisons without being able to pay minor fines by 31 December 2022 because the public has not been sufficiently made aware about this process. The government incurs more expenses than the amount of fines that should be collected from them for the maintenance of these offenders during their imprisonment.

Time spent in Prison -----	No. of Inmates -----
Less than 03 months	643
Between 03 and 06 months	371
Between 06 and 12 months	289
More than 12 months	<u>82</u>
Total	<u>1,385</u>

(Source - Operations Division of Department of Prisons)

(d) Time taken to Hear Appeals of Inmates

Due to non-hearing, late hearing and non-closure of the judicial process on various grounds in connection with the appeals filed by the detainees it is a matter outside of general administration. The number of inmates in prison who were waiting for obtaining the final judgement after making appeals as at 31 December 2022 was 301. Details are shown below.

Time spent in Prison -----	No. of Inmates -----
Less than 03 months	22
Between 03 and 06 months	19
Between 06 and 12 months	27
More than 12 months	<u>233</u>
Total	<u>301</u>

(Source - Operations Division of Department of Prisons)

(e) Existing of Prison Wards, Lock ups and Cells and Buildings in Dilapidated Condition

When increasing the number of prisoners it can be seen that buildings with prison wards, lock ups and cells have not been constructed and no renovation work has been done in the dilapidated prisons as compared to that. Details of buildings in unrepaired condition during physical inspection of prisons carried out by the Audit Office are shown below. In addition, the premises of D and Chapel Wards of Welikada Prison had also dilapidated.

Prison Entity	Date of Audit Inspection	Building premises to be repaired
Anuradhapura	14 December 2022	<ul style="list-style-type: none">• Ward A, Women's Section, Anuradhapura Prison• Adult Ward in Anuradhapura Prison
Kalutara	02 August 2022	C1, C2, C3, C4 Ward Premises

(f) Destruction of Residential Buildings and Infrastructure to be Detained Inmates in Post-conflict Prisons.

Several prison buildings have destroyed due to riots in 02 prison institutions during the period from the year 2011 to the year 2020. Details are shown below.

Prison Entity	The Date of the Riot Occurred
Mahara	29 and 30 November 2020
Anuradhapura	24, 25 January 2011 and 21 March

(Source –Financial Statements of Year 2021 of the Department of Prisons)

- (g) Keeping of Suspects in Security Prisons for a Long Period of Time before a Trial has become another reason for Prison Overcrowding.

Most of the detainees are suspects and those detainees are always subject to a presumption of innocence. That is, they are considered innocent until proven guilty as per Article 11 of the Universal Declaration of Human Rights. It has been emphasized that those accused of crimes should be tried and closed within a reasonable time as per the 38th Principle to be followed for the treatment of prisoners with human dignity, which was adopted and announced by the United Nations General Assembly in 1988. However, suspects in Sri Lanka have had to stay in prison for a long time due to the judicial process related to them.

The average length of time the suspects have been in prison during the period from 2017 to 2021 as at 31 December of each year is as follows.

Period	2017	%	2018	%	2019	%	2020	%	2021	%
Less than 06 months	7,680	70.2	10,331	73.4	10,163	69.4	8,022	63.9	7,458	67.7
From 06 months to 12 months	1,479	13.5	1,686	12.0	1,990	13.6	2,460	19.6	1,957	17.8
From 12 months to 18 months	725	6.6	802	5.7	1,072	7.3	909	7.2	653	5.9
From 18 months to 02 years	384	3.5	544	3.9	737	5.0	498	4.0	307	2.8
More than 02 years	679	6.2	705	5.0	680	4.6	658	5.2	642	5.8

(Source - Statistical Report of Department of Prisons Year 2022)

- (h) Although the calling of medical records regarding whether a person is addicted to dangerous drugs and production of concerned persons before a Magistrate has been entrusted to the police officer in charge of the station in accordance with Sections 10.1 and 10.2 of the Drug Dependent Persons Treatment and Rehabilitation Act No. 54 of 2007, obtaining the medical records of those persons after their imprisonment causes of prison overcrowding.

- (i) It was observed that the prison overcrowding has occurred due to the increase in the number of inmates remanded for minor disputes. Details are shown below.
- (i) When an incident occurs, not only the people directly related to it, but also the tendency to arrest and remand all the suspected persons has also led to prison overcrowding .
- (ii) When there is a considerable delay in the investigations, the inmates who are unable to obtain bail have to stay in remand prisons for an unnecessary period of time.

3.3 Problems Arising from Overcrowding of Prisons

3.3.1 Increase in the incurring of the Expenditure for Maintaining Inmates

- (a) The government spends a considerable amount as recurrent and capital expenditure annually in maintenance of the inmates and the annual average expenditure incurred during the period from 2017 to 2022 was Rs.6, 691,627,146. Details are given below.

Expenditure Incurred on Maintenance of Prisoners 2017 – 2022

Year	Recurrent Expenditure (Rs.)	Capital Expenditure (Rs.)	Total (Rs.)
-----	-----	-----	-----
2017	4,761,873,732	1,077,977,050	5,839,850,782
2018	5,169,546,549	422,925,301	5,592,471,850
2019	5,759,000,738	451,641,682	6,210,642,420
2020	6,801,874,512	257,561,753	7,059,436,265
2021	6,544,158,600	507,280,296	7,051,438,896
2022	8,068,959,907	326,962,758	<u>8,395,922,665</u>
			<u>40,149,762,878</u>

(Source –Financial Statements of the Department of Prisons)

In addition, expenditure is also made under other departmental expenditure objects. For example, payment of salaries and allowances to 47 graded doctors and 23 registered/assistant doctors working in prison hospitals and the cost of medicines provided by the Health Department to those hospitals is an expenditure for this purpose, as that cost is not included in the total recurrent expenditure, the above recurrent expenditure will increase furthermore and those expenditures had not been calculated here.

(b) In analyzing the cost of maintaining the inmates, with the increase in the number of inmates in prisons, there is an increase in expenses for food, medicine, water and prison clothes. Details are shown below.

(i) The number of inmates on the last day of each month during the period from January to December 2022 in the Mahara Prison where the audit test check was conducted and the expenses incurred for the inmates in the Mahara prison in each month is shown in the below mentioned Table .

Month	Number of inmates as at the last day of each month	Expenditure Incurred for the Inmates for each month (Rs.)		
		Food	Water	Electricity
-----	-----	-----	-----	-----
January	1,808	9,569,080	226,566	919,144
February	1,928	8,908,622	239,170	882,822
March	1,822	9,881,822	233,729	787,734
April	1,712	18,219,288	230,964	848,489
May	1,883	29,807,200	253,294	693,957
June	1,936	29,566,036	272,939	773,655
July	2,081	34,302,603	373,283	755,809
August	2,495	38,996,733	389,936	831,291
September	2,799	41,462,382	518,689	1,069,998
October	2,869	45,607,672	577,800	1,095,915
November	2,881	46,743,306	683,905	1,184,059
December	2,901	45,726,642	679,311	1,166,482

(Source - Information obtained from Mahara Prison)

The issues discussed in this report have affected on the number of inmates on the last day of each month during the above period, their consumption of water in each month and the increase in other expenses incurred for the same.

3.3.2 Issues on Prisoners' Security

- (a) As per the prison morning open as at 31 December 2022, 53 per cent of inmates are the inmates serving sentences for drug-related offenses and those held on suspicion. A 68 per cent of these detainees are the detainees held on suspicion. Similarly, 64.2 per cent of the inmates sentenced to prison for dangerous drugs, 8.3 per cent for violation of Excise Ordinance and 1.6 per cent for being drunk in public places have been imprisoned as per the Prison Statistics 2021. Accordingly, it was observed that out of the prisoners, there were 74.1 per cent of total admissions in 2021 for drug-related offenses. Drug-related offenses are the main cause of this unusual overcrowding in prisons, and it has hindered the achievement of the main objectives of the prison as well as the internal security and functioning of the prison.
- (b) When the number of inmates imprisoned is increasing, the detainees try to escape and run away while in custody in the absence of sufficient physical and human resources for the tasks such as presenting the prisoners to the court, executing the prescribed prison sentences, safe detention etc. .The number of inmates who escaped and run away while in custody in the last 6 years.

The number of inmates who has escaped and run away while in custody

Description	2017	2018	2019	2020	2021	2022
Number of Inmates Escaped	71	94	101	63	74	171
Number of Prisons run away while in Custody	06	13	11	19	05	17
Number of Suspiciers run away while in Custody	27	46	41	35	32	43

(Source - Performance Reports of Department of Prisons)

- (c) The approved number of officers for 85 posts under various categories as at 31 December 2022, was 7,872. Out of that, there were 1,617 vacancies in 68 posts. This is more than 21 per cent of the approved number. It has become difficult to carry out prison administration activities due to the existence of vacancies of prison officers and the increase in prison overcrowding. Due to the shortage of officers as compared to the number of inmates, by avoiding their duties, the problems of providing the rights of the prisoners may arise. In this, by having to face problems such as non-protection of human rights, difficulties in providing medical facilities, outbreaks of infectious diseases, those can sometimes develop into problematic situations.

3.3.3 Impossibility to use the Labour Contribution of the Suspects Inmates to the Economy of the Country

A significant number of detainees have been imprisoned as suspects and although those suspects have been imprisoned for a long time they are not considered as offenders. Therefore, these inmates have not been able to contribute to the labour force of the country during the period they have been in prison.

- (a) As a percentage of the total inmates in the last 5 years, the number of suspects in prison has ranged from 58 per cent to 65 per cent. Details are shown below.

Year	No. of Suspects	No. of Prisoners	Total No. of Inmates	Number of Suspects as a Percentage of Total Inmates (%)
2018	14,077	9,287	23,364	60%
2019	14,642	10,466	25,108	58%
2020	12,529	6,870	19,399	65%
2021	11,017	7,356	18,373	60%
2022	16,727	9,449	26,176	64%

(Source - Statistics Division of Department of Prisons)

- (b) More than 61 per cent of remanded suspects as of 31 December 2021 are inmates who have been remanded for a period ranging from one month to more than five years. Details are shown below.

Detention of Suspects until 31 December 2021

Time Range	Male	Female	Total	As a Percentage of Total Suspects (%)
Less than 14 days	1,950	95	2,045	18.6
14 days to less than 01 month	2,143	79	2,222	20.2
01 month to less than 06 months	3,013	178	3,191	29.0
06 months to less than 01 years	1,810	147	1,957	17.8
01 years to less than 1 ½ years	603	50	653	5.9
1 ½ years to less than 02 years	269	38	307	2.8
02 years to below 03 years	279	19	298	2.7
03 years to below 04 years	147	05	152	1.4
04 years to below 05 years	64	05	69	0.6
05 years and above	118	05	123	1.1
On detention orders	=	=	=	=
	<u>10,396</u>	<u>621</u>	<u>11,017</u>	100

(Source –Statistical Report of Department of Prisons -Year 2022)

- (c) A large percentage of the remanded suspects belong to the working age group of a country's labor force. More than 87 per cent of the suspects were between 22 and 60 years of age in considering the direct imprisonment of the suspects in the past 06 years. Details are shown below.

Direct Imprisonment of Suspects as per Age Groups. (2017-2022)

Age Group	2017	2018	2019	2020	2021
Age: Under 16	428	300	168	102	87
Age: Between 16-22	6,812	10,822	11,203	8,084	4,872
Age: Between 22-30	22,556	24,413	29,143	21,891	14,996
Age: Between 30-40	31,311	33,817	34,243	28,201	21,078
Age: Between 40-50	22,717	23,434	24,643	20,606	13,495
Age: Between 50-60	11,039	10,819	10,772	8,556	5,685
Age: More than 60	4,173	-	-	-	-
Age: Between 60 - 70	-	3,591	4,155	2,490	1,861
Age: More than 70	=	<u>1,067</u>	<u>998</u>	<u>432</u>	<u>352</u>
Total	<u>99,036</u>	<u>108,263</u>	<u>115,325</u>	<u>90,362</u>	<u>62,426</u>

(Source –Statistical Report of Department of Prisons -Year 2022)

- (d) The average monthly number of suspicions in 2022 as compared to 2021, had increased by nearly 11 per cent. Details are shown below.

Month -----	Year 2021 -----	Year 2022 -----
January	11,894	11,360
February	11,835	11,866
March	11,884	12,122
April	12,916	11,637
May	12,481	12,148
June	12,511	12,194
July	13,141	12,796
August	12,923	14,870
September	12,938	15,651
October	12,585	16,590
November	11,788	16,459
December	<u>11,017</u>	<u>16,727</u>
	<u>147,913</u>	<u>164,420</u>

(Source –Statistical Division of Department of Prisons -Year 2022)

3.3.4 Issues Related to Rehabilitation of Inmates

One of the main functions of the prison is to set up the social environment necessary to rehabilitate the inmates and socialize them as good citizens according to the needs of the time. There, the inmates should be directed to meaningful activities such as education, occupying in work, and other programmes, and a positive prison environment should be created and the inmates' energy should be channeled into creative careers, and then rehabilitation activities should be carried out so as to assist in preparing them for re-entry into the society. However, due to overcrowdings in prisons, the following problems arise during the rehabilitation of inmates.

- (a) Lack of sufficient human and physical resources for rehabilitation.

Due to the gradual increase in the number of prisoners in prisons, the lack of human and physical resources for their rehabilitation makes it impossible to properly rehabilitate the prisoners. The number of rehabilitated which can be detained at Kandy, Navadigantaya, Galle and Thalangama centers controlled by the National Dangerous Drugs Control Board is only 160. Further, it will be included in the

waiting list if the maximum number of clients are resided in these centers. There are no psychiatric treatment services for acute mental illnesses in these centers. Under such circumstances, the inmates who need to be rehabilitated have to be detained in the prisons due to the lack of adequate facilities in the rehabilitation centers.

- (b) Being imprisonment of Inmates who were received court orders to remain in prison until send to rehabilitation centers

The details of the prisoners who were imprisoned in 03 Prison Entities by the court on 01 November 2022, who were ordered for rehabilitation by the court and were expected to be sent to rehabilitation centers, were disclosed to the audit as follows.

Description -----	No. of Prisoners		
	Negmbo -----	Mahara -----	welikada -----
Less than a month from the date of Imprisonment	02	10	-
More than one month and less than two months from the date of imprisonment	02	01	01
More than two months Less than three months from the date of imprisonment	03	-	-
More than three months and less than four months from the date of imprisonment	04	-	56
More than four months Less than five months from the date of imprisonment	03	-	-
More than five months Less than six months from the date of imprisonment	02	-	-
More than six months from the date of imprisonment	<u>13</u>	-	<u>1271</u>
Total	<u>29</u>	<u>11</u>	<u>1328</u>

(Source - Information Obtained from the Respective Prisons Mentioned in the above Table)

3.3.5 Repeated Imprisonment of Prisoners

When prisoners cannot be properly rehabilitated, their re-imprisonment cannot be prevented. As the most of the prisoners in prisons are drug addicts, the necessary treatment and formal rehabilitation programmes for them should be implemented in the

prison system. Similarly, after release from prison, if they have no connection to community services and if they do not receive continuous care, there is a possibility that they will be addicted to use drugs again. Therefore, they may be imprisoned again and again. A considerable number of prisoners in prisons of Sri Lanka are repeat offenders.

(a) The following table shows the details of the prisoners who were repeatedly imprisoned from the year 2017 to the year 2021.

Year	First Offenders	Reconvicted	Recidivist	Total	Percentage		
					One Times	Two Times	More than Two Times
2017	10,787	7,475	4,571	22,833	47.2	32.7	20.0
2018	15,377	6,638	2,837	24,852	61.9	26.7	11.4
2019	16,110	7,817	5,237	29,164	55.2	26.8	18.0
2020	10,559	4,800	4,497	19,856	53.2	24.2	22.6
2021	8,296	3,995	2,256	14,547	57.0	27.5	15.5

(Source –Statistical Report of Department of Prisons -Year 2022)

(b) The Following Table shows the Details of the Prisoners who were Repeatedly Imprisoned due to Drug Use from 2017 to 2021 and the reasons for that cannot be ruled out as the lack of formal rehabilitation for them.

Year	First Offenders	Reconvicted	Recidivist	Total	Percentage		
					One Time	Two Times	More than twice
2017	3,203	4,420	2,966	10,589	30.2	41.7	28
2018	5,090	5,117	2,609	12,816	39.7	39.9	20.4
2019	6,137	5,037	3,949	15,123	40.6	33.3	26.1
2020	4,250	3,156	1,930	9,336	45.5	33.8	20.7
2021	4,100	3,542	1,702	9,344	43.9	37.9	18.2

(Source –Statistical Report of Department of Prisons -Year 2022)

(c) In the physical inspection conducted in 05 prisons on a test check, there was a total of 1,029 recidivist prisoners observed during the period from January to the end of August 2022. Details are shown below.

Prison -----	Audit period -----	No. of Repeated Prisoners -----
Mahara Priison	From 01/01/2022 to 31/08/2022	776
Wataraka Outdoor Work Camp	From 01/01/2022 to 31/08/2022	212
Kalutara Remand Prison	By 08/02/2022	04
Badulla Remand Prison	By 20/06/2022	11
Kegalle Remand Prison	By 06/06/2022	<u>26</u>
Total		<u>1,029</u>

3.3.6 Employment of Prison Labor in Private Sector Projects with a View of Rehabilitation of Prisoners

Due to the lack of physical and human resources available to rehabilitate prisoners due to the increase in prison overcrowding and the increase in the number of prisoners, the approval of the Cabinet of Ministers No. 20/0792/207/025 dated May 14, 2020 to use prisoner labor in private sector projects was received. However, prisoners who were employed in private companies were not given 03 months of training in the relevant field, Vocational Level Certificate (NVQ) and foreign language training for foreign jobs.

3.3.7 Social and Economic Problems arising from the Increase in Imprisonment

(a) Being faced Social and Economic Problems for the Family Members of the Inmates.

Many of the inmates are key members of their family units. That is the mother, father and elder siblings of a family. Due to the long time taken to close the court proceedings against these persons they have been imprisoned as suspects and as a result, the main sources of economic income of those families may be disrupted by that. Because the members of those families have to continue to incur huge amounts of money in legal fees for the release of these detainees, it can be a reason for the collapse of the

household economy of those families. Furthermore, due to the fact that the suspects have been in prison for a long time, the children have to face many socio-economic problems due to the loss of parental affection and the lack of recognition of the members of those families.

(b) Problems to be Faced by the Whole Society

Sri Lankan culture has a patriarchal family system. There, when the head of the house has been imprisoned due to some fault, the whole society has to face many problems due to the victimization of the family members of the prisoner. The society also has to face problematic situations through the tendency of children to become criminal characters due to the loss of the income generator in the prisoners' family units.

On the other hand, after the women are imprisoned, the situation their children face is pathetic. The affection, mercy, kindness and protection that a child receives from its mother helps in the mental development of the child and if these needs are not fulfilled properly, as the children gradually grow up, they can be motivated for various disastrous activities in the society.

(c) The Possibility of Minor Offenders Becoming Organized Criminals.

Due to the lack of prison space compared to the increase in the number of inmates in prisons, the inmates have to be detained without full classification even though they are classified according to Rule 178 related to Paragraph 54 of the Prison Ordinance. Under this situation, an environment is created where minor criminals become organized criminals.

During physical inspections carried out in Prisons by the audit, it was observed that the 2,222 inmates were detained without classification on 04 occasions. Details are given below.

Prison	Date of Audit Conducted	Number of Inmates Detained Unclassified
-----	-----	-----
Wataraka Outdoor Work Camp	2022/09/28	239
Matara Remand Prison	2022/06/30	428
Kalutara Remand Prison	2022/08/02	934
Wariyapola Remand Prison	2022/07/25	<u>621</u>
Total		<u>2,222</u>

3.4 Measures taken Recently to Reduce Overcrowding of Prisons

3.4.1 Propose to Construction of New Buildings and Draw Up Plans for that.

A replacement project has been currently planned for the Welikada Prison complex in Borella to be located in the Millawa area owned by the Urban Development Authority in the Horana Divisional Secretariat Division at an expected cost of Rs. 30.6 billion to develop the required infrastructure.

(a) This project desires to protect the rights of inmates in accordance with International Standards, ensure the safety of inmates and rehabilitate inmates in a formal manner. The Department expects to fulfill the following building space requirements with this new project.

Building Premises	Proposed Extent (Sq.M)
-----	-----
Welikada Closed Prison	31,500
Welikada Prison (Female)	15,200
New Magazine Prison	21,300
Colombo Remand Prison	22,000
Prison Hospital	12,000
Intelligence Division	6,000
Training Centre	10,879
Head Office	4,000
Quarters	5,500
Chapel Road Building	9,000
Total	<u>137,397</u>

(Source - Joint Cabinet Memorandum)

- (b) The project to re-establish the Welikada prison complex in Horana area is jointly carried out by the Urban Development Authority, the Ministry of Urban Development and Housing and the Department of Prisons. About 30 per cent of the environmental impact assessment report, planning and design work, infrastructure development work including internal roads, water and electricity have been completed for this project. However, the implementation of this Project has been temporarily suspended according to the Circular No. 03/2022 issued by the Ministry of Finance dated 26.04.2022 .

- (c) Even though the prison capacity has been increased to reduce prison overcrowding, when the time lapsed, the number of inmates increases and the prisons become congested again. For example, due to the Agunakolapalassa Prison has been added to the prison system, although prison capacity has been increased and prison overcrowding has been reduced to some extent, again it gradually increased from June 2022 and the prison overcrowding was again became a higher level by 31 December 2022. Therefore, building of prisons to increase prison capacity is not a sufficient solution to prison overcrowding.

3.4.2 Direction of Minor Offenders to Community Corrections Process.

The community corrections process is an alternative sentence option to a person who pleads guilty to a minor offense in an imprisonment, a suspended sentence, or a fine. Implementation of community-based correctional orders reduces the imprisonment of minor offenders and contributes to reducing prison overcrowding. However, according to the following facts, this process was not carried out in an adequate manner.

- (a) The number of offenders granted orders by the Magistrate Courts has decreased rapidly from the year 2018 to the first 06 months of the year 2022. Details are shown below.

Period	No. of Orders given during the year	Decrease of orders given as compared to the year 2018	Decrease of orders given as compared to the year 2018 as a percentage (%)
-----	-----	-----	-----
Year 2018	12,783	-	-
Year 2019	12,477	306	2.4
Year 2020	8,961	3,822	30.0
Year 2021	5,743	7,040	55.0
First 06 months of 2022	3,244	-	-

(Source - Department of Community Based Corrections)

- (b) There are also cases where community corrections offenders violate their community corrections orders for various reasons. The number of orders violated from 2018 to the first 6 months of 2022 is shown in the table below.

Period	No. of Orders Violated	
	Pertaining to the Current Year	Pertaining to the Preceding Year
-----	-----	-----
Year 2018	1,881	1,067
Year 2019	2,102	853
Year 2020	1,205	884
Year 2021	609	697
First 06 months of 2022	406	787

(Source - Department of Community Based Corrections)

- (c) Some offenders habitually seek community-based orders instead of paying fines and serving prison terms for repeat offences.

The details of the amount of orders obtained and fulfilled and applied for orders again during the period from the beginning of 2018 to 30 July 2022 are shown below

Period	Number of offenders appeared to get an order again
-----	-----
Year 2018	691
Year 2019	897
Year 2020	662
Year 2021	246
First 06 months of 2022	161

(Source - Department of Community Based Corrections)

- (d) The details of the amount referred for having orders again during the period from the beginning of 2018 to 30th July 2022 while obtaining and executing an earlier order are shown below.

Period	The amount to which a previous order was received and returned to orders while executing it
-----	-----
Year 2018	98
Year 2019	84
Year 2020	81
Year 2021	48
First 06 months of 2022	66

(Source - Department of Community Based Corrections)

- (e) The details of the amount the number of offenders who applied for having an order again after having previously obtained an order and breached

it of during the period from the beginning of the year 2018 to 30 July 2022 are shown below.

Period -----	Number of offenders who have previously obtained an order and sought to re-obtain an order after breaching it -----
Year 2018	06
Year 2019	08
Year 2020	10
Year 2021	14
First 06 months of 2022	28

(Source - Department of Community Based Corrections)

- (f) The correctional process takes more time than the punishment period in which minor offenders are kept in the society without imprisonment. During that period, offenders are tempted to violate community-based correction orders.

3.4.3 Granting Home Leave for Prisoners

The system of sending prisoners on home leave for a temporary period is implemented in the prison system as per Section 11 of the Crime Prevention Ordinance, in order to develop social and family relationships of prisoners who have been rehabilitated and are in good behavior during their imprisonment.

Home leave is given for 07 days for the first time, 10 days for the second time and 14 days for the third time. Successfully spend this home leave without violating these conditions is a special qualification for release on license.

The details of the number of prisoners released on home leave in each year from 2018 to 2022 are as follows.

Year	Number of prisoners released on home leave	Number of prisoners as at 31 December of each year	Prisoners released on home leave as a percentage of total prisoners (%)	Total number of Inmates	Prisoners released on home leave as a percentage of total Inmates (%)
2018	378	9,287	4	23,364	2
2019	446	10,466	4	25,108	2
2020	128	6,870	1.8	19,399	1
2021	266	7,356	3.6	18,373	1
2022	275	9,449	2.9	26,176	1

(Source – Department of Prisons Statistical Report Year 2022)

Although this system provides a solution to reduce the number of inmates, this system does not provide a solution to reduce the number of suspect inmates and as the majority of inmates are suspects this system also did not achieve the desired results for prison overcrowding.

3.4.4 Release of Prisoners on License

Prisoners who qualify for the home leave scheme are released on license. After directing prisoners for educational, religious, spiritual, cultural, vocational training, public works programmes etc. under the concept of rehabilitation of prisoners, inmates who are successfully released under the house leave system are re-socialized under the license system.

**The Details of the Number of Prisoners Released on License
in each year from 2018 to 2022 are as follows.**

Year	Number of Prisoners Released on License	Number of Prisoners as at 31 December of each year	Prisoners Released on License as a Percentage of Total Prisoners (%)	Total Number of Inmates	Prisoners Released on License as a Percentage of Total Inmates (%)
-----	-----	-----	-----	-----	-----
2018	167	9,287	1.8	23,364	0.71
2019	200	10,466	1.9	25,108	0.80
2020	161	6,870	2.3	19,399	0.83
2021	36	7,356	0.5	18,373	0.20
2022	96	9,449	1	26,176	0.37

(Source - Department of Prisons Statistical Report Year 2022)

Although the system of giving prisoners home leave and releasing prisoners on license, provided a solution to reduce the number of prisoners, that is less than 3 per cent of the total prison population. This system also did not achieve the expected effectiveness of reducing prison overcrowding.

3.4.5 Release of Prison Inmates under Special State Amnesty Process

The President grants special state amnesties to prisoners subject to conditions as per the powers conferred by Article 34 of the Constitution. The number of prisoners released under special state amnesty compared to the number of prisoners in prison as at December 31 of each year from 2018 to 2022 are as follows.

**The Details of the Number of Prisoners Released under State
Amnesty in each year from 2018 to 2022 are as follows.**

Year	Number of Prisoners Released on Special State Amnesty	Number of Prisoners as at 31 December of each year	Prisoners Released on Special State Amnesty as a Percentage of Total Prisoners (%)	Total Number of Inmates	Prisoners Released on Special State Amnesty as a Percentage of Total Inmates (%)
-----	-----	-----	-----	-----	-----
2018	918	9,287	9.9	23,364	3.9
2019	1,461	10,466	14	25,108	5.8
2020	1,963	6,870	28.6	19,399	10.1
2021	629	7,356	8.6	18,373	3.4
2022	1,322	9,449	14	26,176	5

(Source - Operations Division of Department of Prisons)

The number of prisoners released under special state amnesty is a very small percentage as compared to the number of inmates in prison as at 31 December of each year. The reason for that is, although a special state amnesty was granted to prisoners from among the inmates, the number of suspects in prisons is higher than that. Although prison inmates were released under common amnesty, this has also not been an adequate solution to prison overcrowding. In addition, it was observed that the in case of release under the special state amnesty process, there is no pardon for 28 offenses mentioned in Schedule 02.

4. Recommendations

- (a) To take actions in accordance with the provisions of Chapters 178 and 179 of the amendments made in relation to Section 54 of the Prisons Ordinance No. 16 of 1877 .
- (b) To establish a strong and adequate rehabilitation process to reduce re-imprisonment and strengthening livelihood training.
- (c) To conduct of relevant parties to minimize delays in submission of pre-trial detention charges .
- (d) To focus on the introduction of alternative accepted methods such as house arrest instead of remand imprisonment in Sri Lanka's criminal justice system and take appropriate actions.
- (e) To prompt submission of analysis test reports to the court which are related to the samples submitted by the Department of Police to the Government Analyst's Department in relation to the suspects who are imprisoned by the courtAccording to Section 54 of the Poisons, Opium and Dangerous Drugs Amendment Act No. 41 of 2022.
- (f) To enhance inter-agency cooperation mechanisms in the criminal justice chain approach and utilize modern technology as much as possible.
- (g) To make aware the prison administrators and judicial officers on prison overcrowding and other issues and maintain an efficient monitoring mechanism.
- (h) To take actions to imprison of inmates in compliance with International and National Standards for accommodation and care of inmates.
- (i) To draw attention on revising laws related to drug offenses without compromising social security to facilitate prison management.

- (j) To deploy the adequate human and physical resources to implement rehabilitation programmes and make necessary amendments.
- (k) To establish the Welikada Prison Complex, which has been temporarily suspended, in a suitable area.
- (l) To expedite the recruitment of officers to the currently vacant essential posts in the approved staff of the Department of Prisons.
- (m) To renovate the dilapidated unhygienic and unsafe buildings in prisons or construction of new buildings to fulfill the humanitarian needs of the inmates.
- (n) To develop the labor and knowledge of inmates for socially productive activities.
- (o) To reduce prison overcrowding and socialization of inmates as good citizens through formal rehabilitation process.

Sgd./W.P.C. Wickramaratne
Auditor General

W.P.C. Wickramarathne

Auditor General

26 September 2023

Schedule No. 1**Staff Details as at 31 December 2022**

Serial No.	Designation and Its Name	No. of Approved Posts	Actual No. of Posts	No. of Vacancies	No. of Excess
01	Commissioner General of Prisons	01	01	-	-
02	Additional Commissioner General of Prisons	01	-	01	-
03	Commissioner of Prisons (S.L.A.S.)	01	-	01	-
04	Commissioner of Prisons (with rehabilitation post)	05	-	05	-
05	Director (Planning)	01	-	01	-
06	Director (Engineering)	01	-	01	-
07	Chief Accountant	01	01	-	-
08	Assistant Commissioner/ Deputy Commissioner (S.L.A.S.)	01	-	01	-
09	Asst. Director / Deputy Commissioner (Planning)	01	01	-	-
10	Assistant Director (Information Technology Services)	01	01	-	-
11	Assistant Director (Agriculture)	01	-	01	-
12	Accountant	04	02	02	-
13	Internal Auditor	01	01	-	-
14	Superintendent of Prisons (Special Grade)	06	04	02	-
	Superintendent of Prisons (Special Grade - Rehabilitation))	01	0	01	-
15	Prisons Superintendent	17	07	10	-
	Assistant Superintendent of Prisons (Rehabilitation))	02	-	02	-
16	Assistant Prisons Superintendent (Male)	40	09	31	-
	Assistant Superintendent of Prisons (Rehabilitation)	03	-	03	-
17	Assistant Prisons Superintendent (Women))	02	-	02	-
18	Legal Officer	01	01	-	-
19	Engineer (Civil)	02	02	-	-
20	Engineer (Mechanical)	02	02	-	-
21	Director (Medical)	01	-	01	-
22	Deputy Director (Medical)	01	01	-	-
23	Medical Officer	40	42	-	02
24	Dental Officer	04	04	-	-
25	Administrative Officer	02	-	02	-
26	Chief Work Inspector	01	-	01	-
27	Special Grade Nursing Officer	01	-	01	-
28	Language translator	03	02	01	-
29	Information and Communication Technology Officer	01	-	01	-
30	Statistical Officer	01	01	-	-
31	Chief Jailor (Female))	03	-	03	-
32	Chief Jailor (Male)	30	27	03	-
33	Class I Jailor (Female))	04	02	02	-
34	Class I Jailor (Male))	59	54	05	-

35	Chief Rehabilitation Officer (Male)	05	03	02	-
36	Chief Rehabilitation Officer (Women)	02	01	01	-
37	Rehabilitation Officer (Grade I)	11	07	04	-
38	Rehabilitation Officer (Grade I Female))	02	01	01	-
39	Registered / Assistant Medical Officer	19	23	-	04
40	Dispenser (Special Grade)	04	-	04	-
41	Development Officer	94	97	-	03
42	Counseling Officer	07	-	07	-
43	Work Inspector	05	-	05	-
44	Librarian	01	-	01	-
45	Technical Officer (Industrial)	01	-	01	-
46	Draftsman	02	01	01	-
47	Information and Communication Technology (Asst.)	05	02	03	-
48	Sub Work Inspector	10	05	05	-
49	Public Management Assistant	80	47	33	-
50	Interpreter	02	-	02	-
51	Industrial Foreman	19	18	01	-
52	Industry Administrator	17	15	02	-
53	Grade I/ Grade II Vocational Instructor	120	48	72	-
54	Agricultural Instructor	19	07	12	-
55	Agricultural Overseer	28	-	28	-
56	Audio Visual Assistant	01	-	01	-
57	Dispenser (Grade I, II, III)	82	55	27	-
58	Medical Laboratory Technician	04	05	-	01
59	Nursing Officer (Supra)	03	-	03	-
	Nursing Officer (III, II, I)	75	35	40	-
60	Public Health Inspector	04	07	-	03
61	Rehabilitation Officer Grade II (Male)	109	93	16	-
62	Grade II Rehabilitation Officer (Female)	25	20	05	-
63	Class II Jailor (Female)	30	18	12	-
64	Class II Jailor (Male)	446	371	75	-
65	Drill Instructor	03	01	02	-
66	Sergeant (Female)	38	22	16	-
67	Sergeant (Male)	892	604	288	-
68	Guard (Women)	594	497	97	-
69	Guard (Male)	4447	3799	648	-
70	Photographer	01	-	01	-
71	Editor	01	-	01	-
72	Motor Driver (Departmental)	222	203	19	-
73	Motor Driver (Combined Service)	05	01	04	-
74	Ambulance Driver	03	-	03	-
75	Motor mechanic	10	03	07	-
76	Motor Mechanic (Electrical)	04	01	03	-
77	Motor Technician (Welding)	02	-	02	-
78	Motor Mechanic (Painting)	02	-	02	-
79	Tractor Driver	26	15	11	-
80	Three Wheel Driver	08	06	02	-
81	K.K.S	36	18	18	-
82	Watchman	52	28	24	-
83	Hangman	02	02	-	-
84	Labor	35	17	18	-
85	Water Pump Operator	10	07	03	-
Total		<u>7872</u>	<u>6268</u>	<u>1617</u>	<u>13</u>

Schedule No. 02

Offenses not Eligible for Amnesty under Special State Amnesty Process

Serial No.	Offense	Section of Penal Code
01	Unlawful Assembly	From 140 to 142 and 146
02	Robbery	380, 382 and 383
03	Burglary and Nighttime Burglary	431, 432, 440 and 441 burglar 443 and 446 Breaking into houses at night
04	Acts of treason	114 - 123
05	Kidnapping	354 - 360
06	Display of obscene expressions relating to children	286 A
07	Child abuse	308 A
08	Debt bonds, enslavement of children, forced labour, enslavement and enroll children for war activities	358 A
09	Abduction	360 A
10	Sexual exploitation of children	360 B
11	Trafficking in persons	360 C
12	To tempt a child	360 E
13	Rape	364
14	Vocation	364 A
15	Unnatural sexual offenses	365
16	Serious sexual misconduct	365 B
17	Convicted under the Bribery Act	
18	Offenses in the Oppressive Weapons Act No. 18 of 1966	
19	Convicted under the Firearms Ordinance	
20	Offenses under the Suppression of Terrorism (Temporary) Regulations Act No. 48 of 1979	
21	Offenses under the Anti-Aircraft Act No. 24 of 1982	
22	Offenses under the Poisons, Opium and Dangerous Drugs Act	
23	Offenses under emergency law	
24	Imprisonment for evasion of payment for income tax cases	
25	Offenders under the Prevention of Unlawful Withholding of Money Act No. 05 of 2006.	
26	Offenders under Financial Transaction Reporting Act No. 06 of 2006.	
27	Offenders under the Terrorism Financing Act No. 25 of 2005.	
28	Offenders by a court-martial under the Army Act, Navy Act or Air Force Act for the offenses listed under Nos. 01 to 27 above.	