



PRISON OVERCROWDING

SHORT-MID-LONG TERM PLAN TO
OVERCOME THE
CHALLENGE



DEPARTMENT OF PRISONS



PRISON OVERCROWDING

Short - Mid - Long Term Plan to
Overcome the Challenge



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PRISON OVERCROWDING

1. Overview

The size of the prison population throughout the world is growing, placing an enormous financial burden on governments and at a great cost to the social cohesion of societies. overcrowding in prisons is multidimensional. There are large number of mutually reinforcing reasons that may lead to prison overcrowding, which vary significantly from one country to the other, as well as within each country.

Overcrowding is generally defined with reference to the occupancy rate and the official capacity of prisons. Using this simple formula, overcrowding refers to the situation where the number of prisoners exceeds the official prison capacity. The rate of overcrowding is defined as the part of the occupancy rate above 100 percent. This measure is not comparable figure, as prison capacity is measured differently in different countries, varying according to the space allocated for each prisoner in national legislation and rules or other references.

2. Prison system in Sri Lanka

The prison set up in Sri Lanka functions according to several structured methods. Accordingly, closed prisons, Open work camps, Correctional centers for youthful offenders and Training school for youthful offenders are various means by which they function. The correctional methods taking place within these prisons are different to each other, and the convicts are directed to each prison according to a certain classification of the prisoners. Taking into an account, numerically, the department of prisons has main four prisons, eighteen remand prisons and ten open work camps, two open prison camps, two correctional centers for youthful offenders and one training school for youthful offenders.

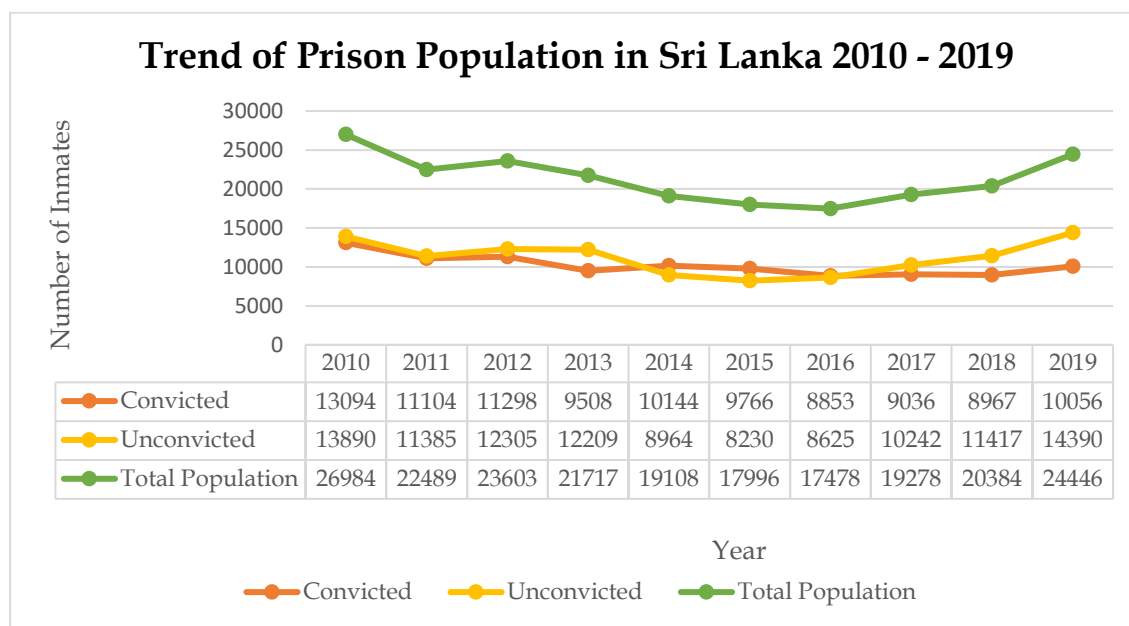
CAUSES OF OVERCROWDING IN PRISONS

There are number of causes behind the overcrowding in prisons throughout the world.

01. Imprisonment rates and crime trends
02. Underlying causes: Socio economic and political factors
03. Obstacles and delays in accessing justice
04. Excessive pretrial detention
05. Punitive criminal justice policies
06. Drug control policies
07. The inappropriate use of imprisonment
08. Inadequate use of alternatives to imprisonment
09. Inefficient measures to promote social reintegration
10. Breaches of early conditional release and probation orders
11. Inadequate prison infrastructure and capacity

Prison overcrowding in Sri Lanka context

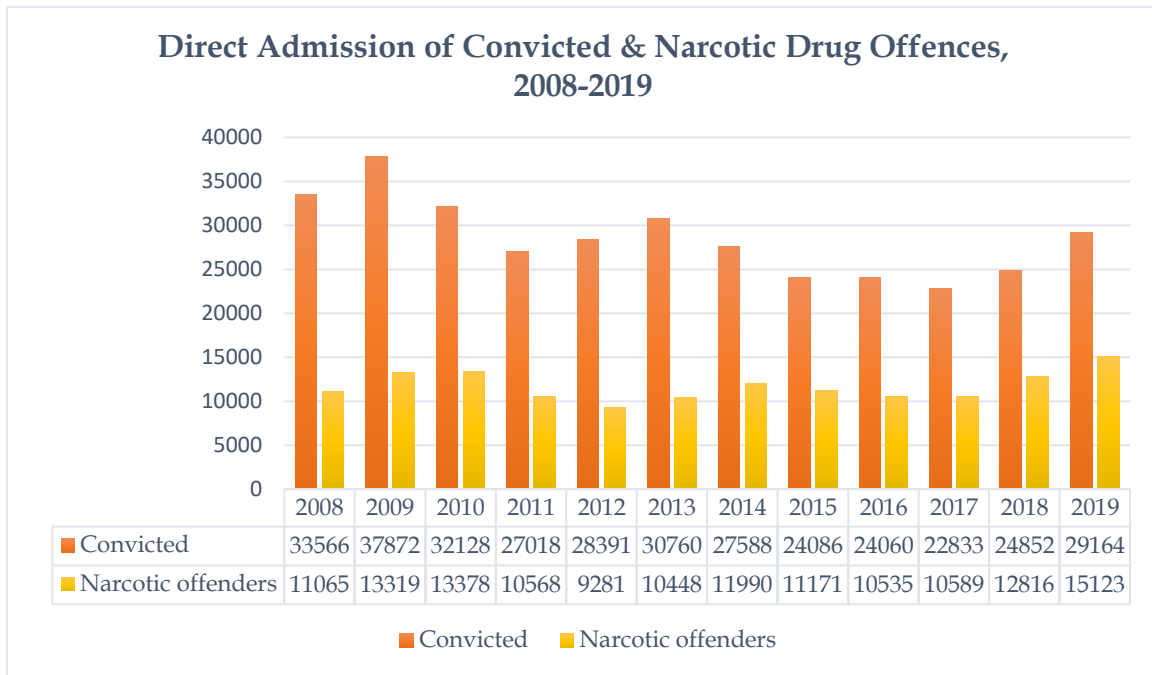
1.1 Rising Prison population



Source – Prisons Statistics VOL 39 – Year 2020

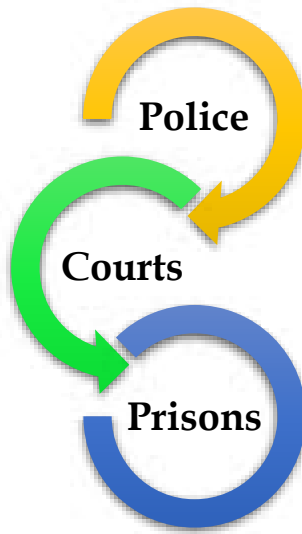
When we analyze the past prison statistics; it is clear that prison population is growing continuously. When compared with 2010, there is a decreasing trend in total prison population up to 2016. But rapid growth of un convicted prison population can be visualized against the convicted population.

1.2 Drug control policies



A gradual increase of convictions for narcotic drug offences is clearly visible. Also, in 2019, 51.9% of convicted prisoners are incarcerated for dangerous drugs offences. 40.6% of the drug offenders in 2019 are first offenders and where as 33.3%are reconvicted & 26.1% are recidivist. In 2019 around 77% of narcotic offenders were imprisoned for the period of less than one month to six months and that period is not enough for conduct a proper drug related rehabilitation process. Therefore, prison congestion is also caused by population being imprisoned for drug related offences.

Disciplined, Law Abiding and values based society is one of the ten key policies in the National Policy Framework - “Vistas of Prosperity and Splendour” of present government. Therefore, a mass programme is conducting island-wide to eradicate underworld activities, drug dealing and other crimes. So that, the number of raids done by Police has been increased during the past few months and number of imprisonment has also been increased accordingly.



Criminal Justice System

Police, Court and Prisons are the three interconnected institutions of the criminal justice system in Sri Lanka and the actions taken by the Police will directly affect to the other two institutions in the system. Mechanism should establish to maintaining its equilibrium is a must for the smooth functioning of the system.

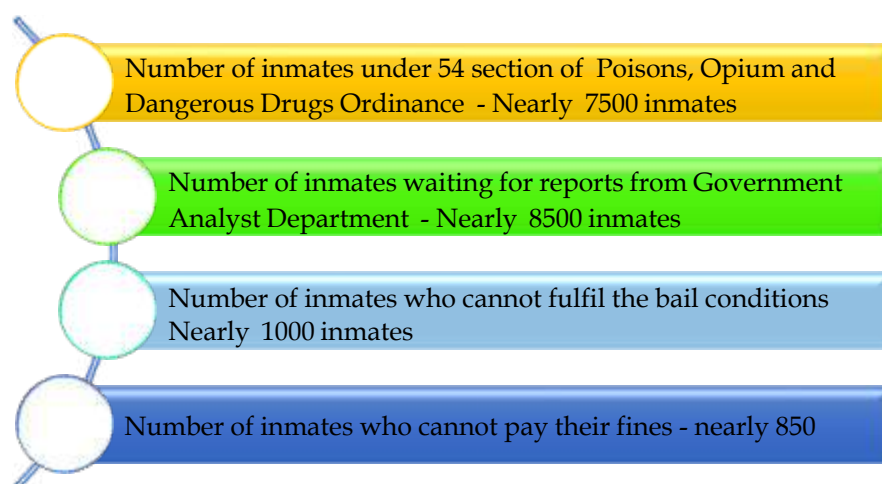
Therefore, increasing raids and arrests by the police has directly affected the increasing population in prisons as well as the pending case load in courts. The total prison population in the beginning of August 2020 was 27,291 and end of the month it was about 29,411 which is about 2000 increase within a month. When compared the prison population information for past ten years 2020 will be the highest reported year which cause 248% overcrowding.

If there are delays of reports from the government analyst department, it also causes to overcrowding in prisons. Further, the delays in indictments from attorney general department affects the overcrowding in prisons and delays in courts proceedings.

Further, the duration taken by the Government Analyst Department to furnish their reports on cases, specially drugs related reports is a vital fact that decides the prison population. Delays in reports directly causes the higher prison population.

As well as, unnecessary delays in court cases and bail conditions which are difficult to be fulfilled are also significant facts for a high population in prisons. Therefore, it is similarly important to build up a stable and effective mechanism to maintain the balance among stakeholders in the criminal justice system.

Present statistics



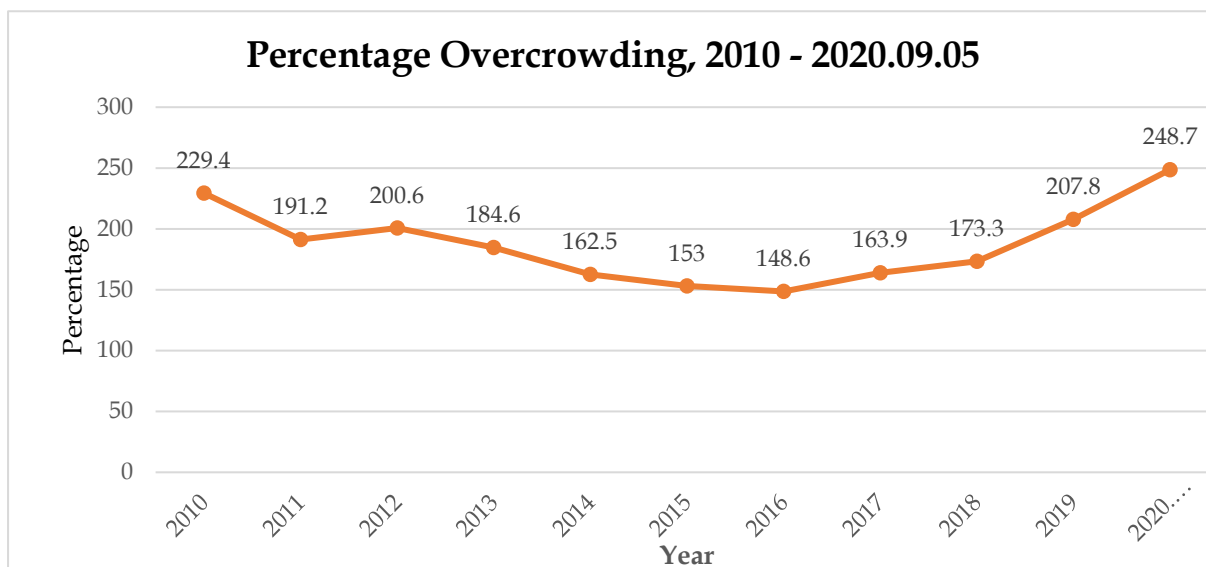
Therefore, prisons alone cannot resolve the overcrowding issue in the prison system without the contribution of stakeholders in the criminal justice system. Specially, significant parties have to involve in resolving this issue.

1.3 Inadequate Prison infrastructure and capacity

According to the Prison statistics; daily average population against the authorized accommodation varies annually. Following table and the graph gives clear idea about the situation.

Year	Authorized Accommodation	Daily Average Population	Percentage Overcrowding
2010	11,762	26984	229.4
2011	11,762	22489	191.2
2012	11,762	23603	200.6
2013	11,762	21717	184.6
2014	11,762	19108	162.5
2015	11,762	17996	153.0
2016	11,762	17478	148.6
2017	11,762	19278	163.9
2018	11,762	20384	173.3
2019	11,762	24446	207.8
2020.09.05	11,762	29259	248.5

Source – Prisons Statistics VOL 39 – Year 2020



Source - Prisons Statistics VOL 39 - Year 2020

Percentage of Overcrowding of Selected Institutions as at 05.09.2020

Name of the Prison	Authorized Capacity	Morning unlock 05-09-2020	Percentage Overcrowding (%)
Welikada	1,174	3427	292
Colombo Remand Prison (CRP)	380	1684	443
New Magazine	608	2281	375
Mahara	1,110	2720	245
Dumbara	1,259	2444	194
Angunakolapalassa	1,300	1416	108
Anuradhapura	647	1258	194
Kalutara	820	1811	221
Kuruwita	443	845	191
Galle	412	1046	254
Matara	204	392	192
Negombo	680	2390	351
Kegalle	207	1058	511
Wariyapola	250	901	360

Source - Prisons Statistics, Morning unlock 05-09-2020

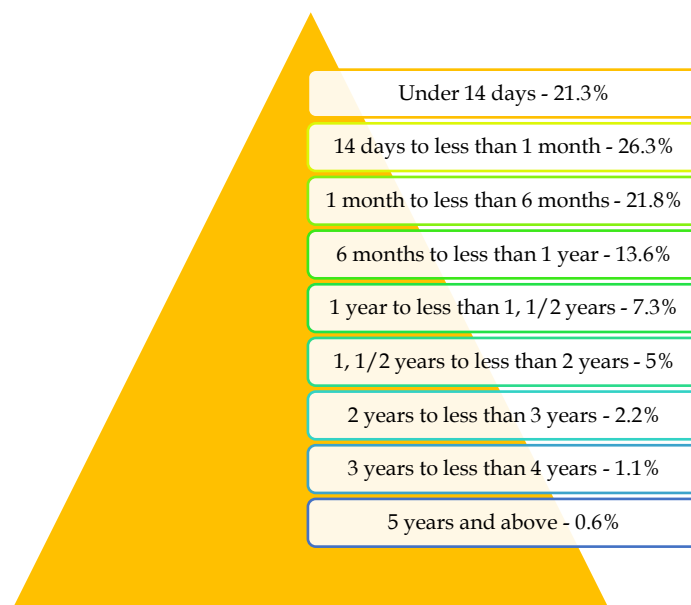
Recommended capacity in all prison institutions in Sri Lanka is for 11,762 inmates. Around 29,259 inmates have already been detained in prisons which is more than two times of the capacity. It is more than three or four times in Colombo and other main urban prisons. Prison overcrowding percentage in the prison system of the country is 249 which has resulted the depression among inmates and the rehabilitation mechanism has also been negatively affected.

Most of the main prison institutes were established in British colonial era matching according to the population, criminals & the technology at that period. Therefore, it is very much insufficient cater the current requirement as well as the technology development.

1.4 Excessive pretrial detention

When we are concerning number of reasons behind the overcrowding in prisons Sri Lanka, growth of remand population plays a major role.

Length of Period Spent in Custody by all Remandees on 31st December 2019



Source – Prisons Statistics VOL 39 – Year 2020

69.4% out of total remand population has been remanded for less than six months and 47.6% out of total remand population spend in prison for less than one month.

16.2% of total remand population remains in prisons more than one year to five years and above which reveals that they are in prisons due to delays in law.

1.5 Imprisonment Rates

Annual Admission of Convicted & Remand Prisoners, 2011-2019

Year	Admissions			Ratio			% Remandees
	Convicted	Remand	Total	Convicted	Remand	Total	
2011	27,018	81,840	108,858	1	3	4	75.2
2012	28,391	107,760	136,151	1	4	5	79.1
2013	30,760	99,639	130,399	1	3	4	76.4
2014	27,588	90,251	117,839	1	3	4	76.6
2015	24,086	89,559	113,645	1	4	5	78.8
2016	24,060	94,655	118,715	1	4	5	79.7
2017	22,833	99,036	121,869	1	4	5	81.2
2018	24,852	108,263	133,115	1	4	5	81.3
2019	29,164	115,325	144,489	1	4	5	79.8

Source – Prisons Statistics VOL 39 – Year 2020

Gap between the total remand population and the convicted population in a year is very high. The ratio between convicted and remand population is 1:4 which reveals that number of convictions out of remand population is very low. Therefore, unnecessary remand population has been identified as one of the reasons for the overcrowding in prisons.

77.4% out of total convicted prison population has been sentenced for less than six months.

MAJOR ISSUES DUE TO HIGH LEVEL OF OVERCROWDING

01. Lack of basic needs – lack of space for bedding, inadequate sanitary facilities, food, nutrition, hygiene
02. Tension among inmates- lacking basic needs automatically leads to depression
03. Depression among officers – scarcity of officers results the depression in managing overcrowded inmates.
04. Difficulty in functioning rehabilitation process – Inmates are not according to the classification therefore, it's difficult to conduct porgrammes.
05. Incidents/ violence among inmates – lack of space leads unrest among inmates.
06. Possibility of prison riots - unrest prompt inmates to fight for their needs against prison management.
07. Difficulty in implementing security measures
08. Risk of spreading Covid -19 like epidemics as social distance is highly minimized
09. Risk of escapes
10. Management challenges

STRATEGIES TO DEALING WITH PRISON OVERCROWDING

01. Increasing the prison capacity
02. Reducing the number of prisoners
03. Taking short term measures like amnesties and other early release schemes
04. Making better use of the total space available in prison system
05. Making better use of all the space in the overcrowded prisons
06. Improving the living conditions
07. Reforming the criminal code
08. Reforming legislation and policies relating to drug offence
09. Reduce the use of detention for those awaiting trials
10. Creating new sentence framework with shorter imprisonment terms
11. Alternative punishments or introduce new alternative methods
12. Introduce early and conditional release mechanism
13. Relocation of old prisons in urban areas
14. Strengthening the community based correction
15. Alternative rehabilitation centers can be used to detained drugs addicts
16. Proper implementation of existing bail act
17. Alternative mechanism for find defaulters
18. Expedited reports from other supporting agencies like Government Analyst Department
19. Expedition and completion of trials within minimum period with the assistance of other relevant agencies like Police, Attorney General Department and Government Analyst Department

ACTION PLAN TO REDUCE PRISON OVERCROWDING

01. Short term strategies

In countries where overcrowding levels are very high, immediate measures may be considered to address prison management challenges to avoid a health crisis and to ensure that prisoners are held in conditions which do not infringe upon their human dignity. Such short term measures to be considered may include

➤ Releasing prisoners

- **Amnesties**

- To consider using amnesties to reduce overcrowding in the short-term.

- To ensure that the selection of those eligible is made carefully, by suitably qualified body, based on individual risk assessments.

- To put in place rules and mechanisms to ensure the follow up of those who need continued medical treatment in the community.

- To ensure that amnesties do not delay the development and implementation of long-term strategies to address the problem of overcrowding in prisons.

- **Compassionate release and other special release mechanisms**

Compassionate release and other national release mechanisms may be used on grounds of age, health, disability or terminal illness and to simplify the procedures for applying compassionate release

- To review rules of other exceptional pardoning mechanisms to ensure that they are accessible and are applied in a consistent and fair manner.

- **Reviewing the legality of detention**

A monitoring system may be established like inspecting judges, to undertake a review of the legal status of prisoners, with a view to releasing those who can be released on bail, those who have overstayed statutory time limits of pre-trial detention, those who have completed their sentences but have not been released and those who are eligible for non -custodial sanctions instead of imprisonment.

➤ **Mitigation the impact of prison overcrowding**

- Maximizing capacity in prison system
- Maximizing capacity within individual prison
- Protecting prisoners physical and mental health
- Maximizing the use of resources in order to ensure minimum essential services
- Increasing the staff availability and training
- Enhancing communication
- Preventing corruptions

02. Mid-term strategies

➤ *Improving cooperation mechanisms between criminal justice agencies*

One of the key causes of case overload at the courts and overcrowding in prisons is lack of information exchange between criminal justice handlers who take decisions without sufficient knowledge about individual cases, as well as the overall situation.

➤ *Simplifying and speeding up the criminal justice process*

A thorough review of the operation of the criminal justice process, including court administration procedures, can help in identify how they may be simplified.

- Improving access to legal aids
- Taking measures to reduce duration of pre trial detention
- Taking prison capacity in to account in the enforcement of pre trial detention and imprisonment
- Increasing prison capacity

03. Long term strategies

- Establishing a sustainable and effective legal aid mechanism
- Reduce use of pretrial detention
- Introducing and improving the use of alternative to imprisonment
- Improving transparency and accountability
- Review and revision of legislative framework
- Improving the efficiency of criminal justice system

PROPOSALS FOR DIFFERENT STAKEHOLDERS TO RESOLVE THE OVERCROWDING ISSUE IN PRISONS

As it is a result of actions taken by different stakeholders, resolving the issue should also be a combined effort of stakeholders. Therefore, following actions to be fulfilled by the different stakeholders are proposed by the Department of Prisons.

Sri Lanka Police

01. Use of amended 78 section in 1984 of the Poisons, Opium and Dangerous Drugs Ordinance instead of 54 section for drugs addicts.

Those who are remanded under 54 section should be granted bail by the High Court.

“83. (1) No person suspected or accused of an offence under section 54A or section 54B of this Ordinance shall be released on bail, except by the High Court in exceptional circumstances. (2) Notwithstanding the provisions of subsection (1), the provisions of the Criminal Procedure (Special Provisions) Law. No. 15 of 1978, * shall, so long as that law is in force, apply to and in relation to any person suspected or accused of an offence under this Ordinance.”(See List of enactment omitted from the Revised Edition.)”

Therefore, those who are remanded under 54 are remained in prisons resulting higher overcrowding in prisons. At present nearly 7500 suspects are in the prison system under 54 section. Police may charge them under 54 section as they are arrested in possession of such drugs which are in possession to their use. Such addicts should not be sent to prisons as prisons have not been established to detained such addicts. Such inmates have to be detained in rehabilitation centers. Being such inmates in prisons will never break the cycle and also repeatedly being imprisoned for the same offence. So that, a proper mechanism has to be identified and implemented for drug addicts without detaining in prisons. If we need to break the cycle, they must undergo a proper rehabilitation system. Further, being them in prisons will never end the overcrowding in prisons since they are not rehabilitated and new persons are being addicted daily through already available addicts.

02. Use of police bail

Use of police bail for applicable incidents and occasions is also very important.

Courts

1. Expedite Court cases (Number of Section 54 remand prisoners- nearly 7500)

If the courts expedite hearing these cases, releasing such inmates or convicting them could be accelerated. If they become convicted, they have to go through the rehabilitation system in prisons. At present, such suspects remain in prisons for a long time without any kind of rehabilitation and creating many issues in prisons and also wasting labour and money of the country. Therefore, expedition of the cases is very important in reducing overcrowding in prisons.

Further, if it is possible courts to send drug addicts directly to rehabilitation with necessary confirmations from health experts as to whether the inmates are addicted.

2. Imposing reasonable bail conditions

Nearly 1000 inmates who are unable to fulfill the bail condition imposed by the courts. If it is possible to consider their potential to fulfill the bail conditions and impose them bail conditions which can be produced, unnecessarily remaining population could be decreased.

3. Prisoners unable to pay their fine

At present around 850 fine defaulters are remained in prisons due to their inability to pay fines. If they are not economically capable in paying fines, a mechanism which enables them to pay fine should be introduced. Payment in monthly installments may be a pragmatic system. If not, they will also be remained unnecessarily in prisons contributing prison overcrowding.

4. House Arrests and area restrictions

Another alternative is house arrest. If it is possible to keep inmates who haven't committed major crimes or offences in house arrest or under area restrictions, it will also reduce the prison overcrowding. Required law amendments and reforms with regard to above requirement have to be considered by the relevant authorities.

5. Sending drug addicts to rehabilitation through courts without sending them to prisons

Being drug addicts in prisons creates number of other issues including overcrowding. Further, being drug addicts in prisons

1. Kandakadu and Senapura Rehabilitation Centre under Commissioner General of Rehabilitation
2. Paboda Meth sewana and Open prison Camps under Prison Department
3. Drug offenders Rehabilitation Centers under NDDCB
4. Privet Rehabilitation Centers
5. Privet Public Partnerships
6. Drug offenders rehabilitation centers under Ministry of Youth Affairs
7. Volunteer Treatment Centers under Ministry of Health

6. Effective use of Bail Act

Length of period spend in custody under fourteen days is 21.3%. Convicted to remand prisoners ratio is 1:4. This indicates that unnecessary suspects are remained in prisons. Further, numbers of inmates on minor cases which can be granted police bail are remained in prisons.

7. Effective use of Remand Prisoners Released Act

Effective use of this act is also important to reduce prison population. The superintendents of prisons are also responsible for proper implementation of this act. But, the superintendents of prisons don't have required information to work on this matter. Required information like charges and quantities apprehended is not mentioned in remand warrants to implement the sections in the act. Therefore, if the judges mention the required information on remand warrant, the superintendents of prisons are able to proceed accordingly.

Department of Government Analysts

1. Expedite the government Analysis reports

This is one of the most affected facts to have a high overcrowding ratio in prisons. Nearly 8500 inmates are in prisons due to the delays of reports from the government analyst department. It is about 40% from the total remand population. If this department is capable to produce reports within a minimum period of time, gathering inmates in prisons could be reduced and wasting of a big amount of money could also be saved to the country. If they are found guilty with the reports given by the department, they will undergo a sentence and rehabilitation process in prisons.

Department of Prisons

01. Effective parole system (Review committee has been appointed by Hon. State Minister of Prison Reforms and Rehabilitation)

02. Effective Rehabilitation process in prisons to reduce reconviction rate (Reconviction Rate is 39%)

- New Initiatives
 - Development of Open Prison Concept
 - Develop Prison Industries for long term prisoners (Rehabilitation + Income Generation)
 - Privet Public Partnership

03. Increasing prison capacity

1. Colombo Prison Complex Relocation Program

- 1.1. Relocation of Welikada Closed prison to Wanathawilluwa or any other suitable land
- 1.2. Relocation of Colombo Remand prison to Pallansena
- 1.3. Relocation of Bogambar Prison to Dumbara (Balance Work)
- 1.4. Relocation of Trincomalee prison to Kappalthurei
- 1.5. Relocation of Matara Prison to Kotawilawatta

04. Maximizing capacity within individual prison

2.1. Development of existing Wariyapola Prison

05. Maximizing capacity in prison system

1. Construct semi-permanent building for highly populated institutes as an immediate measure (Magazine, Kaluthara, Negombo, Wariyapola, Pallansena)

Ministry of Justice

1. Coordinate all institutions relating to judicial causes for prison overcrowding and make policies on it
2. Legal reforms relating to issues
3. Strengthen the community based correction system or any other alternatives to imprisonment
4. Improving access to legal aids

Department of Attorney General

1. Revision of cases of drug addicts
2. Take actions to expedite court cases

Judges Training Institute

1. Make aware of all judges on prison overcrowding
2. Make judges aware of mentioning the offence and the quantity (if the offence relating drugs and cannabis) on remand warrant.

It is very important to implement the Release of Remand Prisoners act in prisons. Therefore, it is needed to mention the offence in the remand warrant in-order to activate this act effectively.

It is important to make aware judges about this matter

**PROPOSED PLAN TO OVERCOME THE PRISON OVERCROWDING CHALLENGE
(SHORT, MID & LONG TERM)**

Objective	Strategy	Action/Activity	Key performance Indicator	Estimated Budget (Rs. Mn)	Time Frame			Responsibility
					Short term	Mid Term	Long Term	
Minimize the prison overcrowding	01.Increasing prison capacity	1.1. Colombo Prison Complex Relocation Program						
		Relocation of Welikada Closed prison to Wanathawilluwa or any other suitable land	Number of convicted inmates accommodated with international standards	5000.0				DOP
		Relocation of Colombo Remand prison to Pallansena	Number of Remand inmates accommodated with international standards	3750.0				DOP
		Relocation of New Magazine Prison to Wataraka	Number of Remand inmates accommodated with international standards	4000.0				DOP
		1.2. Relocation of Bogambar Prison to Dumbara (Balance Work)	% Completion of the entire project/ Number of remand and convicted facilitated with accommodation	2255.0				DOP

Objective	Strategy	Action/Activity	Key performance Indicator	Estimated Budget (Rs. Mn)	Time Frame			Responsibility
					Short term	Mid Term	Long Term	
		1.3. Relocation of Trincomalee prison to Kappalthurei	Number of Remand inmates accommodated with international standards	1200.0				DOP
		1.4. Relocation of Matara Prison to Kotawilawatta	Number of Remand inmates accommodated with international standards	2950.0				DOP
	02.Maximizing capacity within individual prison	2.1.Development of existing Wariyapola Prison	Number of Remand inmates accommodated with international standards	1250.0				DOP
	03.Maximizing capacity in prison system	3.1. Construct semi-permanent building for highly populated institutes as an immediate measure (Magazine,Kaluthara, Negombo, Wariyapola,Pallansena	Number of building constructed	105.0				DOP
	04. Taking measures to reduce duration of pre trial detention	4.1. Effective use of Bail Act	Number of inmates bailed out	-				DOP/MOJ

Objective	Strategy	Action/Activity	Key performance Indicator	Estimated Budget (Rs. Mn)	Time Frame			Responsibility
					Short term	Mid Term	Long Term	
	05. Introducing and improving the use of alternative to imprisonment	5.1. Introduce alternatives like house arrest, area restrictions for minor matters	Number of admissions for minor matters	-				MOJ
	06. Improving cooperation mechanisms between criminal justice agencies	6.1. Introduce a mechanism to expedite the government analysts' reports						MOJ
	07. Simplifying and speeding up the criminal justice process	7.1. Identifying and detaining drugs addicts in specially designed drug rehabilitation centers	Number of inmates admits to rehabilitate in the newly constructed drugs rehabilitation centers					DOP/ MOJ
		7.2. Establish legal reforms to admit offenders those who consume drugs to rehabilitation centers by considering a test at Government hospital.	Number of inmates admits to rehabilitate in the newly constructed drugs rehabilitation centers					DOP/MOJ/ MOH/MOD/ SMRPR/NDDCB
	08. Introduce alternatives for minor offences	8.1. Introduce practical methods to pay fines like monthly payment mechanism	Number of admissions for minor offences					MOJ

Objective	Strategy	Action/Activity	Key performance Indicator	Estimated Budget (Rs. Mn)	Time Frame			Responsibility
					Short term	Mid Term	Long Term	
		8.2. Invites non-governmental social service organization to make necessary arrangements to pay fines of first time fine defaulters	Number of admissions for minor offences					DOP
		8.3. Strengthen the community based correction system	Number of admissions for minor offences					MOJ/DCBC
		8.4 introduce alternatives to remand	No. of inmates reduced					MOJ
	09. Improving access to legal aids	9.1. Provide legal aid facilities.	Number of inmates received legal aid facilities					DOP
	10. Mitigation the impact of prison overcrowding	10.1. Protecting prisoners physical and mental health	No. of programmes conducted					DOP
		10.2. Increasing the staff the availability and training	Number of officers recruited					DOP
	11. Releasing prisoners	11.1. Amnesties	No. of inmates subjected to amnesties					DOP
		11.2. Special release mechanism	Number of inmates released					DOP
		11.3. Reviewing the period of detention to identify unnecessary remand population	No. of inmates identified from the review and granted bail or release					DOP/MOJ

	Short Term		Mid Term		Long Term
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Acronyms

DOP – Department of Prisons

DCBC – Department of Community Based Correction

MOD- Ministry of Defense

NDDCB–National Dangerous Drugs Control Board

MOJ – Ministry of Justice

MOH – Ministry of Health

SMRPR – State Ministry of Prison Reforms and Prisoners Rehabilitation