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இலங்கை மனித உரிமைகள் ஆணைக்குழு
HUMAN RIGHTS COMMISSION OF SRI LANKA

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2 December 2020

INCIDENTS AT MAHARA PRISON ON 29 NOVEMBER 2020

INTERIM RECOMMENDATIONS

Introduction

On 30 November and 1 December, the Human Rights Commission of Sri Lanka visited the Mahara Prison to ascertain the nature of the incidents that occurred since 29 November 2020. The Commission commenced the inquiry *suo moto* in furtherance of its obligations under S. 14 of the HRCSL Act No. 21 of 1996 after seeing a news alert. The reports were of several deaths of prisoners following prison unrest, serious injuries to prisoners and officers and two officers being held hostage. Following the news, the Commission received many calls from concerned family members of Mahara inmates. Later, after communication facilities were provided to prisoners, several Remandees also called. On both visits, the Commission experienced many delays in entering the Facility and speaking to officials. While some delays were understandable, some of it was unnecessary – HRCSL must have unfettered access to the authorities and the authorities must immediately inform the HRCSL when such incidents occur since the Commissions is mandated to ensure the welfare of people deprived of their liberty under S. 11(d) of the HCSL Act. During the visits we met with officials, prisoners and grieving family members.

Based on our visit and findings, we offer these Interim Recommendations for immediate implementation based on the Commission’s obligations under Ss. 10, 11 & 14 of the HRCSL Act. A full report and final set of recommendations will be issued following conclusion of inquiry.

Recommendations

A. IMMEDIATE

- **Reduce the prison population:**

As confirmed by prisoners and prison officials, overcrowding is causing general unrest and fueling the fear of the spread of COVID-19. As requested in our communications in March 2020, November 2020 and the recommendations of the HRCSL’s study of the Prisons, it is essential the following steps are taken to reduce the population immediately:

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- Expedite release of remandees on bailable offences,
 - Hold emergency bail hearings for others,
 - Stop remanding those arrested in suspicion of bailable offences and
 - Commence the early release programme.
- **Health and treatment of prisoners:** The protests were sparked by the transfer of prisoners infected with the COVID-19 virus from Welikada prison to Mahara. If the authorities had responded to prison officials' concerns to this proposed transfer and had, instead, set up a separate treatment facility for prisoners, this clash and the subsequent deaths could have been completely avoided. There is absence of clarity on treating new admissions leaving long delays in PCR testing. The following must be followed as a matter of urgency to reduce fears among prisoners that could lead to further agitations:
 - All new admissions must be first subject to PCR testing before being included in the Prisons;
 - Quarantine facilities for new intakes to be strictly maintained;
 - Provide a separate treatment facility for all prisoners and remandees who are infected with the virus;
 - Test all prisoners at Mahara and
 - Regular testing and treatment for officials.
 - **Releasing Information:** As of 4 pm, 30 November, the authorities were unable to confirm to the HRCSL the details of the people who had died, the injured who had been transferred to Ragama Hospital or the prisoners who had been granted bail. This means anxious family members are unable to determine the fate of their loved ones. This must be rectified at once.
 - Tabulate the names of those who died and inform their families;
 - Record names of all admitted for treatment of injuries sustained in Mahara.
 - Record all others who are being transported out of the facility:
 - infected with the virus and removed for treatment;
 - Quarantined
 - Released on bail but removed to quarantine facility in Akkaraiapattu.
 - Create a centralised register of remandees to avoid the current problem in Mahara.
 - Record of all vehicle transporting prisoners and remandees including their drivers and security details to be maintained.
 - **Welfare:** The authorities and prisoners confirm that on 29th November, prisoners were served their lunch at 4.30pm. Further, we observed many difficulties in maintaining food supplies to the prisoners during the day on 30 November. We are informed that alternative steps are being taken to ensure food supply, electricity and water supplies. However, it was clear that there had been no contingency plans in this respect. Further, many inmates were without their regular medication for various illnesses including heart disease, mental health issues, diabetes. It is essential that these are reconnected and medical services be recommenced:

- Restore water and electricity supply and set up alternative sources of supplies;
- Maintain all food supplies in a timely manner;
- Transfer ill prisoners to nearby hospitals pending resumption of medical services;
- Ensure smooth delivery of medicines on a daily basis.

B. SHORT TERM

- **Lack of Preparedness and decision making structures:** It was our observation that there was no centralised decision making system responding to the situation. We recognise that unrest at a facility is difficult to manage because of the fear of the COVID-19 pandemic. However, it is essential that such a structure is set in place. This must include experts on crowd control, negotiation skills and advisors on minimum force. Had such a structure existed, it is possible that most lives lost on 29/30 November could have been saved.
 - Establish a central command centre to manage the potential unrest at prisons;
 - Task force including prison officials, police, medical officers, policy makers and prisoners’ rights groups & those with psycho social expertise to understand and assist in getting the remandees back to their cells until a decision is reached;
 - Emergency communication facilities to be available at each detention centre to be used to begin speaking to the prisoners in the future;
 - Emergency telephone line for family members to be set up.
- **Inquiry:** The situation at the prison was extremely volatile when we arrived. A forensic team lead by Professor Anurudhdi Edirisinghe and Government Analyst’s Department staff arrived by midday. But an immediate inquiry was not possible. An additional inquiry to understand the root causes and consequences of this incident involving all stakeholders is essential to prevent more unrest:
 - Commence forensic examination of premises and hold post mortem inquiry to understand cause of death of those who died and nature of injuries;
 - Immediate inquiry on the events under judicial supervision including understanding the nature of the pressures on the prison system and the threats due to COVID-19.

C. MEDIUM TERM

- **Training for prison officers:** While we appreciate this situation was unprecedented, we observed that prison officials were in urgent need of training on how to manage this type of situation.
 - Management of riots and hostage situations without resort to firearms.
 - Guidelines on crowd control, use of firearms and providing urgent services such as water supplies and medical aid for all prisons and detention facilities must be developed
 - Handling inmates with human rights norms and principles.

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- **Psycho Social support:** Many prisoners and officials seemed extremely distressed by the happenings and some complained of inability to breath and other physical ailments unconnected with injuries sustained. Prisoners found it difficult to describe their “comrades” who died in the night. If the long-term impact of this incident is to be minimised, psycho social support is essential:
 - Immediate support be offered to any officers or prisoners who request it;
 - Conduct initial mapping of psycho social needs and implement the recommendations thereon;
 - Where necessary, refer patients to nearby hospitals for treatment.

D. LONG TERM

- **Substance abuse:** virtually 80%of remand prisoners at Mahara were being held on drug related charges. Many of them seemed to be repeat offenders. It is important for the authorities to separate the management of people addicted to substances from regular prisoners who sell illegal substances as a business venture. We recommend:
 - Suspects who are dependent on mind altering substances must be sent to rehabilitation and not to the prisons.
 - These rehabilitation centres must be managed by National Dangerous Drugs Control Board and not the Prisons Department.
- **Alternative sentencing policies:** The Criminal Justice System has many sentencing options that do not require imprisonment. There is an urgent need to resuscitate these options by:
 - Create a separate authority on this;
 - Ensuring the necessary infrastructure is in place;
 - Special training for judicial officers on these options.

These Interim Recommendations are issued under Section 10 (c) and (d) of the Act where it is incumbent upon the Commissions to make recommendations to the Government. As you will appreciate, this is a complex situation where all authorities must combine their expertise to ensure non-repetition. So, we urgently call for the State to initiate a stakeholder discussion including HRCSL, medical and psycho social experts and prisoners’ rights groups to agree on a road map.



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Human Rights Commission of Sri Lanka