**Call for input on contemporary forms of slavery as affecting currently and formerly incarcerated people - Special Rapporteur on contemporary forms of slavery**

**Submitted by:**

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1. **Please provide the details of labour programme(s) implemented in your country for incarcerated individuals, including:**
   1. **Legislative/regulatory frameworks**

In 2020, the Human Rights Commission of Sri Lanka (HRCSL) conducted the first comprehensive national study of prisons. The [report](about:blank) contains a detailed description of the conditions of work in prison, and remains the primary source for information on labour programmes in prison.

According to prison officials, being assigned to work in a specific section of the prison, ‘forms the core of rehabilitation in prison as it is the primary means through which persons in prison are kept occupied throughout the day’[[1]](#footnote-1). At the onset, however, it must be highlighted that most persons in prison are imprisoned for non-violent offences, including the non-payment of fines and for drug offences involving minor (user) quantities of banned narcotic substances. Most incarcerated persons, therefore, are in prison due to their socio-economic status and as such do not ***require***rehabilitation. To the contrary, it is imprisonment that causes them psycho-social harm for which they will require support post-release.

Section 65 of the Prisons Ordinance states that ‘every prisoner shall perform such labour, whether manual or otherwise, as may be assigned to him’.

* 1. **Types of work performed (choices available, appropriateness in terms of age, gender, religion, indigenous status, disability, and other relevant factors, types of work available depending on the lengths of sentences, and difference(s), if any, between public and privately contracted correctional facilities)**

Persons are assigned to their work sections during the entrance/admission process, and the Superintendent of the Prison is responsible for assigning the person to a work section after discussing their skills. However, as reported in the prison study, persons are not assigned to work programs based on their skills, interests or competencies, but rather based on what is available – and a certain amount of preference is also reported, whereby persons with social influence are able to secure ‘easier’ or ‘better’ work opportunities – such as work in the office, which does not involve rigorous labour[[2]](#footnote-2).

Industrial work is the main category of labour programmes in which the majority of incarcerated persons are involved across prisons in Sri Lanka. Section 654 of the Department Standing Orders (Prison Department Regulations) (DSO) states that industrial work should be reserved for persons sentenced to more than two years in prison. According to Section 858 of the DSO, prison labour is employed for manufacturing articles and for rendering other services to government departments and private parties. A full list of the different types of industrial work, as well as the total output value of these programmes can be found in the Department of Prisons [statistics](http://prisons.gov.lk/web/wp-content/uploads/2023/05/prison-statistics-2023.pdf) of 2023. As the majority of these programs involve work, such as cultivation, brickmaking and carpentry, which do not provide income generating prospects in the present labour market, and also are tailored to existing skills and aptitudes of incarcerated persons, the chances of these persons finding gainful employment upon release are limited.

Apart from industrial work, persons may also be engaged in the administrative and operational functions of the prison. As per Section 13 of the Prisons Ordinance, the Superintendent of Prison may ‘employ such number and such classes of prisoners to maintain the prison and the clothing, bedding and utensils used therein in a clean and proper condition, and in preparing and serving the food of prisoners and such other tasks, as may be necessary for the functioning of the prison.’ The HRCSL prison study found that persons were working in the administrative offices of the prison, helping in the preparation of food and keeping the grounds clean. Convicted women in prison were primarily seen engaged in the upkeep of the female section of the prison, maintaining hygiene of the premises and serving food, as women do not have the option to engage in industrial prison work[[3]](#footnote-3).

Prisons in Sri Lanka also conduct a ‘Work Release’ scheme, set out in the Prisons Department Circular No. 634/1974, whereby persons in prison can be allowed to leave the prison premises and engage in jobs outside the premises in private or public entities. According to the HRCSL prison report[[4]](#footnote-4), the scheme attempts to provide incarcerated persons the opportunity to earn an income while serving their sentence and become accustomed to the labour market after spending several years isolated from society. It is also intended that incarcerated persons should be able to continue employment upon their release.

The circular requires that prison officials find suitable work opportunities within various industries, and retired prison officers can be recruited to supervise incarcerated persons engaged in such employment. According to the circular, only the prison authorities and employer shall be aware of the conviction status of the incarcerated person, and the person is allowed to change into civilian clothing from the prison uniform when they leave the prison premises to travel to their place of work. Certain categories of incarcerated persons, and those convicted for terrorism offences or offences described as “controversial” or “sensational” are not eligible to be part of this scheme. Since the circular does not define “controversial” or “sensational”, it is likely that assessment for eligibility is done in an arbitrary manner and is not based on objective criteria but is done at the discretion of the Superintendent of the Prison.

The HRCSL prison report[[5]](#footnote-5) notes that there were allegations that the selection of persons eligible to use the scheme is based on favouritism, rather than standard guidelines. The number of persons who are part of the scheme remains very low, compared to the total population of persons in prison. According to the prison [statistics](http://prisons.gov.lk/web/wp-content/uploads/2023/05/prison-statistics-2023.pdf) of 2023, issued by the Department of Prisons, 82 persons were working under the Work Release Scheme in 2022. For reference, on 31 December 2022, the total number of convicted persons in prison was 9,449.

It must be pointed out that since the majority of work options are labour-based and physically rigorous, they cannot accommodate persons with disabilities, who have limited options for meaningful participation in work related activities. The prison premises are not built for accessibility and persons with disabilities in prison are almost completely reliant on others for basic movement around the facility[[6]](#footnote-6).

* 1. **Working environment/conditions, including wages and any deduction for incarceration costs, working hours, and provisions for health & safety**

Discussed in detail below.

* 1. **Alternatives to labour programme(s)**

The alternative to labour programs in prison is primarily rehabilitative activities, including educational and vocational training programs.

As outlined in the prison study report[[7]](#footnote-7), educational and spiritual activities remain the primary tool of rehabilitation with a focus on Buddhism. Basic level educational and language classes were conducted in certain prisons, while religious education was provided in all institutions.

While persons in prison are allowed to complete the Ordinary Level and Advanced Level examinations in prison, educational classes are conducted in an ad-hoc manner in prisons, and hence persons have to fend for themselves in acquiring books and have to teach themselves.

Vocational training classes were provided in many prisons, with the offering largely consisting of courses on masonry, brickmaking, cultivation and welding, even if persons had been engaged in other professions and/or have other skills. This hence will not enable these persons to secure livelihood opportunities that allow them to economically rebuild their lives. Funding for rehabilitation programs is limited, with incarcerated persons sharing outdated and broken equipment and oftentimes having no skilled instructors[[8]](#footnote-8).

* 1. **Performance of labour before criminal conviction (e.g. during pre-trial detention)**

Persons in pre-trial detention are not required to engage in industrial work. Section 65 of the Prisons Ordinance states that ‘every prisoner shall perform such labour, whether manual or otherwise… provided that unconvicted prisoners or civil prisoners shall not be required to perform any labour in excess of such labour as may be reasonably necessary for keeping in a clean and proper condition the prison or part of the prison in which they are confined’.

Similarly, the Department Standing Orders, in Section 347 affirm that appellants who have been refused bail cannot be engaged in hard labour while in prison – instead they can only be required to conduct general tasks of cleaning and maintaining hygiene in the prison wards, although they can be asked to assist in the preparation of food in the kitchens, when required. In almost all prisons visited, the HRCSL reports[[9]](#footnote-9) that appellants did not engage in any prison work, although it must be noted that, due to the protracted nature of legal proceedings in Sri Lankan, persons on appeal could potentially be imprisoned for over even up to fifteen years, before their appeal is concluded.[[10]](#footnote-10). This results in persons being held in prison without engaging in any gainful employment or activity and suffering a loss of income for an indeterminate period of time.

The same is true for persons held in pretrial detention, as in the case of persons arrested under the Prevention of Terrorism Act during the armed conflict in Sri Lanka, many of whom were held in pretrial detention for over ten to fifteen years, without a predictable end date, and were therefore suffering the loss of income for decades[[11]](#footnote-11).

* 1. **The nature and extent of the involvement of private businesses/employers, including working conditions and arrangements for supervision by public authorities.**

The Welikada Closed Prison is the largest prison in the country and is primarily used to detain convicted persons, including persons serving long-term sentences, such as life and death sentences. The HRCSL prison study reports[[12]](#footnote-12) that a public-private venture with P. G. Martin operates at the prison, whereby a private party provides an employment opportunity to persons in prison, within the prison premises. The initiative began in December 2016, and P.G. Martin supplies raw materials and machinery for persons in prison to produce leather products, such as bags, pouches and journal covers. Persons selected for this program undergo a three-month training program before they begin working for P. G. Martin.

Two prison officers oversee the workshop and two instructors from PGM come to the prison every day to train prisoners and conduct quality control. As per the HRCSL prison report, persons work for the usual working hours applicable to all other work programs at the prison, which is daylight hours until around 5pm on weekdays, half the day on Saturday, and can take the day off on Sunday as well as public holidays. The work scheme carries the promise of future employment with the company and certification of the skills they have learnt, by P. G. Martin.

1. **Is there evidence of labour practices which may amount to exploitation (e.g. excessive working hours, extremely low/no wages, unhealthy/dangerous working environment, discriminatory treatments against certain groups of individuals, and lack of access to medical facilities)? If so, please provide details.**

The HRCSL prison report[[13]](#footnote-13) states that conditions of work sections and premises in prisons where industrial work is conducted, do not meet the requirements for adequate natural light, ventilation and safety. Prisons in Sri Lanka are mainly situated in old, dilapidated premises, with several safety issues reported in the buildings the contain cells and wards. Similarly, work sections are also housed in rundown buildings and huts. The report states that multiple hazard risks are observable while persons in prison are engaged in work, but no safety equipment – such as protective eyewear or gloves, particularly for carpentry, welding, etc – provided. The conditions of work are not monitored by medical officers or any other external independent authority to ensure that minimum health and safety standards are maintained and regular recommendations for improvement are provided. Although the HRCSL is mandated to ensure the well-being of persons deprived of liberty and conduct routine inspections of prison facilities, due to the limited resources of the institution, extensive inspections whereby working conditions can be monitored are rarely conducted.

The HRCSL report also states that persons in prison reported not being allowed adequate breaks and time to engage in personal tasks, as they are engaged in work in the prison for most of the week. Due to the rigorous nature of tasks and the poor work conditions, “prison work was seen as a punishment rather than an opportunity to learn new skills or spend time in prison in a meaningful way”[[14]](#footnote-14). Persons held in work and open camps (prison institutions reserved for low-security offenders and persons who are about to conclude their sentence), which operate as minimum-security prisons, alleged they are required to work all seven days of the week. Medical officers reported that persons categorized as unfit for work during the medical assessment conducted upon their entrance to prison are employed in prison work despite the recommendation of the doctor. Persons in certain prisons also reported being required to work even if they were unwell.

Incarcerated persons engaged in prison work are still paid wages that were decided decades ago when the Prisons Ordinance was enacted – namely, 2.50 LKR (0.0084 USD) per day. Persons could therefore spend ten years' worth of working days engaged in prison work, producing articles, and providing services for which the prison benefits, but only earn up to LKR 4,000 (14 USD).

Persons engaged in outside work schemes and under the P. G. Martin program receive better remuneration, although they are still paid below the market value for their labour[[15]](#footnote-15).

Women in prison are only able to participate in sex -stereotyped courses, such as sewing and handicraft-making, as industrial work opportunities are not available in the female sections of prisons, which once again carry limited potential as income sources in the outside world. Persons serving death sentences are required to spend up to twenty-three hours inside their cells and wards and are therefore not able to engage in any rehabilitation programs provided by the prison.

1. **What arrangements exist with regard to educational and vocational support for incarcerated individuals in your country? Are they adequately tailored to meet individual needs and to promote their successful economic and social reintegration? Are there examples of good practice, including collaboration with non-State actors like civil society and businesses, employers’ organisations and trade unions in this regard?**

Apart from the vocational training courses highlighted above, which are primarily conducted by the National Vocational Training Authority and the National Apprentice and Industrial Training Authority, which also issue certification for these courses, no other external body is involved in the provision of collaborative activities for persons in prison. The choices for vocational training courses are limited to skills training such as masonry, electrical wiring, sewing, welding, etc – which are not high-income generating skills, and do not provide skills training demanded by the present job market. The limited range of activities prevents individualized rehabilitation programs that allow persons to choose activities based on their interests and competencies[[16]](#footnote-16). It must be highlighted that the majority of incarcerated persons are from deprived socioeconomic backgrounds, hence the loss of income due to serving time in prison, coupled with the lack of employment prospects after release will prevent successful reintegration back into society.

The HRCSL prison study notes that although vocational training programs are available for incarcerated persons, the line between prison work and vocational training is often blurred – therefore, incarcerated persons would be following a vocational training course, in carpentry or welding, but at the same time, also producing quantifiable output for the prison.

According to news reports in 2020, a company named Avant Garde Securities/Maritime Services collaborated with the Department of Prisons to introduce a rehabilitation [program](https://www.ft.lk/news/Vocational-training-program-targeting-5-000-prisoners-launched-at-Welikada-Prison/56-696067) for incarcerated persons. The reported [aim](https://archives1.dailynews.lk/2020/02/08/local/210827/avant-garde-rs1-bn-project-train-vocational-skills-employ-5000-prison?page=1#google_vignette) of this program was to train up to 5,000 incarcerated persons with the aim of increasing post-release employment prospects. There is no publicly available information on the nature of the training that was provided to the first [batch](https://www.prisonmin.gov.lk/web/images/pdf/progress-report-2020.pdf) of 500 persons or how the company utilised their labour. The program reportedly stalled after the COVID-19 pandemic, and the trained persons were allegedly [involved](https://www.themorning.lk/articles/85240) in the production of bread to be distributed among vulnerable communities. It is not known whether the programme has since resumed.

There are many allegations against Avant Garde Securities/Maritime Services, including a [case](https://www.sundaytimes.lk/210523/news/floating-armouries-murky-not-just-in-sl-but-worldwide-says-hc-as-avant-garde-chairman-and-6-others-freed-444754.html) where the company was found to be operating a floating armoury on the Red Sea to provide weapons and “sea marshals” for security onboard commercial vessels, in collaboration with an [entity](https://www.avantmaritime.com/services/armouries/) affiliated to the Sri Lankan Ministry of Defence. The armoury was discovered to be carrying a large amount of [undeclared](https://economynext.com/sri-lanka-navy-offers-new-evidence-in-avant-garde-arms-scandal-2899/) firearms and ammunition. The case also involved several [allegations](https://www.sundaytimes.lk/151115/columns/avant-garde-loses-monopoly-navy-takes-over-weapons-171843.html) against government officials in Sri Lanka and abroad of money laundering and bribery. A former army officer was in [charge](https://www.google.com/url?q=https://www.dailymirror.lk/print/breaking_news/Avant-Garde-case-Rtd-Army-officer-arrested/108-147977&sa=D&source=docs&ust=1713180900416879&usg=AOvVaw0EVKQ_qGbJTfpcb0jI9x34) of the armoury, while the Minister of Law and Order, who had previously been retained by Avant Garde, was forced to [resign](https://economynext.com/under-fire-sri-lanka-minister-marapana-resigns-3089/) in 2015 due to public backlash after he publicly spoke in defence of the company, despite the conflict of interest.

The [report](https://archives1.sundayobserver.lk/2019/01/27/news-features/precifac-report-faults-gotabaya-12-others) of the Presidential Commission of Inquiry appointed to Investigate Serious Acts of Fraud and Corruption (PRECIFAC) that occurred between the years 2010-15, chaired by Justice Padman Surasena recommended that criminal action be taken against the chairman of Avant Garde Security Services, Nissanka Senadhipati, as well as the former President Gotabaya Rajapaksa (who was serving his term as President when Avant Garde began its prison program). Senadhipati was subsequently [acquitted](https://www.adaderana.lk/news/74028/nissanka-senadhipathi-and-others-acquitted-from-avant-garde-floating-armoury-case) of the bribery case [pursued](https://colombogazette.com/2017/10/03/avant-garde-chairman-and-another-indicted-in-bribery-case/) against him as well as arms trafficking during the term of former president Rajapaksa.

Hence, in the context of a penal system that lacks transparency, checks and balances and is accused of committing many human rights violations, as well as a criminal justice system that is unable to hold perpetrators of human rights violations to account, the partnership of this company with the Department of Prisons is cause for concern. Particularly, since incarcerated persons are already being exploited for labour and are not subject to independent external supervision.

1. **Is there evidence of sexual exploitation among incarcerated individuals? If so, please provide details.**

Evidence of sexual exploitation was not reported.

1. **Are victims of labour and sexual exploitation able to seek justice and remedies? Please provide details, including legislative frameworks and complaint mechanisms.**

Grievance mechanisms for persons in prison as outlined in the Prisons Ordinance primarily involve complaining to the Chief Jailor or Superintendent of the Prison, who will then undertake appropriate action. However, persons in prison are reluctant to complain, especially against prison officers for fear of reprisals, and believe that there is no point in complaining because disciplinary action will not be taken by senior officers against one of their own staff members. With regards to exploitation for labour, the exploitation of persons in prison where they work for several days of the week without or with minimal remuneration, inadequate safety standards and without meaningful utilization of their time is normalized by law and policy, and hence accessing internal grievance mechanisms will not yield meaningful remedy[[17]](#footnote-17).

Persons can complain to the HRCSL, but as highlighted above, the HRCSL does not have the resources to conduct comprehensive periodic visits to all prisons in the country. All prisons in the country, except for Welikada Prison, do not have phones for persons in prison to use, so most of the population in prison cannot access the HRCSL unless the Commission visits the prison or a family member complains on their behalf.[[18]](#footnote-18)

Magistrates too are required to undertake periodic visits to the prisons in their jurisdiction, but during these visits, judges are not required to inspect the conditions and treatment of incarcerated persons, and even if they do undertake an inspection of the prison, their findings are not released to the public. Hence, it is unclear whether complaining to a magistrate will result in any action being taken. Members of Parliament are the only other category of persons that have the power to visit prisons, but rarely undertake any visits[[19]](#footnote-19).

It must also be emphasised that exploitation of incarcerated persons, like poor conditions of detention, has become institutionalised and normalised.

1. **What are the main challenges in eliminating labour and sexual exploitation among incarcerated individuals, and what recommendations would you make to address them effectively?**
2. Wages of persons employed in prison work should be increased to match the minimum wages in the market and they should be allowed to use their funds to purchase basic provisions while in prison as well as send their earnings to their families, if they wish.
3. Working conditions in the prison sections should be according to ILO standards where health and safety are concerned and should be monitored regularly by independent bodies.
4. Work opportunities and skills training should be in line with demands of the current job market and equal opportunities should be made available for women in prison.
   1. Work opportunities should be assigned based on individual preferences and competencies
5. Where public-private partnerships are concerned, care must be taken to ensure that incarcerated persons are not exploited for profit by private corporations.
   1. Work hours and working conditions must be stringently monitored to ensure they mirror the standards enjoyed by other employees of the company and adhere to labour laws.
   2. Payment should be commensurate with market rares
   3. Incarcerated persons should have adequate access to insurance and the ability to claim indemnity in the case of accidents.

1. National Study of Prisons (202), *Human Rights Commission of Sri Lanka.* <https://www.hrcsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf> - chapter- Prison Work [↑](#footnote-ref-1)
2. Ibid [↑](#footnote-ref-2)
3. Ibid [↑](#footnote-ref-3)
4. Ibid [↑](#footnote-ref-4)
5. Ibid [↑](#footnote-ref-5)
6. National Study of Prisons (202), *Human Rights Commission of Sri Lanka.* <https://www.hrcsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf> - chapter- Prisoners with Disabilities [↑](#footnote-ref-6)
7. National Study of Prisons (202), *Human Rights Commission of Sri Lanka.* <https://www.hrcsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf> - chapter- Rehabilitation of Prisoners [↑](#footnote-ref-7)
8. Ibid [↑](#footnote-ref-8)
9. National Study of Prisons (202), *Human Rights Commission of Sri Lanka.* <https://www.hrcsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf> - chapter- Prison Work [↑](#footnote-ref-9)
10. National Study of Prisons (202), *Human Rights Commission of Sri Lanka.* <https://www.hrcsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf> - chapter- Legal and Judicial Proceedings [↑](#footnote-ref-10)
11. Ibid [↑](#footnote-ref-11)
12. National Study of Prisons (202), *Human Rights Commission of Sri Lanka.* <https://www.hrcsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf> - chapter- Prison Work [↑](#footnote-ref-12)
13. National Study of Prisons (202), *Human Rights Commission of Sri Lanka.* <https://www.hrcsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf> - chapter- Prison Work [↑](#footnote-ref-13)
14. Ibid [↑](#footnote-ref-14)
15. Ibid [↑](#footnote-ref-15)
16. National Study of Prisons (202), *Human Rights Commission of Sri Lanka.* <https://www.hrcsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf> - chapter- Rehabilitation of Prisoners [↑](#footnote-ref-16)
17. National Study of Prisons (202), *Human Rights Commission of Sri Lanka.* <https://www.hrcsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf> - chapter- Grievance Mechanisms [↑](#footnote-ref-17)
18. Ibid [↑](#footnote-ref-18)
19. Ibid [↑](#footnote-ref-19)