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Evidence of attempted murder & other illegal acts by Lohan Ratwatte, former State Minister of Prison Management and Prisoner's Rehabilitation during prison visits in Sept 2021

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The Attorney General must take immediate action against State Minister and Member of Parliament Lohan Ratwatte, stated Centre for Society and Religion (CSR). CSR's comments are based on the report of the Justice Ministry's Committee of 24 November 2021 that found credible evidence of serious crimes, human rights violations and illegal acts during Ratwatte's visits to Welikada and Anuradhapura Prisons in September 2021. The inaction by officials in holding Ratwatte is appalling, stated Rev. Fr. Rohan Silva, CSR's Executive Director, given the seriousness of the Committee's findings about Ratwatte's behaviour, as well as its conclusion that Ratwatte purported to represent the state at the prisons and his behaviour resulted in bringing the government to disrepute. CSR is also concerned that no action has been taken against any prison official for failure to perform their duty of care and protection of prisoners and the two civilians who went with Lohan Ratwatte to watch the gallows in Welikada prison as well as security officials who accompanied Ratwatte without attempting to stop him from engaging in illegal acts.

CSR condemns the shameful behaviour by the Ministry of Justice which refused to publish the Committee report or release it in response to Right to Information (RTI) request by CSR. Justice Ministry only released it 9 months after CSR's RTI, after being ordered to do so by the Right to Information Commission based on CSR's appeal. CSR also notes that the Justice Ministry had informed the Cabinet about the report through a Cabinet Note on 7th December 2021, but had not received a decision of the Cabinet till 25th August 2022 (or possibly till to date).

CSR agrees with the Committee's observation that the report is based only on information that "passes the tests of consistency, probability, and spontaneity" permitting the Committee to conclude that the "information is truthful and trustworthy, and not mere fiction".

1. Crimes by Ratwatte that the Committee found credible evidence

- 1.1 Using a weapon in a prison [S. 79 (2) – (5) of the Prisons Ordinance];
- 1.2 Using a weapon to commit an offence [S. 44(a) of the Firearms Ordinance];
- 1.3 Attempt to bring the State to disrepute (S. 118, Penal Code);
- 1.4 Causing disaffection against the Government of Sri Lanka and among its people (S. 120, Penal Code);
- 1.5 Attempted Murder (S. 300 of the Penal Code);
- 1.6 Criminal intimidation by threatening to cause death (S. 486 of the Penal Code)
- 1.7 Causing Hurt (S. 314 of the Penal Code);
- 1.8 Causing hurt with a dangerous weapon (S. 315 of the Penal Code);

2. Prison official's failures to fulfil their duties that's disclosed in the Report

- 2.1 Allowing entry outside permitted hours (5.30am to 5.30pm) to Ratwatte;
- 2.2 Allowing entry for unauthorized persons;
- 2.3 Allowing a firearm to be brought into a prison;
- 2.4 Failure to prevent the repeated display of a firearm in the prison premises;
- 2.5 Failure to stop the torture and abuse of prisoners;
- 2.6 Presenting and parading prisoners before Ratwatte despite it being an illegal visit;
- 2.7 Falsifying records at Welikada prison to indicate the visit was conducted at regular hours;
- 2.8 Threatening a prisoner not to reveal the full extent of Ratwatte's actions;
- 2.9 Failure to complain about crimes and rights violations committed by prison officials who were present, witnessed the crimes / human rights violations / illegal acts or came to know about these.

3. Ratwatte's behaviour that the Committee found to be not suitable for a "state visit"

- 3.1 Visits to both prisons were outside legally stipulated hours;
- 3.2 Visits were not for legal purposes (Committee found no official tasks had been accomplished and Ratwatte had not arrived at any significant conclusions from the visit);
- 3.3 He was accompanied in Welikada by people who were not authorised to visit a prison;
- 3.4 He visited Welikada only to show the gallows for two civilians
- 3.5 His attire at both prisons was of the type that indicates this was not an official visit (shorts, t-shirt, jeans, sweaters, slippers);
- 3.6 His behaviour in a drunken manner at the Anuradhapura prison;
- 3.7 His conduct had "brought the government into disrepute, caused harm to the dignity of the Republic and the President whose name he has cited" and was an insult to the office of State Minister;
- 3.8 He lied to the Committee and hid facts from the Committee.
- 3.9 Misleading prisoners by saying he has powers he doesn't have by law ("I can pardon you")
- 3.10 Threatening prisoners to confess to crimes ("Tell the truth")

4. Significant Recommendations by the Committee:

- 4.1 A mechanism to obtain evidence from Anuradhapura prison officials who were on duty during the time Ratwatte visited and are important eyewitnesses is necessary;
- 4.2 Police should file a B report to the Anuradhapura Magistrate about Ratwatte's visit to Anuradhapura Prison if they have not done so already. The investigation and next steps such as charging or indicting Ratwatte in a court of law for purported offenses should happen quickly;
- 4.3 Charges should be filed against Ratwatte under Ss 79(1) – (5)] of the Weapons Ordinance, S. 44(a) of the Guns Ordinance read together with Ss. 118, 120 of the Penal Code, for several offenses (see section 1 above) including attempted murder at the Anuradhapura prison;
- 4.4 President should take appropriate action against Ratwatte for violating the Prison Ordinance as there are no there are no prescribed punishments.
- 4.5 CCTV cameras and scanners should be installed in prisons.
- 4.6 Prison officials should be given the responsibility to deny entry to visitors who appears drunk.

5. CSR's preliminary Observations & Recommendations

- 5.1 **Prosecutions under the under the Torture and ICCPR Acts:** In addition to investigation and prosecution of Ratwatte under the offences and laws identified in the Report (see 5.3 above), he must be investigated and prosecuted under Convention Against Torture and other

Cruel, Inhumane and Degrading Treatment or Punishment Act No. 22 of 1994 for compelling prisoners to kneel in rough ground with stones, gravel and sand. He must also be prosecuted under the International Covenant on Civil and Political Rights (ICCPR) Act No 56 of 2007 for advocating national hatred constituting incitement to discrimination by harassment of Tamil detainees being held under the Prevention of Terrorism Act and promoting ill will and hostility between classes of people, especially Tamils of Sri Lanka

- 5.2 **Accountability of security officers of Ratwatte:** All security officials of Ratwatte who facilitated, failed to prevent or stop his illegal actions should be investigated as accessories to all the offences and rights violations Ratwatte is accused of.
- 5.3 **Accountability of civilians who illegally entered Welikada prison:** All unauthorised civilians who entered Welikada prison illegally should be investigated and prosecuted for unauthorised entry under Sections 35 – 39 of the Prisons Ordinance.
- 5.4 **Disciplinary actions against officials:** While priority should be given for criminal actions against all prison officials involved in above mentioned illegal acts, disciplinary action against them must also be pursued parallelly.
- 5.5 **Ministerial appointments & lack of accountability for violating Prison Ordinance:** Ratwatte resigned as State Minister of Prison Management and Prisoner's Rehabilitation after the incident. But he was appointed State Minister of Container Warehouse Facilities, Container Yards, Port Supply Facilities and Boats and Shipping Industry by former President Gotabaya Rajapaksha. He was recently appointed as State Minister of Plantation Industries by current Ranil President Wickremesinghe. The Committee had observed that though Minister had violated the prison ordinance, there are no prescribed punishments and that the President who had appointed him should consider the nature of the offenses and decide on what actions should be taken. CSR is of the firm view that the President should remove Ratwatte from present Ministerial position and not offer any other positions and that he should be held accountable through ordinary laws.
- 5.6 **Lack of follow up action:** Despite the report being filed on 24 November 2021, to the best of knowledge of CSR, no action has been taken since then by the Ministry of Justice, the Cabinet or any other officials, including the police and the Attorney General. CSR calls on all to explain to the public reasons for their failure to publish the report and act on it's findings and recommendations, along with other available information, for more than 17 months.

The full report released to CSR is available at <https://rticsr.info/lohan-rattwatte-report/>

CSR is presently engaged in further study of the report and is seeking legal advice on possible follow up actions. We welcome inputs and support from concerned persons and groups to address the serious issues highlighted.

For further information, please contact below:

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