

Sri Lanka: Why the Rehab Bill is dangerous even after the SC amendments

Saturday 21 January 2023, by [ARULINGAM Swasthika](#), [JAYASINGHE Pasan](#) (Date first published: 16 January 2023).

Second reading of controversial Bill this month

The Government will bring the Bureau of Rehabilitation Bill before Parliament for a second reading this month. When the Bill was first presented in November 2022, the Supreme Court found the Bill unconstitutional in its entirety, a ruling it very rarely makes. Even with the changes suggested by the Supreme Court to make it constitutional, the Bill would be a dangerous piece of legislation. Its regressive approach to rehabilitation coupled with the sensationalism debate over drugs has set the stage for creating another mechanism for the Government to target and detain its critics.

An unconstitutional and unfixable Bill

The Supreme Court ruled that the Bill will be constitutional only if references to “ex-combatants”, “violent and extremist groups”, and “any other groups of persons” are removed. This will limit its application to “drug dependent persons” and “such other persons as provided for by the law”.

This creates two problems. First, drug dependent persons already have dedicated legislation in the form of the Drug Dependent Persons (Treatment and Rehabilitation) Act, No. 54 of 2007. The Community Based Corrections Act, No. 46 of 1999 also provides for a court supervised community based correction scheme. Introducing a new regime for rehabilitation instead of improving the two comprehensive ones which exist is clearly unnecessary.

Second, except for the people who fall under these two Acts, “such other persons as provided for by the law” is an unidentified category. If it passes the Bill, Parliament would essentially be authorising the creation of rehabilitation centres without knowing who will be sent to them.

Alarming, there is nothing preventing the Government from passing later legislation which identifies these “such other persons”. They could be any category of persons that the Government wishes to target, including those the Supreme Court suggested removing from the Bill. At that point, it would be even more difficult to challenge such referential legislation. In this light, Parliament is well advised to respect the spirit of the Supreme Court’s ruling that the Bill is unconstitutional as a whole.

Torture as rehabilitation

A significant concern with the original Bill was that it effectively legalised torture. Unless done “without reasonable cause”, it made it legal for rehabilitation centre employees, who can be called in from the military, to “strike, wound, ill-treat, or wilfully neglect any person under rehabilitation”. It further permitted “all such means including minimum force” to be used to “compel obedience”. The Bill also allowed administering narcotics, dangerous drugs and psychotropic substances if “authorised”; and subjecting persons to forced labour.

Among these provisions, the Supreme Court has only recommended removing “without reasonable cause” and “all such means”. This means that persons sent to rehabilitation centres can still be subjected to “minimum force”, “authorised” narcotics and forced labour. If this is what is legally allowed, one can only imagine what will actually happen at the rehabilitation centres, especially given that they are not judicially supervised. The Bill and the Government appear to be wholly unconcerned with actually rehabilitating the individuals sent to rehabilitation centres or treating them humanely.

Rehabilitation or repression?

Understanding these glaring shortcomings in the Bill is particularly important in light of the heated debate over drugs, which has dominated public discourse since the Bill was introduced. The Government and its proxies, particularly in the media, have sensationalised the debate largely to justify the Rehabilitation Bill.

Beyond the spectacle of inspecting schoolchildren for drugs however, substance dependence is a serious and complex health issue that requires a multidisciplinary approach. As highlighted by numerous Sri Lankan healthcare professionals critiquing the Bill, successful rehabilitation requires a drug dependent person fully consenting to and receiving personalised, sensitive treatment by trained medical and psychological professionals. Modern best practices in addiction psychiatry and public health recognise that community based voluntary treatment options work far better than the mandatory, securitised approach to rehabilitation that the Bill promotes.

Yet, by persisting with the Bill and its archaic approach to rehabilitation, the Government simply shows what little interest it has in actually offering proper rehabilitation services to drug dependent persons. Militarised rehabilitation centres with the likelihood of ill treatment and torture, as well as the stigma generated by the corrosive debate on drugs, will discourage any drug dependent person from taking up rehabilitation.

The actual purpose of the Bill has been painfully apparent from the start, which is to create another method to target, detain and torture those that the Government sees as being opposed to it. This was confirmed explicitly by State Minister of Justice and Prison Affairs Anuradha Jayaratne, who recently stated that rehabilitation centres are being set up to repress trade unions and student unions engaging in “terrorism”. Government MP Namal Rajapaksa has also repeatedly called for “rehabilitating” young “aragalaya” (the people’s struggle) protestors.

As the economic crisis continues to unfold, and the Government’s economic policies hit the poorest, the ranks of dissent and opposition will only grow this year. Instead of responding to such opposition in good faith, the Government plans to persecute them under a brutal process of “rehabilitation” while scapegoating vulnerable drug dependent persons in the process. If Parliament does vote for the Rehabilitation Bill, it will be rubber-stamping a Government which wants to take vengeance on its own people and marking another dark chapter in the 75-year legislative history of independent Sri Lanka.

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