

The State of Prison in Bangladesh: Disparities Between Law and Practices

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Abstract: Correction of offender is a very emerging issue in current situation of Bangladesh. Crime rate increases day by day. Our criminal justice system has failed to control the increasing crime rate. They also have failed to proper reintegration of offenders into the society. Prison plays a vital role for correction of prisoners. The Prison is administered by the prison authority who follows some legal statutes. Prison condition, reformation and rehabilitation of prisoners and the disparities between law and practices in correctional system are also the highlighting point of the study. The study based on secondary sources including intellectual articles, books, report of different NGO's and newspapers. Rights of prisoner are the most talked of topic not only in Bangladesh but also in the whole world. This paper describes existing rights of prisoners which is defined in various acts. The study has found, current prison condition is vulnerable for the reformation and rehabilitation of prisoners. Prisoners are abused in various ways by the prison authority. Without payment, prisoners don't get their minimum access to the rights which are protected by the law. Prisoners are being treated selectively based on their socio- economic status or political involvement. As a result, the rate of recidivism increases day by day. In the civilized world, the justice system has to ensure the prisoners right.

Keywords: Prison, Prison Reformation, Prisoner's Rehabilitation, Criminal Justice

1. Introduction

Correction of offenders in Bangladesh has been overlooked by the policy makers [4]. Not only that, the prison condition, imprisonment factors, other issues of health, food, sanitation and adjustment into the society are in dark for the national and international community [5]. The rate of offenders and recidivists in prison population of Bangladesh jails is 9:1 while in the UK it is 12:1, which is quite revealing and alarming [10]. The issue of prison condition is very important because it relates to the human rights of prisoners in correctional institutions [21]. It is also widely identified that most of the prisoners become recidivists after their release [16]. Correctional programs of offenders are dedicated to enhancing public safety with effective supervision of offenders [15]. There have no more correctional institutions except jail and some juvenile developmental institutions in Bangladesh. Prisons in Bangladesh is carried out the rules and acts as enumerated in

volumes 1 and 2 of Jail Code, formulated by colonial rulers during the 19th century. These rules and acts are included as the Prisons Act IX of 1894 [4]. In 1784 the East India Company was empowered to rule India by the British Parliament. During that era there were 143 civil jails, 75 criminal jails and 68 mixed jails [20]. One very important reason for studying the correctional system is that the number of prisoners is rising at an alarming rate [4]. Prisons are managed under the Prison Act of 1894 and a range of internally issued circulars, notices and orders form the Jail Code of 1920. Problem is that the rules are not updated through to our current demand. In India, Sri Lanka and UK different steps have taken by governments to prison reformation after 1970s [17]. But in Bangladesh, after 2002 there was no steps have taken by the government. It is important reason for studying the correctional system because the number of prisoners is rising at an alarming rate [4]. Overcrowding, malnutrition, unhealthy living conditions, corruption, drugs availability, violence are very common

scenario in Bangladesh prison [10]. Physical abuse of prisoners by guards is another chronic problem. Physical and psychological torture resulting from overcrowding, lack of proper separation of men and women, inadequate medical facilities, neglect in granting parole [11]. The utility of prison as an institution for rehabilitation of offenders and preparing them for normal life has always been a controversial issue [5]. Correctional institutions play a vital role on reducing re-offending and ensuring proper reintegration into the society. Though there are some limitations in our correctional system but we should overcome it [3]. Arbitrary and illegal detentions have become routine tools of our Criminal Justice System. Many people have been detained without any evidence of wrong doing and some may face credible charges and should be subject to prosecution [13]. We should remove disparities between our prison rules and its practices. International rules and Standard Minimum Rules of Prisoner's right should be maintained. This study focuses on disparities between law and practices in correctional system of Bangladesh. This study also analyzes current prison system, prisoner's right, prison reformation and prospects of prison reformation in Bangladesh.

2. Objectives of the Study

The objective of this study is to identify the current prison condition in Bangladesh.

Other specific objectives are:

- 1) To identify the disparities between law and practices in correctional system.
- 2) To know the prison conditions of Bangladesh.
- 3) To identify the disparities between law and practices in the section of administration, treatment and rehabilitation.
- 4) To analyze prison reformation system in Bangladesh.

3. Rationale of the Study

Mainly prison is used for the confinement of criminal which provides a correctional facility to them. Correction of offender is the main objective of imprisonment. Sufficient reformatory, rehabilitative and re-integrative programs and treatment of criminals should be taken. All of these correctional facilities are conducted in prison. But prisoners become involved in various criminal activity after their imprisonment throughout the world. In Bangladesh, it is a very serious issue because crime is increasing on a very alarming rate. Insufficient correctional facilities in prison cause improper reintegration of prisoners. Huge numbers of problems are arising in Bangladesh's prison. Both prisoners and prison authority are involved in various criminal activity like: corruption, violence, drug abuse. Moreover, overcrowding, insufficient and low quality of food, unhygienic toilet facility, death in prison are very common. For that reason prisoners become violent and they commit criminal activities after their release. It is significant to identify the prison conditions of Bangladesh. Prisoners are lives on a very vulnerable condition in prison. This study

analyzes different prison laws and their practices into the prison. Prisoners' rights are always violated by the prison authority and old prisoners. So, the reformation of prison is very essential in Bangladesh.

4. Methodology

In this study, the title has been selected with a view to explore the correctional system in Bangladesh. Especially, Disparities between Law and Practices in Correctional System of Bangladesh. In this study information collected from various intellectual articles, different national and international NGO's like: Amnesty International, Human Right Watch, Ain- o-Shalish Kendro, Odhiker and FIDH which are relevant to the topic. Several books have been studied for conducting this study. In this study there is also some intellectual articles from different newspapers. Generalization of the study prepared by the above sources of information.

5. Findings of the Study

5.1. Laws Relating to Prison System in Bangladesh

The purpose of correction through prison administration is that, prisoners become a law-abiding citizen of the state. Correctional institutions are mainly restricting prisoners from freely movement [18]. But when person enters into prison their must to ensure some basic standard of rights to prisoners.

5.1.1. The Prisons Act, 1894

The act provides the rights of the prisoners. Section 4 of the Act provides the sufficient accommodation for prisoners. In the case of female prisoners, it clearly states that, female prisoners shall be searched and examined by female authority. According to section 27 of the Act, the female prisoners, male, unconvict prisoners and civil prisoners shall be imprisoned in separate parts of the building. Every civil and unconvict prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent.

5.1.2. Article 10 of International Covenant on Civil and Political Rights (ICCPR) States That

All persons deprived of their liberty shall be treated with humanity. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation [9]. Prisoners must to enjoy their rights through some restrictions which are imposed by the law [24]. The reasons for ensuring prisoner's right are- proper socialization of prisoners and they can contribute to the positive development of the society.

According to article 7 of Declaration of the Rights of Man and the Citizen, no person shall be accessed, arrested or imprisoned except in the case and according to the forms described by law. But people not to be arrested without any legal statement. Under article 8, the law shall provide for search punishment only as are strictly and obviously

necessary and no one shall suffer punishment except it be legally inflicted in virtue of a law passed and promulgated before the commission of the offence.

5.1.3. Under Article 3 of the Universal Declaration of Human Rights in 1948:

It says everyone has the right to life, liberty and security. According to article 7, all are equal before the law and are entitled without any discrimination to equal protection of the law [25]. Article 5 states that, no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Everyone has the right to a standard of living adequate for the health including food, clothing, housing and medical care and necessary social services.

5.1.4. The Standard Minimum Rules for the Treatment of Prisoners

This rules by UN congress on crime prevention and offenders' treatment which is approved by Economic and Social Council (EcoSoc) in 1957. The benefits of this rules are-

- 1) Separate prison- sec 7 of the rules recorded that, the authority of every prison to keep a bound register where the detail particulars of the prisoners. Under sec 8 and 10 imposes that to keep different types of prisoners in different parts of the prison taking account of their sex, age and criminal record. Prison authority must to ensure separate prison for men, women, young and juveniles.
- 2) Living status- the Standard Minimum Rules shall meet all the requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.
- 3) Health and hygiene- prisoners shall be provided with water and other necessary equipments for health and cleanliness.
- 4) Food supply- Under sec 20 of the Standard Minimum Rules, every prisoner shall be provided nutritious food.
- 5) Communicate with family- Standard minimum rules further provide that, prisoners shall be allowed to communicate with their family under necessary supervision.
- 6) Religious activities- The Rules enjoy the prison authority to establish a library for the use of all categories of prisoners to perform their religious prayers.

To maintaining prisons, there are many legal statutes. To ensuring prisoners right ICCPR, Declaration of the Rights of Man and Citizen, 1789; UDHR; UN Standard Minimum Rules for the Treatment of prisoners are available. But in practice, these rules are violated by the prisoners as well as prison authority. In Bangladesh, violation of law seriously occurred in prison and it will be chance to commit further crime commission after their release.

5.2. Prison Conditions in Bangladesh

The prison condition is very inhuman in Bangladesh. The buildings of the prisons are old and some are not sufficiently

secured [11]. The current striped, coarse uniform worn by ordinary prisoners is considered most demoralizing [13]. Non-existence of pressure groups, indifferent attitude of lawmakers and bureaucrats and inattention of public media keep the prisoners into an unaware pervasive condition [2].

5.2.1. Administrative Conditions of Prison

Administration in Bangladesh is vulnerable. Because prison authority doesn't provides sufficient facility to the prisoners. According to Karzon [14], prison authorities in Bangladesh have failed to satisfy the Standard Minimum Rules for the Treatment of Prisoners set by the United Nations.

(i). Overcrowding

Though there are 80 jails in our country but 16 of them are not functioning. In remaining 64 jails there are 46444 prisoners. Whereas total capacity of Bangladesh prison is 21581 [10]. Of them 31020 are under trial prisoners and only 13178 are convicted prisoners. Under dormitory rules, each prisoner is entitled to 36 sq. ft. of floor space. However, overcrowding has reduced the space available per prisoner to 15 sq. ft [24].

(ii). Corruption

Sufficient food, clothing etc. do not reach in their hands due to the misappropriation of the prison authority [12]. They create artificial scarcity and prisoners' can buy these with cash payment [12]. All types of narcotics and deadly weapons are available within the prison. Rich and influential prisoners can buy them in exchange for cash payment [13].

(iii). Prison Laws Applied Selectively

The government has granted parole to a 'VIP prisoners', on humanitarian grounds, mostly to attend funerals and last rituals of relatives [13]. The report finds that, no 'ordinary' prisoner was granted such parole.

5.2.2. Drugs Availability in Prison

Prisoners get drugs from the jail authority. A report by Odhiker [10] published that, in 16th December 2009 one of the main habildar of the jail has been arrested during the time of providing drugs to the prisoners. One jail authority also arrested with 20 'Yaba tablets'. In the Dhaka Central Jail, there are 9000 prisoners where 900 are women prisoners involved in drug related offences.

Above points mentioned that, prisoners are victimized by the prison authority in current prison administrative structure. Without cash payment, prisoner's doesn't fulfil their need. According to Odhiker report, all the prisoners are not treated equally. Even prison officials are providing drugs to the prisoners. By the cause of overcrowding problem, prisoners face a serious accommodation problem. One of the major problems is that, under trial and convicted prisoners are live together in a same cell.

5.3. Prison Environment

In Bangladesh, prison environment is not favorable for

prisoner's proper rehabilitation. From 1973 to 1975, huge number of people were sent to prison for political reasons. For that reason, the capacity of prison had increased 4 or 5 times [19]. First prison strike had occurred in 1976. 12 prison strikes had occurred between 1976 and 1977 [15].

5.3.1. Food, Health and Hygiene

The prisoners are served with so low quality of food and chronic blood dysentery has been a common disease of the prisoners [12]. Kanak and Chowdhury [13] specify in their paper is that, most of the prisoners suffer from malnutrition and has negative impact on the health and hygiene.

5.3.2. Death in Prison

The unhygienic conditions and absence of medical care mainly causes death in prison [8]. Between 1 January and 30 June a total of 41 persons reportedly died in the jail custody. Among them 40 prisoners passed away due to illness [11]. Akhter [4] mentioned in her paper, a person was in remand under police custody for 3 days and during interrogation he claimed to be sick and was sent to jail where he died on the 3rd day in remand.

5.3.3. Women in Prison

The women prisoners suffer from huge discrimination and ignored. Resettlements after imprisonment become difficult for women. Women goes to jails that they do not want to come out of it [10]. Regular harassment of female prisoners and demanding bribes are very common practices in Bangladesh prison. Women in prison become abused and maltreated by prison authority [15]. Prisoner rehabilitation program hampered and politicization is a huge problem. In case of women, it will be very difficult for their proper rehabilitation. Insufficient medical care, low quality of food and chronic disease causes death in prison. Under the current prison environment, it will be very difficult for proper rehabilitation of prisoners.

5.4. Prisoner's Right

Prisoner's rights became violated in prison from the early independence of Bangladesh. Prison population is about three times above capacity, resulting in inhumane living conditions [14]. The maintenance of proper health and hygienic practices nearly impossible for prisoners' hospital facilities and services inside prisons are also reportedly inadequate [6]. The high level of official's confidentiality cuts off information about the conditions of inmates in Bangladeshi prisons. Non-existence of pressure groups, indifferent attitude of lawmakers and bureaucrats and inattention of public media keep the public unaware of the pervasive conditions inside the prisons [19]. The rights of women and children are violated in correctional system in Bangladesh. Children are separately stays in prison and their judgement occurred together with the adult offenders [19]. Without payment, prisoners don't get their minimum facility into the prison [6]. Current prison condition in Bangladesh is a complete violation of prisoner's right. As well as prison authority, prisoners also violate prison laws. Prisoners are

involving in various illegal activities in prison. On the other hand, prisoners are victimized in different ways by the prison authority. Under current prison condition it assumes that, the rate of recidivists will be increased in future. For that reason, it will be hampered on proper reintegration of prisoners into the society.

5.5. Disparities Between Law and Practices

The rights of the prisoners are becoming descriptive issues not only in Bangladesh but also in the whole world. The rights and privileges mentioned in the law for the prisoners have not been made available. Kanak and Chowdhury [13] mentioned that, proper monitoring and effective measures for the prisoners should be taken by the state. And should raise voice against the negative and inhumane attitudes to the prisoners.

Though it is said to ensure separate prison according to sex, age and criminal records. Separate prison must to ensure for men, women and juveniles. But in Bangladesh, all of these are ignored. Overcrowding is one of the serious problems in Bangladesh prison which is increasing day by day. Convicted and under trial prisoners both are live together in a same cell. Lack of space in prison, prisoners have to sleep by maintaining shifts. These are the violation of legal rights of the inmates. Prisoners eat their meals under the open sky, rain or shine. Only financially capable prisoners enjoys all facilities in prison. But all are treated equally in prison which is declared in our constitution and other national and international legal statutes. overcrowding, malnutrition, unhygienic condition and absence of medical care causes death in prison. Torturing is a common practice in prison. But it is strictly restricted by different legal statutes. In case of abusing drugs, prison authority becomes directly involve in it. Among all prisoners, 30 percent are involving in drug business and also being addicted. Inmate on inmate violence is the result of carelessness of prison authority.

International standards are not maintained in Bangladesh prison. UN Standard Minimum Rules for the Treatment of Prisoners emphasizes that, separate prison, living status, health and hygiene, food supply, communicate with family and religious activities of prisoners. But in our vulnerable prison condition these standards are not maintained. In Bangladesh, prison laws are applied selectively. Prison authority only give priority to the VIP prisoners. But UDHR, 1948 entitled that, all are equal before law and entitled to equal protection of law without any discrimination. ICCPR prioritize the reformation and social rehabilitation of prisoners. But in our current prison condition, reformation and rehabilitation of prisoners are not emphasized. Because sufficient treatment and skill development programs are not available in prison. Prisoners in Bangladesh suffering from accommodation problem. Female prisoners are vulnerable. But Prisons Act, 1894 specifies space allocation of prisoners and female offenders are imprisoned in separate cell of the prison [24]. Problem is that sometimes female prisoners sexually abused by prison authority.

5.6. Treatment and Rehabilitation of Prisoners

Reintegration of prisoners into the society is very important through proper treatment in prisons [1]. Various jobs and skills training opportunities are made available for prisoners in industrial bakery, laundry, call centre skills and even digital media design in USA, Canada, Japan, England, Singapore, France and Malaysia. But all of these facilities are not available in Bangladesh. Prisoner faces the challenges of finding a new job, adapting to a different lifestyle on the outside after served a long sentence [16].

In Bangladesh, the government's take initiatives to improve prison conditions include reconstruction projects and budget allocations for construction and reconstruction of 34 existing prisons throughout the country [12]. It has also introduced improvements in jail conditions in certain places, for example: Moulvibazar Central Jail authority reportedly undertook some income generation, skill development and education programmes for prisoners [11].

A garment factory having 26 knitting machines was established in the Dhaka Central Jail which was inaugurated on 3 November to develop skill and rehabilitation of the prisoners [10]. Though some rehabilitative facility provides to the prisoners but it is not sufficient. Income generation, skill development and educational programmes are not providing to all the prisoners. As a result, a prisoner faces difficult challenges to get a good job after his or her release. Re-entry into the community or family acceptance is not happened properly. So, sufficient treatment and facility must to provide in prison for proper rehabilitation of prisoners.

5.7. Reformation in Correctional System

Crime and recidivism has a very critical measure into the criminal justice system of Bangladesh. UNODC [12] believes that, effective prison reformation depends on the improvement of criminal justice policies including crime prevention and sentencing policies. Treatment of offenders should made available to vulnerable groups in the community.

Bangladesh is far behind in conforming to international standards for prisons. But some steps have taken to the reformation of Bangladesh prison system. According to section 6 of the Law Commission Act, 1996 government seeking opinion and recommendations of the Law Commission on 8 specific recommendations made by the Jail Reform Commission, 1978, for prison reforms. The eight recommendations of the Jail Reform Commission are-

- 1) Alternative to imprisonment (bail, conditional discharge, suspension of sentence, probation, binding-over, fines, community service order, compensation, restitution, etc.).
- 2) No risk of non-appearance of the offender at his trial.
- 3) Power to grant bail involving non-bailable offences.
- 4) No person should be detained without trial for an indefinite period.
- 5) The number of the prosecution agencies should be increased.
- 6) Removal of undue delays in holding criminal trials as

contained in Chapter II of the Report of Law Committee, 1976 should immediately be implemented.

- 7) Separate and exclusive institutions for juvenile and young trial.

- 8) The Children Act of 1974 should be amended [22].

The Jail Reform Committee totally provides 186 recommendations for prison reformation in Bangladesh. But only 25 recommendations from the draft are fully implemented and 19 drafts are partially. British colonial legal statutes, lack of qualified manpower, money and training of prison authority are the main barrier for the implementation of drafts recommendation. A draft Jail Code approved in 2008 by the Special Prison Committee. This provides "open prisons" and "camp prisons" allows taking decisions for allocation or cancellation of status or division to prisoners and also provides separate toilet facilities for inmates.

6. Conclusion

Successful correction of offenders relates with the conflicts between legal systems and chances of reoffending. Because crime prevention and control are the main target of the whole criminal justice system. But it is true that, there is not sufficient attention pays to our correctional institutions by the government and other authorised people. Imprisonment in Bangladesh is not linked with the rehabilitation of prisoners [15]. Bangladesh's prisons are overcrowded with people who have yet to be convicted or awaiting trial. The lack of space impacts upon resources available for rehabilitation. There is only very basic education available in Bangladesh prisons and the availability of work or vocational training is inconsistent. Bangladesh alone not facing challenges regarding prison reform. Typically, South Asian criminal-justice systems are still governed by colonial-era laws. Despite these issues, the Government of Bangladesh need to commitment to improving the situation in prisons and to consider the overall reformation of the criminal justice system.

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