

Victimization of Prisoner in Bangladesh: A General Overview

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Abstract: Prison shelters and rehabilitates certain people. A prison confines people. The Prison Act, 1894, based from England's Prison Act of 1877, governs Bangladesh's prison system. English colonists erected most of the country's jails. According to the Act of 1894, a jail house is a state-run facility or complex of buildings that houses criminal defendants and those awaiting trial temporarily or permanently. Fairchild defines a jail house as a state or federal institution that houses adult offenders serving more than a year. The prison is a jail. This facility punishes offenders and antisocial. This study argues for revising the village court statute and for the government's proper monitoring, supervision, resources, and readiness to conduct effective restorative justice in Bangladesh. The state should monitor and enforce prisoner rights, and males should speak out against disrespecting and disregarding convicts.

Keywords: Victimization, prisoner, causes of victimization, torture.

1. Introduction

The rights of the prisoners have become the most descriptive issue not only in Bangladesh but also in the whole world. Unlawfulness and criminal behavior are obstacles to the development of a society and a country; hamper the rule of law and democracy; and adversely affect the movement for peace. To prevent and restrain offenders, the concept of a prison system was introduced by the British colonizers in this sub-continent in the 18th century. At that time, the prison system was used as a means of punishment. Later, the Congress Party demanded a change in the concept of prisons from an 'Institute of Punishment' to an 'Institute of Correction'. As a result, the 'Prison Reform Committee' was established in 1920 which recommended that prisons should be used as 'Correctional Institutes' rather 'Punishment Institute' (Wahhab, 2009). Since then the concept of prisons in this subcontinent has been realized as 'Correctional Institutes'. However, the practical experience is that the

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prisons in Bangladesh are no more than punishment institutes, where mental and physical tortures of inmates occur. However, before discussing the victimization of prisoners in Bangladesh, Prisoners and Human Rights, we have to know the laws under which the Prison System is governed. Basically, the Prison Act, 1894; the Prisoners Act, 1898; the Jail Code of 1837 are the main laws and regulations which govern the Prison System in Bangladesh to date. The Criminal Procedure Code, The Penal Code, The Police Act, The Civil Procedure Code, The Special Powers Act are broadly exercised in the Prison System in Bangladesh as well (Sarker, 2013).. This study found that, the most important issues of victimization of prisoners in Bangladesh is the huge backlog of cases, relative ignorance and lack of confidence and legal awareness of the service seekers and providers, lack of monitoring and supervision of the court activities, negative attitudes and perceptions towards legal institutes and absence of legal aid and support. This study argues for the necessary amendments of the village court act, proper monitoring and supervision of the government, resources and preparedness as well as the responsiveness of all stakeholders that can ensure effective restorative justice in Bangladesh. Proper monitoring and effective measures for implementation of rights for the prisoners should be taken by the state as well as the consciousness of man may be awoken to raise the voice against the disrespect and neglecting attitude to the prisoners.

2. Victimization

A victim is a person who suffers direct or threatened physical, emotional or financial harm as a result of an act by someone else, which is a crime (University of the PACIFIC). Generally, we know that victimization means an unwarranted singling out of an individual or group for subjection to crime, exploitation, tort, unfair treatment, or other wrong. Victimization is the process of being victimized or becoming a victim. The field that studies the process, rates, incidence, effects, and prevalence of victimization is called victimology. It is an unwarranted singling out of an individual or group for subjection to crime, exploitation, tort, unfair treatment, or other wrong (Crawford, 2010).

Victimization is defined as causing someone to be treated unfairly or made to feel as if he is in a bad position (Online Dictionary). Victims of crime may be any gender, age, race, or ethnicity. Victimization may happen to an individual, family, group, or community; and a crime itself may be to a person or property (Parsons, 2008). The impact of crime on an individual victim, their loved ones, and their community depends on a variety of factors, but often crime victimization has significant emotional, psychological, physical, financial, and social consequences (Schichor,

Tibbetts: 2002). Secondary victimization refers to behaviors and attitudes of social service providers that are "victim-blaming" and insensitive, and which traumatize victims of violence who are being served by these agencies (Parsons, 2008).

3. Prisoner

Prison is a place properly arranged and equipped for the reception of persons who by legal are committed to it for safe custody while waiting for or for punishment. The nomenclature prison identifies description of imprisonment .the graphic and realistic description of prison illustrates the society's acknowledged pessimism of penal process, authoritarian control and forced isolation from the society. In other words, prisonization symbolizes a system of punishment and also a sort of institutional placement of under trials and suspects during the period of trial. Since there cannot be a society without crime and criminals, the institution of prison is indispensable for every country (Paranjape, 2008-2009). Prison, an institution for the confinement of persons who have been remanded (held) in custody by a judicial authority or who have been deprived of their liberty following conviction for a crime (online Dictionary). On the other hand, a person found guilty of a felony or a misdemeanor may be required to serve a prison sentence. A person also known as a correctional facility, jail, penitentiary, detention center, remand center, or interment facility, is a facility in which inmates are forcibly confined and denied a variety of freedoms under the authority of the state. Prisons are most commonly used within a criminal justice system people charged with crimes may be imprisoned until their trial; those pleading or being found guilty of crimes at trial may be sentenced to a specified period of imprisonment. According to Section 3(1) of the Prison Act, 1894, prison means any jail or place used permanently or temporarily under the general or special orders of government for the detention of prisoners and includes all lands and buildings appurtenant there to.

4. Present Situation of Victimization of Prisoners in Bangladesh

A preliminary investigation report by Odhikar (A coalition for human rights) found that the condition of the prisons and their inmates in Bangladesh are deplorable. In all the prisons, especially in the old, ill-equipped ones, over-crowding, poor hygiene, almost non-existent sanitation facilities, lack of proper health care combine with corruption to create a nightmare scenario. Furthermore, inmates are sometimes denied visiting rights or their family is turned away at the jail gate if they are unable to pay bribes. They suffer further humiliation in the fact that within 24 hours their numbers are counted several times. The problem of overcrowding is mainly due to the delay of holding trial, as the number of under-trial prisoners is very high. Just

how bad the situation is in the jails in Bangladesh today can be seen from the table below:

- There are 16 Thana Jails in all over the country where actual accommodation capacity is only 480 but at present there is no inmate in the Thana Jails. Thus, out of the total of eighty jails in Bangladesh, the District jails and Central jails are appallingly overcrowded, while the thana jails remain empty.
- At present 582 of the inmates in Bangladesh's jails are foreigners. Out of this number, 19 are women. These people have either been awarded release orders by the court or have already served their conviction and sentence. Unfortunately, they are rotting inside prison due to technical problems which could be solved easily by the respective governments. Needless to say, these inmates are passing their days in miserable conditions. There are also many Rohingya women and children in different prisons in the country who are yet to face trial under the Foreigners Act as illegal trespassers.
- Different classes of prisoners are kept in separate cells and wards divided into the convicted, the under-trial, the detenu and male and female. This is in accordance to the rules and regulations. However, in spite of all these rules, Odhikar found that some prison officials were abusing the inmates, torturing them in order to extort money. Those prisoners who have money and influence are living in comparatively better conditions.
- In prison parlance 'division' is translated into 'social standing and esteem'. A person's social standing would determine which 'division' he or she would be placed in. Sometimes, the divisions are determined by a court order. Political, administrative and financial factors also play a role in the determination of division. There are mainly two Divisions in the prison - namely I and II.
- The elite and financially affluent and high ranking persons are kept in the first division while the rest are kept in the second. It is therefore obvious that from jail gate to prison kitchen, those who can afford bribes can have a comfortable life in the prison.
- Prison security in some jails also needs to be questioned. It is not only corruption that is affecting the jail system, but also the inattentiveness of the prison guards. Recently, nine inmates of Sherpur District Jail tried to escape. Two managed to find freedom. Among the others, one was killed. Investigators from Odhikar found that escape had been made simple due to the lapse in security measures.

5. Causes of Victimization of Prisoners in Bangladesh

The total annual budget of our Prisons is only Tk.90 crores. Out of this amount, the salaries of the numerous prison staff, the food, clothing and other expenses of over 61 thousand inmates for 365 days are covered. Given the disparity between the budget and the expenses it has to cover, anybody can easily presume the real situation of our prison system and the quality and quantity of food, medication and clothing the prisoners actually receive. For example, if we calculate only the cost of food for an average 61 thousand inmates for 365 days, at the rate of Tk.50 per head per day, then the amount comes to Taka 11, 132, 50,000. One can therefore imagine that with the over-crowded cells, poor hygiene, sanitation and ventilation facilities, sub-standard food and administrative corruption, an ordinary prisoner's life is one of complete desolation and ill-being. The rising number of imprisoned people in Bangladesh is exhausting the limited resources available at the prison facilities. The total prison population (including pre- trial detains/remand prisoners) at present is 83,136. The high level of official confidentiality cuts off information about the conditions of inmates in Bangladeshi prisoners. By baring human rights groups, the media, and other outside and independent observer access to the punitive facilities, government policy makers and prison officials shield prevailing substandard conditions from public comprehension and critical inquires (Van & Strong, 2010).

5.1 Overcrowding Prison

In the recent past, overcrowding of prisons has worsened significantly. Although there are 80 jails in the country, 16 of these are not yet functioning. And whereas the official capacity in the remaining 64 jails is 21,581 prisoners, the actual prison population was about 46,444. Of these 31,020 were under trial i.e. detained prior to conviction, while only 13,178 (less than one third) were convicted prisoners. This is considered to be one of the main causes of human security violations in Bangladesh. Moreover, floor space allocation bears witness to the poor conditions in which prisoners are kept. Under dormitory rules, each prisoner is entitled to 36sq.ft. Of floor space; however, overcrowding has reduced the space available per prisoner to 15 sq. ft. In certain wards, prisoners have to sleep in shifts owing to lack of space. Finally, life in prisons is made worse by the smell of carbon dioxide, nicotine, sweat and urine emerging from uncovered urinals, which create an unsanitary atmosphere inside the congested wards. These are painful examples of denial of the legal rights of inmates (Wang, 2008).

5.2 Food, Health and Hygiene

Prisoners are served with so low quality of food that they fall sick after consuming those foods. Chronic blood – dysentery has been a common disease of the prisoners in all the jails of Bangladesh. At most all of them suffer from malnutrition, obviously the inadequate quantity of food being the reasons. The overall condition has negative impact on the health and hygiene of the prisoners. Furthermore, the manner in which the prisoners are required to eat their meals sitting on the ground under the open sky, rain or shine is unacceptable.

5.3 Corruption of Jail Authority

Corruption has become a common phenomenon of all the Jails of Bangladesh. The food, clothing etc. allocated to every prisoner do not reach in their hands due to the misappropriation of the prison authority. They create artificial scarcity and turn prisoners' right and basic needs into rare commodities, which one can buy with cash payment. If anyone visits prison, s/he will find inadequacy of food, and other necessary elements, but financially capable prisoners enjoy all types of facilities remaining incarcerated within the boundary of the prison. All types of narcotics and deadly weapons are available within the prison and rich and influential prisoners can buy them in exchange for cash payment.

5.4 Prison Laws applied selectively

In the first of the year 2008, Odhikar expressed its concern about the use of judicial process for other purposes whereby the government orchestrated the release of high profile prisoners arrested as part of its campaign against corruption. Since the imposition of the State of emergency and launching of an anti- corruption campaign, the country's jail was quickly filled. According to reports 68 jails of the country contain 87,579 inmates, more than three times the combined capacity of 27,368 of these jails.

5.5 Death in Prison

A very predictable result of overcrowding, malnutrition, unhygienic conditions, and absence of medical care is the spread of contagious diseases, often leading to premature disability and deaths in prisons. Tuberculosis continues to devastate prison populations around the world, and there is no reason why its havoc should be any different in Bangladesh. Sick inmates carrying virulent pathogens, infect other new prisoners, and constitute a serious threat to public health when they are released. It is important to keep a prisoner with a contagious disease in quarantine, or in a separate cell. Lawmakers should introduce a bill to allow inmates in the late

stages of terminal illnesses to return home to their families. Between 1 January and 30 June a total of 41 persons reportedly died in the jail custody. Among them 40 persons passed away due to illness. It is reported that 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 (Siddiqui, 1995).

5.6 Available Drugs

At the recent time which news were focused in the newspaper regarding the jail authority that prisoners easily get the drugs from the jail authority. In 16th December 2009 one of the main habildar of the jail has been arrested during the time of providing drugs to the prisoners. Two months ago, one jail authority also arrested with 20 'Yaba tablets'. In the Dhaka Central Jail, there are 9000 prisoners where 900 are women prisoners. From the source of prison, among the women prisoners half of them are engaged in the business of drugs or addicted drugs. Among the total prisoners 30 percent are totally engaged in carrying of drug business and also addicted.

5.7 Violence in Jail

Violence is common at the prisons. Inmate-on inmate violence is an unsurprising result of official slackness. By neglecting to take charge of the inmates within their facilities, by failing to act in response to incidences of violence, by wickedly allowing the entry of armaments into the prisons, by generally abetting the domination of the strongest prisoners over the weakest, prison authorities are directly liable for the violence.

5.8 The Problem of Discipline

The problem of prison discipline has always been engaging the attention of penologists throughout the world. The main object of prisonisation is undoubtedly negative insofar as it aims at generating a feeling of dislike for prison life among the members of society, the object being to dissuade people from doing acts which may lend them into prisons. Prisoners lead their life with rigid discipline, provision of bare necessities, strict security arrangements and monotonous routine life. Although with the modern facilities available to inmates, the rigorous of prison life are considerably mitigated nevertheless they are likely to become restive if not kept under proper discipline. This is yet another reason to justify the need for strict discipline in prison.

6. Concluding Remarks

Given the above circumstances, it is to be noted that we should develop our prison system to ensure the human rights and fundamental rights of the inmates in the prisons in Bangladesh. They too are citizens of the country and protected by the constitution. In 1980, the Justice Munim Commission Report suggested a total of 180 recommendations necessary to improve prison conditions. Out of this number, only 64 recommendations have been fully executed, 28 partly executed and 88 still to be implemented. According to Odhikar, in addition to these recommendations, the following measures should be taken immediately to improve the prison system and ensure the rights of prisoners: To issue sufficient and substantial annual Budget for the prisons; To construct the Prisons with sufficient accommodation capacity; To ensure immediate sufficient and standard medical, food, clothing and recreation facilities; To improve sanitation and ventilation facilities; To make ensure speedy trials to decrease the number of under trial prisoners; To ensure education, legal awareness and right to work of the inmates; To ensure free visiting rights of relatives; To make the prisons correctional/reformative institutions; To implement parole, probation and after care services; To give proper wages to persons under rigorous imprisonment, for their labour; To ensure the recruitment of the Inspector General of Prisons from a departmental candidate; To try the corrupt officials in the prisons and ensure prisons remain corruption-free; To give proper human rights training to the prison administrators and others concerned and to the prisons as well. Undoubtedly, the condition of modern prisons is better than that in the past but still much remains to be done in the direction of prison reforms for humane treatment of prisoners. The treatment of prisoners should be in accordance with the constitutional mandates to secure them the basic rights (Coyle, 2001). For the improvement and so that the modern purpose of punishment can be achieved that is the reformation of the prisoners, there is no alternative but serious attention has to be paid by the society. It must be conceded that the great majority of individuals sentenced to imprisonment want to return to society as law-abiding citizens and only few are definitely anti-social and have no intention of changing their lawless ways after their discharge. Therefore, in order to make the prison life less abnormal and provide better opportunities for rehabilitation of those prisoners who behave well and who are not believed to be dangerous to their fellow-men, they should be granted regular furloughs in order to visit their families frequently. It must be realized that cure for crime lies not in incarceration of prisoners but only in speedy criminal justice by ensuring certainty of punishment rather than its severity.

References

- Angel, C. et al. (2006). Effects of Restorative Justice Conferences on Post-traumatic Stress Symptoms among Robbery and Burglary Victims: A Randomized Control Trial.
- Coyle, A. (2001). Restorative Justice in the Prison Setting -A Paper Presented at the Conference of the International Prisons Chaplains' Association.
- Crawford, A. (2010). Restorative Justice and Crime Prevention: Presenting a Theoretical Exploration, an Empirical Analysis and the Policy Perspective-Conceptual [Accessed 16 02 2019].
- Daly, K. (2006). Restorative Justice and Sexual Assault: An Archival Study of Court and Conference Cases. *British Journal of Criminology*, 46(2), pp. 334-356.
- Hayes, H. & Daly, K. (2003). Youth Justice Conferencing and Reoffending. *Justice Quarterly*, 20(4), pp. 725-764.
- Hayes, H. & Daly, K. (2004). Conferencing and Re-offending in Queensland. *The Australian and New Zealand Journal of Criminology*, 37(2), p. 167–191.
- N. V. Paranjape, *Criminology and Penology*, 13th ed.(Allahabad: Central Law Publications, 2008-09), p. 374.
- Ness, V. and Strong (2015). *Restoring justice: An introduction to restorative justice*, 5th edition, London and New York: Rutledge.
- New Zealand Ministry of Justice (2011). Reoffending Analysis for Restorative Justice Cases: 2008 and 2009. Available at:<http://www.justice.govt.nz/publications/global-publications/r/reoffending-analysis-forrestorative-justice-cases-2008-and-2009/summary> [Accessed 19 02 2019].
- Restorative Justice Council (2013). What is Restorative Justice? Available at: http://www.restorativejustice.org.uk/what_is_restorative_justice/#.Uf0G0pK1EaA [Accessed 16. 02. 2019].
- Robinson, G. & Shapland, J. (2008). Reducing Recidivism: A Task for Restorative Justice? *British Journal of Criminology*, 48(3), pp. 337-358.
- Rahman, M M. (1985), A Study of Two Village Courts, *The Journal of Local Government*, 14(2).
- Sarker, N. I. (2013). An Evaluation of Village Court: A Study on Selected Village Courts Bangladesh, BRAC University.
- Shekhar, B (2002), Restorative Justice – An Alternative to Existing Retributive Justice System, *Social Defence*, 53(152).

Shapland, J. et al. (2008). Does Restorative Justice Affect Reconviction? The Fourth Report from an Evaluation of Three Schemes, London: Ministry of Justice.

Siddiqui, K (ed.) (1995), Local Government in South Asia- A Comparative Study, University Press Limited, Dhaka.

Sheikh Hafizur Rahman Karzon, Theoretical and Applied Criminology, 1st ed. (Dhaka: Palal Prokashoni,2008).

Ahamed Siddique, Criminology and Penology, 6th ed. (Lucknow: Eastern Book Company, 2009).

Van Ness, D. (2002). The Shape of Things to Come: A Framework for Thinking about a Restorative Justice System. In: E. Weitekamp & H. Kerner, eds. Restorative Justice: Theoretical Foundations. Portland: Willan Publishing, pp. 1-21.

Van Ness, D. & Strong, K. (2010). Restoring Justice, New Providence: Matthew Bender & Company.

Wang, J. (2008). Victims of Crime in Taiwan's Criminal Justice System. In: W. Chan, ed. Support for Victims of Crime in Asia. Abingdon: Routledge, pp. 222-239.

Wahhab, M A. (2009). Gram Adalat in Bangladesh: Theory and Practice, in Singh, A and Zahid, N A (eds.), Strengthening Governance through Access to Justice, PHI Learning Pvt. Ltd, New Delhi.

Pasons, E. (2008). The Prisoners' Hidden Life or Insane Asylums Unveiled. London: Kessinger Publishing.

Shichor, D., Tibbetts, S. G. (2002). Victims and Victimization: Essential Readings. Waveland Pr. Inc.