

Protection of Women Prisoners' Rights in Bangladesh: A Critical Evaluation

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Abstract: Female criminality is not a new concept in our country. The rate of incarcerated female offenders is increasing day by day. Due to their biological structure, they need some special care and attention sometimes. But it is the reality that, when women are in prison, they just lead a miserable life, which is not only inhuman but also degrading to human dignity. However, a few decades ago women in criminality and women in prison were very unusual phenomena in society. But it is an unpleasant truth that only a few women engaged in criminality for their own involvement, but most of them engaged themselves for others. Due to patriarchal social conditions, domestic violence, poverty, illiteracy, and lack of ethical knowledge are responsible for getting involved in criminality by women. During incarceration, women prisoners have to face so many problems such as insecure life, inadequate and malnutrition food, unsafe health and sanitary systems, outdated training and work facilities, inadequate reformatory training, and lack of rehabilitative initiatives. Backdated laws, traditional working facilities, outdated training, inadequate prison officials, and lack of infrastructure facilities are responsible for non enforcement of women prisoners' rights. To find out those major findings and ways to overcome the impediments, the qualitative and quantitative approaches have been applied. As a result, some recommendations have been presented such as amending the existing legal framework, recruiting an adequate number of female officials, inaugurating updated training facilities, maintaining a separate prison house, and addressing a reformatory approach to rehabilitate the offender into the mainstream of society. The concerned authority has to come forward to take proper initiatives to ensure the rights of the women prisoners, which would help to ensure the rights of the women prisoners and enable them to lead a better life.

Keywords: Women Prisoners, Protection, Human Rights, the legislative framework for women prisoners.

1. Introduction

The women's community is always the suppressed sector of the family, society, and country.¹ Everywhere they are facing different kinds of problems in different stages

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of life in different way. Surprisingly, when a woman is the offender, they are hated by family and society. Consequently, when they are in prison, there are thousands of problems around them. A few decades ago, the crime of women was unknown.² However, there are many reasons behind the women's criminality. Sometimes, the socio-economic conditions and patriarchal system of the country influence them to engage in criminality. However, when a woman is in jail, they shall not be deprived of enjoying a human life. But the reality is not so. Here, it is to be noted that women's prisoner rights do not require something that is luxurious for them. But these are basic needs of healthier living. All over the world, women in prison suffer from intersecting discrimination and; are largely ignored in prison systems designed for men.³ The issue of women's incarceration in Bangladeshi prisons has been lagging behind the concentration on other general issues. Though, all men are born equal and are endowed by their creator with some basic rights. These rights are mainly the right to life and liberty. But if any person fails to comply with the law of the society, then he will be deprived of these rights with proper punishment.⁴ For this purpose, the offender can be detained in a separate place from his family and society to establish an example for others or to deter them from committing another crime and also provide an opportunity to rectify himself.⁵ When any individual is kept within the bars of the prison, it does not mean that he has lost his identity and curb human security, he is not deprived of the basic amenities such as food, clothing, medication, hygiene, and other living conditions. Here, reality is different in the case of a female prisoner.

The general methodological approach of this research work is grounded on a theoretical and practical approach. It is because the study proceeds to carry out qualitative and quantitative approaches. The prime concern of the study is assessing the condition of women prisoners. Here, it has also focused on the shortcomings of the existing legislation. So, the qualitative method has been considered as one of the ideal methodologies for this research. For this purpose, secondary sources such as Statutes and Acts, reviews of reported and unreported court decisions, books, journal articles, conference reports and newspaper reports have been undertaken. Similarly, State Reports, other UN bodies, international instruments, NGO reports, recommendations, websites, legal encyclopedias, declarations on the issue, internet sources, and other relevant publications related to cyber protection have been analyzed. Apart from this, quantitative method also has been employed to find out the real situation. So, primary data has been collected to undertake a quantitative

¹ Surina Tarzid and Asma Al Amin "Combating Violence Against Women in Cyberspace: A New Battlefield" (2018) *ELCOP Year Book of Human Rights*, p166.

² Rizvi Ahmad, *Theory and Practice of Criminology: Bangladesh Perspective*, (1st edition, University Publications, Dhaka.2016), p136.

³ Surina Tarzid, 'Gross Violation of Human Rights at Prisons in Bangladesh: A Critical Analysis' (2016) 9(1) *ASA University Review*, p 68.

⁴ Ponaian, *Criminology and Penology*, (3rd edition, Pioneer Books, New Delhi,1992), p138.

⁵ Sheikh Hafizur Rahman Karzon, *Theoretical and Applied Criminology* (1st edition, Polal Prokashoni & Empowerment Through Law of the Common People, ELCOP, Dhaka, 2016, p 288.

approach. For this purpose, a questionnaire survey has conducted among 10 women prisoners, and KII (Key Informant Interview) has conducted among 06 prison officials, 4 academics, 5 lawyers, and 5 judges.

2. Present Statistics of Women Prisoners in Bangladesh

From this perspective, the Bangladesh jail was established in 1971 after Bangladesh's independence. There are 68 jails in Bangladesh. Among those 13 are central jails and 55 are district jails in Bangladesh,⁶ with an official capacity of 34,167, resulting in an occupancy level of 204.4% also 3.4 % are female prisoners.⁷ Where all the prisoners are taken or accommodated. However, women prisoners are not differentiated from male prisoners, though there is a biological difference; that's why they need some special care in special circumstances. The statistics show that the involvement of women in criminality is increasing day by day e.g. in 1971 only 1.7%; in 2007 increased to 4.27%, 2017, where every 12 women in 100000 are engaged in criminality.⁸ Among them, almost 40% are engaged in serious crimes such as murder, battering, kidnapping, acid throwing, and 42.7% of women offenders are involved in drug trafficking.⁹ In Dhaka Central jail, there are 9000 prisoners of whom 900 are women prisoners. Among all the prisoners, 30% are totally engaged in the drug business, and also they are addicted.¹⁰ Recently, a report shows that 48% of the female criminals are between the age of 26-48 years and 36% are below the age of 25 years.¹¹ It is not only a matter of national concern but also an international concern. In 1990, Lord Justice Woolf of the United Kingdom made a report with recommendations on riots in six men's prisons, emphasizing major reform for the prison system of England and Wales. This report focused on the implementation of female prisoners' rights and female criminality with its consequences, where it was found the role of government to understand the gender-specific needs of the prisoners. Another reason for failing to neglect women's needs could be that they constitute an insignificant number of male offenders.¹²

That perspective in 2013, the Quaker United Nations Office (QUNO) started research on women's prisons to find out the reasons behind the increasing number of

⁶ "কারা অধিদপ্তর". এক নজরে বাংলাদেশ জেল <https://prison.gov.bd/site/page/fe59cbdd-ae6b-4df7-a619ec43bb639583/-accessed> 28th July 2024.

⁷ International Center for Prison Studies (ICPS) (2021) World Prison Brief Data. Birkbeck: World Prison Brief. > : <http://www.prisonstudies.org/country/bangladesh>>accessed on 15th October 2024.

⁸ Rizvi Ahmad (n 2), p 148.

⁹ *ibid.*

¹⁰ Staff correspondence, 'Karagare Yaba Uddar-11 dine o mamla hoini', *The Daily Prothom Alo* (20th September 2014) p 1.

¹¹ Rizvi Ahmad (n 2) p147.

¹² Tahsina Akhter, Women Prisoners in Bangladesh: Some Sociological Insights for Reform, Proceedings of SOCIOINT, 2014- International Conference on Social Sciences and Humanities.

women prisoners and to identify the conditions in which women prisoners in the world are kept around the world.¹³ Furthermore, draws close attention to the impact of women's imprisonment opposed to the men's, to encourage greater understanding and the development of appropriate responses.¹⁴ In 2014 QUNO published a preliminary paper, about the condition and treatment of women prisoners with children and children of imprisoned mothers. Consequently, QUNO addressed the issue of pre-trial Detention of women and its impact on their children and made several recommendations for alternatives to women's imprisonment in 2007.¹⁵ However, it is a matter of concern that women's criminality is increasing day by day due to the socio-economic and cultural status of the country. As a result, the number of women prisoners is increasing.

03. The Reasons Behind the Women's Criminality

Women always possess a very important place in a family. She may be termed as the pillar of the family. Because a woman contributes to the family in different status-such as –sometimes mother, sister, wife, and daughter. That's why a woman plays the role of the transmitter of tradition and gives a solid foundation to the family.¹⁶ Though they have a strong position or status, the sufferings of women do not in a home or outside. The prison system tends not to meet the needs of women prisoners, and women in prison are affected by imprisonment in a particularly harsh way. Human rights and the basic dignity of women in prison are systematically violated.¹⁷ From the very beginning, women are the main target group of the violators. Here, the problems of women change from age to age. It takes different colours and shades at different times. For these reasons, they change the track of their lives and engage in crime. The following factors are mainly responsible for women's criminality, such as *Firstly*, the family and culture are mainly responsible for increasing women's criminality because the family background and surrounding society influence women to commit crimes. Where biological, sociological, and psychological reasons influence to commit a crime by an individual.¹⁸

¹³ *ibid.*

¹⁴ *ibid.*

¹⁵ *ibid.*

¹⁶ Women in Criminal Justice System- Background paper for the workshop on women in the criminal justice system, Tenth UN Congress on the Prevention of Crime and the Treatment of offenders,2000.

The United Nations Charter 1945. <https://www.un.org/en/about-us/un-charter>.

¹⁷ *ibid.*

¹⁸ Madurima, *Women, Crime and Prison Life*, (1st edition, Deep and Deep Publication, New Delhi,2009) p 134.

Secondly, Poverty is another reason to engage women in criminality.¹⁹ When the male members of the family fail or are reluctant to afford the basic needs of the family members, then women engage in criminal activities.²⁰

Thirdly, the women come into criminality by their superior personality, i.e by husband, father, and brother. Because the structure of the society is patriarchal, where the male side always dominates to the inferior side, i.e women.²¹

Fourthly, violence towards women is a common phenomenon in society. Domestic and other sorts of violence also influence women to get involved in criminality. 70% of women offenders have suffered domestic violence,²² consequently, the frustrating life diverts them to engage in crime.

Fifthly, illiteracy is another factor. They do not know what their rights and duties towards family, society, and state. Though ignorance of the law never be excused, illiterate people are very dangerous. Who does not give a second thought to committing any crime?

Similarly, a lack of moral education is another factor in getting involved in committing a crime. They cannot just do what is right and wrong. When a human being diverges from the ration and morals there is no distinction between humans and animals. In our society, there is no system to nourish or educate the people with moral lesson. That's why women's criminality is increasing day by day.

03. The Legal Regime Protecting the Women Prisoners

Though the women are offender, but it should not be wise to forget that they are human beings. That's why they will not be deprived of getting or enjoying basic rights. Though reality is harsh, the law always focuses on their rights. There are many international and domestic instruments which protecting the rights of women prisoners. The law always promotes that all citizens are equal before the law and are entitled to equal protection irrespective of sex, race, and religion.²³ it is irrespective of whether prisoners are men or women, but it will be the main point to give equal protection to all irrespective of their sex. Because a human being has the right to lead a human life. That's why the law should provide protection of the law to every prisoner and all are entitled to get protection under the law.²⁴ So, it is the duty of the state to provide protection to all. Here, as a citizen, no one will be deprived of the fair and public trial so no one will be punished without a hearing and the judgment

¹⁹ Andrew Coyle, *A Human Rights Approach to Prison Management-Handbook for Prison Staff* (2nd edition, published by International Center for Prison Studies, United Kingdom, 2009) p 37 > <https://www.amazon.co.uk/Human-Rights-Approach-Prison-Management/dp/0953522156> accessed on 25th August 2023.

²⁰ Jahangir M.F Sethna, *Society and the Criminal* (5th edition, M.Tripathi Private Ltd, 1989) p 76.

²¹ Madurima, 2009 (n18).

²² Rizvi Ahmed (n 2) p 142.

²³ Art 27 of the Constitution of the People's Republic of Bangladesh (hereinafter referred to as Bangladesh Constitution), > available at <http://bdlaws.minlaw.gov.bd/act-367/section-24558>.

²⁴ *ibid*, art 31.

should be provided in an open court.²⁵ From that perspective, the constitution of Bangladesh prohibits all kinds of torture, cruel and inhuman treatment.²⁶ So, no prisoners will be subject to any sort of inhuman, degrading, and cruel punishment.

Besides the Constitution of the People's Republic of Bangladesh, some other laws are focused about the prisoners' rights and also concern giving protection to the prisoners; that's why women prisoners are not beyond the jurisdiction of such laws. It is true that, sometimes law gives some extra attention to the women prisoners, which they deserve for their physical and socioeconomic condition. Besides the Constitution, the Jail Code is the most important code to ensure the women prisoner's rights, where the authority is bound to ensure safe and secure living for prisons inside the jail.²⁷ This law also provides guidelines to the prison authority to ensure the safety and security of the prisoners.²⁸ So, to live a human life needs some basic amenities such as – bedding, clothing, medication, and balance diet, and a healthy atmosphere to live. This Standard Minimum Rules enjoins the authority of every prison to keep a bound register where the detailed particulars of the prisoners will be recorded according to.²⁹ The authority is under an obligation to keep the different types of prisoners in different parts of the prison. Here, authority may take account of their sex, age, and criminal record and requires the prison authority to keep untried prisoners separately from convicted prisoners, women from men and young prisoners from adults.³⁰ The right to privacy is very important for a female prisoner. No officer is authorized to enter a female ward without a female officer.³¹ Law also highlights sufficient clothing and bedding for the prisoners,³² which focus on comfortable and seasonal dresses and the food served to them must be enriched with nutritious value. Here it has been mentioned that there shall be a separate hospital for sick female prisoners within or directly adjoining to the female enclosure.³³ In another part of the law, it has been emphasized that the female shall be imprisoned in separate buildings, or separate parts of the same building, in such a manner as to prevent their seeing, or conversing or holding any intercourse with the male prisoners.³⁴ During the period of imprisonment, it should remind that Under trial prisoners shall be kept completely separated from convicted offenders, and habitual prisoners shall be separated from casual offenders. So, habitual offenders, prostitutes, and brothel keepers must also be confined separately. The adolescent

²⁵ *ibid*, art 39.

²⁶ *ibid*, art 35.

²⁷ The Prisons Act. No. IX (1894). s 4, Available from <https://ihl-databases.icrc.org/applic/ihl/ihl-nat.nsf/a24d1cf3344e99934125673e00508142/2b5>.

²⁸ *ibid*, s 8.

²⁹ *ibid*, s 7.

³⁰ Kanak, M.A, & Chowdhury, M.M (2014) The present Rights of Prisoners in Bangladesh: Disparity between law and practice, *International Journal of Social Sciences*, 20(1) p 28.

³¹ Jail Code 1864, r 950

³² Prisons Act, s 33 (n 27).

³³ jail code, r 945 (n 31).

³⁴ Prisons Act, s 27, (n 27).

girls shall not be confined with adult women prisoners or the above-mentioned women prisoners in any circumstances.

If any woman prisoners suffer any sort of physical problem, they may report to the officer immediately, where the officer calls the attention of the medical officer and shall carry into effect all written directions given by the medical officer.³⁵

It is very important to mention that the right to work³⁶ is the fundamental right of every human being; to lead a productive and valuable life, work is required for all. The authority may engage the female prisoners in productive work so that they not only earn but also pass quality time; that's why the authority may create space for women to earn and spend their time in a productive way. Here they introduce productive activities such as sewing, needlework and other domestic pursuits, in order to help them to become earning members of the family instead of becoming a burden of the family, so that they may engage in these activities.³⁷

In 2002, the Government set up a Ministerial Committee for Jail Reforms, headed by the then State Minister for Home Affairs. The committee held 13 meetings between 2002 and 2018 and made several recommendations.³⁸ The cabinet approved the draft proposals submitted by the Jail Reform Committee for amendment of 146 out of 1,388 articles in the Jail Code and withdrawals of 192 articles, some are given here

- a) Emphasized the appointment of a social welfare officer with a background in psychology or sociology.³⁹
- b) Pathologists, radiologists, lab technicians, and part-time dentists are required to provide medical treatment and dental care for the prisoners on an urgent basis.⁴⁰
- c) Allocate toilet bar soap and detergent packets adequately per month to ensure hygiene, because previously only soda was provided to the prisoners.⁴¹
- d) Reduce sentences to reduce the overcrowding.⁴²
- e) Hard labour should be stopped, like earth digging, brick breaking, and so on.⁴³
- f) Increase the quality of food and improve nutrition for all prisoners.⁴⁴

³⁵ *ibid*, s 55.

³⁶ *ibid*, s 35

³⁷ The Rule of Special Privileges of Convicted Women in Prison 2018, r 3, >

https://msw.portal.gov.bd/sites/default/files/files/msw.portal.gov.bd/page/6e79947d_8bc7_4dd0_9d2b_ab03e692000c/karagar%20rules_31052018.pdf,> accessed 9th December 2023.

³⁸ *ibid*, r 5.

³⁹ *ibid*, r 16.

⁴⁰ *ibid*.

⁴¹ *ibid*.

⁴² *ibid*.

⁴³ *ibid*.

⁴⁴ *ibid*.

In 2005, a series of initiatives was taken by the Inspector General of Prisons (Brigadier General Md Zakir Hasan) to rehabilitate the prisoners like employee training, new uniforms, health programme, family models, and subsidizing for the education of children with incarcerated mothers/parents. Another remarkable initiative has been initiated i.e monthly dharbars or public meetings for prisoners and employees in every 67 prisons to discuss their problems and concerns without fear of vengeance.⁴⁵ To provide skills for prisoners, he formalized what had been ad hoc literacy classes, with educated prisoners as teachers. He started creating canteens staffed by prisoners and opened a bakery, beauty salon, and electronic repair service in the Dhaka Central Prison to put prisoners to work. He acknowledged that poor conditions persist and that many of the changes are taking a long time to implement.⁴⁶ it has been declared by the then Inspector General of Prisons (Brigadier General Md Zakir Hasan)-

“At the time of taking responsibility for the office in 2005, the corruption was rampant, and the rights of the prisoners were drastically denied by the prison employees. Punishment would not be treated as a rehabilitation Centre but rather a punishment center. Prisoners are not bad people but victims of circumstances, poorly educated people, so it is necessary to rehabilitate the offender in a segment of society”⁴⁷

Subsequently, Bangladesh has passed another landmark legislation to deal with convicted women named Special Privileges for Convicted Women Act 2006 and The Children Act 2013 to deal with underage prisoners. This law promotes and encourages the rehabilitation of convicted prisoners which recommends granting parole and probation for specific periods for the women prisoners.

Later, In 2018 the Social Welfare Ministry of the Government of Bangladesh published a Gazette named “Karagare Atok Shajaprapto Narider Bisesh Shobidha Bidhimala (draft) 2018, where the probation officer is authorized to prepare a list of convicted women imprisoned for more than 1 year to less than 10 years and another list who are convicted for more than 10 years.⁴⁸ At the time of listing the socio-economic educational background, working experience and family background shall be recorded.⁴⁹

Very recently, former Chief Justice of the Supreme Court of Bangladesh Syed Mahmud Hossain directed the judges to apply the Probation of Offenders Ordinance 1960 (Supreme Court of Bangladesh circular no 01/2019).⁵⁰ It has been stated that probation will be the best means to decrease the pressure on prisons and to

⁴⁵ Pushpa Fariya, Prison system of Bangladesh, https://www.academia.edu/11653887/Prison_System_of_Bangladesh, accessed on 12 November 2024.

⁴⁶ *ibid.*

⁴⁷ *ibid.*

⁴⁹ *ibid.*

⁵⁰ Supreme Court of Bangladesh Circular No-J 01/2019 on February 2019.> (<http://www.supremecourt.govt.bd/web>) accessed on 2nd June 2023.

implement the corrective punishment policy based on the recommendation of a Reform Committee headed by Justice Imman Ali.⁵¹

Hereinafter, it has been mentioned that the national committee and District Committee shall consider the matter about the women prisoners with children, physical condition, disability, the nature of the case, duration of conviction, and so on.⁵² This Regulation also emphasize on appointment one or more female probation officer and to deal with women prisoners.⁵³ Here, the authority is authorized to manage suitable job and educational opportunities with recreation and the authority may arrange vocational training courses such as block, batik, knitting, hair cutting, embroidery, knitwearing and computer operation and so on.⁵⁴

It is to be mentioned that after independence in 1978, the first jail reform commission was formed and focused on these issues. In 1980, the Munim Jail Reform Commission recommended reforms in 1980, which have yet to be implemented.⁵⁵ In 2002, the Government set up a Ministerial Committee for Jail Reforms, headed by the then State Minister for Home Affairs. The committee held 13 meetings between 2002 and 2018 and made several recommendations. The cabinet approved the draft proposals submitted by the Jail Reform Committee, where Emphasized to appoint a social welfare officer with a background in psychology or sociology.⁵⁶ Pathologists, radiologists, lab technicians, and part-time dentists are required to provide medical treatment and dental care for the prisoners on an urgent basis. Similarly, it has been emphasized to allocate toilet bar soap and detergent packets adequately per month to ensure hygiene, because previously only soda was provided to the prisoners.⁵⁷ Moreover, the reform commission 2025 proposed in the report to improve and ensure medical facilities and human rights for the prisoners. Similarly, it is necessary to ensure the physical and mental safety of prisoners.⁵⁸ Here, it has been specially focused on women and children prisoners' rights.

Moreover, the domestic law and international community are concerned about the rights of women prisoners, such as the Universal Declaration of Human Rights (UDHR 1948) and the International Covenant on Civil and Political Rights 1976 (ICCPR, 1966) are always concerned about human safety, security and dignity. No one is allowed to take away the rights of other human beings and no one is allowed

⁵¹ Sultana Jahan Suraiya, The long forgotten law of probation of offenders, *The Daily Star* (Law & Our Rights, Dhaka, 19 February 2019) p 11;><https://www.thedailystar.net/law-our-rights/news/the-long-forgotten-law-probation-offenders-1704232>>; accessed on 2nd June 2023.

⁵² *ibid*, r 8.

⁵³ *ibid*, r 16.

⁵⁴ *ibid*

⁵⁵ Mohammad Tipu Sultan, Prisoners Rights , Ain O Salish Kendra,><https://www.askbd.org/ask/rights-prisoners/> accessed on 27th December 2024.

⁵⁶ *ibid*.

⁵⁷ *ibid*.

⁵⁸ Police Reform Commission Report 2024-2025, Ministry of Home Affairs, Government of People's Republic of Bangladesh, p 73.

to have any degrading, inhuman, and cruel attitude toward other human beings.⁵⁹ In 1955 the United Nations Standard Minimum Rules for the Treatment of Prisoners also focused on suitable and adequate outfits, food of nutritious value, medical services, accommodation with natural air and light, clean and hygienic places and supply of safe and clean water. Here, the sexual violence against women in prisons has received attention from the Human Rights Committee against Torture. The Special Rapporteur on Violence against Women and the Special Representative of the Secretary-General on Human Rights Defenders have documented scores of incidents of ill-treatment of women in prison.⁶⁰ The UN Standard Minimum Rules for the Treatment of Prisoners are also clear in requiring that the men and women be detained separately.⁶¹

So, it is very pleasant that the law is very much concerned about the rights of women, but the reality is different. That's why the concerned authority should be cordial in implementing the rights provided by the law.

06. The Disparity Between Law and Practice: A Reality

It is a matter of pleasure that the law is concerned about women prisoners' issues, though there are some lacunas but tries to cover all the matters regarding women prisoners' rights. Here, the reality is very harsh, the place of prison is not so such as what a person desires or expects. Most of the time, women prisoners have to go through with a harsh reality as usual because the life of women is not a bed of roses inside and outside of the home.

The first problem in the prisons of Bangladesh is food provided is lack nutritious and inadequate.⁶² Nutritional foods and a balanced diet are the most important things in the life of every human being, especially women. Because a healthy woman is the pillar of the family and the foundation of the future generation. But it is an unpleasant truth that the foods served by the jail authority do not maintain a balance diet which is required for a woman's health. The served foods not only insufficient

⁵⁹ International Convention on the Civil and Political Rights 1966, art 9> <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

⁶⁰ The Committee for the Elimination of Discrimination against Women has highlighted violence against women in prisons and detention centers in a number of its concluding observations, for example: Peru, A/50/38 (1995)79 At para. 445: Bangladesh, A/52/38/Rev part II. In its general recommendations to Turkey, the committee noted with gravest concern the practice of forced gynecological examinations of women in the investigation of allegations of sexual assault, including of women prisoners while in custody. The committee emphasize that such coercive practice was degrading, discriminatory and unsafe and constituted a violation by the state authorities of the bodily integrity, person and dignity of women.

⁶¹ United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), 2015, (n 10), r 52.1

⁶² Kalid Hossain, Bangladesh, Karagar Dorniti O Protikar (1st edition, Effective Assistance and Rehabilitation for Tormented Humanity, Dhaka,2006) pp 55-62.

but also stale and below standard.⁶³ The prisoners do not receive allotted food due to misappropriation and malpractice.⁶⁴ However, the concerned authority is not compassionate regarding the basic demands of the prisoners, but this is their legal and moral obligation.⁶⁵ For example, the morning started by the prisoners with two thin and hard slices of bread with molasses. During lunch and supper, they received rice and curry, which is very poor in quality and quantity.⁶⁶ Here, the women prisoners who are influential and financially solvent get the best services by paying money. Where the poor women fail to avail it due to the scarcity of money. That's why the poor women prisoners suffer more. Here, most of the women are poor.

Another problem is uncomfortable clothing and bedding. Though they are prisoners, either they may be convicted or under trial, but they are human beings. It is their basic right to get comfortable dresses and proper bedding due to the seasonal changes.⁶⁷ Unfortunately, the clothing and bedding provided by the authority are the most uncomfortable, unhygienic, and unhealthy.⁶⁸ The blanket provided to the women prisoners is not washed properly and due to the monsoon, the same clothing is not comfortable in different seasons; here, seasonal clothing is very essential.

In addition to this, unhygienic sanitation is another big challenge for women prisoners of Bangladesh. Being women, they deserve clean, hygienic, and proper sanitation. It may include safe drinking water, clean toilets, a washroom, dry and safe sleeping place. Due to the dirty and uncleaned toilets, most of the women prisoners suffer from urinal infection⁶⁹ which may cause injury to the reproductive health of the women.

In the present jail system, there is no option for female doctors for female inmates. In case of gender-based diseases, they are shy to share their disease to the male doctor. Most of the time, they do not get the doctor's advice,⁷⁰ which causes serious health injury to them in the future. Here, it is very important that only the influential prisoners enjoy the right to get medical facilities instead of money or

⁶³ *ibid.*

⁶⁴ *ibid.*

⁶⁵ Surina Tarzid, (n 3), p 69.

⁶⁶ US Department of state, Country report on Human Rights Practices for 2013-Bangladesh, 27 August 2019, Section 1c, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dclid=220388>, Retrieved on 13 February 2020.

⁶⁷ SMA Qadri, *Ahmad Siddique's Criminology & Penology* (6th edition, Eastern Book Company, Lucknow 2011) p 164.

⁶⁸ UNODC, ><https://sdgs.un.org/un-system-sdg-implementation/united-nations-office-drugs-and-crime-unodc-54127> >accessed on 23rd December 2023.

⁶⁹ Odhikar, Human Rights Report 2013, 15 April 2014, paragraph 265 and 266, <http://odhikar.org/human-rights-report-2013-odhikar-report-on-bangladesh/> Retrieved on 27th August 2024.

⁷⁰ Staff correspondent, "63 jails have no doctors" *The Daily Star*, (17th October 2017) P 6.

power.⁷¹ The person who has more power he will be more privileged- this is the actual scenario of the prison.

Though the women prisoners are kept in separate wards, they are not in separate buildings, which is why they face different sorts of problems; sometimes they have to face sexual, raging, and other sorts of violence by their inmates and officials.⁷²

Inadequate female officers are another problem in the present prison system. Though the law ensures that female officers will be provided to deal with the female prisoners. But the reality is not so. It is because the number of female officers or staff is inadequate to deal with the women prisoners.⁷³ Due to the lack of female staff the women prisoners faced different sorts of problems. It is very natural that the female prisoners are comfortable with the women staff or officers, they may share their sufferings easily to them. Sometimes the male officer enters their place without knocking door.⁷⁴ So, there is not adequate privacy here.

In addition to above-mentioned problem, the scarcity of productive work is a fundamental right of the human being. However, the work in which they engage is not productive or creative. The prisoners who have money or power they will be privileged to get sophisticated work such as gardening, teaching, and so on. Otherwise, they will engage in chowka, cleaning, sweeping, and so on, after all, they are not properly paid for their work.⁷⁵

Hence, in our prison, there is no scope for productive and creative training for the women prisoners. Though some training on handcraft and stitching is organized by the social welfare department of the government,⁷⁶ the quality and quantity are not up to date. There are no adequate training facilities for the female prisoners about their life skills, which will enable them earning members of the family, or which will enable them to contribute in society after their release.⁷⁷ Besides these sexual abuses, lack of mental health care, overcrowding, corruption by the prison authority,⁷⁸ and suppression by the inmates is a common phenomena in the jail.⁷⁹

Though the court does not make any kinds of discrimination against female offenders, the scenario is different in jail. The reality shows that most of the female reformatories is very poor in condition in comparison with males. Here, female

⁷¹ *ibid*

⁷² Surina Tarzid (n 3) pp 70-71.

⁷³ Mohammad Monjure Hossain, Jail Super, Chattogram Central Jail, interviewed on 22nd September 2023.

⁷⁴ Khadiza Begum, women prisoner, interviewed on 16th March 2025.

⁷⁵ Fatima Akter, prisoner, interviewed on 16th March 2025.

⁷⁶ Sumaiya Zahan, Deputy Jailor, Chattogram Central Jail, Interviewed on 8th October 2023.

⁷⁷ Mohammad Golam Dastagir, Jail Super, Noakhali, Interviewed on 10th October 2023.

⁷⁸ Sheikh Hafizur Rahman Karzon 2016 (n 5) p 292.

⁷⁹ Personal Interview with an imprisoned prisoner wants to be unanimous, she may be contacted through author.

prisoners are deprived of training programs and parole facilities.⁸⁰ They are mainly engaged in cleaning, food grains, cutting vegetables, cooking and sewing, which is very ridiculous in this century. So female inmates are not prepared to enter society and ultimately, there is a possibility of reoffending.⁸¹

One of the main objectives of imprisonment is to rehabilitate the offender in society after reforming their character. Because the offence is treated as sickness, the punishment will act as medicine to cure them of diseases, and later on they will be integrated into society. This will reduce crime in society. In that perspective, training, mind therapy, workshops, and motivation are very important to kill their criminal mind, so that they can realize what they should do and not to do. But in our present prison system, there is no such initiative to reform their character to reintegrate them into the norms of society.

Inmate-on-inmate violence is an unsurprising result of official limpness. The negligence of the authorities is increasing day by day. Generally, the domination of the strongest prisoners over the weakest is a common phenomenon in the jail. The jail authority is solely responsible for this repulsive culture.⁸²

Extortion by prison staff and unfair practices of the guards are another scene of the jail given the extensive power that prison guards exercise over inmates, these problems are obvious.⁸³ It is alleged that some criminals, in collaboration with the prison's guards, keep on operating and networking their gang activities outside while being locked up inside the prisons.⁸⁴ Non-communication with family, lack of legal aid services, lack of mental health care, sexual abuse by the prison authority,⁸⁵ non-applying probation⁸⁶ Non-protection of the rights of children with prisoners are common problem of the women prisoners. It is time to raise our voices against this inconsistency. Due to illiteracy, the victims do not know how to deal with this situation. That's why all the concerned authorities, including victims, should come together to protect the rights of women prisoners.

7. The Major Findings and Recommendations

According to the abovementioned analysis, it may be said that the prison houses of Bangladesh have been suffering from some problems. Those create obstacles to ensuring women prisoners' rights. It is because women prisoners deprive from their

⁸⁰ Rizvi Ahmad 2016 (n 2).

⁸¹ Moumita Paul, Assistant Professor, Department of Criminology and Police Science, University of Chittagong, interviewed on 5th November 2023.

⁸² Rozina Islam, 'Karagare o Beporoa Sei Papiya', *The Daily Prothom Alo*, (21st July 2023), p20.

⁸³ Zahangir Shovo, 'Chattogram Karagare Tin Joner Dhandhai Mashe Koti taka, Mat Righter er hate Jimmi Koyedi', *The Daily Chattagram protidin* (12th July 2023) p 6.

⁸⁴ *ibid*

⁸⁵ Mono Ara Begum, woman prisoner, interviewed on 16th March 2025.

⁸⁶ Sultana, S J, The long-forgotten law of probation of offenders, *The Daily Star*, Law & Our Rights, Dated- February 19, 2019 > <https://www.thedailystar.net/law-our-rights/news/the-long-forgotten-law-probation-offenders-1704232>>; Last visited on 2nd June 2021.

basic rights and lead a miserable, unproductive and unhealthy life. Here, there are many authorities working simultaneously to manage and control the jail administration. It is their responsibility and legal obligation to take care of the rights of the women prisoners. In addition to that, women inmates need some special attention on a specific issue. Here, the major findings have been analysed and give some recommendations to ensure the rights of women prisoners.

The first challenge of existing prison management is outdated laws that was framed by the British ruler. So, the prevalent prison framework is not enough now to mitigate the present situation from a contemporary perspective. Here, traditional work practices, food, sanitation, and other basic rights dealings with women prisoners remain unchanged, which were enacted a hundred years ago by the British ruler.⁸⁷

Another challenge is inadequate prison house to accommodate incarcerated people. Due to the inadequate number of prisons, it is almost impossible to ensure separate accommodation for women prisoners and first-time offenders from chronic or habitual offenders. As a result, the first offender getting in touch with a habitual offender finds a chance to engage in a crime gang.⁸⁸

Additionally, inadequate manpower like female officials, including doctors, nurses and other service providers, causes the infringement of the women prisoners' rights. The staff inadequacy is acute in Bangladesh. At the same time, the shortage of logistic and infrastructure facilities is also responsible for infringing on the women prisoners' rights.

Moreover, the British Typical colonial mentality of suppressing the offender⁸⁹ i.e., master-servant relation, and the traditional mindset about the prisoners by authority exists till today. As a result, the prison authorities treat them not as human beings. Most of the time, the rights of female prisoners have been violated by the Jail authority. They forget that the prisoners are human beings by birth and possess some rights.

At the same time, unproductive traditional working facilities do not prepare them to engage in work after release. Because there is no connectivity between the work they engaged in the prison house and their skill or profession. So there is no adequate scope to engage in work after their release.⁹⁰

Similarly, the traditional sentencing system by the judiciary traditionally affects female prisoners. Lack of alternative sentencing is an impediment to social

⁸⁷ Prof. Dr. Abdullah Al Farooque, Ex Dean, Faculty of Law, University of Chittagong, interviewed on 5th October, 2023.

⁸⁸ Sumaiya Zahan (n 76).

⁸⁹ Hossain Mohammad Reza, Senior Assistant Judge (on deputation), a Ph.D. fellow at Melbourne University, Australia interviewed on 5th October 2023.

⁹⁰ Mohammad Monjure Hossain (n 73).

integression. The traditional mindset does not prepare them for the future. There is a chance to engage into crime again after completion of sentences.⁹¹

By analysis above mentioned flaws, the following initiatives may be considered by the concerned authority to ensure women prisoners' rights in the prison house.

i. Legislative Authorities

The legislative authority may ensure such rights through legislative enactment; they may find out the problem of existing laws and consequently may amend the law according to the demands of society. It is because the demands of the people change day by day. So, the law framer is the first authority who may be concerned and ensure the rights of women prisoners. Consciously, the authority may do it by enacting new laws, finding out the loopholes in existing laws and amending existing laws. So, it is high time to revise and amend the existing laws, specially on the rights of the female prisoners. Here the government also focuses on alternative sentencing for the women prisoners and gives special attention to the women prisoners with children.

ii. The Judiciary

The judiciary is another resort to ensure the rights of women prisoners because the judiciary pronounces the judgment to execute the punishment. During the pendency of the suit if the offender is in jail, they have to appear before the court from time to time. Here, the judiciary may instruct the jail authority to ensure the basic rights of the women prisoners. At the time of imposing a sentence, the judiciary may emphasize and find an alternative to imprisonment, specially for women offenders who do not pose a risk to the public, taking into consideration their rehabilitative needs, and caring responsibilities.⁹² Here judges may emphasize on parole, probation, open prison system, Verbal sanctions, such as admonition, reprimand, and warning; Conditional discharge; Status penalties; Economic sanctions and monetary penalties, such as fines and day-fines; Confiscation or an expropriation order; Restitution to the victim or a compensation order; Suspended or deferred sentence; Probation and judicial supervision; A community service order; Referral to an attendance center; House arrest; Any other mode of non-institutional treatment.⁹³

iii. The Police

The police who bring the women prisoners to the court and jail may be involved in ensuring women prisoners' rights. But the way to bring the jail from court or vice versa is very inhumane and the prison van with children is too harsh for both mother

⁹¹ Prof. Dr. Abdullah Al Mamun, Department of Law, University of Chittagong, interviewed on 23rd October 2023.

⁹² UN Office for Project Services (UNOPS), Technical Guidance for Prison Planning: Technical and operational considerations based on the Standard Minimum Rules for the Treatment of Prisoners, 2015

⁹³ UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), 2015. https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf

and children, which is sometimes overcrowded. So, the police have the scope to revise the existing practice. When the offender is brought into the court, they are under the supervision of the police. It is a complaint against the police that they do not help them to meet and contact their relatives without money.⁹⁴ So, it is the duty of the police to treat them properly and ensure their safety and security. The police reformation commission suggests improving the quality of the thana and court hajatkhana. Similarly, it is necessary to improve the quality of the prison van.⁹⁵ Here, it has also been suggested to minimize the distance of police station and the prison house. In addition to these, police are obliged to ensure the safety and security of the prisoners, pay regular visits to monitor prisons and refrain from inflicting cruel, inhuman treatment.⁹⁶ In some cases, the women are under the custody of police or under the supervision of police during the remand, then police should show to honour the rights of the women prisoners.

iv. Jail Administration

The jail authority is the ultimate and most important authority to ensure women prisoner's rights. Because they are purely engaged with the prisoners and authorized to deal with, manage, and control the whole prison system. It is true that the rights and privileges available for women prisoners can be ensured accurately if the authorities are cordial and honest about their duties and hearty towards prisoners. The Prisons Act of 1900 deals with the management, duties, and responsibilities of the authority. Similarly, the Prisoners Act of 1864 deals with the rights of the prisoners, such as supplying food, sanitation, clothing, bedding, right to work and payment, meeting with their relatives and so on. So, it can be said undoubtedly that the rights of the women prisoners depend on the willingness of the jail authority. Here, the authority may recruit more female officers and doctors to deal with the women prisoners.

The jail authority may restructure and reshuffle the whole prison management to maintain separate accommodations that should be arranged according to the crime committed, duration of sentences, sex, educational and technical skills. The chronic, habitual, and grave offenders may be separated from the fresh and petty offenders. Criminologists thought that, by not arranging separate accommodations, the prison becomes a place of generating criminals.⁹⁷ For this purpose, the number of prison houses may be increased to ensure a separate prison house for women prisoners. Expansion of infrastructure facilities and the logistic support to implement the woman prisoners rights need more additional resources, including financial and

⁹⁴ Khalid Hossain, 2006, (n 62), p 67.

⁹⁵ Police Reformation Commission Report 2024-2025 (n 58).

⁹⁶ *ibid.*

⁹⁷ Moumita Paul (n 81).

manpower. Here, the authority may employ adequate female officers to ensure and deals with them. Due to funding constraints, it is difficult to ensure all the rights. Though it is difficult for the government to invest more money, but not impossible to invest more funds to ensure women prisoners' rights. Similarly, other sectors may come forward along with the government, like the private sector, financial institutions, and international Non-Governmental Organizations, to invest or cooperate for the development of prisons and prisoners from social corporate responsibilities.

To ensure rehabilitation authorities may maintain a link or connectivity of rehabilitation training with their skill, knowledge, experience, and available facilities which may help to get a job after release.⁹⁸ So the training should be concerned to find an available avenue in the job sector and self-services.

The traditional work and training facilities like sewing, knitting, and furniture designing, chowka, gardening and cleaning should be changed and initiatives would be taken as per their qualifications, skills, and demands of time. The productive work should be addressed. The traditional training facilities should be added with block, batik, boutiques, handicrafts, baking, parlors, freelancing, mobile repairing, graphics designing, animation, coding, and online business, which may be added to reintegrate the female offender into society after release.⁹⁹

Similarly, the jail authority may focus on psychological therapy, motivation, CBT and counseling should be provided to change their mentality. It will also help to remove his guilty intention and discourage him from engaging in crime again.

v. The Other Ministry of the Government

In this issue, several Ministries of the Government are directly involved i.e. Ministry of Home Affairs and the Ministry of Social Welfare to monitor and take care of the prisoners' rights. It is very important that the motivation and scope of proper training and involvement in work guide the prisoners to lead a better life. The Ministry of Social Welfare organizes vocational and reformative training to reshape the character of the offender through proper guidelines to reduce reoffending and rehabilitate in society. Similarly, the Ministry of Health provides medical officers to look after the health issues. The Local Government and Engineering Department is involved in developing infrastructure in the prison. So, it is necessary to maintain a collaboration to ensure the rights of female prisoners.

vi. District Magistrate

As per the jail code, the District Magistrate is under a duty to visit the jail once in a month to monitor the condition of the prisoners¹⁰⁰ Here, the District Magistrate may

⁹⁸ Shakhawat Hossain, Chairman & Assistant Professor, Department of Criminology and Police Science, University of Chittagong.

⁹⁹ Mohammad Golam Dastagir, Jail Super, Noakhali, Interviewed on 10th October 2023.

direct the jail authority if there is any inconsistency and may hear from the prisoners about their problems. Finally, instruct the authority to take the initiative to ensure the prisoner's rights.

vii. Jail Visitors

There is a post of jail visitor who has been selected among the influential persons of the society or the concerned locality. This person has the right to frequently visit the jail, where civil persons are restricted to visiting the jail. That's why the visitor has a big chance to take a stand beside the women prisoners and guide the jail authority where there is any inconsistency.

viii. NGO and Civil Society

There are some NGOs that are working and concerned about the rights of the prisoners. Here they may give more attention and do more research to find the problems and forward a pathway to the authority to implement the rights of the women prisoners. Here, civil society may also come forward by visiting and recommending not violating their rights.

Finally, it can be said that if the above-mentioned authorities come forward and are conscious about the rights of women prisoners, their lives will be more prosperous. For these purposes, honesty, integrity, and cordial effort of the concerned authority is required. Here, the authority may give attention on the appointment of one or more psychologists in every prison. The authority may arrange psychological training to reshape their mental setup so that they can realize what they should do and what will be wrong with their family, society and state, if it continues. It may be done through individual and group counseling to prisoners because the mental factor exists in every single crime. So, if it can be done effectively *the means rea* of every offender effectively will be changed, and they will at least think for once to commit such crime again.

8. Conclusion.

Definitely, the present condition of today's prison is not up to standard or women-centered to ensure the rights of women prisoners. The civilized society is shouting to reform the jail to treat the prisoners humanely. The treatment of prisoners should be in accordance with the constitutional mandate and the international mandate. Because the standard of prison status may measure the standard of civilization of any country. It is the state's responsibility to ensure human rights so long he is detained in prison, but this is unpleasant truth that prisoners are human beings is often forgotten. The basic rights and human identity of the women prisoners are being violated at the prisons of Bangladesh. Though due to various causes, women's criminality is increasing. Simultaneously, the women prisoners face different kinds of crises, like

¹⁰⁰ Nirmalendu Roy, 'Jail Code: Status & Rights of Prisoners and Violation of Human Security in Prisons' in *Manual on Human Rights Law by Tuhin Malik* (1st edition, Legal Education and Training Institute, Bangladesh Bar Council, Dhaka, 1997) p 336.

inadequate food, improper sanitation, uncomfortable clothing, and physical and mental torture are common phenomena of the prison house. Similarly, the laws that give protection to women prisoners are not strong, the jail code that administers the jail administration is too old. That's why the government may take the initiative to reform the existing legislation and the concerned authority may come forward to nourish the rights of the women prisoners. At the same time, they are deprived from getting medical facilities and legal aid services. Now this is the demand of the time to ensure a women-centered prison house for the women prisoners. Though this is very tough to overcome in a society like Bangladesh but not impossible. State initiatives are not sufficiently judicious and cordial to formulate a civilized policy to treat the prisoners a bit more humanely. Moreover, it may focus on the reformation of the jail administration to rectify the character of the prisoners. It is the responsibility of the authority to make them a resource of the family, society, and state. In that perspective, the society or the people of the family and society should give them space for social integration. To achieve a sustainable and effective impact of prison and women centered prison needs to encompass criminal justice institutions with the prison service, such as the judiciary and police service, who are closely related with the offender. So, all the concerned authority must have to come forward to ensure the women prisoners' rights and share the burden. For these purposes, the women prisoners should be trained with modern technology and updated work so that they can engage into work as soon as release. Then they will be assets of the state, ultimately crime will be reduced in society.

