



**SUPERVISED DISSERTATION
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**Women Prisoners' Right in Bangladesh: Laws,
Flaws and Realities**

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DECLARATION

I, **Monisa Nusrat**, do hereby solemnly declare that I am the sole author of this research titled 'Women Prisoners' Right in Bangladesh: Laws, Flaws and Realities', which is completely original and not copied from anywhere. It has neither been published in any journal, newspaper, nor been submitted to any of such publications and entirely prepared by me as a requirement for my graduation. The contents and information of all sources used in this research are duly recognized in the references, and other people's work has been appropriately cited.

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Women Prisoners' Right in Bangladesh: Laws, Flaws and Realities

Abstract: *This paper examines the laws to examine the existing legal framework and policies concerning women prisoners' rights in Bangladesh in light of the different literature and authorities with a view to exploring What are the existing laws and policies related to women prisoners' rights in Bangladesh, and to what extent are they being implemented effectively. The purpose of the research is to find out the answers to the different questions arising out of the matters Women Prisoners' Right in Bangladesh: Laws, Flaws and Realities. For better understanding and exploring the answers and findings, the paper has been divided into six chapters; the first three chapters deal with all secondary research questions involving relevant preliminary concepts and national and international legal framework related to Women Prisoners' Right in Bangladesh and the rest chapters deals with the main research questions involving Realities of Women Prisoners' Rights in Bangladesh. The paper will explore the answer to every research question with the help of relevant books, journals, statutes and case laws.*

Chapter 1: Introduction

The aim of this research proposal is to investigate the legal framework and its implementation regarding the rights of women prisoners in Bangladesh. Women prisoners in Bangladesh face a range of challenges, including gender-based discrimination, lack of access to healthcare, and inadequate legal representation. This study will examine the laws, policies, and practices that shape the conditions and experiences of women prisoners in Bangladesh and provide insights into how these can be improved.

1.1. Statement of the Problem:

The issue of women's rights has always been a topic of debate in various contexts, including the criminal justice system. Bangladesh, being a developing country, faces significant challenges in safeguarding the rights of women prisoners. Inadequate laws and flawed implementation of the existing regulations further exacerbate the problem, leading to various human rights violations. The lack of research on this topic further hinders the improvement of the situation. Therefore, the problem statement of this research proposal is to investigate the laws, flaws, and realities of women prisoners' rights in Bangladesh.

1.2. Research Questions:

1. What are the existing laws and policies related to women prisoners' rights in Bangladesh, and to what extent are they being implemented effectively?
2. What are the reasons behind the violation of women prisoners' rights in Bangladesh, and what measures can be taken to improve the situation?

1.3. Research Objectives:

The primary objectives of this research proposal are as follows:

1. To examine the existing legal framework and policies concerning women prisoners' rights in Bangladesh.

2. To identify the flaws and limitations of the current regulations.
3. To explore the realities of women prisoners' rights in Bangladesh and compare them with the legal provisions.
4. To investigate the reasons behind the violation of women prisoners' rights and propose solutions to improve the situation.

1.4. Preliminary Literature Review:

Several studies have highlighted the challenges that women prisoners face in Bangladesh. For instance, a report by the National Human Rights Commission (NHRC) of Bangladesh reveals that women prisoners often face physical, sexual, and emotional abuse. The report also highlights the inadequacy of basic facilities such as food, water, and medical care.¹ Similarly, another study by the Bangladesh Mahila Parishad (BMP) found that women prisoners suffer from a lack of legal representation, which hinders their access to justice. The study also reveals that women from marginalized communities, such as the ethnic minority groups and the rural poor, are more vulnerable to human rights violations in the prisons. However, despite these studies' findings, there is a lack of research that systematically examines the laws, flaws, and realities of women prisoners' rights in Bangladesh.²

1.5. The Rationale of the Research:

The research proposal aims to provide a comprehensive understanding of the laws, flaws, and realities of women prisoners' rights in Bangladesh. By examining the existing legal framework and policies, the research can identify the gaps and limitations in the current regulations. Moreover, by exploring the realities of women prisoners' rights, the research can shed light on the discrepancies between the legal provisions and the actual situation. The proposed research can provide insights into the reasons behind the violation of women prisoners' rights and propose solutions to improve the situation. This research is crucial because it can contribute to the development of more effective policies and regulations that can safeguard the rights of women prisoners in Bangladesh.

¹ Tahsina Akhter, “Women Prisoners in Bangladesh: Some Sociological Insights for Reform” (ICSSH 2014).

² Nazia Wahab, ‘WOMEN PRISONER’S RIGHTS IN BANGLADESH AND BANGLADESHI RULES AND REGULATIONS: A CRITICAL ANALYSIS OF INTERNATIONAL STANDARDS’ (2019) 05.

1.6. Research Methodology:

This research paper has been written on following the qualitative method where all the information and data are collected from secondary sources such as from newspaper, articles, journal, books, research paper, scholar's blogs, and websites. Additionally, the research will conduct a document analysis of the relevant legal provisions, policies, and reports. The research will also use a case study approach to analyze specific cases of human rights violations in the prisons. The data collected will be analyzed using thematic analysis to identify patterns and themes.

1.7. Scope and Limitation of the Research:

The proposed research is limited to examining the laws, flaws, and realities of women prisoners' rights in Bangladesh. The research does not extend to other aspects of the criminal justice system in Bangladesh. Moreover, the research may face limitations in accessing certain data and information due to the sensitivity of the topic and the potential reluctance of some stakeholders to participate in the study.

In summary, The study of women prisoners' rights in Bangladesh is an important area of research that requires urgent attention. The findings from this research proposal will provide important insights into the challenges faced by women prisoners in Bangladesh and how these can be addressed through legal and policy interventions. Ultimately, this research proposal aims to contribute to the development of a more equitable and just.

Chapter 2: Historical Context of Women Prisoners' Rights in Bangladesh

With claims of brutal treatment, torture, and neglect, the treatment of women convicts in Bangladesh has long been a source of concern. Understanding how the treatment of women inmates has changed over time and how the effects of colonialism have affected the prison system are both dependent on understanding the historical backdrop of women prisoners' rights in Bangladesh.³ This chapter provides a historical review of the treatment of women inmates in Bangladesh and the impact of colonialism on the prison system. The purpose of this chapter is to examine the difficulties that female prisoners experience as well as how their care has changed over time. It is crucial to comprehend the historical background of the rights of women inmates in Bangladesh in order to create effective solutions and policies that address the issues and advance human rights.

2.1. Historical Overview of the Treatment of Women Prisoners in Bangladesh:

The history of women being imprisoned, whether in Bangladesh or anywhere else in the world, is not just about their own lives, but also about how they relate to others in broader sociocultural, sociolegal, and socioeconomic contexts, let alone how they are women and, in some cases, how they are mothers.⁴ The primary consideration for a judge when deciding whether to imprison a woman is her parenting role, whereas judges consider this when sending a male to the bar. From sporadic media reports and local NGO reports, it is reasonable to assume that Bangladesh has a worse situation. The reforms implemented in industrialised nations were a reflection of various factors both inside the jail system (such as the fight for the right to motherhood) and outside (such as the academic movements for the right and justification of incarcerating a woman in various settings). Bangladesh's historical past is significantly distinct, leaving need for more investigation.⁵

Concerns about how women convicts are treated in Bangladesh have existed for a long time. In the past, the criminal justice system has abused and neglected women in a variety of ways.

³ Abdul Matin, *The Jail Code With Law On Prison And The Prisoners* (1st edn, Madole Prokashani 1994).

⁴ Akhter (n 1).

⁵ *ibid.*

Women prisoners have been exposed to sexual and physical assault, as well as discrimination and inadequate access to basic necessities such as food, water, and medical treatment.⁶

The jail system in Bangladesh was founded during the British colonial era with the intention of punishing criminals and holding political detainees. In male-dominated jails with inadequate basic amenities like proper sanitation and privacy, women were detained in separate areas. High death rates among female convicts were caused by the harsh and brutal conditions in jails.⁷

Following Bangladesh's independence in 1971, initiatives were launched to enhance the conditions of women detained. In addition to creating separate prisons for women, improvements were made to living conditions, access to education, and provision of vocational training. But despite their best efforts, many female prisoners still experience violence and neglect.⁸

The rights of female inmates in Bangladesh have received more attention and support in recent years. Women's rights groups and civil society organizations have been fighting for better conditions, justice for everyone, and defense against exploitation and discrimination. Notwithstanding these initiatives, Bangladeshi women inmates' rights continue to face serious obstacles that must be overcome.

2.2. Present Situation of Women Prisoners in Bangladesh

In Bangladesh as of March 2021, the total jail population was 83,107 with 3,222 being female convicts and 325 children under the age of six accompanying their incarcerated mothers.⁹ However, the actual population is nearly double the capacity of 36,614. (5) This overcrowding has led to substandard food and corruption within the prison administration, resulting in occasional human rights violations. The discrimination faced by women in prisons is a global issue, with an alarming increase in female imprisonment rates.¹⁰

⁶ Fahad Bin Siddique, 'We Should Be Concerned about the Prisoners' Human Rights in Bangladesh' (24 November 2021).

⁷ Madhurima Sen, *Prisons in Colonial Bengal, 1838-1919* (Thema 2007).

⁸ Akhter (n 1).

⁹ Bangladesh Jail, 'Prison Population Statistics 2021' (Bangladesh Jail) <<<https://prison.gov.bd/prisonsite/assets/userfiles/files/Prison%20Statistes%20%21.pdf>>> accessed 2 April 2023.

¹⁰ M Anwarul Aziz Kanak and Mohammad Mizanur Rahman Chowdhury, 'The Present Rights of Prisoners in Bangladesh: Disparity Between Law and Practice' (2014) 20 07.

Female prisoners in Bangladesh are reported to face frequent harassment and demands for bribes from prison officials, while the requirement for female officials to supervise female prisoners is not always met, leading to abuse and maltreatment.¹¹ The living conditions in prisons are substandard, with limited access to health and hygiene services. The most distressing aspect of female imprisonment is the lack of desire to go, according to Ain-O-Shalish Kendra (2000). Overall, women prisoners in Bangladesh face discrimination, limited living conditions, and a host of challenges in the prison system.¹²

There are 68 jails in total in Bangladesh, according to 2017 prison population statistics. There are 68 jails, of which 3 are district jails and 55 are central jails.¹³ There are 73,113 prisoners in total, of whom 4,992 are awaiting trial, 18,185 have been found guilty, and 70,405 are men and 2,772 are women. There are 6,109 long-term inmates, 4,904 of whom are serving life sentences and 1,204 are serving death sentences.¹⁴ There are 325 children under the age of six living with their mothers, of which 155 are male and 170 are female.” The fact that the jails' total land size of 1.421 acres is also noteworthy in this context.¹⁵ The central jail has a 51.45% occupancy rate, while the district jail has a 48.5% occupancy rate. According to the survey, although our prisons have a maximum capacity of 36,614, they actually house 86,433 inmates. This is more than double.¹⁶ According to Tahsina Akhter¹⁷, who claimed in her article that there is sexism against women in prison all across the world. She also emphasised the startlingly high proportion of women who are incarcerated.

Therefore, we cannot ignore our obligations to uphold their human rights. As well as Muhammad Mizanur Rahman Chowdhury, M. Anwarul Aziz Kanak¹⁸ the study concluded that corruption of the government is a widespread occurrence in all of Bangladesh's jails, prisoners are provided low-quality food, and prisons are overcrowded. Human rights are thus occasionally violated in our prison.¹⁹

¹¹ The Lawyers & Jurists', “Present Situation in Bangladesh Prison System |’ <<<https://www.lawyersnjurists.com/article/present-situation-in-bangladesh-prison-system/>>> accessed 2 April 2023.

¹² Aziz Kanak and Mizanur Rahman Chowdhury (n 10).

¹³ Prison Population Statistics 2017: VOL-01" Feb 20 17: Bangladesh Jail.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Akhter (n 1).

¹⁸ Aziz Kanak and Mizanur Rahman Chowdhury (n 10).

¹⁹ Ibid.

The worst experience a woman can have while in jail is not wanting to leave, according to Tahsina Akhter²⁰, who once more underlined this in her research and secondly in Bangladesh, regular harassment of female inmates and demands for bribes from inmates by jail staff are quite common practises. Again, It is against the law for a female inmate to be under the supervision of a female officer. As a result, they experience mistreatment and abuse.²¹

Accordingly, in a nutshell, the main issues with prisons include overcrowding, a lack of hygienic and health facilities, subpar living conditions, etc. Additionally, it is evident that women prisoners experience discrimination and a low quality of life.

In summary, this chapter has emphasized the historical background of Bangladeshi women prisoners' rights. Many difficulties and impediments have affected how women prisoners are treated, including physical and sexual assault, poor healthcare, and limited access to education and vocational training. The jail system in Bangladesh has also been significantly impacted by the legacy of British colonialism, notably the creation of the penal system and transportation. These elements have influenced how cruelly women prisoners are treated and how poorly they have access to healthcare and education.

²⁰ Akhter (n 1).

²¹ Ibid.

Chapter 3: Legal Framework of Women Prisoners' Rights in Bangladesh

To guarantee that female convicts are handled humanely and with regard for their dignity and rights, Bangladesh's legal framework for their rights is crucial. Guidelines and standards for the treatment of prisoners, including female inmates, are provided by international conventions and treaties.²² To advance the rights and welfare of women convicts in Bangladesh, laws and policies have been developed at the national level. This chapter provides an overview of Bangladesh's legal system for protecting the rights of female inmates, including relevant international conventions and treaties.

The chapter also looks at national laws and policies pertaining to the rights of women in jail and assesses the advantages and disadvantages of the legal system. The chapter also contrasts Bangladesh's legal system with worldwide best practices to pinpoint areas that should be improved to advance the rights and welfare of women prisoners there. For the purpose of creating effective policies and solutions to address the issues encountered by women inmates and advance their human rights, it is essential to understand the legal framework governing their rights.

3.1. International Conventions and Treaties Related to Women's Rights and the Treatment of Prisoners:

The legal framework in Bangladesh that governs the protection of women's rights and the treatment of prisoners is heavily influenced by international conventions and treaties. Bangladesh is a party to many international human rights agreements that deal with the rights of women inmates either directly or indirectly.

One of the most significant international documents pertaining to prisoners' rights is the United Nations Basic Minimum Guidelines for the Treatment of Prisoners (commonly known as the Mandela Rules).²³ This instrument's signatory, Bangladesh, has several of its clauses integrated

²² Ferit Uslu (ed), *International Conference on Social Sciences and Humanities Abstracts & Proceedings: Istanbul, Turkey, 8 - 10 September 2014* (International Organization Center of Academic Research 2014).

²³ UNODC, 'The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)' <https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf> accessed 3 April 2023.

into domestic law. In accordance with the Mandela Guidelines, all inmates must be treated with respect and dignity, have access to medical care and an education, and not be tortured or subjected to other types of cruel, barbaric, or humiliating treatment or punishment.

Bangladesh is a signatory to a number of international agreements and treaties pertaining to women's rights, including the Convention on the Elimination of All Forms of Discrimination Against Women, in addition to the Mandela Rules (CEDAW).²⁴ The landmark international human rights law CEDAW addresses gender-based violence and discrimination against women. After ratifying CEDAW in 1984, Bangladesh has made great strides to eradicate discrimination against women in a number of contexts, including the criminal justice system.

The Bangkok Rules are a significant international regulation pertaining to the rights of female prisoners. These laws, which set standards for the treatment of female convicts, were enacted by the UN General Assembly in 2010. The Bangkok Rules place a strong emphasis on the necessity to consider the unique requirements and vulnerabilities of women convicts, including their health, social, and family backgrounds, and to make sure they have access to resources for rehabilitation and medical care.²⁵

Overall, Bangladesh's commitment to international conventions and treaties concerning the treatment of prisoners and women's rights is a significant step towards guaranteeing that these individuals' rights are safeguarded. To fully incorporate these international agreements into national laws and policies, however, there is still significant work to be done.

3.2. National Legislation and Policies Related to Women Prisoners' Rights:

The management, confinement, and treatment of prisoners in Bangladesh's jail establishments are subject to regulation under the Bengal Jail Code, which incorporates provisions from various Acts, including the Prisons Act, the Prisoners Act, the Identification of Prisoners Act, and the Special Benefit for Women Convicted in Prisons Act.

The Constitution of Bangladesh

²⁴ Tomris Atabay and Tomris Atabay, *Handbook on Women and Imprisonment: With Reference to the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (The Bangkok Rules)* (2. ed, United Nations 2014).

²⁵ UNODC (n 23).

The Constitution of Bangladesh as per article 27 guarantees all citizens equality before the law and equal protection under the law, including women prisoners who enjoy the same fundamental rights as women in general.²⁶ Article 35 of the Constitution provides for protection with respect to trial and punishment, which also applies to women prisoners.²⁷

The Prisons Act of 1894

The Prisons Act of 1894 focuses on ensuring adequate amenities for prisoners, such as separate quarters for male and female convicts, employment opportunities, and medical care.²⁸ Specifically, the Act mandates that female convicts be housed separately from male inmates to prevent any inappropriate interactions, while the Jailer must promptly summon medical attention for any sick prisoners. The Act also stipulates that a hospital or suitable facility must be provided for convicts.²⁹

The Special Benefit for Women Convicted in Prisons Act 2006

The Special Benefit for Women Convicted in Prisons Act of 2006 mandates that prisoners serving sentences longer than one year be entitled to special benefits, including concessions, after serving 50% of their sentence.³⁰ Such benefits may include conditional release, aftercare services by the Department of Social Services for social rehabilitation, and vocational training in various trade courses, such as block or batik, embroidery, haircutting, bamboo and cane work, tailoring science, and fabric making.³¹

The Bengal Jail Code of 1864

The Bengal Jail Code of 1864 mandates adherence to the Civil Procedure Code, Criminal Procedure Code, and Penal Code, which regulate aspects of inmates' incarceration, penalty execution, and prisoners' appeals, respectively.³²

The Prisoners Act of 1900

²⁶ Constitution of Bangladesh, art 27.

²⁷ Constitution of Bangladesh, art 35.

²⁸ Prisons Act 1894, ss 4.

²⁹ Prisons Act 1894, ss 7, 13, 27-39.

³⁰ Special Benefit for Women Convicted in Prisons Act 2006, s 4.

³¹ Special Benefit for Women Convicted in Prisons Act 2006, s 3.

³² Matin (n 3).

The Prisoners Act of 1900 mentions the Reformative School twice and provides provisions for the removal of prisoners who are mentally ill to a lunatic asylum in compliance with the Lunacy Act.³³

The Bangladeshi government has also taken action to support and help women convicts with their legal matters. Legal assistance is offered to those in need, including women in jail, under the Legal Aid Services Act of 2000. Moreover, through its district-level legal aid committees, the National Legal Aid Services Organization (NLASO) offers free legal assistance to women convicts.³⁴

Overall, despite Bangladesh's substantial achievement in creating a legal framework to protect the rights of women convicts, more attention needs to be paid to how policies and regulations are actually put into practice. The government has to devote more funds to ensuring that female convicts have decent housing circumstances, access to healthcare, and possibilities for education and employment. Moreover, steps should be done to protect female inmates from exploitation and abuse while they are detained.

In summary, an outline of Bangladesh's legal system for women inmates' rights has been presented in this chapter. The application of these norms at the national level still faces considerable difficulties, despite the fact that international agreements and treaties establish rules and standards for the treatment of inmates, including women prisoners. In Bangladesh, national laws and regulations pertaining to the rights of women in jail have been developed, however enforcement and implementation still fall short. The review of the legal system's advantages and disadvantages reveals the need for reforms in a number of areas, including women inmates' access to healthcare and education, non-incarceration options for non-violent offenses, and the prevention of violence and abuse against women prisoners.

Additionally, Bangladesh's legal framework can be improved in a number of ways to support the rights and welfare of women convicts after being compared to international best practices. Government agencies and civil society organizations must work together to provide effective policies and solutions to the problems encountered by women prisoners. Bangladesh can guarantee that women prisoners are treated humanely and with respect for their rights by

³³ Prisoners Act 1900, ss 14, 28.

³⁴ Matin (n 3).

strengthening the legal system and putting in place efficient regulations. This will support the development of a society that is more fair and just and supports the rights of all people.

Chapter 4: Flaws and Limitations of the Existing Laws

The legal framework for women prisoners' rights in Bangladesh, as outlined in the previous chapter, is based on various international conventions and national laws. However, despite the existence of these legal protections, the reality for many women prisoners in Bangladesh is far from ideal. This chapter will highlight the flaws and limitations of the existing regulations, specifically focusing on the Prisoners Act 1900, Prisons Act 1894, Special Benefit for Women Convicted in Prisons Act 2006, and The Bengal Jail Code of 1864. It will examine the lack of focus on women prisoners and their specific needs, inadequate provision of basic needs and services, inadequate legal representation and access to justice, and discrimination and violence against women prisoners. Furthermore, this chapter will suggest recommendations for addressing these flaws and limitations to improve the conditions and treatment of women prisoners in Bangladesh.

4.1. The Inadequacies of The Constitutional Framework in Safeguarding Women Prisoners' Rights

According to the Constitution of Bangladesh, every individual is considered equal before the law and is entitled to equal protection under the law, without being subjected to any form of disability, liability, restriction, or condition based on their religion, race, caste, sex, or place of birth. Although this provision seems to guarantee equal treatment of all citizens in the courts of law, the Constitution fails to recognize the unique needs of female prisoners in Bangladesh, as well as the broader female population in the country.³⁵ Therefore, it is imperative to recognize the distinct needs of women and revise the Constitution to establish the meaning of gender equality. Despite efforts to ensure the safety of female prisoners, reports from local sources suggest that the conditions are not satisfactory, and female inmates are not secure either in society due to the mistreatment by society's miscreants or in police custody and prisons for numerous reasons. Regrettably, female prisoners have been subject to violations of their human rights, such as rape, molestation, and indecent behavior, by members of the Law Enforcement Agency (LEA).³⁶

³⁵ Akhter (n 1).

³⁶ Ibid.

4.2. Inadequate Provision of Basic Needs and Services

Women prisoners in Bangladesh face significant challenges in accessing basic needs and services, including healthcare, sanitation, nutrition, and education. The prison system is overcrowded and understaffed, leading to inadequate provision of these essential services. This lack of basic needs and services affects the health and wellbeing of women prisoners, further exacerbating their vulnerability.

4.2.1. Regarding Health Care Services:

International agreements also recognize the need for gender-specific healthcare services, as women prisoners often have greater primary healthcare needs compared to their male counterparts. Their health condition may further deteriorate in correctional facilities due to inadequate healthcare, poor hygiene, inadequate nutrition, and overcrowding.³⁷ Moreover, women prisoners have specific healthcare needs related to their gender and require regular access to specialized healthcare providers, such as mental health services, HIV prevention, care and support, and specialized treatments for pregnant women.³⁸ Nevertheless, the Prisons Act of 1894 and the Rules for the Superintendence and Management of Jails in Bangladesh only provide general medical care provisions and limit the treatment of prisoners to instances when they are ill.³⁹

4.2.2. Regarding Cleanliness:

The United Nations' regulations for the treatment of female prisoners and alternatives to incarceration for female offenders include provisions related to hygiene that are specific to women.⁴⁰ However, the Prisons Act of 1894 falls short of complying with these guidelines, as it only provides for general medical care in cases where prisoners fall ill. Similarly, the Rules for the superintendence and Management of Jails in Bangladesh offer only general sanitary regulations, and do not provide for gender-specific hygiene measures. As such, the current legislative framework in Bangladesh lacks specific provisions to address the hygiene needs of women prisoners.⁴¹

³⁷ UNODC, 'THE BANGKOK RULES' <https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf> accessed 3 April 2023.

³⁸ *ibid.*

³⁹ Prison Act 1894.

⁴⁰ Wahab (n 2).

⁴¹ *ibid.*

4.2.3. Allocation:

In line with the regulations set forth in the Rules for the Superintendence and Management of Jails in Bangladesh, each prisoner is entitled to a designated superficial and cubical space within their sleeping ward, based on specific conditions. As stipulated, the superficial area per prisoner in wards where prisoners sleep in two rows is 4.18 square meters, while the cubical space per prisoner is 16.99 cubic meters.⁴² In wards where prisoners sleep in four rows, the superficial area per prisoner is 5.65 square meters and the cubical space per prisoner is 21.24 cubic meters. For wards where prisoners sleep in more than four rows, the superficial area per prisoner is 9.26 square meters and the cubical space per prisoner is 35.40 cubic meters. The aforementioned system applies to both male and female prisoners.⁴³ However, there is no specific system in place for women prisoners, and it appears that the current system exists only on paper. Consequently, overcrowding remains a significant problem in Bangladeshi prisons, as affirmed by international bodies.⁴⁴

4.2.4. Special Foods for Pregnant Prisoners:

According to the World Health Organization (WHO) 2015 data, approximately 303,000 women died due to pregnancy-related complications, and 2.7 million infants died within the first 28 days of life. These figures are deeply concerning.⁴⁵ Dr. Ian Askew, the Director of Reproductive Health and Research at WHO, asserts that all women should receive dignified care during pregnancy, and it should be a positive experience for them. Pregnant inmates require special diets to ensure proper nutrition, but the Rules for the Superintendence and Management of Jails in Bangladesh do not specify any special dietary requirements for them.⁴⁶ This inadequacy highlights the insufficiencies in Bangladeshi legislation regarding women prisoners.

4.3. Inadequate Legal Representation and Access to Justice:

⁴² UNODC (n 23).

⁴³ Ministry of Home Affairs (MoHA), Ministry of Law, Justice and Parliamentary Affairs (MoLJPA), 'Justice and Prison Reform for Promoting Human Rights and Preventing Corruption' <<https://www.giz.de/en/worldwide/15042.html>> accessed 24 April 2023.

⁴⁴ Ministry of Home Affairs (MoHA) and GIZ, 'Improvement of the Real Situation of Overcrowding in Prisons in Bangladesh (IRSOP)' (Ministry of Home Affairs (MoHA) and GIZ 2018) <https://www.giz.de/en/downloads/giz2016-en-prisons_bangladesh.pdf> accessed 25 April 2023.

⁴⁵ WHO, 'Pregnant Women Must Be Able to Access the Right Care at the Right Time' (WHO 2016) <www.who.int/news-room/detail/07-11-2016-pregnant-women-must-be-able-to-access-the-right-care-at-the-right-time-says-who> accessed 25 April 2023.

⁴⁶ *ibid.*

Notwithstanding the legal provisions for legal aid and representation, women incarcerated in Bangladesh encounter difficulties in accessing legal services, attributable to their limited knowledge of their legal rights, inadequate institutional support, and constrained resources.⁴⁷ Despite the Legal Aid Services Act of 2000 and the Code of Criminal Procedure of 1898 enshrining the provision of legal aid and representation, there have been several reports of insufficient enforcement of these provisions. For instance, the Legal Aid Office in Bangladesh is grossly understaffed and lacks the necessary resources to offer legal aid services to all prisoners, particularly women. This has resulted in many women prisoners being unable to access legal representation and, in some instances, compelled to represent themselves in court.⁴⁸

4.4. Discrimination and Violence Against Women Prisoners:

In Bangladesh, female prisoners face a multitude of forms of discrimination and violence, rendering them vulnerable to physical, sexual, and emotional abuse, which is frequently perpetrated by prison officials, according to various reports. Moreover, women prisoners are often subjected to stigma and marginalization, further exacerbating their vulnerability to discrimination and abuse. Pregnant female prisoners and those with children often endure harsh treatment and limited access to healthcare services. The prevalence of sexual abuse of female prisoners by male prison officials underscores the inadequate safeguards and protection mechanisms in place for female prisoners.⁴⁹

The landmark case of *Ain o Salish Kendra vs. Government of Bangladesh*⁵⁰ resulted in the High Court Division of the Supreme Court of Bangladesh directing the government to take prompt action to safeguard the rights of women prisoners and ensure their safety and security. The court acknowledged that female prisoners in Bangladesh were subjected to multiple forms of discrimination and violence and that the government had not implemented adequate measures to tackle these issues.⁵¹ The court ordered the government to establish separate facilities for women prisoners, provide adequate healthcare and nutrition, and safeguard against sexual

⁴⁷ Jamila Ahmed Chowdhury, 'Legal Aid and Women ' s Access to Justice InBangladesh: A Drizzling in the Desert' (2012) 1 8.

⁴⁸ *ibid.*

⁴⁹ WHO (n 45).

⁵⁰ *Ain o Salish Kendra vs. Government of Bangladesh*, Writ Petition No. 3702 of 2003, 60 DLR (HCD) (2008) 137.

⁵¹ *Ibid.*

harassment and abuse. Despite this significant legal judgment, however, there are still challenges in guaranteeing the protection and promotion of women prisoners' rights in Bangladesh.⁵²

In conclusion, the existing regulations for women prisoners' rights in Bangladesh are flawed and limited. The Prisoners Act 1900, Prisons Act 1894, Special Benefit for Women Convicted in Prisons Act 2006, and The Bengal Jail Code of 1864, all have shortcomings that result in inadequate provision of basic needs and services, inadequate legal representation and access to justice, and discrimination and violence against women prisoners. It is essential to address these flaws and limitations to ensure that the human rights of women prisoners are protected and promoted. Policymakers and stakeholders need to take necessary steps to address the gaps in the existing regulations to ensure that women prisoners receive equal treatment and protection of their rights.

⁵² Ibid.

Chapter 5: Realities of Women Prisoners' Rights in Bangladesh

Prisoners' rights are an essential aspect of human rights, ensuring that individuals who are incarcerated are treated with dignity and respect. However, women prisoners' rights in Bangladesh have been a topic of concern, with various reports highlighting their violation. The objective of this chapter is to provide an overview of the current state of women prisoners' rights in Bangladesh, analyze the realities of their rights, identify the contributing factors to the violation of their rights, and examine the impact of these violations.

5.1. Overview of the Current State of Women Prisoners' Rights in Bangladesh

Bangladesh's prison system has been criticized for its overcrowding, poor sanitation, and inadequate medical facilities. These issues have a more significant impact on women prisoners, who are often subjected to sexual violence, physical abuse, and neglect. According to the Human Rights Watch, women in Bangladeshi prisons face a range of human rights violations, including lack of privacy, poor health care, and inadequate access to legal representation.

5.2. Analysis of the Realities of Women Prisoners' Rights in Bangladesh

The reality of women prisoners' rights in Bangladesh is bleak, with various factors contributing to their violation. Women in prisons are subjected to physical and sexual violence, poor living conditions, and inadequate medical care. Additionally, they face discrimination based on their gender, ethnicity, and socioeconomic status. The lack of legal representation exacerbates their vulnerability, and many are unable to access justice.

5.2.1. Safety and Security

The Handbook on Women and Imprisonment highlights the widespread issue of sexual abuse and mistreatment experienced by female inmates across various nations, including Bangladesh.⁵³ Instances of such abuse may range from verbal harassment and physical assault to sexual assault, which may occur during pat-down searches, arbitrary searches and surveillance of prisoners. Reports by various Bangladeshi news outlets have documented

⁵³ Atabay and Atabay (n 24).

several instances of sexual abuse perpetrated against female prisoners, with incidents of rape committed by police officials being particularly egregious.⁵⁴ Despite the perpetrators being individuals in positions of authority, many of these incidents have not been addressed by law enforcement agencies. For instance, a news report published on August 6th, 2019 in a reputable Bangladeshi newspaper⁵⁵ detailed the rape of a woman by an Office in Charge and several other police officers, while another report by bdnews24.com on August 5th, 2019 described the gang rape of a woman by police officers in Khulna.⁵⁶ Furthermore, there have been cases where authorities have abused their power by unlawfully detaining women.

Notably, in the case of *BLAST v Bangladesh vs. Bangladesh and others [‘Safe Custody’ Case]*⁵⁷, the High Court Division issued a Rule Nisi on February 24th, 1997, calling upon the respondents to demonstrate why the detainee should not be brought before the court so that it may ensure that she is not being detained without lawful authority. The lack of adequate legislation addressing these issues in Bangladesh is a pressing concern.⁵⁸

In the case of *BLAST & Another v. Bangladesh & Others*⁵⁹, the law guarantees protections for arrest, a fair trial, the absence of torture, arrest without a warrant, and detention in police custody. These liberties are merely fundamental rights for prisoners, nevertheless. These rights ought to be protected in every democratic nation.

In another case, *BLAST & Another v. Bangladesh & Others*⁶⁰, this judgement was handed out in order to guarantee protections for prisoners who are being held pending trial, fair trials, and access to justice. Even under this situation, some fundamental rights are covered. Some of the cases are still open.

5.2.2. Regarding Allocation

The Bangkok Rules, which provide guidelines for the treatment of women prisoners and non-custodial measures for women offenders, stipulate specific standards for the accommodation

⁵⁴ Wahab (n 2).

⁵⁵ Star Report, OC, ‘Other Cops Rape a Woman’ *Daily Star* (6 August 2019) <<https://www.thedailystar.net/frontpage/news/police-probe-rape-allegation-against-cops-1782217>> accessed 25 April 2023.

⁵⁶ Khulna Correspondent, ‘Woman Allegedly Gang-Raped by Policemen in Khulna’ *bdnews24.com* (5 August 2019) <bdnews24.com/bangladesh/2019/08/05/woman-allegedly-gang-raped-by-policemen-in-khulna> accessed 24 April 2023.

⁵⁷ *BLAST v Bangladesh vs. Bangladesh and others [‘Safe Custody’ Case]*, Writ Petition No. 1157 of 1997

⁵⁸ *Ibid.*

⁵⁹ *BLAST & Another v Bangladesh & Others* 55 DLR (2003) 363

⁶⁰ *BLAST & Another v Bangladesh & Others* 57 DLR (HCD) (2005) 11

of women prisoners.⁶¹ According to the United Nations' regulations, women's prisons must provide necessary services and supplies to fulfill women's particular cleanliness requirements, such as free sanitary napkins and other gender-specific necessities.⁶² However, several academic studies conducted in Bangladesh indicate that the country's prisons are overpopulated. For instance, a joint study conducted by the Ministry of Home Affairs and GIZ in May 2018 revealed that the actual capacity of the country's jails is 36,614, while the actual population of prisons is 86,433, more than double the capacity.⁶³

5.2.3. Special Foods for Pregnant Prisoners

In 2006, the Bangladesh government passed the Special Facilities for Women Prisoners Act, which offers specific benefits to women prisoners, including conditional bail, training, and aftercare. However, certain prisoners are ineligible for these privileges, such as those with death sentences or those convicted under explosive and narcotic laws.⁶⁴ Despite this new legislation, it fails to address gender-specific women's rights, which is a major concern. The Bangladesh Legal Aid and Service Trust (BLAST) is a prominent legal services organization in Bangladesh that advocates for prisoners' rights, including fair trial and freedom from torture. However, these basic rights should be upheld in any democratic society. Although some cases have been resolved, many remain unresolved.⁶⁵

The above discussion reveals that the existing legislations in Bangladesh concerning prisoners' rights do not meet international standards. Women prisoners have specific rights, but they are being deprived of those essential rights. It is crucial to incorporate these rights into the legal framework of Bangladesh and ensure that they are upheld. The government should take measures to guarantee women prisoners' rights and provide them with equal treatment and opportunities. This will contribute to a fairer and more just society in which all individuals, regardless of their status, are treated equally.

5.3. Impact of the Violation of Women Prisoners' Rights:

Physical and Mental Health: The violation of women prisoners' rights can have a severe impact on their physical and mental health. They may suffer from malnutrition, lack of medical care, or exposure to unsanitary conditions, which can lead to the spread of diseases. The stress and

⁶¹ UNODC (n 37).

⁶² UNODC (n 23).

⁶³ Ministry of Home Affairs (MoHA), Ministry of Law, Justice and Parliamentary Affairs (MoLJPA) (n 43).

⁶⁴ WHO (n 45).

⁶⁵ *ibid.*

trauma of being incarcerated, coupled with abuse and neglect, can also lead to long-term mental health issues.

Reintegration into Society: When women prisoners' rights are violated, it becomes challenging for them to reintegrate into society after their release. They may face social stigma, discrimination, and difficulty finding employment, housing, and other resources they need to rebuild their lives. This can lead to a cycle of poverty and recidivism, perpetuating the problems within the criminal justice system.

Human Rights Violations: The violation of women prisoners' rights is a human rights violation that goes against international standards and principles. When governments fail to protect the rights of prisoners, it undermines the legitimacy of the criminal justice system and erodes trust in the rule of law. It is essential to ensure that all prisoners, including women, are treated with dignity and respect and have access to their basic human rights.

5.4. Measures To Improve the State of Women Prisoners' Rights in Bangladesh

Based on the realities discussed above, it is evident that women prisoners in Bangladesh face a range of issues related to safety and security, allocation of resources, and access to specific needs such as pregnancy-related care. To improve the state of women prisoners' rights in Bangladesh, several measures can be taken.

Firstly, the existing laws related to prisoners should be amended to ensure that they comply with international standards, particularly in terms of protecting women prisoners from sexual abuse and harassment by law enforcement officials. Additionally, provisions should be made for basic hygiene and healthcare for women prisoners, including access to sanitary napkins and other gender-specific needs.

Secondly, there should be a focus on providing adequate legal representation and access to justice for women prisoners. Discrimination and violence against women prisoners should not be tolerated, and steps should be taken to ensure that they are given a fair trial and access to justice.

Thirdly, the issue of overcrowding in prisons should be addressed through the expansion of prison facilities and the development of alternative non-custodial measures, as outlined in the

Bangkok Rules. Special provisions should be made for pregnant women prisoners, including access to adequate nutrition and healthcare.

Overall, improving the state of women prisoners' rights in Bangladesh will require a concerted effort on the part of the government, civil society organizations, and other stakeholders. By taking steps to address the realities faced by women prisoners, we can work towards creating a more just and equitable society for all.

The violation of women prisoners' rights is a human rights issue that requires urgent attention. Women in Bangladeshi prisons face numerous challenges, from poor living conditions to discrimination and violence. The government must take steps to address these issues by providing better resources, enacting legislation that protects prisoners' rights, and improving the training of prison staff. Additionally, social attitudes towards women must change to create a more equitable and just society. Failure to address these issues perpetuates the cycle of poverty, inequality, and injustice and hinders the country's development.

Chapter 6: Conclusion and Recommendations

The conclusion of this dissertation highlights the significance of understanding the complexities of the prison system in Bangladesh and the impact it has on the rights of women prisoners. Through an analysis of the literature, it is clear that there are several factors contributing to the violation of women prisoners' rights, such as inadequate infrastructure, understaffing, and lack of proper legal aid. The impact of these violations is far-reaching, with physical and mental health consequences that can have lasting effects.

One of the most significant factors contributing to the violation of women prisoners' rights is the lack of proper infrastructure in prisons. Overcrowding, poor sanitation, and insufficient access to basic amenities are major issues that women prisoners face. This situation is exacerbated by understaffing, which results in a lack of proper supervision and increased incidents of violence among prisoners. Additionally, the lack of legal aid for women prisoners means that they are often unable to access legal support, which further exacerbates their vulnerability.

The impact of the violation of women prisoners' rights is severe and can have long-lasting consequences. Women prisoners often suffer from physical and mental health problems as a result of the poor conditions in which they are held. They are also vulnerable to various forms of abuse, including sexual violence and harassment. These experiences can have a profound effect on their well-being and can make it difficult for them to reintegrate into society after their release.

In conclusion, this dissertation highlights the need for reform in the prison system in Bangladesh, particularly with regard to the rights of women prisoners. The government must take immediate action to address the issues of inadequate infrastructure, understaffing, and lack of legal aid. It is essential that these measures are taken to ensure that women prisoners are treated with dignity and respect and that their rights are protected. Failure to address these issues will only perpetuate the cycle of violence and abuse that currently exists in the prison system.

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