BONA FIDE

Decage's Bi-monthly Magazine

Inaugural Edition | May - August 2025

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Published by

Decage

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Bangladesh.
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www.Decage.org

Price - Taka 300 only

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Editorial

This is the inaugural edition of ***Bona Fide***, a bimonthly magazine published by **Decage**. We are pleased to present to our readers a handsome collection of writings on various aspects of the criminal justice system of Bangladesh.

While preparing this collection, we have emphasized several areas that are in urgent need of systematic and long-term policy reform, including police remand and confession, juvenile justice, carceral malpractices, prison employment, crime prevention, and CrPC reform, among others. Special emphasis has been given to forced confessions resulting from police remand, as this is one of the most prevalent evils in our current judicial system. Two case reviews and one essay included in this collection are expected to shed light on the dangers of forced confessional statements in the context of Bangladesh. In addition, a seminar paper comprising the details of a seminar titled 'Manufacturing Confessional Statement: Police Remand as a Procedural Violence in the Criminal Justice System' will help readers gain a comprehensive understanding of the issue. The seminar was organized by Decage on May 29, 2025.

Decage arranged another seminar titled 'Right to Employment in Prison: Employment as a Basic Human Need' on July 7, 2025. The related seminar paper will help readers perceive the rationale and benefits of prison employment and update themselves on the latest developments regarding the issue. Interested readers will also have the opportunity to explore some under-the-radar topics like the miseries of prison babies or the institutional limitations of the Child Development Center. A theoretical criticism of Bangladesh's prison system has been attempted in the essay regarding the subalternization of prisoners. In these edition there are two sensational criminal case studies.

The inaugural edition of Bona Fide will introduce readers and scholars to the motto and the guiding spirit of Decage. As an organization, we are working to transform our current punishment-centric criminal justice system into one that is based on the spirit of correction and rehabilitation. We are also working to address the structural neglect and legal invisibility faced by people from marginalized sections of society.

The diverse range of topics featured in the current issue of Bona Fide will give readers an idea about both the scope and the guiding spirit of the activities of Decage.

The name Bona Fide is more than just a label. In Bangladesh, conversations about the criminal justice system often remain confined within institutional or bureaucratic boundaries. Through this publication, we seek to break through the boundaries by bringing forward genuine, research-based, and compassionate perspectives on issues such as prisons, policing, judicial and legal reform, human rights, etc. Simultaneously, we want to create and share a platform where diverse voices from academics to practitioners to those directly affected by the system — can speak truthfully, confidently, and constructively about the need for workable and long-term reform.

With best regards to all readers of ***Bona Fide***,

The Editorial Team,
Decage

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SEMINAR ON

MANUFACTURING CONFESSIONAL STATEMENT: POLICE REMAND AS A PROCEDURAL VIOLENCE IN THE CRIMINAL JUSTICE SYSTEM

MAY 29, 2025 | THURSDAY | 4:00 PM

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Seminar Paper:

Manufacturing Confessional Statement: Police Remand as a Procedural Violence in the Criminal Legal System of Bangladesh

The practice of police remand in Bangladesh frequently results in custodial torture, cruel & inhuman treatment to extract confessional statements from the suspect. This raises serious concerns about the voluntariness of the statements given, as the admissibility of confessional statements primarily lies in the voluntariness. Section 61 of the Code of Criminal Procedure, 1898 stipulates that an individual arrested in connection with a case must be forwarded before a magistrate within 24 hours. When investigation cannot be completed within this timeframe, section 167 permits a magistrate to authorize either judicial or police custody for a period not exceeding 15 days. However, this discretion is not absolute as the magistrate is required to record reasons for authorizing detention of the accused in the custody of the police. Human rights advocates argue that the legal framework for police remand enables systemic custodial violence. The focal point of human rights concern lies in the authorization of police remand which is often perceived as a method of extracting confessions through coercion, intimidation and physical or mental torture.

In fact, a vicious cycle has emerged, which shows that the authorization of police remand by the magistrate is the initial step to secure a confessional statement from the suspect and turn a perfunctory investigation into a successful conviction case. The vicious cycle involves the following seven propensities: police arrest a suspect and take him under custody for interrogation; the suspect is forwarded to the Magistrate as section 61 obliges police to do so and police needs more time with the suspect for interrogation in return; magistrate grants police remand; suspect faces intimidation and life threats to admit guilt and custodial torture ensues; the suspect agrees to give a confessional statement to avoid torture; the magistrate records the confessional statement right after police remand; and the confessional statement becomes the sole basis of conviction. Wealthy accused often succeed in avoiding police remand and custodial torture either by bribery or securing judicial relief, such as jail-gate interrogation. This practice highlights a structural inequality wherein the criminal legal system disproportionately disadvantages the socioeconomically marginalized section.

The Constitution of Bangladesh guarantees fundamental rights to individuals under arrest. Article 33(1) mandates that an arrestee must be promptly informed of the reasons for their detention and be allowed access to legal counsel. Article 35(4) protects individuals from being compelled to testify against themselves. Nevertheless, section 167 of the CrPC authorizes the magistrate to remand suspects to police custody if they believe it may yield further information, a provision that appears to be in contradiction with the constitutional guarantees afforded under Articles 33 and 35. Therefore, it is humbly submitted that the police remand is unconstitutional. In police remand, police torture and threaten the accused to spill information regarding a theory developed and believed by the police. If the accused decides not to open his mouth in front of the police, then what happens? More remands are being authorized by the magistrate. It can be reasonably claimed that our criminal legal system is prone to forcing a citizen to admit his guilt before trial as the prosecution

fails miserably to produce evidence and prove a case on merit.

Sections 25 and 26 of the Evidence Act also invalidate any confession made to a police officer or in police custody. Suppose the relevant section of the Evidence Act is read in conjunction with the articles of the Constitution. In that case, it manifests that the spirit of the law is against the prevalent practice of recording confessional statements immediately after police remand. There must be a cooling period for 2-3 days when the suspect will be completely out of police custody before any confession is recorded, recommends the UN Special Rapporteur on Torture. Hence, Indian courts have developed a practice where a magistrate sends the accused to jail custody for reflecting his decision after being produced by the police for giving a confessional statement. Despite the legal requirement that confessions must be made voluntarily, it is highly questionable how voluntariness can be ensured in the context of remand, where coercive interrogation techniques are routinely employed. Logically, if a confession is given following a period of torture, it is unlikely to be a product of genuine remorse and more likely a result of coercion. Therefore, confessions made immediately following police remand should not be treated as admissible evidence. The continued recognition of such confessions within the criminal legal system underscores the vulnerability of citizens subjected to existing procedures. Our legal system does not recognize plea bargaining and mitigating sentences for the accused who confess. It is insane to think that someone would volunteer to give a confessional statement only to be sentenced to death. No one gives a confessional statement; rather, the suspect is produced against his will before a magistrate in handcuffs after days of enduring torture in police remand.

A notable case from 2020 illustrates this issue. In Narayanganj, police coerced three individuals into confessing to the rape and murder of a girl. However, 54 days later, the supposed victim returned home unharmed, rendering the confessions completely baseless and exposing the grave dangers of relying on the allegedly voluntary confessional statement recorded by the magistrate.

The voluntariness of the confessional statement is imposed as it is recorded by the magistrate, not that it is free from inducement, threat or custodial torture in police remand. In the landmark BLAST vs.

Bangladesh (55 DLR 363), where a university student, Shamim Reza Rubel, died in police custody after being subjected to severe torture by the Detective Branch. Rubel had been coerced into confessing possession of illegal arms— none of which were ever recovered. the High Court Division issued 15 directives aimed at reforming arrest and remand procedures. Key directives include: interrogations must be conducted within a transparent glass-walled room located inside the prison. A magistrate's permission is required before any custodial interrogation can take place. The detainee must undergo medical examinations before and after interrogation. If allegations of torture are made, a medical board must be constituted to verify the claims and disciplinary action must be taken against those responsible if proven. Despite these directives, the legislature did not amend existing remand provisions of the Code of Criminal Procedure.

Decage arranged a seminar titled **"Manufacturing Confessional Statement: Police Remand as a Procedural Violence in the Criminal Legal System of Bangladesh"** at the Muzaffar Ahmed Chowdhury Auditorium of the University of Dhaka on May 29, 2025, at 4 pm. In the seminar, the keynote speaker, **Dr. Md. Mahbubur Rahman**, a criminal law expert and professor at the Department of Law, University of Dhaka, said that extracting confessions through police remand is a form of **'systemic violence'**. By law, the accused cannot be compelled to testify against himself and under no circumstances is torture permissible in the name of interrogation. There is no scope for deviation from this legal standard—it is an absolute fundamental right. However, due to discrepancies between constitutional provisions and practical realities, the majority of Bangladeshis believe that remand is synonymous with police torture. Law Enforcement Agencies and Government Officials often deny allegations of torture in police remand. In this regard, Magistrates and government narratives often align.

When a magistrate certifies a confession as voluntary, the court assumes it to be true. At that point, it becomes the burden of the accused to prove that the confession is false. "Why or when would an accused voluntarily confess, knowing they will be punished unkindly?" This may happen for only two reasons: guilt or the hope of reduced punishment. In many other countries, early confession can lead to sentence mitigation. However, no such legal framework exists in Bangladesh.

Apparently, no one's conscience awakens unless they're in police custody. it is always those in custody who confess. Those in jail or fugitives do not. So why do people "realize their guilt" only when in police custody? The answer is very simple and well-known. Custodial torture. Almost every confession is extracted through torture. It is the **magistrate's** duty to ensure this does not happen. Government officials often deny these issues as a self-protective strategy. Even the judiciary knows that the entire process is a **"systematic denial of violence."** Therefore, the responsibility for custodial torture lies more with the judiciary than with the police. In many countries, the conviction rate is over 90%. **In Bangladesh, the actual conviction rate is around 10%.** Efforts are often made to manufacture convictions through securing confessional statements, which are the consequence of remand torture, in an attempt to raise this number. Simply walking on the streets here can feel risky.

'Piecemeal reform' won't work—it might even be counterproductive. For example, after the **2003 BLAST case verdict**, it was thought that police torture would stop, but it didn't. **Even after the 2013 law to prevent torture and deaths in custody, some concerns and patterns show that forced disappearances may have increased due to this law. Professor Rahman's hypothesis suggests they have.**

One proposal from the Decage was to introduce a mandatory "cooling-off period" before any confession is taken.

He supported this as a good idea. He emphasized the need for comprehensive reform—just enacting laws or creating agencies won't suffice. Good governance and an independent judiciary are essential. Only then can we have a violence-free jurisprudence and political discourse. These steps, even without new laws, can resolve many issues.

At the seminar, Additional Chief Metropolitan Magistrate of the Chief Metropolitan Magistrate's (CMM) Court in Dhaka, Md. Zakir Hossain said that excessive workload is a major obstacle to justice. For instance, there are only 37 magistrates for police stations in Dhaka.

Md. Zakir Hossain Additional Chief Metropolitan Magistrate, CMM

With such limited manpower, they can't dedicate enough time to each case. In addition, political lobbying and pressure, along with weak prosecution, are significant hindrances to justice. Moreover, forensic investigation in the country faces serious limitations and is largely ineffective.

Zia Uddin Ahmed, Metropolitan Magistrate of the Dhaka CMM Court, remarked that police psychology is such that they feel successful only when they extract a confessional statement. Section 164 is not the Bible. Its importance should be reduced.

Other speakers at the seminar included senior Supreme Court lawyer **Helal Uddin Molla**, human rights activist **Mosfiquir Rahman Johan**, lawyer **Zahirul Islam Musa**, and **Anwar Shankar**, who became a victim of custodial torture in 2005.

There are several international practices and models that Bangladesh could adopt to curb custodial torture. In the United States, the Miranda Rights established through Miranda v. Arizona (1966) require police to inform arrestees of their right to remain silent and to access legal counsel during arrest. Similarly, in the Netherlands and Tunisia, legal provisions now guarantee the presence of a lawyer during police interrogation. In France, newly updated laws require that no police questioning can proceed without legal counsel, and if a lawyer is unavailable, the state is obligated to appoint one. The European Union has introduced the "Letter of Rights," which ensures that detainees are informed of their legal entitlements— including the right to silence, access to legal representation, and

the maximum duration of custody—in clear, accessible language upon arrest. The remand regime must ultimately be abolished. However, as long as a confessional statement immediately after police remand is considered as evidence, the abolition of remand is not possible, simply because remand and confession enable each other. It would be more legal and trustworthy if confessional statements were taken after the accused had spent their reflection period in jail custody. Admissions of guilt produced under duress and torture rarely reflect the accused's true culpability, but rather the will of the interrogators. As such, any confession obtained under these conditions is deemed involuntary and hence inadmissible in a court of law. Several countries have introduced robust mechanisms to prevent custodial abuse and ensure the voluntariness of confessional statements. For instance, Croatia, Romania, Ireland, and Portugal require audio-visual recording of all police interrogations. The United States, Australia, the Netherlands, South Korea, and various EU member states permit or mandate the presence of legal counsel during interrogations and confession recordings. The United Kingdom, through the Police and Criminal Evidence Act (PACE) 1984, ensures video-recorded interviews, legal representation, and mechanisms to confirm the voluntariness of statements. In the United States, there has been a notable expansion of the use of body cameras and custodial video surveillance to document the full process from arrest to confession. These practices offer an ideal picture of how police interrogation should be, and can be adopted by the police force of Bangladesh to eradicate systemic custodial violence. Police reform has been widely acknowledged as one of our national priorities after the mass uprising of July, 2024. The Police Reform Commission also recommended several initiatives to curb police violence. In light of those recommendations and the aforementioned international practices, immediate reform should be brought to the overall police remand, interrogation, and confession-recording process.

Imprisonment as Subalternisation: A Definitive Case of State-led Marginalization in Bangladesh's Prisons

Tanveer Ahamed

Any discussion on the subalternity of the prisoners invites some risks. Firstly, specific causes of considering prisoners as a subaltern community may be called into question. Secondly, some may suspect whether we are questioning the legitimacy of the existence of prisons and the legal and social framework that enables the prison system as it is now. However, at a time when prison abolitionists are raising their voices in many parts of the world and formal initiatives are concurrently taken to 'humanise' the prison even in several developing nations, the idea of considering Bangladeshi prisons as 'subalternising apparatus' bears some theoretical as well as empirical value provided that the existing prison apparatus of Bangladesh is a colonial formation that has largely failed to accommodate the universally recognised human rights standards vis-à-vis criminal justice and imprisonment.

Before going into the main discussion, a reflection on a particular question is necessary: who are subalterns? In Gramscian theory, subaltern classes refer to any "low rank" person or social groups living under the hegemonic domination of a ruling elite class that denies them the basic rights of participation in the making of local history and culture

as active individuals of the same nation (Louai, 2011). Gramsci (2021) wrote, 'the history of the subaltern classes is necessarily fragmented and episodic…subaltern classes are subject to the initiatives of the dominant class, even when they rebel; they are in a state of anxious defense.' In the 1980s, the Subaltern Studies Group, under the mentorship of Ranajit Guha, adopted the term from Gramscian literature to refer to the marginalised and subordinate people in a social, political, or economic hierarchy, particularly within the context of colonial and postcolonial societies (Louai, 2011). Guha (1982) used the word 'elite' as a categorical opposite of the word 'subaltern'. By the word 'elite', he referred to the foreign and indigenous dominant groups who belonged to the top tiers of the socio-economic and political hierarchy of colonial India. The SSG authors, along with Guha, accentuated the shortcomings of the elitist historiography of colonial India and emphasised the documentation of the underexplored history of subaltern consciousness. In 1988, Gayatri Chakravorty Spivak showed a new direction for subaltern enthusiasts through her seminal essay titled 'Can the Subaltern Speak?' In that essay, Spivak (1988) used the word 'subaltern' to refer to the marginalised, oppressed, and silenced social groups who are often excluded from hegemonic narratives and elite-centric power structures. Spivak furthermore delineated her concept of subaltern and subalternity in her subsequent works on this topic. In another widely read essay titled 'Scattered speculations on the subaltern and the popular', Spivak (2005) wrote, 'subalternity is a position without identity… subalternity is where social lines of mobility, being elsewhere, do not permit the formation of a recognizable basis of action'. However, in an interview, Spivak described a 'certain dilution' of the word 'subaltern' ensuing from her attempt to 'make the work of Subaltern Studies more easily accessible'. As a result, 'subaltern' became a claim to a certain kind of undifferentiated victimage… "subaltern is anybody who feels inferior" (Srivastava and Bhattacharya, 2012).

Thomas (2018) problematised Spivak's emphasis on the expressive incapacity of the subaltern in her definition. He also disapproved of the mystification of the concept of subaltern in Spivak's works:

> In some of her more provocative formulations, for instance, the subaltern becomes an almost mystical concept, in a Wittgensteinian sense: the subaltern not only cannot speak, but is also that figure of whom one should not speak, lest one falls into the trap of speaking for the subaltern and thus dominating it.

> In Spivak's words, "If the subaltern can speak, then, thank God, the subaltern is not a subaltern anymore." Here, the subaltern is represented, paradoxically, as that which is not representable in any given order; the entrance into (self-) representation is immediately the exit from subalternity.

Thomas (2018) reinterpreted the concept of 'subaltern' by drawing new resources from Gramsci's original theorisations rather than the later developments of the concept of subaltern. In contrast with Spivak's interpretation, Thomas (2018) demonstrated three refigurations of the concept, such as the irrepressible subaltern, the hegemonic subaltern, and the 'citizen subaltern'. Under this new construction, the subaltern is no longer unable to speak, or 'understanding of the subaltern does not oppose the figure of the citizen. Rather, it conceives the subaltern as a figure in which the contradictions of modern citizenship are intensely realized.'

When we propose to consider prisoners as 'subaltern', the first question that arises in our mind is: is it possible to consider prisoners as a 'social group' like other subaltern groups who are categorized based on their gender, race, class, ethnicity, and so forth? Prison is a space where people from varying social, economic and cultural backgrounds are forced to live together under the same penal authority. While the prisoners build up a sense of community among themselves, their lives in prison are heavily detached from the society they came from. In most cases, they have to adopt completely new lifestyle, norms, gestures, and etiquettes to lead a 'problem-free' life in prisons. Therefore, they are not like any other subaltern social groups, who, in spite of their exclusion from dominant narratives and power structure, have a society of their own. Prisoners, who live in prison because of their 'criminality' or 'supposed criminality', build up a 'society within societies' based on their shared victimhood and oppressedness in prisons. This hidden society, constituted by DIG, Jail Super, Deputy Jail Super, Subadar, Jamadar, Mian Sahib, Warden, Writer, Chali, Mate, Inmate (undertrial and convicted), etc., has its own hierarchy and power structure (Parvez, 2000; Bhuiyan, 2023). It has its own norms and values and fosters a certain subculture based on those norms, values and hierarchies. Unfortunately, the civil society of Bangladesh possesses little or no knowledge about the many aspects of this parallel prison society. Very few accounts of prison experiences have been written in the post-independence period of Bangladesh. Those that are written are also inevitably written by the middle and upper-middle class, educated prisoners, not the ordinary poor prisoners who constitute

the majority in prisons. For example, Parvez (2000) conducted a study on the prison memoirs written across the British era, Pakistani era, and Bangladeshi era. Of the thirteen books he mentioned, ten were written by professional politicians. The writers of the three other memoirs were not politicians; however, they went to prison for political reasons as well. This uncovers the fact that the prison knowledge that is prevalent in our society is, for the most part, narrated by the educated middle class. We don't bother much about the experiences and realisations of poor prisoners, who don't write memoirs or autobiographies. Or mass media also rehearses and propagates the conventional narratives. Occasional news reports and editorials on the sufferings and adversities of prison life strike many readers who don't possess any previous knowledge regarding a certain unjust practice inside prisons. However, these attempts provide only a fragmented account of the overall prison scenario and fail to have long-term critical impacts on the conventional prison knowledge. Furthermore, in moments of tension and rebellion inside prisons, the mass media usually side with the government. Instead of publicising the legitimate demands of the prisoners, the media consciously legitimise whatever action the government takes to subdue the prisoners. Parvez (2000) described how the media of Bangladesh, by disseminating false and distorted stories, manufactured public consent in favour of the government's brutal subdual of prisoners during the revolt in Jessore Central Jail in 1996. As a consequence, the civil society of Bangladesh, whose opinions are often shaped by popular media representation of crimes and criminals, has never shown substantial avidity for prison reform. We live in a country where the so-called civil society tends to be firmly convinced by the logics of carcerality and state security. In our conventional prison discourse, legal aspects of incarceration get more attention than the social construction of prisoners. Therefore, the popular ignorance regarding the dynamics of imprisonment is not an accident. It is a manufactured phenomenon. Nothing would be closer to the truth than to say that the civil society of Bangladesh has been systematically kept in the dark about the particulars of imprisonment.

The current imprisonment scenario, as evident from the above discussion, is horrifying. We are living in a society where prisoners are voiceless under the existing penal apparatus and cannot speak. On the other hand, the civil society has a voice, yet does not speak due largely to its socio-politically constructed nesciences and preconceptions regarding imprisonment. This situation can be better explained by the *subalternity* of the prisoners. We have already provided the reader with a short introduction to what we should understand by the concept of

subaltern. We have quoted several exponents of subaltern studies. The next part of this essay will be dedicated to interpreting the prison system of Bangladesh as an essentially 'subalternising apparatus'. Here, we have two propositions to begin with:

> **A**. The prison system of Bangladesh is, legally and practically, a subalternising space. Even people with non-subaltern backgrounds attain a certain level of subalternity when they enter prison as accused/convicted criminals. Not all subalterns are born subalterns. People *become subaltern* in Bangladesh's prisons.
>
> **B**. When people from a subaltern background enter prison, the norms, values, and hierarchies of the prisons intensify their subalternity, hence rendering them *doubly subaltern*, by making them immobile and socially dead. This newly added subalternity does not leave them even when they are released from prisons. Rather, they become more subaltern than the rest of their community. Prison subalternity keeps affecting their livelihood capacity and social connectivity in their post-prison life.

Basilico (2024) used the concept of 'becoming subaltern' to analyse prison graffiti of an early modern inquisitorial prison of Italy as a form of subaltern writing. She considered confinement as a condition of temporary subalternity that can impose a certain level of subalternity upon a hitherto non-subaltern subject. Although a subaltern is one who 'cannot speak, cannot be heard and is being silenced', this subject who has become subaltern can speak and write thanks to his/her past and post-prison subalternity (Basilico, 2024). We can contextualise this concept to refer to the middle-class citizens and professionals (e.g., the aforementioned writers of prison memoirs), who, despite their non-subaltern past, fall into subalternity after entering prison. These prisoners, as Bhuiyan (2023) showed in his book, are solvent enough to ensure their legal representation and leave prison early if they are innocent. However, as long as they are incarcerated, they cannot disobey the prison norms and subcultural standards. They can purchase comfort by spending money, as the prison administration of Bangladesh is severely corrupt (Parvez, 2000; Bhuiyan, 2023). When they don't have enough money to extract underhanded services from prison personnel, they become equally exposed to the insults and miseries of prison life, just like prisoners with subaltern backgrounds (Bhuiyan, 2023). Like poor prisoners, they are removed from all lines of social mobility once they lose their social,

political, and financial capital to defend themselves against the callous and sadistic treatments of the prison authority. However, even in these circumstances, the new subalterns try to get involved in several forms of emancipatory actions. **Kaaktaal**, a Dhaka-based band that began its journey from the confinement of Dhaka Central Jail in 2021, is an example of this.

Nonetheless, even when a person has considerable social links, he can be a victim of prison violence. Author Mushtaq Ahmed, who died in Kashimpur High Security Prisons in 2021 after being denied bail 6 times despite his poor health, is an example of this. A day before his death, Mushtaq went to the jail hospital to receive medical treatment. However, the compounder of the hospital misbehaved with him, and he returned to his cell without getting treatment (Bhuiyan, 2023). There are allegations that he was tortured in prison. Even if he is not, he is an ideal victim of the immobility and helplessness that is imposed on many innocent citizens by the penal system of Bangladesh. Similar cases shall be found among the victims of the infamous **Digital Security Act 2018,** as many sections of that law were non-bailable, and hundreds of citizens used to be detained month after month in jail as under-trial prisoners awaiting release. The most horrific side of DSA as a law was that, like the Special Powers Act, it subalternises its victims by postponing the legal protection a citizen must be provided in a democratic state. The same goes for the prisons. All accounts of prison life are reiterating one single fact: the basic rights of a prisoner are either unfulfilled or irretrievably conditioned. In such a condition, a person who is detained in prison immerses in the miasma of subcitizenship, where he is constantly at risk of experiencing various forms of state-led violence, like torture, intimidation, shackles, intentional postponement of food supply, and so forth. The prison system of Bangladesh, as described by victims and observers, is essentially a vindictive penal apparatus. It focuses more on punishment than on correction and rehabilitation.

This is an unfortunate fact that even after eight decades of independence from British colonial rule, the criminal justice system of Bangladesh has remained faithful to its age-old colonial legacy. It would not be wrong to say that the whole of our current criminal justice system is fundamentally a colonial formation, which was originally dedicated to repressing and punishing Indian citizens living under colonial rule. Arnold (1994) writes about the prison of the Indian subcontinent:

> The prison stands as an archetypal colonial institution, not only reflecting and institutionalizing colonial ideas about essential social categories, but also constituting one of the key sites on which the ground rules of colonial engagement with Indian society were laid down.

The statement is still relevant for Bangladesh's prisons. The state of Bangladesh formally guarantees the fulfillment of the fundamental rights of all citizens under all conditions. However, it has not abolished colonial laws that are contradictory to the human rights spirit. The list involves the Penal Code, 1860; the Police Act, 1861; the Code of Criminal Procedure, 1898; the Prisons Act, 1894; the Prisoners Act, 1900, and so many. Time and again, claims for the reform of these outdated laws have been raised from the civil society, but the successive governments have constantly ignored the issue. Numerous prison revolts have occurred where prisoners also demanded, along with other demands, humanistic reform of the colonial penal laws. As prison revolts are a misunderstood and underexplored domain of our history, civil society never took a keen interest in the evaluation and appreciation of the demands of the prisoners. Nevertheless, when one goes through the 39-points demand during hunger strike in Dhaka Central Jail, 1978; 24-points demand during the revolt in Khulna District Jail in 1980; 37-points Demand during hunger strike in Dhaka Central Jail in 1983; 10-points demand during revolt in Dhaka Central Jail in 1990: 10-points demand during revolt in Jessore Central Jail in 1996, etc., one will astonishingly find that the state of Bangladesh has not only kept the legitimate demands of the prisoners unfulfilled, it has also been victorious in the long run by oblivionising the true causes and consequences of every prison revolt (Parvez, 2000). The 184 reform initiatives recommended by the Munim Jail Reform Commission in 1980 are also unimplemented for the most part (The Daily Star, 2000). As a matter of fact, the state lacks the altruistic motive to work for the betterment of its citizens who are rotting in jails. From time to time, it adopted minor and superstructural changes in the prison management; however, it never showed any intention to abolish the colonial biopolitics vis-à-vis post-colonial penal institutions. As a result, when a citizen of Bangladesh enters prison, he no longer remains a citizen of Bangladesh. As soon as he enters his cell, he turns into a (sub)citizen of colonial India. He loses his rights to the fulfilment of basic needs. He is exposed to so much probable state-led violence during his tenure in prison. The concept of social death, as elaborated by Patterson (1982), can be utilised to explore the imprisonment experiences of a Bangladeshi citizen. According to Patterson's analysis of slavery, a

slave is always condemned to social death. The death comprises three aspects: (a) he becomes subject to systematic violence, (b) he becomes subject to generalised humiliating treatment, and (c) he is exposed to natal alienation, that is to say, he is severed from all sorts of social links, including his children and ancestors. Whenever we hear the stories of prisoners, especially those of convicted poor prisoners, we realise how the state has rendered them 'socially dead' by forcing them to survive in a subhuman prison environment day after day. These prisoners find it difficult to be reintegrated into their families and society. They bear a permanent social mark, a stigma of being a prisoner, which makes their social rehabilitation and reintegration a great deal more difficult. The whole situation can be read in the light of one of Franz Kafka's famous stories titled 'The Penal Colony'. In our case, the former Commandant of the story is none other than the British colonial rulers. The Condemned man, supposed to be executed, is a representative of the prisoners. The officer can be compared with the current penal system of Bangladesh. The state of Bangladesh has been tirelessly defending, nourishing, and reinforcing a decidedly brutal and dispassionate penal system that was founded by the colonial rulers to subdue and punish the 'unruly' citizens of this subcontinent.

However, prison is not the only place where subalternisation happens. Rather, the whole criminal justice system of Bangladesh fosters this type of silencing and subalternisation. Astonishingly enough, in Bangladesh, the actual conviction rate hovers around only 10%; that is to say, the criminal conviction system is largely corrupt and ineffective in this country (Prothom Alo, 2025). Provided that a prevalent culture of manufacturing confessional statements through torture and intimidation is present in the system, it will not be unreasonable to question the credibility of the existing conviction rate. As a matter of fact, justice is expensive in Bangladesh. Even when justice is offered, only the rich can afford it. Poor people, who lack sufficient social and financial capital, often come out as victims of the criminal justice system. The costliness of justice has been so much normalised that little debate exists regarding poor people's right to justice, both as an accuser and an accused. Bhuiyan (2023), in his book titled 'Kemon Jail Chai', rightly commented that a prison is an extreme manifestation of the society in which it operates. For example, just like Bangladesh, which has been facing overpopulation for several decades, the prisons of Bangladesh are also overcrowded. At present, 77291 prisoners are living in the jails of Bangladesh, while the jails can officially accommodate not more than 42887 prisoners (Islam, 2025 August 2). In this situation, the socio-economic inequality of

Bangladesh is bound to be reflected in the relationship of prisoners with fellow inmates as well as the prison administration. Poor prisoners lead a very miserable life inside jails, because they can't afford the illegal facilities provided by prison personnel. Dissatisfaction regarding prison facilities is intense. The disgruntlement of the prisoners can lead to massive outbreaks of revolts and strikes at any time. In fact, this is exactly what happened during and after the July uprising in 2024. Several violent jailbreak attempts occurred in a few central and district-level prisons, in which at least 12 inmates were killed and hundreds of prisoners managed to escape (Rahmati, 2025 August 10). The prison labour scenario is also horrifying. Right now, prisoners earn only Tk 2 per day for their labour thanks to the outdated wage policies of the existing jail code (Khan, 2025 July 7). In such a condition, any meaningful prison reform will necessarily mean the desubalternisation of the prisoners, that is to say, creating an environment where the fundamental rights of the prisoners shall be fulfilled, and they won't have to suffer the aforementioned social death by losing all connections with their community. Recently, the Inspector General of Prisons declared that a draft Correction Services Act 2025, dedicated to converting jails into correctional facilities, is in its final stages (Khan, 2025 July 7). Whether such ideas will be implemented or not is difficult to say. However, until and unless we convert our prisons into an open, humanistic, rehabilitation-centric institution, the evils of the current prison system will keep on hampering democratic state-building and long-term development of the nation.

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Digital Literacy as Crime Prevention: A New Frontier for Juvenile Justice in Bangladesh

Md. Hasibul Hossain

Introduction

Bangladesh is passing through an age of digital transformation in a multi-faceted way. Our criminal legal system is significantly experiencing juvenile delinquents who often get involved in cyber-related offences, from hacking and impersonation to cyberbullying and sextortion. These occurrences do not reflect the malevolent intent but contain a lack of awareness, digital maturity, and ethics. In response, the criminal legal system has struggled to balance its rehabilitative objectives for minors with the harsh and outdated legal tools available to deal with digital crime. This emerging tension implies that Bangladesh needs a contemporary approach. Digital literacy, broadly defined as the ability to safely, ethically, and effectively use digital technologies, appears as a critical yet overlooked crime prevention strategy, particularly within the juvenile justice system. (Kaur & Arora, 2021)

The juvenile justice system in Bangladesh is regulated by the Shisu Ain 2013 (Children Act, 2013) ,a progressive piece of legislation that emphasizes the protection, development, and rehabilitation of children

in conflict with the law. This act approves the establishment of Child Development Centers (CDCs) with the inclusion of diverse programs, child-friendly courts, and protective custody mechanisms. It is aligned with the UN Convention on the Rights of the Child (UNCRC), recognizing that children's behavior must be understood within their subjective context of socialization, maturity, and environment.

However, this rehabilitation-oriented legal framework is being tested by a new and rapidly evolving form of youth deviance: cybercrime. Juveniles today are becoming involved in activities like phishing, identity theft, digital extortion, hacking school systems, and sharing explicit content, often illegally and unethically. While the Children Act emphasizes rehabilitation, cybercrime laws prioritize i) prosecution, ii) surveillance, and iii) deterrence. This contradiction weakens the integrity of juvenile justice and increases the risk of violation of rights. (BTRC, 2024)

What is Digital Literacy?

Digital literacy goes far beyond simply knowing how to operate a smartphone or browse the internet; it includes a broad set of skills that are essential for navigating the digital world (UNESCO, 2021). This includes understanding online privacy, consent, and the lasting impact of digital footprints, as well as the ability to recognize misinformation, cyber threats, and predatory behaviors like grooming. Also, critical thinking skills are important for evaluating online contents and interactions, along with knowledge of relevant digital laws and ethical standards. Digital literacy also involves an awareness of how certain actions in cyberspaces can have real-life consequences (UNICEF, 2022). This intersects with qualities like emotional intelligence and empathy, which are necessary for identifying and preventing harm in cases of cyberbullying or online harassment. In the context of juvenile justice, digital literacy must be recognized as a crucial need in an individual's life course. Young people must be guided to behave ethically and safely in digital spaces, mirroring how they are taught social norms for physical spaces.

Digital literacy plays a critical role in preventing juvenile cybercrime by addressing its root causes, which are often social and behavioral rather than merely legal (UNODC, 2019). Discarding the punishment theory, digital education empowers young people with the knowledge and critical thinking skills necessary to navigate the online world responsibly. It helps them to understand the implications of their digital actions, resist peer pressure, and recognize harmful behaviors before escalating into

criminal offences. Digital literacy creates a proactive culture of online responsibility by not only teaching children to protect themselves but also to behave ethically, report suspicious activities, and support safer online communities for their welfare.

Situational Factors and Their Role

A complicated interaction between both social and structural factors initiates juvenile cybercrime in Bangladesh. According to Islam & Nasrin (2020), one of the major factors is lack of digital awareness, as many juveniles remain unaware of cyber laws, the permanence of digital footprints, and the consequences of their online actions. This ignorance is often augmented by social influences such as peer pressure, viral online trends like TikTok challenges, and manipulation by adult offenders who glorify illegal digital behavior. These risks are further exacerbated by inadequate parental supervision and limited engagement from schools, which drives children to navigate the digital world without proper guidance. Additionally, structural inequalities in access to digital space do not necessarily mitigate risky behaviors. Both affluent urban students and underprivileged rural youth are vulnerable to becoming engaged in cybercrime. Together, these factors create an environment where juvenile involvement in cybercrime can flourish.

Rahman (2022) has added that these situations force us to reach an obscure position between delinquency and vulnerability. In many cases, juveniles play the roles of both offenders and victims in many instances especially in cases that involve sextortion or online grooming. Our persisting criminal legal system responds in a way that leads to responses like over-criminalization or labeling of juvenile behaviors as organized cybercrime rather than misguided experimentation or unintentional harm. We will have to remember one thing precisely: how digital literacy can function as a transformative, preventive, and rehabilitative tool in addressing cybercrime among juveniles in Bangladesh. Additionally, the systemic limitations of the current legal framework should offer adequate policy directions to integrate digital literacy into both formal education and juvenile justice institutions.

Furthermore, integrating digital literacy into rehabilitation efforts is important for juveniles because it can significantly reduce juvenile recidivism. Unlike incarceration, digital education directly addresses the behavioral and knowledge gaps that often lead to cyber-related offences. If this form of education is integrated within the legal system, it will

strengthen child-centric measures by aligning with global standards under the UN Convention on the Rights of the Child (UNCRC). It offers a more development-oriented and rights-based approach to juvenile cyber offences, recognizing that adolescents must be taught digital norms just as they are taught social norms in a physical setting.

Cruciality of Implicating Digital Literacy

Despite its intrinsic value, digital literacy remains largely absent from Bangladesh's juvenile legal framework. Institutional integration and coordination are weak here. Child Development Centers (CDCs), juvenile courts, and police units dealing with juveniles rarely offer structured digital education or cyber-awareness initiatives. Instead, law enforcement agencies often rely on punitive laws without exploring rehabilitative or educational alternatives. Coordination among key stakeholders such as schools, police, social workers, and NGOs is minimal. It limits the potential for a unified response to digital risks. Additionally, justice actors themselves, including magistrates, probation officers, and police, often lack the training to assess the intention behind juvenile cyber offences. Existing awareness programs also suffer from an urban bias that leaves rural and disadvantaged youth without access to digital literacy resources. Addressing these systemic gaps is essential for building a more effective, equitable, and child-friendly approach to cybercrime prevention in Bangladesh.

Bangladesh's juvenile justice system needs extensive improvements focused on digital literacy for a preventive, education-based strategy. Firstly, we should create a nationwide, age-appropriate digital literacy curriculum under the direction of the Ministry of Education in partnership with the Department of ICT and civil society organizations. Adolescents should be taught crucial subjects, including online ethics, consent, digital hygiene, cyberbullying, and legal obligations, in a rights-based curriculum. Moreover, all juvenile establishments and Child Development Centers (CDCs) should include digital education in their ongoing rehabilitation plans. These programs ought to be engaged and led by peer mentors or professional facilitators who know how to effectively involve young people.

Courts should have the authority to divert first-time or low-risk juvenile delinquents into required digital literacy and counselling programs as a rehabilitative option. Such authority should further integrate education into the legal system. For this approach to be successful, stakeholders in

the legal sectors, such as police officers, magistrates, and social workers, need to be trained in adolescent psychology and digital behavior to accurately evaluate intent and rehabilitation potential. Community-based prevention is crucial outside of institutional settings. Since parents and teachers are frequently unaware of the dangers that children face online, they should actively participate in digital literacy programs that are held in schools, colleges, and madrasas. Finally, public-private partnerships can play a transformative role; tech companies and telecom providers should support awareness campaigns and training programs through their initiatives. It will help to build a nationwide culture of safe and responsible digital engagement.

Discussion on Some Efforts

Bangladesh has not yet fully institutionalized digital literacy, but several encouraging efforts point to a solid basis for future growth. One notable example of a proactive approach is the Bangladesh Police's Cyber Teens program (2023), which trains teens to act as cyber safety ambassadors in their schools and educate their peers about the dangers of the internet. Similar to this, BRAC's Adolescent Clubs (2021) provide a useful community-based platform that might be extended to include digital literacy modules, especially to reach the underprivileged rural kids. Furthermore, UNICEF has developed digital skills initiatives to enhance children's online safety, providing a model that might be expanded nationally. These diverse efforts illustrate the undeveloped potential for a unified digital literacy initiative that bridges both the education and justice sectors.

Nevertheless, putting all these efforts into a concert for preventing crime faces numerous challenges. The scarcity of existing resources is a critical one. A successful digital literacy program needs sustainable funding, modern infrastructure, and a board of experts, e.g., educators, professors, etc., which are still absent in our juvenile justice institutions (Daily Star, 2024). Additionally, there is a barrier in the law enforcement agencies as they are unwilling or less responsive to adapt to new changes, i.e. rehabilitation approach for juvenile cyber delinquents. This institutional resistance towards new initiatives is hampering the overall juvenile justice system. Moreover, cultural sensitivity in our part of the globe makes it difficult to engage communities in open discourses on topics like online consent, sexting, and cyberbullying. Finally, the utmost challenge is the lack of coordination among key stakeholders who are responsible for policymaking approaches, e.g., the Ministry of Law, the

Ministry of Education, and the Ministry of Social Welfare. This discord delays or makes the thing more complicated to work cohesively. All these obstacles should be addressed to create a robust and sustainable digital literacy framework, which may lead to drafting a suitable crime prevention tool for juveniles.

Conclusion

Bangladesh is becoming active day by day in the digital space. Hence, its criminal legal system must remain present digitally (Save the Children Bangladesh, 2021). For this concern, digital literacy is a crying need that should be readdressed in our legal system. The rise of juvenile cybercrime requires a preventive and rehabilitative approach focusing on education and empowerment. However, digital literacy offers a platform for digital empowerment to reimagine juvenile justice, not as a mere approach of punishment. If we can implement digital education into our juvenile justice system, we may protect our children from becoming perpetrators or victims. It will help to draft educational policies to widen our legal system and national security, to make a better, safer, and inclusive Bangladesh.

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Seminar Paper:

Right to Employment in Prison: Employment as a Basic Human Need

Every saint has a past and every sinner a future- Oscar Wilde

Prisoner means any person for the time being in a prison as a result of any requirement imposed by a court or otherwise that he be detained in legal custody. A prisoner, found guilty of a crime or not, does not cease to be a person. Prisoners are entitled to fundamental rights that no authority has the jurisdiction to revoke, and the right to employment is one of the basic fundamental rights enshrined in the Constitution of Bangladesh. Prison employment refers to the structured and routinized prison work performed within or outside prisons by sentenced prisoners targeted for the long-term rehabilitation and post-prison social reintegration of financially handicapped prisoners. It is widely appreciated as an efficacious strategy towards making the criminal justice system of a country a great deal more rehabilitation-oriented, since both the prison and the prisoners benefit from the structured prison employment. It is submitted that prisons with high levels of engagement in work are more likely to maintain order and experience lower rates of negative outcomes such as self-harm, suicide, violence, idleness, and poor mental and physical health.

With approximately 53,831 inmates—many from underprivileged or under-trial categories—prisons in Bangladesh are increasingly becoming spaces of enforced idleness, institutional trauma, and wasted human potential. Since prisons often contain large contingents of socially marginalized individuals with limited educational and work backgrounds, prison employment can be particularly helpful in ensuring better livelihood possibilities for the prisoners in developing nations like Bangladesh. A large portion of prison inmates remain idle during their incarceration, lacking access to structured work that could aid their rehabilitation and prepare them for life after prison.

Article 20(1) of the Constitution of Bangladesh affirms that labor is a right and an honor, not a tool for punishment. Moreover, **Section 35 of the Prisons Act, 1894**, outlines the provisions for the employment of criminal prisoners. Although section 34 guarantees the earnings of civil prisoners for their work, nothing has been said regarding the earnings of criminal prisoners in section 35, disregarding the promise of the Constitution. Bangladesh has also ratified several binding and nonbinding international conventions on prison labor, for instance, **ILO Forced Labor Conventions No. 29 and 105,** which prohibit exploitative and involuntary prison labor; the Nelson Mandela Rules, which emphasize rehabilitation, equitable remuneration, and safety; The European Prison Rules, which reinforce social reintegration as the primary goal of prison employment; and so forth. These documents emphasized the voluntariness, fair payment, and skill-building with respect to prison labor. Despite these legal provisions and guarantees, current practices fail to treat inmates as citizens with fundamental rights guaranteed by the Constitution of Bangladesh. Instead, they are often coerced into work with no compensation, training, or future benefits. This reflects a punitive logic rather than a rehabilitative one.

The Prison Industry Enhancement Certification Program (PIECP), enacted by the Congress of the United States of America in 1979, encourages states to implement employment initiatives for inmates that align with the standards and conditions of private-sector occupations. It ensures fair wages, voluntary participation, and skill development to support successful reintegration after release. The program aims to reduce prison idleness, help inmates contribute to society, offset incarceration costs, support families, and compensate crime victims. Authorized under multiple justice acts, PIECP benefits corrections administrators, inmates, crime victims, the private sector, and the public. It requires compliance with wage laws, labor consultations, and financial contributions (5–20% of wages) to victim assistance programs, making it a comprehensive initiative for ethical prison labor and rehabilitation. PIECP generated approximately $109 million for victim programs, $54.9 million for inmate family support, $343.8 million for room and board expenses in correctional institutions, and $124.3 million in state and federal taxes as of September 30, 2022.

Nevertheless, efforts like the PIECP are still unaddressed in Bangladesh. **Anwar Hossain** alias Shankar Debnath, a tailor from Dhaka, spent 17 years in prison after being falsely convicted of murdering a street child in 2005. Despite serious procedural flaws—especially the absence of testimony from 19 police witnesses—the trial court sentenced him to death in 2016, relying largely on his confessional statement. After years behind bars, the High Court acquitted Anwar in January 2022, pronouncing that the conviction of the trial court was a miscarriage of justice. The wrongful imprisonment of Anwar Hossain for 17 years directly violated articles 32 and 40 of the Constitution of Bangladesh. **Article 32** guarantees the right to life and personal liberty, which was denied as Anwar was convicted without proper legal procedure—his trial lacked key witness testimonies and relied solely on the manufactured

confessional statement. **Article 40** ensures the right to pursue any lawful profession, yet Anwar, a tailor by trade, was unjustly deprived of this right during his long incarceration. The case highlights how systemic failures in the justice system can severely undermine fundamental rights enshrined in the Constitution.

Sentence of imprisonment takes away the employment of the prisoners who were once the sole breadwinners of their families. This particular situation often leads to poverty, separation, child labor, etc. Women inmates face economic vulnerability, and without support, they have to struggle to reintegrate post-release as their husband tends to file for divorce and remarry. This leads to a vicious cycle of unemployment, poverty, and reoffending. A rights-based prison employment can disrupt this cycle. When structured around skill development, fair wages, and reintegration planning, such systems improve inmates' self-worth, reduce idleness, and improve the overall prison environment. They can even reduce operational costs through improved behavior and reduce reoffending. Employment should be voluntary, fairly compensated, market-relevant, and aimed at reintegration. Participation should offer certification or recognition and be free from discrimination. Oversight mechanisms should be in place to ensure transparency and compliance with labor and human rights standards.

A report published by the daily Prothom Alo reported a rehabilitative labor initiative within **Narayanganj District Jail**, where a garment production unit named *Industry Resilience* has been established to engage inmates in export-oriented apparel manufacturing. **Md. Ratan**, a machine operator, described that he sews T-shirts from pre-cut knit fabric and earns between BDT 5,000 to 6,000 per month. He sends part of his earnings to support his wife and children, using the remainder for personal and legal expenses. Another operator, **Alamgir Gazi**, currently in pre-trial detention for a murder case, noted that imprisonment often places financial strain on families, as inmates typically depend on external support. Since joining the factory nine months ago, he has been earning BDT 6,000 to 7,000 monthly and sends money to his parents.

For him, being able to support his family from within prison is a source of dignity and emotional relief.

Decage arranged a seminar titled **"Right to Employment in Prison: Employment as a Basic Human Need"** at the Muzaffar Ahmed Chowdhury Auditorium of the University of Dhaka on July 7, 2025, at 4 pm. The **keynote speaker** of the seminar was **Brigadier General Syed Md. Motaher Hossain, Inspector General of Bangladesh Jail.** Other speakers included **Md. Forkan Wahid,** Jail Super of Narayanganj District Jail; **Didarul Bhuiyan,** Finance Coordinator of the Rastro Songskar Andolon; **Khandaker Raquib**, PhD researcher at the University of California; **Mohammad Jamil Khan**, Head of the Crime Desk of The Daily Star; and **Md. Zahirul Islam**, a Supreme Court lawyer.

In his speech, the keynote speaker highlighted the current scenario of prison employment in Bangladesh's prisons and the plans of the prison authorities. He said that imprisonment as a punitive measure cannot play any role in the character development of prisoners. If the system of imprisonment is based on rehabilitation, it will increase the character development of the prisoners and their chances of not getting involved in crime again. In this regard, he said that the employment of prisoners in prisons can be an important step. He said that the total number of prisoners in Bangladesh's prisons is currently about 75000. Out of these, 5000 are elderly people.

Of the rest, only 8 percent of the prisoners are involved in productive work in prisons.

As a challenge to prison employment, IG prisons said that **the current conviction system is very flawed**. The rate of conviction of crimes in this system is very low. As a result, 75 percent of the prisoners in prison are undertrials. **Only 25 percent** are convicted prisoners. Although the current prison code of Bangladesh has a training system for undertrials, there is no provision for making them work in prisons. He also said that **about 800,000 people** go to prison every year for various reasons. If we consider their families, it can be seen that about **5,000,000** people are affected by the prison system of Bangladesh in one way or another. 80 percent of the prisoners are the sole earners of their families. As a result, their families face various threats if they are imprisoned without income.

However, the Inspector General of Prisons said that currently **39 types of livelihood programs are being operated in 38 prisons** of the country. **More than one lakh prisoners** have been brought under training under this program. In this training program, the prison authorities are working together with various domestic and international NGOs and various government ministries and organizations (Department of Social Services, Islamic Foundation, etc.). The Inspector General of Prisons said that the **Natore District Jail** is the most productive among the prisons of the country. He said that the demand for the products produced in the prison is also quite good. However, prisoners are generally not interested in working in prisons with a wage of **only 2 taka per day**. He said that **an increase in wages** is essential to advance the prison employment initiative.

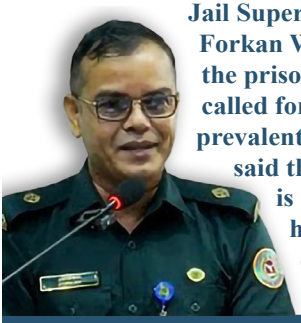
The keynote speaker also said that the laws on which Bangladeshi prisons are run are outdated and ineffective in the context of the current era.

To adapt to the current situation, the Bangladesh prison authorities have proposed to the government to change the name of the prison to **Correction Service**, and the government has accepted the proposal in principle, he said. Along with this, he also talked about the introduction of the open jail concept in Bangladesh, following the example of **Malaysia and Singapore**, where the freedom of movement of prisoners is limited, but other fundamental rights will remain intact. Also, the wages of prisoners will be equal to the prevailing wages in the labor market. However, he also said that no one will be forced to work in that prison. The prison authorities have proposed to establish the **Correctional Industrial Park in Bangladesh (CIPB)**, capitalizing on the concept of open prisons. Initially, there is a plan to include 10,000 prisoners in this initiative. The government has accepted this proposal in principle. He also said that since the old laws are inadequate in the context of the current era, a draft of a law called the **Correction Services Act, 2025**, is almost ready.

In addition, the prison authorities are considering taking new steps in consultation with the BGMEA to ensure that prison returnees do not face harassment and loss of livelihood when they return to society. A documentary titled **Dos and Don'ts** is being made so that inexperienced, young prisoners can learn about what to do when they arrive at a prison for the first time. In addition, a documentary is being made so that relatives of prisoners do not become victims of any corruption or harassment. Initiatives are also being taken to launch a **call service** for prisoners in prison.

Among other speakers, researcher **Khandaker Raquib** shared his experience with the current prison conditions in Bangladesh. He said that the current prisons are focused on social humiliation. There is no regard for the human dignity of prisoners here. Regarding prison employment, he said that there are some **infrastructural limitations** in Bangladesh's prisons. We need to think about employment for prisoners by addressing these issues.

Mr. Didarul Bhuiyan, Finance Coordinator of the Rastro Songskar Andolon, said, **"The most obvious form of what a country is like is seen by looking at its prisons."** He shared his experience of living in three prisons - Keraniganj, Kashimpur, and Bogura - for 8 months with the audience. He said sadly that prisons are almost extinct in many countries of the world, and we are proud of having built the largest prison in South Asia. Moreover, since there is a lack of employment outside the prisons in Bangladesh, more thought needs to be taken in creating employment inside the prisons. He also mentioned an organization called **'Jailtuto Bhai'**, which is mainly made up of former prisoners.



Jail Super of Narayanganj District Jail, Md. Forkan Wahid said that if society is not good, the prisons will not be good either. He also called for a change in the negative attitude prevalent in society towards prisons. He said that employment inside the prisons is a human right of prisoners, but he emphasized selecting timely and effective work in the training of prisoners.

Md. Forkan Wahid Jail Super, Naryanganj District Jail

The Daily Star's Crime Desk Head **Mohammad Jamil Khan** spoke about **prison overcrowding.** He said that **prison overcrowding** is largely responsible for all the incidents of **jail-breaking** that took place in different parts of the country during the 2024 mass uprising.

Following him, a Supreme Court lawyer, Zahirul Islam, said that the judicial system of Bangladesh is so flawed that the prison system should not be criticized separately.

Zahirul Islam Supreme Court Lawyer

As long as there are no adequate legal reforms, the situation will not improve if the stakeholders do not come forward, he said. He added that the right to employment of prisoners can be limited if necessary; however, it should not be abolished in any way.

The rationale for prison employment in Bangladesh is therefore both economic and social. It creates a productive correctional environment, supports rehabilitation and enables the prison system to contribute to national output. With proper safeguards, this model can uphold inmates' dignity, ensure fair labor practices, and serve as a key pillar in modernizing Bangladesh's correctional infrastructure. The successful implementation of a prison employment program in Bangladesh necessitates the collaboration of key stakeholders, including the Ministry of Home Affairs, Ministry of Social Welfare, Ministry of Industries, Department of Prisons, NGOs engaged in legal aid and rehabilitation, private sector partners from the garments as well as international development organizations offering technical and financial support.

Bangladesh stands at a turning point. We have the legal basis, the social need, and the international guidance to reform our prisons not as warehouses of despair, but as institutions of opportunity and transformation. A rights-based prison industry offers a concrete, lawful, and humane way forward. It is time to reimagine incarceration, not as a punishment in isolation, but as a platform for dignity, rehabilitation and social development.

Behind Closed Doors: Do Bangladesh's Child Development Centers Rehabilitate or Simply Detain Juveniles?

Injamam-ul- Hoque

"Mankind owes to the child the best that it has to give"- Declaration of Geneva

Juvenile delinquency means the engagement of individuals below the statutory age of majority in unlawful behavior. While the Classical School of Criminology did not directly address juvenile delinquency, the concept of a separate justice mechanism for children emerged with the establishment of the first separate juvenile court in Chicago, USA, in 1899 (Khan & Rahman, 2008) that eventually spread across Europe in the twentieth century and other parts of the world. Bangladesh adopted its juvenile justice framework shortly after its independence and introduced its dedicated juvenile courts, correctional facilities, and child-specialized police desks. Despite these structural provisions, a critical question persists: does the juvenile justice system in Bangladesh genuinely operate within a rehabilitative model, or is it merely a symbolic gesture aimed at satisfying public perception and international convention? This discussion examines the historical development, current practices, and inherent limitations of the system, with a focus on its alignment with true rehabilitative principles.

The Development of the Juvenile Justice System in Bangladesh

During the medieval era, there were no specific laws in reference to children in conflict with the law. The Apprentices Act of 1850, India's first enactment on juveniles to address children, was passed during the colonial era. The act aimed for the betterment of children, particularly orphans and impoverished children raised by public charities, and trained them in trades and crafts so that they could earn their livings when they reached adulthood (preamble to the Apprentices Act, 1850). The next significant development in the treatment of children in conflict with the law was the Reformatory Schools Act, 1897 which enabled the establishment of reformatory schools by the provincial government to house and provide industrial training specially for male juvenile offenders under the age of fifteen. Courts could send the juvenile offenders to the reformatory school for a period of three to seven years instead of sentencing them to imprisonment or transportation. The Indian government passed the Bengal Children Act in 1922 for the province of Bengal. The Bengal Children Act, 1922 provided for the creation of a juvenile court to try cases involving children younger than fourteen. The act included the girls, guaranteeing them separate housing facilities and, if feasible, recruiting female officials for them (Khan & Rahman, 2008). Subsequent to Bangladesh's independence, the first legislative initiative aimed at addressing the rights of children in conflict with the law was the enactment of the Children Act, 1974 accompanied by the Children Rules, 1976. However, the 1974 Act's initial application was narrow, mostly limited to Dhaka, before it was extended to other cities. In line with this legal framework, the first Child Development Center (CDC) was established in 1978 in Tongi, Gazipur, particularly for male juveniles. Subsequently, the Government of Bangladesh set up a second CDC for boys in Pulerhat, Jessore in 1995. It was not until 2003 that the first dedicated center for female juveniles was established in Konabari, Gazipur (Ahmed & Iqbal, 2025). As of now, three CDCs are operational in Bangladesh, each intended to serve as a rehabilitative institution for the children.

The international discourse on child rights significantly influenced the juvenile justice system in Bangladesh. The United Nations adopted the Convention on the Rights of the Child (UNCRC) on November 20, 1989, the first legally binding international treaty to comprehensively address the rights of children. In response to its obligations under the CRC, the Government of Bangladesh eventually repealed the Children Act, 1974, and enacted the Shishu Ain 2013(Children Act, 2013). This

act marked a paradigm shift in the juvenile justice system, expanding the definition of a child to include all individuals under the age of 18. It introduced several progressive measures, such as the establishment of child welfare boards and at least one Children's Court to be established in each district, the formation of child-specialized police desks, legal representation on behalf of a child in conflict with the law and a strong emphasis on rehabilitation, reintegration, and diversion from the formal criminal justice process (Ali, 2014).

Ground Realities of Juvenile Delinquents: Lived Experiences in the CDC
The Department of Social Services, a department under the Ministry of Social Welfare, is in charge of operating the Child Development Centers (CDCs) in Bangladesh. These institutions' primary objectives for the children in conflict with the law are to offer education, vocational training, medical facilities, and psychological counseling to assist them in reintegrating into society (Ahmed & Iqbal, 2024; Islam et al., 2018). However, there is a clear discrepancy between the declared goals and the actual experiences of the children accommodated in these facilities, according to a number of studies and investigations.

A recent study by Ahmed & Iqbal (2024), "Inefficacy of Child Development Centers of Bangladesh," critiques the shortcomings of the current reformative framework and highlights the systemic failures of these centers to provide the intended rehabilitative services to the children in conflict with the law. The Child Development Centers were constructed to accommodate up to 300 children are overcrowded, making it one of the most significant issues. The actual population, according to reports, frequently surpasses three times its capacity, resulting in an environment that is harmful to children's physical and mental health. Additionally, the centers lack appropriate age-based segregation, and the risk of physical abuse and psychological trauma is increased when children as young as 9 or 10 are housed on the same floor along with older juveniles. Furthermore, there is no secondary education in the CDCs, since the majority of the juveniles sent to the centers are of the age at which they need formal education. However, they are admitted into technical education instead of secondary education, and the standard of education does not ensure that the children will acquire necessary skills. Unfortunately, there is little access to healthcare, and the only medications offered are substitutes like NAPA tablets for pain and fever. Hasan (2020), writing in the Dhaka Tribune, reported that Child Development Centers have done little to nothing to assist children reintegrate into society which is one of the fundamental principles of

a rehabilitation system. In August 13, 2020, three children were killed in the Jessore CDC, and the report revealed the decades-long brutality of the officials towards the children in conflict with the law. CDCs have been the scene of documented murder and suicide cases, such as in 2011, when a child was killed, and in 2013 and 2019, respectively, when two children committed suicide inside the Gazipur CDC. The investigation on suicide indicates that there were inadequate counseling sessions and motivation to the children. However, bullying and torture by officials and inmates could lead to suicide. It also criticized the correctional process, pointing out issues like the psychosocial nature of the counselors and the irregularity of the counseling sessions. There is a lack of instructors for the traumatized and disabled children. These systemic issues all contribute to a vicious cycle of institutional harm and hinder the CDCs' capacity for rehabilitation.

Institutional Gaps and Policy Failures

As mentioned in the previous section, institutional and policy-level flaws are at the core of Bangladesh's Child Development Centers' operational dysfunction. Budgetary restrictions are one of the most significant obstacles as they seriously compromise the intended framework for rehabilitation.

According to a study by Islam (2021) 'Social Inclusion and Aftercare Needs of Care Leavers at the Juvenile Correction Centers in Bangladesh,' stressed that inadequate funding and improper spending plan have a negative impact on clothing, education, healthcare, nutrition and vocational training, all of which are critical to children's physical and mental development. Even for survival, let alone significant reintegration efforts, the monthly allocation is hardly enough. Additionally, CDCs have inadequate data management systems which are mostly the result of administrative incapacity and overcrowding. This impedes long-term planning and progress tracking for children by adding to a larger institutional lack of accountability and transparency. Lack of interagency coordination is another significant barrier, especially between the Department of Social Services, the judiciary and the law enforcement agency. These gaps frequently result in prolonged detention and delays in the processing of bail which violates children's right to prompt justice. Section 16 of the Shishu Ain, 2013 (Children Act 2013) has established one separate Shishu Adalat in every district. however, many districts rely on existing courts such as Women and Children Repression Tribunals instead of setting up independent courts. The lack of dedicated

specialized courts causes court proceedings to be delayed and raises the possibility of illegal pretrial detention. Correctional center officers also frequently lack specialized training in trauma care, child psychology and rehabilitative counseling. It is evident that most centers lack the professional expertise and sensitivity needed to work with children who are vulnerable and frequently traumatized. Additionally, the study found that the lack of full-time psychologists and doctors greatly increases the emotional distress of recently admitted children, resulting in feelings of melancholy, loneliness, and chronic trauma because of insufficient emotional and psychological support.

Are Child Development Centers a New Face of Juvenile Incarceration?
Child Development Centers (CDCs) and child-focused laws such as the Shishu Ain, 2013 (The Childern Act, 2013) are primarily designed to ensure the rehabilitation and reintegration of children in conflict with the law into society as law-abiding citizens. In compliance with the Bangladeshi Constitution and the United Nations Convention on the Rights of the Child (UNCRC), this framework seeks to incorporate both justice and reformative approaches (Khan & Rahman, 2008). However, the crucial question remains: are these facilities merely a more modern form of juvenile detention, or do they also offer rehabilitation?

The current correctional model frequently fails to meet its rehabilitation objectives in practice. With little focus on giving children the knowledge, training or emotional support they need for an effective integration back into society, many child development centers only offer the bare minimum for survival. Children often experience emotional distress during the early stages of detention which damages their trust in the staffs of the correctional center as they are not well trained and equipped to make rapport. Post-release prospects are made even more dire by the extremely limited educational opportunities and lack of structured secondary schooling provisions. Public trust in these facilities' effectiveness is further damaged by disturbing violent incidents, such as murder and suicide cases that have previously occurred there. The instances of murder and suicide made it worse due to the lack of individuals with specialized training who can handle all the complicated developmental requirements of the children. Despite the legal framework's emphasis on protection and rehabilitation, Bangladesh's Child Development Centers (CDC) ultimately function more like punitive detention than true reformation.

Juvenile Justice System in the USA and Europe

The juvenile justice system in the United States is divided into three primary subsystems: corrections, juvenile courts, and police. The police are tasked with responding to juvenile law violations, ensuring public safety, and addressing the immediate needs of young delinquents. Juvenile courts oversee probation, make detention decisions, handle cases of child neglect, and supervise the progress of youths adjudicated as delinquents or status offenders. The correctional system is responsible for providing care, rehabilitation, and reintegration services. Within this structure, four distinct correctional models operate: the Rehabilitation Model which focuses on changing offender behavior to reduce reoffending; the Justice Model which emphasizes proportionate punishment based on the concept of just deserts; the Balanced and Restorative Justice Model which seeks to meet the needs of victims, offenders and communities through restorative programs and supervision; and the Crime Control Model rooted in classical criminology which prioritizes deterrence and societal protection through punitive measures (Bartollas et al., 2017).

In Juvenile Justice in Europe: Past, Present and Future by Goldson (2018) mentioned juvenile justice systems in Europe are typically embedded within broader welfare-state frameworks, combining welfare and justice principles. Many European nations have a long history of prioritizing the rehabilitation model, incorporating education, counseling, vocational training and family involvement into their interventions. According to international standards for children's rights, detention is only used as a last resort. Instead of heavily depending on punitive sanctions, the emphasis is on avoiding recidivism and addressing the root causes of delinquent behavior through supportive measures that encourage reintegration into society. The minimum age of criminal responsibility recommended by the UNCRC is 14 years and many of the member states from the European Union have implemented it. On the contrary, Bangladesh sets it for all at 9 and 12 at the judge's discretion (Penal Code, 1860, section 82-83). This welfare-focused strategy closely reflects the rehabilitative principles set forth in the UNCRC and has contributed to the maintenance of lower reoffending rates.

Conclusion and Way Forward

Every nation adapts its juvenile correctional model to the demographic realities of its own. In the United States the restorative justice model, a hybrid system combining punitive measures and reformative approaches,

operates alongside the formal juvenile court system. In contrast, many European nations adopt a welfare-oriented model, emphasizing rehabilitation over punishment. The question for Bangladesh is whether such models can be transplanted into a densely populated country where poverty remains a primary driver of delinquency. A paradigm shift of this magnitude cannot occur overnight; the systems in the U.S. and Europe evolved over decades. Bangladesh must therefore identify its own structural problems and design a juvenile justice system tailored to meet its socio-economic context while simultaneously addressing its existing shortcomings.

Overcrowding in Child Development Centers (CDCs) is among the most pressing issues. While building entirely new centers may not be immediately feasible, the government should at least expand and upgrade existing facilities to meet current needs. The budget allocated to CDCs is insufficient to provide even the basic necessities, and it must be increased in proportion to the children's welfare requirements. Equally important is the professional development of CDC staff-correctional officers, psychologists, social workers, and medical personnel who must be trained in child-sensitive and rehabilitative methods. A third-party assessment partner may be associated to maintain monthly records, evaluate operational standards, and report findings to the relevant authorities.

Children should strictly be segregated based on their age group. Children aged 9 to 12 should only be taken care of by women or any motherly figure. Education within CDCs must be expanded to include secondary schooling, alongside any of those modern vocational trainings such as ICT and digital skills (basic computer literacy, graphic design and multimedia editing), technical skills (electrical and electronics, refrigeration and air-conditioning, and automobile mechanics), service-oriented skills (tailoring, handicrafts, leather production and food processing), or agro-based & green skills. Given the popularity of cricket and football in Bangladesh, sports hubs could also serve as constructive engagement tools.

Therefore, instead of the child development centers, a boarding technical school can be implemented where children would receive general education and basic training simultaneously. Depending on their aptitude and interest, they can participate in indoor or outdoor sports and be further transferred to sports training centers such as BKSP. However, reintegration after release is crucial, as correctional facilities are merely

short-term settings. It is necessary to improve support networks like community reintegration initiatives, family counseling, and continuing education for the betterment of the correction centers.

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Prison Babies: Victims of Punishment Drift

Samira Rahman

The prisons in Bangladesh have many deficiencies. One of the most sensitive yet least-known shortcomings is the misery of the babies living inside prisons. Under current penal policies, children of incarcerated mothers can live with their mothers within the confines of prisons for up to six years. It has been reported that around 304 babies are living with their parents in the jails of Bangladesh, who are deprived of a typical healthy family environment (Prothom Alo, 19 December 2023). These children can be called 'victims of punishment drift', since the negative consequences of legal punishment of their mothers are extending beyond the alleged individual offender and affecting their children who did not commit any crime. These children are often deprived of a nutritional diet, adequate clothing, day-care, pre-schooling, and entertainment facilities. In fact, the miseries of prison babies indicate a form of structural violence that is affecting physical and mental growth, hence reducing their human potential.

A recent report illustrated the plight of a child whose mother was imprisoned in the condemned cell of Habiganj jail. 10-month-old Mahida lived in a cramped cell with her mother and two others. The cell consisted of no windows, no mosquito repellents, and a high-power bulb

that stayed on all day. Sharing one bucket of water with each cellmate, Mahida and her mother lacked adequate hygiene facilities. When this report circulated in newspapers, the high court issued a rule asking why there shouldn't be regulations to ensure the physical and mental well-being of children in 2023. In reply to this, the Habiganj Jail Super submitted a report stating that there are already sufficient facilities being provided to the mentioned child and others. (The Daily Star, 23 January 2024)

There are instances of corruption and prison business inside these prisons, where the basic facilities that are supposed to be given to the children are withheld by the senior inmates for money. Brishti (pseudonym), a former inmate, reported how her child was given a single chicken neck a day whereas she was supposed to get meat every day. She insisted that she did not know how to buy the favors of senior inmates at that time. Another prisoner was served with bitter gourd for dinner, who had a seven-month-old child with her (The Daily Star, 20 October 2017). An NGO teacher of Cox's Bazar Central Jail said that the prison babies suffer from malnutrition as they don't get enough protein and carbohydrates. A female detainee in Chittagong Central Prison said that they don't get winter clothes for their children. (Jugantor, 23 January 2018)

Besides these violations of basic human rights, children can also be subjected to considerable mental trauma. According to psychologists, they can grow up thinking that they themselves, along with their mothers, are criminals. They also witness violent quarrels among other prisoners and hear slang, which can have an adverse effect on their behavior. After getting out of prison, some are transferred to orphanages. However, many of them might struggle to blend in with mainstream society, as our society is still obsessed with the punishment of criminals rather than rehabilitation. Detained prisoners and their families are perceived as bad human beings even before their crimes are actually proven. The IG Prisons agreed that these children do not get counselling facilities or enough guidance that is needed to reintegrate into society. There is a lack of governmental and non-governmental initiatives regarding this issue (BBC Bangla, 26 June 2017).

The children are kept in overcrowded prisons where the population is two and a half times their capacity. It is to be noted that out of 100 prisoners, more than 81 are under-trial prisoners. This means that a large number of detainees are prisoners whose crimes have not been proven yet. There are also instances of arresting children along with their parents, even when

they are not accused of any crime. On 7 February 2023, 15 members of the same family were detained in a prison in Kurigram, where 5 of them were little children. As there were no family members to take care of these kids, they were forced to serve a prison sentence along with their parents (Bangla Tribune, 14 March 2023). What's more alarming, there are 168 children of Bangladesh living in the jails of West Bengal whose mothers were arrested for trespassing. The Bangladesh government has not yet taken any measures to bring those children back. (The Daily Star Bangla, 26 July 2017)

The prison children of Bangladesh, however, do get some facilities. Among 68 jails, only 10 have schools and day care centres, which are run by Bangladesh Shishu Academy and Oporajeyo Bangladesh. Besides having access to pre-schooling facilities, Shishu Academy sometimes arranges art and sports competitions. On special occasions like Eid, they get new clothes.

Insights into Laws Regarding Prison Babies

In the Writ Petition No. 2316 of 2012, the High Court Division issued a rule stating that there shouldn't be any children inside jails. Even when a child is convicted, she/he is supposed to be sent to a rehabilitation centre. So, it goes against the law to keep prison babies with their mothers in jail. But it also raises a moral dilemma- should a child be separated from its mother at such a young age? And if not, then should little children be allowed to share cells with hardened criminals in such overcrowded and unhealthy prison systems?

In England, there are separate mother and baby units in prisons where a nurturing environment is offered, and women prisoners experience an increased level of attachment with their children, which lessens the rates of recidivism among prison mothers. Having access to separate rooms, gardens, arts and crafts activities, and other entertainment facilities, the prison babies have a better living standard. The Supreme Court of India established some specific guidelines, such as ensuring a brief respite from custody for the delivery of pregnant mothers, providing adequate recreational, educational, food, clothing, medical care, and other basic facilities to prison children. In Finland, a child welfare authority has to first approve and supervise the whole process of keeping a child in prison. This country transitioned its MBUs into 'family prison units' and the authority of overseeing the well-being of these babies is not placed on the prison authority, but the National Institute for Health and Welfare.

There are also child welfare workers assigned to those places.

Ireland's prison laws state that a mother can keep the child up until 2 years old, and upon the transfer of the babies, the parents or guardians can get a monthly payment for the welfare of the children known as 'child benefit'. Another Scandinavian country, Sweden, has several open prisons where children, along with their mothers, can live in dormitory-style buildings. The inmates of these rehabilitative prisons have much more freedom, and they can easily access family visits under monitoring, entertainment, and educational facilities, etc.

According to section 89 of the Shisu Ain 2013, (the Children Act, 2013) of Bangladesh, 'the child dependent on the parents imprisoned or living in the prison with the imprisoned mother' is referred to as 'disadvantaged children'. Section 84 focuses on alternative care of the child, stating that these children are either supposed to be reintegrated with their parents or extended family and if that's not possible, to any social care institute. Section 86 states that the National Child Welfare Board shall determine the most appropriate means of alternative care. However, no such policies and specific regulations were determined specifically for prison babies. While the focus is on alternative care, no section of the Children Act established the needs and rights of pregnant mothers and their infants living in prisons. The Rule issued in 2013, after Mahida's case came to light, addressed this specific limitation. The government agencies just submitted a report, and nothing came of it.

Conclusion and Avenues for Reform

Apart from the central prisons, the day care and pre-school facilities are not available in Bangladeshi prisons. In the absence of proper laws, no one can be held accountable for violating laws. Below are some policy recommendations on what can be some reforms-

1. The pregnant and the female convicts with children below six years old should be released on probation by the sentencing court under the Probation of Offenders Ordinance, 1960.

2. Female prisoners with children below six years should be released on bail immediately by the Court passing the sentence after being notified by the Jail Super.

3. A specialized mother and baby unit can be established in women's jails where the mothers, along with their 'disadvantaged children', will be transferred from other jails.

4. An open prison can be established where children can freely roam around along with their mothers, having access to necessary facilities for their well-being.

5. The Shisu Ain 2013 (Children Act, 2013), must be amended to include provisions that will make it mandatory for prison officials to provide disadvantaged children with appropriate food, clothing, pre-schooling, day care, and entertainment facilities.

6. Ensuring proper pre- and post-natal care for pregnant mothers in jail.

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Shahnewaz Sakib

I. Short Facts

A. On 12.02.2010 at around 5 PM, Saikat went out of his home to play and never came back. Finding no trace, Saikat's father Siddikur Rahman filed a general diary (GD) on the next day. The kidnappers repeatedly called up Saikat's father on phone demanding a ransom of Tk 1 lakh. On the evening of 15.02.2010, the kidnappers instructed the informant to bring the ransom money to the eastern bank of river Vogai. The kidnappers received the money and informed Siddikur that Saikat had been kept at an abandoned homestead near his house. Upon going there, Siddikur found the dead body of his son with the neck tightly wrung by a nylon cord, facial bruises and eye injuries as well as burn marks. Around 20 days before the incident, accused Oli demanded Tk 1 lakh to contest a student union election. Siddikur refused and faced repeated threats. On 10.02.2010, Oli threatened Siddikur to comply within 12 hours or face dire consequences.

B. Subsequently, the informant, Md. Siddikur Rahman lodged an FIR on 16.02.2010 with Kalmakanda Police Station, Netrokona

against Oli, Sabuz Miah, Tapash Chandra Saha, Feroz Miah, Rafiqul, Emdadul and Farid Miah, alleging kidnapping and murder of his minor son Saikat.

C. Police investigation implicated the appellant, Md. Anis Miah, a juvenile offender and cousin of the victim. He was arrested on 21.02.2010 and made a confessional statement under section 164 of the Code of Criminal Procedure (CrPC). The Tribunal framed charges under sections 7, 8, and 30 of the Nari-o-Shishu Nirjatan Daman Ain, 2000, read with sections 302, 201, and 34 of the Penal Code. Anis Miah filed an application to be tried by a Juvenile Court, but the Druto Bichar Tribunal assumed jurisdiction suo motu and registered the case as Juvenile Case No. 01 of 2011.

D. On conclusion of trial, the Tribunal convicted the appellant under the sections 8 and 30 of the Ain, 2000 (hereinafter referred to the Ain, 2000) read with section 52 of the Children Act, 1974 (hereinafter referred to the Act, 1974) and awarding him punishment of detention and imprisonment for 10 (ten) years in total, out of which he would be detained in a certified institute till attainment of 18 years of age and thereafter suffer imprisonment for the remaining period

II. Submissions of the Counsels

Mr. SM Shajahan for the appellant

1. The impugned judgment and order of conviction are without jurisdiction inasmuch as the appellant was a child under the age of 16 years at the time of commission of the occurrence, and he could only be tried by a Juvenile Court constituted under the Children Act, 1974, that was in force at the material time. The Druto Bichar Tribunal had no jurisdiction to try the appellant.

2. The confessional statement of a child under section 164 CrPC is not admissible in evidence.

DAG Moniruzzaman for the State

1. A Sessions Judge is competent to exercise the power of a Juvenile Court in view of sub-sections (2) and (5) of section 5 of the Act, 1974. Learned Judge of the Tribunal, being a Judicial

Officer equivalent to a Sessions Judge, is quite competent to assume the jurisdiction of the Juvenile Court.

2. A child is competent to record evidence, and as such, there is no reason for being incompetent on his part to make a confessional statement and use it against him as well as against the co-accused within the scope of section 30 of the Evidence Act. In State vs. Shukur Ali, 9 BLC 239, the High Court Division confirmed the death sentence of a child awarded on the basis of his confession. The said decision was also upheld by the Appellate Division.

3. Learned Tribunal did not commit any illegality in passing the impugned order of conviction, as the Appellate Division in Mona alias Zillur Rahman vs The State, 23 BLD (AD) 187 held that a child can be punished for more than ten years in cases of offences punishable with death or life imprisonment.

III. Submission of the Amicus Curiae

Khandaker Mahbub Hossain

1. That a confessional statement of a child can be recorded under section 164 of the CrPC by virtue of section 18 of the Act, 1974, but extra care and caution should be given in recording confessional statements of the children, including the presence of their parents, guardians, or custodians.

2. That only a Juvenile Court established under the provisions of the Act, 1974, shall have the jurisdiction to try the juvenile cases. A Tribunal constituted under any special law for the special purpose of trial of a particular type of cases is not a Court within the scope of section 4 of the Act. The Druto Bichar Tribunal constituted under the Ain, 2002, does not fall within the definition of Juvenile Court, nor can it assume the jurisdiction on its own motion.

3. Attaining majority during trial does not bear any relevance to the alleged offence, and also with the imposition of punishment.

MI Farooqi

1. In view of the development and spirit of the law, the purposive interpretation would require a child to be absolved of the ordeal

of the process of confessional statement under section 164 of the CrPC.

2. No Court or Tribunal other than a Juvenile Court can try any case where a child is charged with a criminal offence, and hence, it was incumbent upon the Druto Bichar Tribunal to transfer the case to the Juvenile Court for trial.

Shahdeen Malik

1. Juvenile Courts are established for the explicit purpose of creating a non-adversarial and friendly setting for trying the children in conflict with law, and therefore, a child cannot be subjected to the rigors of a formal and adversarial justice system in the settings of regular Court or Tribunal other than the Children Act, 1974.

2. A confessional statement under section 164 of the CrPC and its use against an accused, being part of the formal and adversarial structure of our criminal justice system, is quite non-applicable for a child in conflict with law. The legally recognized immaturity and lack of proper understanding of the consequences of his purported confession cannot be taken into consideration in adjudicating his act or omission.

IV. Issues and Findings of the Courts

I. **The Assumption Of Jurisdiction By The Druto Bichar Tribunal.**

The Children Act, 1974, vests exclusive jurisdiction in Juvenile Courts, and the Druto Bichar Tribunal cannot assume such jurisdiction in any manner. No Tribunal or court other than the juvenile courts has jurisdiction to try any case where a child is charged.

II. **Maximum Term Of Punishment For Children In Conflict With Law.**

In imposing punishment for offences punishable with death or imprisonment for life, the maximum term of imprisonment against a juvenile offender or a person who crossed childhood

during trial or detention cannot be more than 10 years

III. **Admissibility Of The Confessional Statement Of A Child Recorded Under Section 164 Crpc.**

Children lack the maturity to comprehend the consequences of making confessional statements and such confessional statements are often involuntary and induced. Legislative omission in Shishu Ain, 2013 (Children Act 2013), further confirms that children are not expected to make confessional statements against themselves. The Confession of a child in conflict with law recorded under section 164 of the Code of Criminal Procedure has no legal evidentiary value and therefore such a confession cannot form the basis of a finding of guilt against him.

V. Decision

The High Court Division allowed the appeal and set aside the judgment and order of conviction passed against the appellant.

Judicial Endorsement Of The Manufactured Confessional Statement And The Fallacy Of Confession-Centric Convictions: A Critical Appraisal Of Md. Mahfuz Vs The State (Criminal Appeal No. 8440 Of 2023)

Shahnewaz Sakib

Facts In Brief:

On 16.01.2016, Sharif found his flat situated at Baburail, Narayanganj, locked from the outside. Sharif phoned his wife Lamiya and sister-in-law Taslima, but to no avail. Then, with the help of his nephew Mahfuz, who procured a hacksaw-blade from his workplace, Sharif broke the lock and found the dead bodies of his wife, sister-in-law Taslima, nephew Shanto, niece Sumaiya, and brother-in-law Mosharrof. There were marks of injuries caused by a blunt weapon on the forehead and the back of the victims. The throats of the victims were tied with clothes. Post Mortem Report shows that there were multiple lacerated injuries and ecchymosis, ligature and strangulation marks on the victims' bodies. The deaths were homicidal due to hemorrhage and shock. Victim Taslima's husband Shafiqul lodged an FIR with Narayanganj Sadar Model Police Station and suspected one Nazma and her husband, Shahjahan, as culprits. Victim Taslima owed about twelve lakh taka to this usurer couple. Victim Mosharof owed several persons money. The usurers gave death threats

to Nazma and Mosharraf to return the money. Shafiqul also framed his nephew Mahfuz as a suspect for his romantic advances towards victim Lamiya, who complained against Mahfuz to family members. According to the Prosecution, Mahfuz and two others were arrested on 18.01.2016, but the defence alleged that the arresting date of Mahfuz is 16.01.2016 which is also corroborated by PW-05 Md. Shahzada, a relative of the victims. The prosecution witnesses PW-5 and PW-7 deposed before the court that Mahfuz admitted his guilt before the DB Police on 18.01.2016. On 21.01.2016, the Magistrate recorded a confessional statement of Mahfuz which stated that he had extramarital affairs with victim Lamiya, but Lamiya complained against Mahfuz when family members sensed their illicit relationship.

Prosecution Case Against Md. Mahfuz:

The Prosecution tried to establish Mahfuz's repeated sexual advances towards Lamiya as the murder motive. The flat key was retrieved and seized from the water tank at the showing of Mahfuz. A blunt weapon, 'pata-pota', was recovered from the occurrence flat that was mentioned in the confessional statement.

The Defense Case:

In Bangladesh, marginalized accused does not provide defense witness due to colonial mindset of the judges, negligence of the state counsel. Trends of cross-examination show that there is no eye witness in this case, and the confessional statement was obtained during police remand, followed by illegal and unlawful detention of 48 hours.

Crux Issue: Whether The Confessional Statement Is Voluntary, True And Could Be Relied On.
The decision of the court to prove the charge against Mahfuz is solely based on the confessional statement. However, was the confessional statement recorded voluntarily, maintaining all legal requirements?

Illegal Detention Of Mahfuz And The Consequent Involuntariness Of The Confessional Statement
Md. Mahfuz was arrested in fact on 16.01.2016 at night and was detained for two days illegally along with PW-5 Md. Shahzada [PW-5 in his deposition]. Md. Mahfuz admitted his guilt before the public in the custody of DB Police on 18.01.2016 as evidenced by PW-5 and PW-7 but he was shown arrested on 18.01.2016 so as to conceal the illegal

detention of 48 hours past his arresting date and the non-compliance of the mandatory provision of section 61 of the Code of Criminal Procedure, 1898. It is unfathomable for any common man to see that the police arrested Mahfuz two days after the lodging of FIR dated 16.01.2016 where he was framed as one of the suspects. Mahfuz was there all along to cut the lock of the house and discover the dead bodies. So, what kept the investigation officer busy arresting Mahfuz two days earlier?

The High Court observed that the voluntariness of a confession may be proved by the evidence of a Magistrate who recorded it. However, in many cases, it is seen that the requirement of the guardian angel magistrate is not functioning well as a safeguard to the arrested person anymore. In Narayanganj, police coerced three individuals into confessing to the rape and murder of a girl. However, the supposed victim returned home unharmed after 54 days and thereby rendering the confessional statements of all three accused unsubstantiated and exposing the grave dangers of relying on the allegedly voluntary confessional statement recorded by the holy magistrate. The voluntariness of the confessional statement is imposed as it is recorded by the magistrate, not that it is free from inducement, threat or custodial torture in police remand. The High Court Division turned a blind eye to the defects of the confessional statement, which is tainted with illegal detention and custodial torture, but somehow satisfied the legal requirement.

The Manufactured Confessional Statement And The Imposed Iota Of Truthfulness

The High Court Division heavily relied on the confessional statement of Mahfuz, believing it to be a truthful and voluntary account of how five murders were committed. It is submitted that the language and wording of the confessional statement of Mahfuz are highly improbable. The language used therein is inconsistent with that of an uneducated factory boy. For instance, the statement records: 'সেই সুবাধে ছোট মামীর সাথে আমার 'ঘনিষ্টতা' হয়। ...এবং তখন ছোট মামীর সাথে আমার ঘনিষ্টতা আরো বেড়ে যায় এবং 'অনৈতিক সম্পর্ক' গড়ে উঠে। *(in that circumstance I became 'intimate' with my younger maternal aunt-in-law... and thereafter my intimacy increased further and an 'illicit relationship' developed.")*

With a bit of luck, the confessional statement accommodates enough room for irrational, strange, bizarre and absurd happenings to take place. The narrative is so unbelievable that it seems the High Court Division was forced to uphold the death penalty with a dazed and confused awareness.

This preposterous confessional statement offers us a bizarre scene where Mahfuz was searching for clothes to strangulate Lamiya after striking her twice with a pata-pota (pestle). Then, victim Lamiya, with her severe head injury, strangely managed to throw pata-pota at Mahfuz which instead struck victim Sumaiya. Shockingly enough, Mahfuz chose not to respond and diverted his attention from Lamiya to strangulate Sumaiya, relocated Taslima's body from one room to another, pushed Shanto to the wall and strangulated him, and after that, strangulated Lamiya with a cloth.

A closer look at the confessional statement reveals that it bears all the signs of a drafted story which is the brainchild of the persons involved with the investigation, not the spontaneous words of an uneducated juvenile laborer. First, the structure of the confession itself is suspiciously arranged and decorated. The confessional statement begins with a motive, sets out the time and place of the occurrence, narrates the murders in sequence, and ends with concealing evidence. This reads more like an investigation case summary than a frightened boy's voluntary statement. It mirrors the suspicions and allegations raised by Shafiqul and Sharif, the sibling duo who were supposed to be present at the place of occurrence but were absent (perhaps intentionally) on the fateful night. The manner of the murders as described in the confession is an apparent repetition of what was already visible from the inquest reports: injuries, positions of the bodies, and the way they were tied. This strongly suggests the confession was manufactured from already gathered information.

Moreover, the fact that Mahfuz chose to help break open the locked flat and did not flee after committing the murders undermines the theory that he was the one who committed the murders. Yet the High Court Division never felt any empathy for this unfortunate boy. It is humbly submitted that the learned Judges of the High Court Division failed to dispense their duty by failing to presume the existence of certain facts under section 114 of the Evidence Act, 1872. Furthermore, Informant and PW1 Shafiqul Islam's own conduct raises reasonable suspicions: he admitted that he visited the flat every Thursday and left for Dhaka every Saturday. Why then was he absent at the time of the occurrence? Neither the trial court nor the High Court Division was willing to examine this glitch as our judiciary has a habit of treating the charge-sheet as a divinely inspired scripture.

The High Court Division's reliance on such a confessional statement is not just problematic; it exposes the routine readiness of our numb

judiciary to uphold capital punishment on the basis of a confessional statement manufactured by police and signed by the magistracy.

First, the Court acknowledged that no eye-witness existed, yet treated the confession as fully corroborated despite visible contradictions. For example, Mahfuz confessed that he struck Taslima on the back of her head when she was pushing a door, but the post-mortem found injuries on the front of her head, a material mismatch that the Court brushed aside as irrelevant. These inconsistencies undermine the supposed truthfulness of the confession, but the judgment resolved them by speculation rather than evidence. Second, the murder weapon pata-pota was allegedly recovered at Mahfuz's showing. Yet, PW-23, the IO admitted in cross-examination that no blood-stains were found on it. Instead of treating this as fatal to the prosecution's case, the Court excused it by claiming blood 'might have been removed' in four days. This speculative reasoning replaced the forensic burden of proof and shifted the standard away from reasonable doubt. Third, the involvement of other suspects was quietly dropped by the Investigation Officer of the Case. The FIR mentioned Nazma and Shahjahan, creditors of Taslima, as suspects. They were arrested initially but later discharged without trial. The judgment never interrogated whether the financial motive might have been stronger than the alleged romantic advance attributed to Mahfuz. By ignoring alternative hypotheses, the Court narrowed its reasoning prematurely. Fourth, the Court emphasized that the defense did not cross-examine witnesses on several points, i.e. allegations of harassment of Lamiya. The High Court Division found comfort in forgetting the fact that the convict-appellant Mahfuz was too poor to hire a counsel of his own, and a state counsel was appointed. The condition of state counsel is well known. Moreover, the stance of the HCD overlooks the fact that the burden of proof lies with the prosecution. Conviction cannot be justified merely on the absence of cross-examination if the evidence itself is contradictory or weak.

THE HUMBLE SUBMISSION

The judgement rendered by the HCD is liable to be set aside as it miserably failed to unearth the fact that the Convict-appellant Mahfuz was arrested on 16.01.2016 and he was forwarded before the magistrate after the illegal detention of three days i.e. on 19.01.2016. The High Court Division failed to appreciate that the confessional statement of the Convict-appellant is no confession at all in the eye of the law as the Convict-appellant was produced before the concerned magistrate

after 24 hours of his arrest as opposed to the mandatory requirement of 24 hours. The High Court Division also failed to appreciate that the confessional statement made by the accused-appellant Md. Mahfuz is no confession at all, as the same is tainted with illegal police custody and torture which renders such a confessional statement to be involuntary and illegal, as witnessed and deposed before the trial court by the PW-5 Md. Shahjada. If the confessional statement is vitiated by the precondition of voluntariness, the prosecution got nothing against Mahfuz. Besides, the lacunae lie in the overreliance on confessional statement without addressing contradictions, the absence of forensic corroboration and the failure to analyze alternative motives or suspects and as such the Judgment and Order dated 06.12.2023 passed by a Division Bench of the High Court Division in Criminal Appeal No. 8440 of 2023 dismissing the appeal and accepting the Death Reference and confirming the sentence of death is liable to be set aside for ends of justice.

Recent Amendments in the Code of Criminal Procedure 1898

Gazi Shahriar Hossain

The Interim Government recently made the second major amendment to the Code of Criminal Procedure (CrPC), one of the most important statutes in Bangladesh for criminal justice. The reforms were made following observations and findings by the Supreme Court, suggestions from the Judicial Reform Commission, and opinions from various stakeholders. The amendments represent a landmark shift in the administration of criminal justice in Bangladesh.

Increased Powers of Magistrates in Imposing Fines
Currently, the Village Courts can order a maximum fine of BDT 300,000; previously First Class Magistrates could only impose fines up to BDT 10,000. To get rid of the anomaly, section 32 has been amended. The maximum penalty that a First Class Magistrate can now give under the fresh provision is BDT 500,000; for a Second Class Magistrate, it has been raised from BDT 5,000 to BDT 300,000, for a Third Class Magistrate, from BDT 2,000 to BDT 200,000.

Safeguards for Arrested Persons
Largely inspired by the remarkable decisions in BLAST v. Bangladesh, the legislature has added some judicial safeguards to the CrPC. New section 46A mandates that the arresting officer must wear a nameplate, disclose his identity, and display his identification card at the time of

arrest. If the arrest takes place outside the suspect's residence, the officer must inform the suspect's family or relatives immediately, and in no case later than 12 hours. If the arrestee bears any visible injuries or is ill, immediate medical treatment must be arranged, accompanied by a medical certificate. Moreover, the accused must be allowed to consult with a lawyer upon request.

Memorandum of Arrest

The most significant advance may be the addition of a "Memorandum of Arrest" in section 46A, which, as mandated by the Appellate Division, consists of a series of legal safeguards for the one arrested. The Magistrate shall record such facts and the signature of the arrestee in the said document. This facilitates the Magistrate to check if there was any compliance with safeguards. Though the memorandum has been piloted in some districts earlier, its inclusion in the CrPC would mean that it will now be applicable across the country.

Mandatory Disclosure of Arrest Information

Members of the arrestees' families typically suffer extreme difficulty in learning such basic information as the cause, location and mode of contact regarding arrest. To avoid this, section 54A mandates the communication to the suspect of his grounds of arrest. Furthermore, Sections 46B and 46C require the recording of all arrests in a police station general diary as well as an office register of the arresting authority. Any such individual is entitled to full disclosure by the police. Also, daily lists of arrests must be posted in every police station and district and metropolitan police headquarters.

Safeguarding the Property of Arrestees

Concerns over misappropriation of valuables seized from arrestees, such as money, jewelry, or mobile phones, have been addressed under section 51. A separate inventory must be prepared for such items (not linked to the seizure list of the case), signed by a witness where possible, and a copy must be provided to the arrestee's relatives.

More Prudence in Arrests under Section 54

The long-debated Section 54 that allows arbitrary arrest without specific complaints has been made clear. Now that the amendment has been

explicitly spelled out, whenever the police make an arrest without warrant for an offence for which the punishment is tabulated in writing, they have to prove either that there was direct commission of the offence which had occurred in their presence or reasonable suspicion for involvement could be formed under a registered case under investigation. For offences punishable with seven years or less, the arrest must further be justified as necessary to prevent escalation, escape, or tampering with evidence. Importantly, preventive detention under section 54 has been expressly prohibited.

Judicial Oversight of Arrest Compliance

Section 67A casts the duty on Magistrates and courts to carry out the procedure for compliance with arrest provision. If a violation of the law is proved, the court can also recommend disciplinary action against the erring officer.

Police Remand and Show Arrest

Operation of uncertainty as to the period for which police remand can be obtained by amending section 167 (2) consequently is now limited in its scope and no more than 15 days could be given for granting a police remand in connection with a case. There are both pre- and post-remand medical examinations, and visible injuries should initiate judicial action. Section 167A also deals with 'shown arrest' discretion of police wherein the police have to place accused persons before a court with a case diary, while the accused gets a right of hearing before being shown arrested in another case.

Time Limits for Investigation

A statutory timetable has been created for the first time. Under Section 173B, investigations must be concluded within 60 working days. If not feasible, reasons have to be given by the investigators and extension sought from the Magistrate. Repeating this pattern will result in a new investigating officer being appointed or even discipline.

Summary Trials

The financial limit of summary cases has been raised from BDT 10,000 to Taka 500,000. A new section 264A empowers Magistrates to complete

the proceedings, from framing of charges onwards, on the same day itself, which will, however, be conducted outside the court premises as well when so required.

Trials in Absentia

Amendment of section 339B eliminates the mandatory issuance of attachment and proclamation warrants, which previously delayed trials of absconding accused. Instead, provisions have been made allowing notice in a Bangla daily newspaper and posting it on at least one government website.

Compoundable Offences

Section 143 of the Penal Code 1860 (unlawful assembly) has been compounded. Now The Courts And District Legal Aid Offices are allowed to facilitate settlements, which can be recorded and enforced by the court.

Conditional Bail

Section 498 has been amended which allows the court to impose reasonable terms fixed by the order of release on bail. Conditions can be mandatory drug tests, or attendance at social service programs so long as they are not burdensome enough to negate the bail grant.

Exemption from Personal Appearance

Section 540A provides a more liberal provision now for allowing courts to dispense with the personal appearance of an accused on bail in investigation and choose to appear by representation through counsel. Additionally, counsel may now cross-examine witnesses even in the absence of the accused, a provision that reduces harassment of accused persons who would otherwise be compelled to appear at every hearing.
Witness Costs and Protection

Section 544 has been relaxed to permit the determination of witness fees by government. This is the first time the CrPC has provisions on witness and victim protection which empowers courts to pass orders as may be necessary.

Non-Bailable Status for Grievous Hurt

As per Penal Code 1860, section 325 (grievous hurt) is now made non-bailable eliminating the prior loophole where the absence of proof of deadly weapons allowed accused persons to secure bail despite serious injuries.

Penalties for False Cases

Section 250 has been strengthened to make it mandatory for Magistrates to take action in cases of false complaints. The maximum fine has been increased from BDT 1,000 to BDT 100,000, while compensation has been raised from BDT 500 to BDT 50,000.

Miscellaneous Reforms

Other salient features involve the introduction of digital summons, online deposit of bails, doing away with corporal punishment (whipping), and enhancement of the minimum amount for non-appealable fines from BDT 50 to BDT 5,000.

Constructive Criticism

The 2025 Amendment to the Criminal Code of Procedure allowed for the protection of human rights and the modernization of the criminal justice system. On paper, it looks progressive. Now, police are required to display their identification, draft an arrest memo, notify families and check the health of those held. These are positive steps. But once we read the fine print of this law, several points undermine these reforms.

The difficulty is that, while Sections 46A–46E represent a state of safeguards, Section 54 remains in place, which allows police to arrest without a warrant if they say they have "reason to believe have suspicion" without an explicit definition. This lack of specificity provides a great deal of discretion to police. What one officer considers "reasonable," another might not. Without independent oversight, these protections could end up merely as formalities while arbitrary arrests persist under the guise of "reason to believe."

Section 167A cautions magistrates to be extremely cautious while granting remand or dealing with "shown arrests," which occurs when a person in police custody has been falsely shown arrested in another

case for longer detention. Thus, preventive detention is not ended by the law. That also means people can still be held in custody ostensibly for questioning even if they have not committed a crime. In practice, this often affects political activists, journalists, and ordinary citizens, which goes against the spirit of reform.

The Amendment also introduces a sixty-working-day period for investigations under section 173B as this seeks to expedite justice, Bangladesh's police are regularly and forgivably short of manpower, forensic labs and trawling funds. That may well result in hasty investigations or cooked books, instead of justice fair and square.

Detainee medical examinations (Sections 46E and 167(2A)) are good proposals, but the law doesn't say you can't use evidence gathered through torture in court. Although Section 24 of The Evidence Act 1872 states that a confession made by a person accused of an offense, while in the custody of a police officer, is irrelevant if it appears to the Court to have been caused by any inducement, threat, or promise, as it would potentially lead to a false confession. Yet we see many cases of manufactured confessions. There should be an explicit provision in the CrPC to eradicate it. Without it, coerced confessions can continue, rendering the protection shallow.

Ultimately the law places a number of responsibilities on the police arrest memos, registers, medical checks and other things but does not prescribe that if these duties are not carried out what is to be done. There is no obvious recourse, no restitution for victims, and no firm punishment for officers who break the rules. Duties without consequences are meaningless.

Conclusion

The latest amendments of CrPC are supposed to guarantee human rights of all persons dealing with the criminal justice system, but the way it is structured allows abusive practices to remain. For effective reform, it must include independent oversight of detention, a transparent and public digital register of arrests, compensation for unlawful detention, an explicit prohibition on evidence extracted under torture and concrete support for investigations, including more staff, training, and forensic resources.In sum, the Amendment speaks much but does little. Without clear rules, oversight and remedies, it is in danger of being one of those laws that shines on paper but goes nowhere in real life.

Curbing Custodial Violence: A Reform Agenda for Bangladesh's Remand System

Shaimun Haque & Gazi Shahriar Hossain

Abstract

This article examines Bangladesh's remand regime as an instrument that undermines protections of liberty, due process, and freedom from torture. Synthesizing law and practice under The Code of Criminal Procedure 1898 section 167, the BLAST directives, and the Torture and Custodial Death Act, it documents systemic misuse through recent episodes, including Operation Devil Hunt, the 2024 July Uprising, and the Ashulia immolation killings. Drawing on South Asian comparators, the study proposes a phased reform package on best practices: reasoned remand orders, audiovisual interrogation, independent medical documentation, counsel access, non-custodial defaults, Cooling-off period, plea bargaining, Mandatory audio-visual recording of all custodial interrogations, confession recordings and a Custody and Remand Inspectorate. With all the relevant statistical data, the study basically demonstrates the urgency of a new right based reforms. It also outlines implementation pathways, institutional and political-economy constraints, and credible metrics to restore legality and public trust.

Introduction

Why does a person's conscience seem to awaken only in police custody? Why do confessions emerge from detainees, while fugitives and prisoners remain silent? The answer is disturbingly familiar with custodial torture. In Bangladesh, police remand is widely regarded as systemic violence. Although the law guarantees that no accused can be forced to testify or endure torture during interrogation, the reality tells a different story. For many, "remand" has become synonymous with abuse, exposing the gap between constitutional rights and the misuse of the Criminal Procedure Code 1898, (CrPC). Confessions are often extracted through coercion not conscience. Magistrates are legally bound to prevent such violations, yet they frequently align with law enforcement and government narratives, allowing the cycle to continue. Officials routinely deny allegations of torture, while the judiciary fully aware of the "systematic denial of violence" remains complicit. Remand in Bangladesh, governed by Section 167 of the Code of Criminal Procedure 1898 (Government of Bangladesh). This article proposes structural remedies to reduce Bangladesh's overreliance on remand, restore constitutional safeguards, and realign pre-trial practices with international human rights norms. This state is called a police state because the colonial-era Police Act entrenches authoritarian policing, enabling remand abuses, preventive detention and impunity; urgent statutory reform is needed to restore rights and accountability now. Despite constitutional protections under articles 32, 33, and 35, (Government of Bangladesh, 1972) remand has become a coercive tool for extracting confessions and suppressing dissent (Human Rights Watch, 2024). During the 2024 anti-quota protests, thousands were detained without charge amid curfews and "shoot-on-sight" orders (Human Rights Watch, 2025). This paper examines legal shortcomings and proposes rights-based reform**.**

Legal Framework and Judicial Guidance

Section 61 of the Code of Criminal Procedure, 1898 mandates that arrested individuals to be presented to a magistrate within 24 hours, while Section 167 allows up to 15 days of custody with recorded justifications. The 2025 amendment introduced Section 46A requiring police to inform arrestees of the reason for arrest, record it in the General Diary, notify family within 12 hours, and present a signed Memorandum of Arrest to the magistrate (Government of Bangladesh, 2025). Despite these procedural additions, enforcement remains inconsistent, and no independent mechanism exists to monitor compliance (Human Rights

Watch, 2025).

Preventive detention under the Special Powers Act 1974 is an executive measure distinct from CrPC remand. Section 3 authorizes detention to prevent prejudicial acts; Section 8 requires grounds to be communicated within 15 days; Sections 9–11 establish an Advisory Board, which must receive the case within 120 days and issue its opinion by 170 days from the date of detention. (Government of Bangladesh, 1974). In practice, these provisions enable lengthy, charge-less incarceration that can eclipse judicial oversight at the pre-trial stage.

These provisions conflict with article 33 of the Constitution, which guarantees protection from arbitrary arrest and detention (Government of Bangladesh, 1972). Although parliamentary committees have recommended reforms since the 1990s, political resistance has preserved the status quo (Bangladesh Legal Aid and Services Trust [BLAST], 2023). In practice, remand is routinely used as a default measure, with minimal justification from police or judicial authorities (Human Rights Watch, 2024).

The landmark case BLAST v Bangladesh (Rubel Killing Case) established safeguards such as mandatory medical examinations, advance notice to family and lawyers, and magistrate review of remand requests (Bangladesh Legal Aid and Services Trust v Bangladesh, 2003). The Appellate Division upheld the High Court's 10-point guidelines for law enforcement and 9-point directives for magistrates (Supreme Court of Bangladesh, 2016). Following this case, amendments in 2025 added safeguards to The Code of Criminal Procedure 1898, including requirements for arresting officers to identify themselves, promptly notify family within 12 hours, provide medical care for injured or ill arrestees, and allow consultation with a lawyer. Though the amendment was made, still there are loopholes: the provision for remand and arbitrary arrest still remains. Also, there are no rules regarding remand implemented, like the presence of a lawyer or video and audio surveillance. The Torture and Custodial Death (Prevention) Act 2013 criminalizes custodial torture, yet only one conviction has occurred since its enactment (Government of Bangladesh, 2013). The UN Committee Against Torture (CAT) criticized Bangladesh in 2023 for relying on internal investigations and lacking independent oversight (United Nations Committee Against Torture, 2023). Despite being a party to ICCPR and CAT, Bangladesh has failed to meet its obligations (United Nations General Assembly, 1966) (United Nations General Assembly, 1984). Writ jurisdiction under article 102

has not been effectively used to ensure accountability (Government of Bangladesh, 1972).

Contemporary Cases Highlighting Institutional Breakdown

Following the 2024 uprising, the interim government launched Operation Devil Hunt, resulting in over 11,300 detentions across Bangladesh (NDTV, 2025). Most arrests were based on vague charges, and detainees were subjected to extended remand without legal counsel. Human Rights organizations reported that remand was used not for investigation but as a mechanism of political repression. Many detainees were denied access to family and lawyers, underscoring systemic abuse.

In mid-2024, a crackdown on student protests over the reinstated quota system led to nearly 11,700 detentions and over 1,400 reported fatalities (The Daily Star, 2024). Allegations of torture, summary executions, and remand abuses emerged from multiple districts. Despite the peaceful nature of the protests, the government deployed military forces and imposed curfews. Remand was used punitively, with students and activists illegally detained and tortured (U.S. Department of State, 2025). During the July Revolution of 2024, security forces were implicated in the burning of six protesters alive in a police van in Ashulia, Savar (The Business Standard, 2025). The International Crimes Tribunal accepted charges of crimes against humanity, including murder and incineration. The accused include senior police officers and political figures, with proceedings broadcast live (Wikipedia contributors, 2025). This incident reflects the collapse of remand into extrajudicial violence and highlights the pervasive culture of impunity.

In January 2023, two traders, a journalist, and a lawyer filed torture complaints under the Torture and Custodial Death (Prevention) Act 2013, but none led to prosecution (Dhaka Tribune, 2023). Similarly, Afroza Begum, arrested in Jashore on alleged drug charges, died in custody after being tortured (Dhaka Tribune, 2024). Her family reported extortion and physical abuse, including being tied to a ceiling fan. Amnesty International condemned the case as emblematic of entrenched impunity (Amnesty International, 2024). Despite the Torture Act, enforcement remains weak. These incidents reveal a state of exception, where constitutional protections are suspended.

Bangladesh contrasts with India, where the Supreme Court's D K Basu v State of West Bengal case held that custodial violence violates article 21

(Supreme Court of India, 1997). The Court issued binding guidelines for arrest and detention. In Bangladesh, judicial reticence in issuing coercive orders has perpetuated systemic abuse, reflecting a deeper constitutional deficit (U.S. Department of State, 2025).

Urgency of Reform

The scale and brutality of recent abuses pose an existential threat to the rule of law and democratic legitimacy in Bangladesh. Public trust in justice institutions is rapidly deteriorating. A 2024 urban survey reported very high public fear of police custody and widespread belief that remand is misused for political ends (survey figures reported in sector literature) (Ahsan, Hasan, & Rumi, 2024). Studies and HR reports indicate that only a small fraction of detainees access counsel early and prosecutions for torture are extremely rare.

Civil-society monitoring records numerous deaths in custody across 2023–25; From January to September 2025, 34 deaths occurred involving Bangladeshi law enforcement through shootouts, torture, custody suicides, and illness revealing patterns of extra-judicial killings and systemic abuse. Among the reported cases, 13 individuals were killed in shootouts before arrest, while 9 died due to physical torture after being taken into custody. Additionally, 2 deaths occurred from physical torture before arrest, and 5 individuals reportedly committed suicide while in custody. There were also 2 deaths attributed to sickness while detained (ASK, 20250). The Ashulia immolation killings and mass detentions under Operation Devil Hunt further illustrate Remand's role in state violence (The Business Standard, 2025). The interim government, led by Nobel laureate Muhammad Yunus, has shown that reform is possible. In 2024 there was established six commissions including one on police reform and acceded to the UN Convention on Enforced Disappearances (Human Rights Watch, 2025).

The 2025 amendment to Section 46A, section 54 and the introduction of Section 54A are steps forward. Section 46A mandates police to inform arrestees of the reason for arrest, record it in the General Diary, and notify the family within 12 hours (Human Rights Watch, 2025). Yet enforcement remains inconsistent, and no independent body monitors compliance (Government of Bangladesh, 1974). The recent CrPC amendments require officers to state the reason for arrest, record it in the General Diary/memorandum, show ID and notify family within 12 hours, and ensure access to medical care and counsel yet enforcement

is inconsistent and no independent monitor oversees compliance (Government of Bangladesh, 1898).

Reform needs to be comprehensive, phased, and legally entrenched to curb abuse and which uphold citizens' rights.

Comparative Remand Practices: A Global View

Latest pre-trial detention rates show Bangladesh at 75.6% (2022), India at 75.8% (2022), and Pakistan at 73.4% (2024) (Institute for Crime & Justice Policy Research, 2022) (National Commission for Human Rights, 2025). Despite India's D K Basu safeguards and Pakistan's push for reasoned remand, under-trial populations remain high. These figures suggest that procedural reforms alone, without non-custodial defaults, fail to reduce pre-trial incarceration. Bangladesh is not the only country that struggles with remand laws that were introduced during the colonial period (e.g. Section 61 and 167 which speaks of arrest without warrant but no detainment exceeding 24 hours) (Government of Bangladesh, 1898).

In India it is permitted 15 days of police custody, although in a landmark case, D K Basu v State of West Bengal, (Supreme Court of India, 1997) the need to ensure judicial control and institutional responsibility was noted. South Asian countries have begun adopting selective safeguards against custodial abuse, though implementation remains inconsistent. India introduced plea bargaining but its use remains minimal, covering only minor offences (The Hindu, 2020). The Supreme Court of India also mandated CCTV and audio-visual recording of interrogations, enhancing accountability despite uneven enforcement (India Today, 2020). Also mandated a 2-3 cooling of period.

In Pakistan, remand procedures are still general, though more often, courts are requiring more specific reasons to justify remand, and are increasingly insisting on the use of lawyers to represent victims of custody (Government of Pakistan, 1898). The Lahore High Court has directed magistrates to record specific grounds for remand and emphasized legal representation during custody hearings (Lahore High Court, 2024).

The 2015 Constitution of Nepal has outlawed torture and fallen behind restitution of victims, (Government of Nepal, 2015) and includes in its 4 reforms a pilot of community-based supervision and electronic monitoring (OHCHR, 2022). Nepal's 2015 Constitution is based on a

rights approach with constitutional and international duties and requires that detainees be brought before a judge within 24 hours (Supreme Court of Nepal, 2023).

Although the implementation of judicial review, time limits, and access to an attorney has not yet mitigated the consequences of detaining individuals on a mass scale, the history of Prevention of Terrorism Act (PTA) reform in Sri Lanka demonstrates the effectiveness of external accountability systems (Government of Sri Lanka, 1979).

In the United States, the landmark case Miranda v. Arizona (1966) established the Miranda Rights, which require that individuals under arrest be informed of their right to remain silent and to access legal counsel. Additionally, the use of body cameras has become standard practice to document arrests and interrogations, enhancing transparency and accountability. The United States employ plea bargaining to reduce trial backlogs while maintaining judicial oversight to prevent abuse.

Across Europe, many EU member states mandate the audiovisual recording of police interrogations and ensure the presence of legal counsel during questioning. The European Union also provides detainees with a "Letter of Rights," which outlines their legal entitlements in clear and accessible language. Other countries have adopted similar safeguards: the Netherlands, Tunisia, and France all guarantee the right to have a lawyer present during police questioning. In the United Kingdom, the Police and Criminal Evidence Act (PACE) of 1984 enforces video-recorded interviews, legal representation, and procedures to verify the voluntariness of statements, reinforcing protections against coercion and abuse. Also the UK and Japan mandate a cooling-off period before confessions, ensuring voluntariness and protecting against coercion (NACDL, 2019). Norway uses remand very sparingly, preferring instead restorative justice and community-based supervision ; South Korea and the UK supplement this with independent custody inspectors to monitor compliance (UNODC, 2024).

In terms of global nations, Germany eliminated coercive remand as default. The inquisitorial process in Germany employs judicial-based investigations and electronic supervision (Heard, 2023). Globally, several best practices have emerged to safeguard detainee rights and enhance transparency in criminal justice systems. Nations including Australia and Canada require mandatory audio-visual recording of all custodial interrogations and confessions, making unrecorded

statements inadmissible in court (Dixon, 2008)(Law Faculty, University of Melbourne, 2018). These practices demonstrate that procedural safeguards, technological transparency, and judicial supervision collectively prevent torture, improve conviction integrity, and uphold fair trial rights worldwide

Bangladesh, on the contrary, has failed to implement reform due to judicial inactivity and political interference. The moral is this: reform must be written down, organized, and set so as to become independent of the political weather to avoid future misuse.

Statistics and Recent News & Impact of the Remand System in Bangladesh

As of 16 September 2025, Bangladesh's prison population stood at 78,001, housed within facilities designed for only 43,000 inmates, resulting in an occupancy rate of 182% (Samakal, 2025). Notably, 75.6% of these individuals were held in pre-trial or remand custody as of November 2022, underscoring the systemic overuse of custodial detention prior to conviction (Institute for Crime & Justice Policy Research, 2022). During the July–August 2024 protest wave, the UN Office of the High Commissioner for Human Rights estimated that up to 1,400 individuals were killed over a three-week period, with approximately 11,700 detained nationwide (Office of the United Nations High Commissioner for Human Rights, 2025). Bangladesh's prisons held 78,001 people at 182% of official capacity; under trails & pre-trial prisoners make up 75.6% of the population (Institute for Crime & Justice Policy Research, 2025). Preventive detention was widely deployed during this period. Amnesty International documented the arbitrary arrest of over 100 Indigenous Bawm individuals under the in a single campaign, while both the US Department of State and OHCHR continued to flag a few expansive provisions as enabling arbitrary and prolonged detention (Amnesty International, 2024). The police today seem to have lost their true power of investigation. In the name of investigation, they have become almost completely dependent on remand. It appears that only after taking an accused person on remand can the police actually begin their investigation as if remand itself is their only method of inquiry. After that, three or four people are often sent to jail together as if the number of arrests proves the success of the investigation. Yet, many of them are found to be innocent. A PBI study found 52% acquittals in murder trials (1986–2015) due to flawed investigations, long delays, and weak prosecutions, urging creation of an independent investigation agency to restore judicial accountability. Analyzing 238 cases from 1986 to 2015

showed chronic issues in investigation and prosecution, including out-of-court settlements, inconsistent evidence, and excessive judicial delays sometimes extending up to 18 years. On average, cases that ended in conviction took around 1 year and 2 months for investigation and 10 years and 3 months for trial, while acquitted cases took even longer. This inefficiency undermines public trust and perpetuates impunity. The PBI recommended creating an independent investigation agency to ensure impartiality, highlighting the need for reform in Bangladesh's justice system. (Prothom Alo, 2025).What is the basis of such investigations that send innocent people to jail? Is it really about finding the truth or just about forcing through torture and fear? If the main goal of remand becomes to extract false confessions instead of uncovering facts, then it is not justice it is the legalization of state injustice. In a related development, the government announced the withdrawal of 12,000 politically motivated cases in August 2025, many of which involved charges under the SPA, Arms Act, and Explosives Act, highlighting the breadth of overbroad and coercive legal instruments used in recent years (The Business Standard, 2025).

Implementation Challenges and Political Economy

Resistance to reform will be fierce. The remand system is embedded in power structures and a culture of impunity. Political will is decisive, and success depends on aligning civil society, donors, and institutional actors. International actors like the UN and EU must offer technical support and political leverage. The UN Human Rights Council's 2024 report urged Bangladesh to prioritize human rights reforms and judicial independence (UN News, 2024).

Pilot reforms in Sylhet and Rajshahi are introducing audiovisual recording and digital remand tracking as demonstrate feasibility (UNDP Bangladesh, 2025). Lessons from India and Nepal show judicial pronouncements alone are insufficient. India's D K Basu case gained traction only after legislative codification (Supreme Court of India, 1997). Nepal's 2015 Constitution mandates restitution, but enforcement relies on judicial monitoring and civil society (Government of Nepal, 2015).

Bangladesh needs to form coalitions to make reforms part of its constitutional framework. The Judicial Reform Commission's roadmap for 2025 calls for the establishment of an independent Supreme Court Secretariat and Judicial Appointments Commission (Dhaka Tribune,

2025). Without oversight and transparent monitoring, reforms may become cosmetic. The UN's 2025 report found credible evidence of extrajudicial killings and called for criminal investigations (Office of the United Nations High Commissioner for Human Rights, 2025). Reform needs to be legally robust, politically sustainable, and institutionally embedded.

Recommendation on Reform

To eradicate systemic misuse of pre-trial remand, Bangladesh must adopt a non-custodial default rule that presumes bail, supervised release, or electronic monitoring for non-violent, low-risk offences, with police custody justified only by specific findings of flight risk or danger. Remand should be capped at five cumulative days, with written reasons tied to concrete investigative steps.

The Constitution of Bangladesh guarantees fundamental rights for arrested individuals, including prompt notification of detention reasons and access to legal counsel (article 33(1)) as well as protection against self-incrimination (article 35(4)). However, The Code of Criminal Procedure 1898 Section 167 allows magistrates to remand suspects to police custody for further information, contradicting these constitutional rights. Thus, police remand is argued to be unconstitutional. Sections 25 and 26 of the Evidence Act 1872 invalidate the confessions made to police. When read with the Constitution it manifests the spirit of the law is against the prevalent practice of recording confessional statements immediately after police remand. Also the UN Special Rapporteur on Torture recommends a cooling-off period of 2-3 days before recording any confession. Bangladesh should adopt this measure like India, UK and Japan.

Counsel must be present during interrogation, and full audiovisual recording should be mandatory absence of footage renders statements inadmissible. Pre and post-remand medical exams must follow the Istanbul Protocol. A statutory Custody and Remand Inspectorate should oversee compliance. By introducing a cooling-off period before recording confessions can prevent coercion and ensure voluntariness. Plea bargaining may be piloted under judicial supervision to reduce case backlogs while safeguarding against misuse. Enacting laws mandating audio-visual recording of interrogations and confessions will enhance transparency, accountability, and protection of suspects' rights.

There is no need for structural change but need to have the potential to make the lives of detainees much better. All remand applications must be fully and comprehensively justified by the courts, aligned with international fair trial standards, and all custodial interrogations must be audio-visually recorded, with any lost or damaged footage invalidating statements in court (Human Rights Watch, 2023). These reforms are practical, cost-effective, and urgent, and would create a level of accountability and transparency.

Some reforms need institutional innovation and legislative support. A Custody and Remand Inspectorate must be established by statute. This should be an independent body with the power to perform unannounced inspections, seize custody records, and refer such cases to fast-track courts. This should be implemented under constitutional guarantees, especially articles 32 and 35, which uphold life, liberty, and freedom against torture (Government of Bangladesh, 1972). Through recent amendment has been made in CrPC but Medical safeguards must be aligned with the Istanbul Protocol, where cases criminalizing torture and ill-treatment are forensically documented also forcing accountability on the officials if it is not done so (Office of the United Nations High Commissioner for Human Rights, 2022).

Long-term reforms require political consensus, budgetary commitment, and technological investment. Both GPS surveillance (Heard, 2023) and remote monitoring of non-violent prisoners should be considered, making police less reliant on physical custody and providing law enforcement with bodycams and assessing their performance against human rights benchmarks.

The adversarial system in Bangladesh places an emphasis on prosecutorial error instead of substantive equality in a defense. The lack of legal representation at the time of remand worsens this situation. The 2025 launch of the Digital Legal Aid Project enables remote legal access via video conferencing, helplines, and virtual mediation (Government of Bangladesh, 2000). It is crucial to have legal counsel at all remand proceedings and interrogations, particularly during Remand. The state must provide legal representation to indigent detainees, mainly to prevent prolonged, unjustified detention.

There is a need to think of radical restructuring of the system, as the remand system is an abused systemically in Bangladesh. Bail, house arrest, and electronic monitoring, as well as community supervision,

should be regarded as a priority, particularly in minor offenses (UNDP Bangladesh, 2025). Remand should only be used as a last-resort option, and clear statutory restrictions on remand should be enforced, judicial oversight implemented, and a range of alternatives to custodial approaches embedded into the system.

Conclusion

The remand system in Bangladesh has become an instrument of state control, threatening individual liberty and subverting democratic principles. Originally created for law enforcement, it has now made arbitrary detention, custodial abuse, and constitutional violations possible. It has become a force perpetuating impunity and authoritarianism. Recent reforms by the interim government show that a change is possible and necessary. These preliminary steps provide the framework for justifiable and accountable remand procedures. Judicial protection, institutional oversight, and technological changes are key to bringing Remand into line with constitutional and international norms.

This is not simply a matter of criminal justice reform - it is a matter of constitutional obligation. Arbitrary detention undermines the rule of law as well as the supremacy of the Constitution (Transparency International, 2025). Rights under articles 32, 33 and 35 are foundational, and cannot be overridden by executive discretion (Government of Bangladesh, 1972). Sustained abuse of Remand poses a direct threat to democracy. Reform not only needs to be legislatively enshrined but constitutionally protected. Without it, Bangladesh runs the risk of institutionalizing a police state, where executive power remains unchecked (Washington Centre for Policy, 2025). Political will, civil society pressure, and international support will decide whether the system moves towards justice and accountability.

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The Double Punishment: Women in Bangladesh's Prison System

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In Bangladesh's overcrowded prison system, female prisoners are a small part of the total number of incarcerated people. This statistical reality shows a critical human rights crisis. The experience of women in Bangladesh's prisons represents a clear case of double punishment. First, the criminal justice system often does not recognize the specific challenges and risks faced by women inmates. Second, those women find themselves in correctional conditions where they experience severe neglect, dangerous situations, and a lack of dignity. Their situation reveals serious issues in the country's justice and corrections system.

The prison situation in Bangladesh is critical mainly because of the congestion reaching alarming levels. The country has 68 prisons that are meant to hold around 42,887 inmates, but as of late 2023 and early 2024, there are between 77,000 and 88,000 individuals. According to the World Prison Brief (2025) report, the number of incarcerated people is 77,291, and the prison population rate is 45. [2] This means they're operating at 180% to over 200% capacity, which is beyond acceptable limits. [1] Women make up a small but significant portion of this population, representing between 3.2% and 4.0%, which equates to approximately 2,500 to 3,572 individuals at any given time. Where the

official capacities for female prisoners are only 1,929, this number far exceeds. [1]

The issue of female inmates in Bangladesh has been historically overlooked by researchers and policymakers.[5] The small percentage of women within the prison population worsens their situation, as their needs are ignored in a system designed for male prisoners. In Bangladesh's prison system, their minority status justifies the lack of gender-specific facilities, which creates a cycle that worsens their conditions. Also, the absence of basic provisions, such as playgrounds for children of incarcerated mothers or adequate sanitary supplies, highlights their unique vulnerabilities. [1]

The following table provides a statistical portrait of the crisis, quantifying the scale of overcrowding and pre-trial detention and situating the female prison population within that dire context.

Table 1: Bangladesh Prison System - A Statistical Overview

Metric	Male	Female	Total
Official Capacity	~41,071	1,929 1	43,000 25
Actual Population (Latest)	~75,201	2,800 (Sep 2025) 25	78,001 (Sep 2025) 25
Number of Under-Trial Detainees	Not specified	Not specified	59,000 (Sep 2025)

Note: Population figures fluctuate. The data presented reflects the most recent available statistics from the provided sources to illustrate the scale of the issue.

Section 1: The Lived Reality - Conditions inside the Walls

While national overcrowding statistics are alarming, the situation in facilities designated for women is even more acute. The Kashimpur Women's Central Jail is the only dedicated central prison for women in

the country. Its official capacity is 200, but it held 634 prisoners in August 2023, resulting in an occupancy rate of 317%. [1] Similarly, Dhaka's central jail has been reported to hold 540 women in a space designed for only 134. [7] This extreme density renders the legal standards of the Jail Code meaningless. According to the Code, each inmate is entitled to 36 square feet of personal space (6 feet by 6 feet). However, it is impossible to provide this necessary space under the current conditions. [1] Inmates often sleep in shifts, with many unable to lie down due to congestion in cells. [8]

The overcrowding issue is worsened by the dilapidated state of the prison infrastructure itself. Many of the country's main prisons built during the British period are now in significant disrepair. [8] For example, Rajshahi Central Jail was constructed in 1840 and remains in a dilapidated condition. These old buildings have poor ventilation and sanitation. This leads to risks of collapse and other issues, which make them hazardous to live in. [8]

Health, Hygiene, and Nutrition: A Neglect of Basic Dignity

Bangladesh's prison healthcare system is severely under-resourced. Only six physicians are available for over 80,000 inmates across 68 prisons. [1] Chronic diseases like tuberculosis, diabetes, and kidney complications often remain untreated, which causes unnecessary suffering and preventable deaths. [1] Women face additional challenges, including a lack of sanitary towels, a direct violation of the United Nations Rules for the Treatment of Women Prisoners (the Bangkok Rules). [24] Pregnant inmates face a particularly high risk of complications because they do not receive the benefits of medical checkups or nutritious food. Reports indicate that the food provided is often substandard and insufficient. Also, there are allegations of staff stealing supplies and discrimination in favor of those who can afford bribes for better provisions. [8]

Prisons in Bangladesh are filled with fear and violence. Human rights organizations report many cases of torture and harsh treatment. This abuse is done by both government officials and fellow inmates like powerful, politically connected prisoners, and even by jail guards. [1] The harrowing testimony of Shireen Akhtar, a political activist who was imprisoned some 30 years ago, provides a historical baseline for this culture of violence. She described how she was tortured after her arrest, including being subjected to electric shocks and whipping. [4]
The consistent report of torture, pressure, and custodial deaths shows that

at least 94 people died in jail custody between January and September 2023 from suspected torture, illness, and negligence.[1] This transforms the prison from a place of state-sanctioned punishment into a place of extra-legal violence and exploitation, where the most vulnerable inmates, particularly poor women, are often targeted.

Comparative analysis

Let's see a detailed comparative analysis table that evaluates the legal conditions of prisons in Bangladesh.

Table 2: Legal Rights vs. Prison Reality: A Comparison with the Bangkok Rules

Area of Concern	Bangladesh Law/ Practice	UN Bangkok Rules Standard
Health & Hygiene	Lack of sanitary towels; deplorable sanitary facilities [7]	Sanitary towels should be provided free for women who need them [7]
Contact with Children	Children live in general wards in district jails; no special facilities.[1]	Family visits should be encouraged and made a positive experience, particularly for children [7]
Safety from Violence	Allegations of torture by influential prisoners and jail guards.[1]	Women prisoners shall be protected from all forms of violence or exploitation.[6]

Non-Custodial Measures	The judiciary rarely applies non-custodial measures for women, even for minor offenses. Mitigating factors, such as being a primary caregiver or a victim of abuse, are often not given adequate consideration during sentencing	Prefer non-custodial sentences for pregnant women and mothers with dependent children, unless the crime is serious or they pose a danger. Always consider the child's best interests and ensure proper care is arranged. [24]
Pre- & Post-Release Support	Limited rehabilitation and reintegration programs for women[7]	Gender-specific social reintegration requirements of female prisoners must be taken into account.[24]

Prisons Worldwide: Different Problems, Universal Pain

While Bangladesh's prisons face severe congestion and basic sanitation failures, its neighbors demonstrate different institutional capacities. India faces some chronic issues, yet it has established formal monitoring bodies, such as the National Commission for Women (NCW). [20] In contrast, Pakistan, along with these problems, struggles to provide mental health support for female prisoners.[21] However, there is notable involvement from NGOs and international organizations, including the United Nations. [21] This parallels the situation in the United Kingdom, where the major challenge is not survival but a serious mental health crisis. This crisis is marked why there is an alarming rate of self-harm and the severe psychological effects deriving from extreme isolation, including 22-hour daily lockdowns. [23] The comparison shows erratic levels of state failure, where Bangladesh fails in its basic responsibilities, and the UK fails short in providing psychological care and basic decency[22]

Despite these vastly different challenges, the pain of a mother's separation from her child is a universal aspect of female incarceration[10] This trauma causes a unique and profound harm to women and their families everywhere. It strengthens the argument that non-custodial sentences for mothers should be the global standard.

Disciplinary Lens

It is important to have anthropological insight into gender-sensitive matters in prisons. Looking at this issue from an anthropological perspective discloses that the female carceral system in Bangladesh is more than just a legal apparatus for addressing crime. It acts as a powerful cultural institution that strengthens patriarchal norms. This insight encourages us to explore the deeper societal structure and mindset. The concept of "spatial precarity" theory explains what risks women face as they move through different social and physical environments. This analysis exposes that often when women are incarcerated, it's more about controlling their vulnerability in these spaces rather than a specific crime they committed. [13] In other words, their difficult circumstances can lead to legal troubles. When women are found lost, abandoned, or outside their family's protection, their situation is seen as a social misbehavior requiring state intervention. In this context, the prison becomes a mechanism for managing female bodies that society sees as unacceptable or abnormal, thereby criminalizing their vulnerability itself.

The anthropological perspective views the stigma as a kind of "social death" experienced by female ex-convicts. This stigma is not merely a practical implication of having a criminal record, but it represents a culturally specific ritual of exclusion of the perception of these women. They are redefined as "fallen" moral beings because society thinks of their crimes as violations of the community's honor. Likely, her punishment goes beyond the legal sentence; it serves as a public commendation of patriarchal views on a woman's role and character. The anthropological observation powerfully reveals that the prison system plays a critical role in a cultural process that transforms individuals into permanent punishment who have faced social failure. Thereby, it establishes the patriarchal structures that contributed to their initial vulnerability.

Concluding Remarks

To reform the carceral system, Bangladesh must prioritize three core

actions. First, the country should update its laws that date back to colonial times. This means enacting a modern National Corrections Act that legally incorporates international standards, such as the Bangkok Rules, and makes non-custodial sentences as default for non-violent female offenders. Second, to effectively tackle the challenges within our legal system, we need to focus on reducing overcrowding in prisons. This can be accomplished by establishing clear time limits for how long individuals can be detained before their trial. Besides, it must be ensured that everyone has immediate access to legal assistance, and bail practices are reformed to make it possible for individuals to secure their release. Finally, it is essential to adopt a more responsive and gender-sensitive approach to managing prisons, particularly with women's needs. This involves upgrading prison facilities, providing training for staff on human rights and healthcare, and offering meaningful vocational training programs that equip women with skills and pathways to gainful employment after their release.

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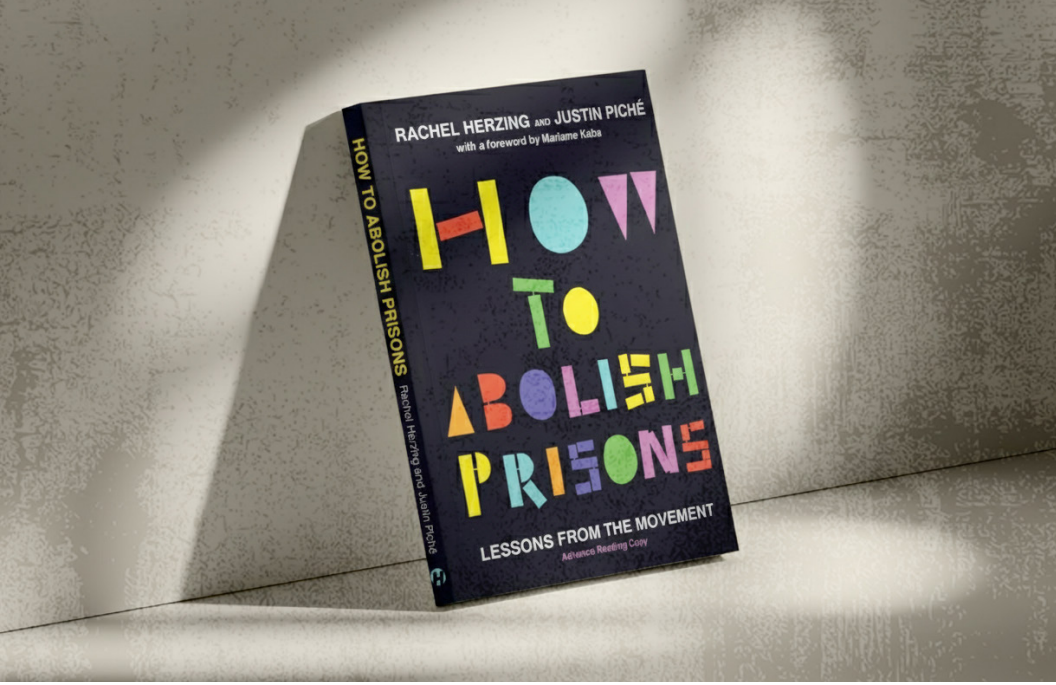

Book Review:

How to Abolish Prisons: Lessons from the Movement against Imprisonment. Written by RACHEL HERZING and JUSTIN PICHÉ. Foreword by MARIAME KABA. Haymarket Books, 2024. 208 pp. ISBN: 9798888900833

Reviewed by: Tanveer Ahamed

Critics of prison abolitionism often argue that abolitionism is an impractical and utopian idea that has, in spite of its convincing theoretical claims, little empirical value in long-term crime prevention and rehabilitation of offenders in a society. Many who support the abolitionist cause also deem the activities of abolitionists to be largely haphazard and anarchist in nature. While these assumptions are not easily repudiable, Rachel Herzing and Justin Piché have shown new possibilities for an organized and properly-led movement against carceral practices in their book titled 'How to abolish prisons: Lessons from the Movement against Imprisonment'. In the eight chapters of the book, including the introduction and the splendid concluding section, the authors have presented a detailed account of lessons learnt from notable abolitionist campaigns in the US and Canada in order to help activists choose the right pathway based on their surrounding circumstances. While these lessons bear special value for abolitionists, they can also

provide significant insights for those who are working for prison reform in different parts of the world.

The writers, however, repudiated the reformist agenda, since reforms help an essentially repressive system to adopt some particular demands of a new era and to perpetuate itself through minor, cosmetic changes without affecting its innermost violence and malice. However, they did not forget that sometimes outright abolitionist activities can prove counter-productive, and it is better to work for 'abolitionist reforms' to gain necessary short-term victories that will pave the way toward long-term revolutionary changes and will also keep the abolitionist desire alive. While the concept of 'abolitionist reforms' sounds sufficiently convincing, it also gives hints of a crude reality, that is, to make people realize the practical value of prison abolition and to establish it as a commonsense idea. Abolitionists have to adopt a certain extent of reformism in their attitude and activities.

The writers classified the abolitionist approaches practiced in the US and Canada into five broad-brush categories, such as, (a) grassroots campaigns to fight prison and jail expansion, (b) prisoner solidarity campaigns and projects, (c) art and cultural work, (d) legal advocacy, and (e) policy advocacy. For each category, the writers have supplied numerous examples of grassroots activism in the two North-American countries. The writers discussed various tactics to resist prison expansion, such as building coordinated movements against the construction of new prisons, pressuring governments to reduce prison budgets, and so forth. They linked prison abolition with other movements with democratic spirits (e.g. environmental justice), since they think ensuring 'increased democratic space' is an inalienable part of their fight for prison abolitionism. They also shared valuable insights on the significance of communication and networking in the abolitionist journey. As they put it, it is only the organized and collective movements of the people of a society that can bring revolutionary changes in an apparently unconquerable system. Prison abolition is also feasible when it has a large community base. The writers discussed a number of success stories of such organized movements to convince their readers of the practicality of their approaches. Nevertheless, it remains doubtful whether these little successes will one day lead to bigger ones, provided that there are established anti-abolition public sentiments in both the US and Canada. What's more, the mutative power of the institutions of capitalism and of the Prison Industrial Complex can also render long-term change impossible and undesirable. As a matter of fact, the writers

too discussed challenges of this kind in the chapter titled ‘Contradiction, Tensions, and Challenges.’

One excruciating limitation of this book is that it does not say anything about prison abolition or reform in underdeveloped countries of Asia and Africa. The writers claimed, in the concluding chapter, that ‘the fight for prison abolition is also an internationalist fight’. They also claimed that abolitionist campaigns in the US and Canada have drawn insights from similar movements in European countries like Norway or the Netherlands. Nonetheless, the involvement of only Europe and America is not sufficient to make an agenda ‘truly internationalist’. Unless writers like Rachel Herzing or Justin Piché include developing and underdeveloped countries in their abolitionist vision, prison abolition will remain only a sophisticated, Western idea that does have any empirical value except in some advanced democracies of Europe and America. Exchange of insights between activists developed and underdeveloped nations is compulsory to turn prison abolition into a global, ‘transformative political vision.’