

Ensuring Constructive Prison Life for Life Convicted Prisoners in Bangladesh

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In Bangladesh, the rights of life-convicts are regulated in the same way that those of other prisoners. The global world currently handles prisoners in a more sophisticated manner, with many innovative methods to rehabilitate them, but Bangladesh adheres to the traditional practice of a jail system with century-old laws. The paper contends that the treatment of convicts, particularly those imprisoned for life, should be reformed in accordance with international standards and principles. Long-term prison life should be productive, allowing them to live a normal life with all of their natural rights, including conjugal rights. Literature suggests that convicted persons should not be treated as if they were animals in a zoo. The paper examines current legal frameworks in Bangladesh on the rights of life-sentenced prisoners in order to identify legal strengths that safeguard their rights and promote constructive prison life, as well as gaps requiring further legislative action. This paper will be entirely dependent on secondary data, with the secondary data being analyzed using a qualitative approach. The contemporary world has evolved away from institutional-based rehabilitation and toward community-based rehabilitations but Bangladesh only provides institutional-based rehabilitation for juvenile offenders, not adult convicts. Even if a man was denied the enjoyment of most of his cherished liberties, the prison system should guarantee that the man in jail does not become a thing, while yet maintaining at least some of the circumstances without which life becomes unendurable. This

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paper found that the Bangladesh's prison system primarily functions as a punishment center and does not provide life convicts with a rehabilitative chance. Life prisoners' basic human rights are often abused. Given the length of time that life convicts are imprisoned and the repercussions that this entails, no specific rehabilitation efforts are made to guarantee that they have a constructive prison life. The paper concludes by recommending essential amendments to existing legislation while adhering to international norms for a constructive prison life for life convicted prisoners in Bangladesh.

Keywords: Constructive Jail life, Imprisonment, Legislation, Life Imprisoned Convict, Multidisciplinary Sentence Management, Rehabilitation

I. Introduction

In Bangladesh, the rights, facilities, and overall jail life of life imprisoned criminals (LIC) are governed by three separate Acts: the Prisons Act of 1894, the Prisoners Act of 1900, and the Identification of Prisoners Act of 1920. Several other legislations addressed a number of issues that affect prisoners and are likewise relevant to life offenders. These three main legislations are punitive in character and have been in effect for over a century. The provisions of these legislations were woefully inadequate for focusing on reformative measures for prisoners including LIC. Because of these harsh laws, Bangladesh's jail system continuous to be punishment center; nevertheless, there are limited correctional facilities accessible for women³ and juvenile offenders^{4,5} However, the option of rehabilitation should be available to life-

³*Karagare Atok Sajaprapto Narider Bishesh Subudha Ain*, 2006

⁴ The Children Act, 2013

⁵ Md Bashiruddin Khan, Tang Yanwen and Moonmoon Binte Aziz, 'Jails and Imprisonment in Bangladesh: Understanding the Imprisonment Status of Inmates and the Spatial Distribution of Prisons' (2020) 6 (4) 404,414 < <http://www.aiscience.org/journal/jssh> > Accessed 22 August 2021

sentenced convicts as well. A punitive life sentence in prison has a severe impact on the mental and physical well-being of the LIC as well as his or her eventual re-entry into society. Literatures confirmed that long-term prisoners endure higher mental anguish and attempt suicide while incarcerated.⁶ It is evident that incarceration causes a major shift in prisoner's behavior, therefore mental and physical health care are required to revitalize them in the penal cell.⁷ Following a thorough examination of the relevant Bangladeshi legislations and research, the question arises as to whether we should continue to retain the century-old punitive jail legislations or if it is time to let go of such legislations and embrace steps to ensure that long-term inmates have a constructive life.

Why should we advocate for a constructive prison life for LIC? There are several reasons for this, the most important of which being that LIC spend a long time in jail. A life sentence is a long-term prison sentence that begins on the day of conviction and lasts for the remainder of the offender's life.⁸ Appellate Division of Supreme Court of Bangladesh also confirmed that the term of life imprisonment entails rigorous imprisonment for the rest of one's natural life⁹, subject to such remissions for good conduct.¹⁰ Thus, long-term convicts certainly require different care than other inmates in order to address their current and future issues.¹¹ In Bangladesh, LICs are

⁶ Dudeck Manuela, Kirstin Drenkhahn, Carsten Spitzer, Sven Barnow, Daniel Kopp, Philipp Kuwert, Harald J. Freyberger, and Frieder Dünkel, 'Traumatization and mental distress in long-term prisoners in Europe' (2011) 13 (4) Punishment & Society , 403,423

⁷ Walter Webster Argow, 'Efficacy of Prison Mental Tests As a Guide to Rehabilitation' (1934) 24(6) Am Inst Crim L & Criminology, 1074,1080

⁸CK Takwani, Indian Penal Code (Eastern Book Company, 1st ed, 2014) 65

⁹Ataur Mridha v State (2017), 69 DLR (AD) 221, 238; and see also State v Amjad Ali (2020) 72 DLR (AD) 113, 131

¹⁰ Mohibur Rahman v. State 2017, 69 DLR (AD), 330, 332

¹¹ Timothy J Flanagan, 'Long-Term Imprisonment: Policy, Science, and Correctional Practice' (1993) Sage Publications Inc.

treated the same as the rest of the inmates, and nothing special awaits them in the penitentiary. Long-term inmates sustain a variety of issues in Bangladesh.¹² Overcrowding is a major concern in every penal colony of Bangladesh.¹³ LIC have been released in large numbers¹⁴ in the past to alleviate congestion without assuring their rehabilitation after their release. The lack of rehabilitative options in jail leads to cruel conditions both inside and after they are released.¹⁵ Many jurisdictions, on the other hand, provide rehabilitative facilities for long-term inmates, but in Bangladesh, jails are centrally managed in the same old way, with no provision for genuine rehabilitation.¹⁶

The country's classification of convicts does not address how to determine suitable allocation and case planning for different types of offenders.¹⁷ Bangladeshi prisoners are broadly divided into two groups: those who are awaiting trial and those who have been convicted. However for decades, a significant number of both types of inmates were incarcerated in the same jail in the same cell, with no distinction made in terms of living or rehabilitative facilities.¹⁸ Contemporary studies argued for the establishment of a separate colony for condemned inmates

¹²Mohammed Bin Kashem, 'Jails in Bangladesh' (1996) 20(1) International Journal of Comparative and Applied Criminal Justice, 31,40

¹³ US Department of State, Country Report on Human Rights Practices, '2020 Country Reports on Human Rights Practices: Bangladesh' BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, <<https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/bangladesh/>> accessed 15th September 2021

¹⁴ Fariha Karim, 'Bangladesh Frees 1,000 Life Prisoners to Cut Jail Overcrowding' (19 August 2010) <<https://www.theguardian.com/world/2010/aug/19/bangladesh-frees-1000-prisoners-overcrowding>> Accessed 28 August 2021

¹⁵ cf Kashem (n 12)

¹⁶ Ibid

¹⁷Md Mizanur Rahman and Aroz Ali, 'An Analysis On The Real Barriers Of Prison Administration In Bangladesh' (2018) 15 (4) Int. J of Innovative Research and Advanced Studies, 289, 293 <<https://1library.net/document/zpwlr9ry>> Accessed 23 August 2021

¹⁸ cf Khan (n 5)

as well as the expeditious trial of under trial convicts in order to reduce congestion and protect prisoners from being treated like zoo animals.¹⁹In Bangladesh, an appropriate distinct healthy jail environment for convicted inmates has yet to be established. Current laws are largely to blame for the prison's failure to maintain a healthy and rehabilitative culture within its four walls. The existing legal system is deeply flawed and inadequate to provide constructive life for inmates across the country. The country's hundreds-year-old laws fail to meet the international standard for jails and are inadequate to protect the prisoners' human rights.²⁰

Prior studies demonstrated that LIC's life sentences are not only a punishment for themselves, but also on their family members, particularly their partners²¹ and dependents. Specifically, the LIC's wife is a victim of their existing marital situation.²² Absence of private rights to meet one's spouse often leads to the breakdown of their marriage and the initiation of homosexuality, sexual offense, and violence.²³ Though conjugal visits are still allowed in many jails in the United States, Europe, Asia, and Africa as a means of rehabilitation²⁴ and adherence to a positive lifestyle²⁵, it is inconceivable in Bangladesh due to the legal system's inadequacies and societal stigma. Due to a legislative provision in Bangladesh that allows for the dissolution of marriage if the husband is sentenced to prison, it is quite rational to initiate conjugal visits as

¹⁹ Ibid

²⁰Tarqid Surina, 'Gross Violation of Human Rights at Prisons in Bangladesh: A Critical Analysis' (2015) 9 (1) ASA University Review

²¹ Anna Kotova, 'Time ... lost time: Exploring how partners of long-term prisoners experience the temporal pains of imprisonment' (2019) 28 (2) Time & society

²² Meera Emmanuel, 'Right Time for Government to Explore Possibility of Conjugal Visits for Prisoners: Madras HC' (2018) Bar & Bench<<https://www.barandbench.com/news/government>>Accessed 23 August 2021

²³Samson C R Kajawo, 'Conjugal Visits in Prisons Discourse: Is it Even an Offender Rehabilitation Option in Africa?' (2021) 8(1) Advanced Journal of Social Science, 67,76

²⁴ Gordon, Jill, and Elizabeth H McConnell, 'Are Conjugal Visits and Familial Visitations Effective Rehabilitative Concepts?' (1999) 79 (1) The Prison journal, Philadelphia, Pa.

²⁵ cf Kajawo (n 23)

an incentive for well-behaved LICs to save their marriage.²⁶It's worth noting that in India, conjugal visitation is advocated for inmates because of its rehabilitative benefits.²⁷In India, however, the government is ordered to consider the possibility of ensuring conjugal visit facilities by forming a committee to evaluate the benefits and drawbacks of such conjugal visit.²⁸While statutory provisions for conjugal visits may aid in the rehabilitation of prisoners, their absence leads to corruption and injustice for LICs in Bangladesh. LIC, on the other hand, should have been given a constructive jail experience in all situations by giving ample living space, health checks, healthy food, recreational activities, vocational training, and conjugal visits that a human deserves.

Despite the fact that probation is legally accessible in Bangladesh, courts are hesitant to impose alternative penalties on criminals.²⁹ Although the accessibility of probation for convicts is an effective approach to rehabilitate them, it is not applicable to life-sentenced males.³⁰Institutional incapacity and inability obstruct the administration of the probation system across the country; a shortage of probation officials, logistical assistance, and the judges' refusal to grant probation are all contentious issues.³¹Furthermore, Due to a lack of proper legislation,

²⁶ The dissolution of Muslim Marriage Act 1939, Sec 2 (iii) provides, a woman married under Muslim law shall be entitled to obtain a decree for the dissolution of her marriage on the ground that husband has been sentenced to imprisonment for a period of seven years or upwards.

²⁷Anamika Singh and Anupal Dasgupta, 'Prisoners' Conjugal Visitation Rights in India: Changing Perspectives' (2015) 4 (2) Christ University Law Journal 4, 73

²⁸ cf Emmanuel (n 22)

²⁹ Development and Use of the Probation System in Bangladesh, Bangladesh Legal Aid and Services Trust (BLAST) Penal Reform International (PRI), 2013, <<https://www.blast.org.bd>> Accessed on 31 August 2021

³⁰ The Probation of offender Ordinance 1960, S 5(1)a

³¹ cf BLAST (n 29)

the opportunity for parole in Bangladesh is abused, and it is occasionally exploited subjectively to release murderers.³²

After reviewing the relevant legal instruments, this paper finds that imprisonment in Bangladesh is primarily a punitive policy rather than a rehabilitative strategy. None of the existing legislation in Bangladesh promote the notion of constructive jail life for LIC, which is clearly a violation of human rights and contradicts the present reformatory penal theory. The findings of this paper is that while many nations across the world have taken measures to rehabilitate the LIC, shortcomings in Bangladesh's legislations obstruct this route and make LIC life much harder and challenging. However, after considering these facts, the paper advocates for the implementation of multidisciplinary sentence management (MSM) for long-term offenders including LICs in order to provide a constructive prison life in Bangladesh.

The empirical research on LIC's rights and facilities in Bangladesh is sparse. Further research on ensuring conjugal visits for LIC in Bangladesh may be beneficial. However, a qualitative research approach was used to complete this paper. A large amount of primary and secondary materials from different sources were analyzed and only the pertinent data was used after thorough analysis.

II. Legal Provisions for Life Imprisoned Prisoners in Bangladesh and the Grim Reality

As a result of punitive reactions to crime, life sentences are on the rise across the world.³³ As of 2014, an estimated 479,000 individuals in prison throughout the world were serving a

³² Tazlina Zamila Khan, 'No provision in jail code for inmates' marriage' , Dhaka Tribune, 14 August 2014, <<https://www.dhakatribune.com>> Accessed on 31 August 2021

³³ Penal Reform International, *Global Prison Trends 2021* (Thailand Institute of Justice, 2021)

statutory life sentence, according to Global Prison Trends 2021, published in May 2021.³⁴ A rise in the number of people serving life sentences is part of this wider trend.³⁵ This is true in Bangladesh as well. The number of people imprisoned in Bangladesh is growing. In its World Prison Brief, the International Centre for Prison Studies (ICPS) noted that Bangladesh's overall prison population amounted to 83,107 by March 2021.³⁶ Another study confirmed that there are about 89,000 inmates in 68 prison facilities across Bangladesh, with a capacity of just 41,244 generating several risk factors for violations of prisoners' human rights.³⁷

After the death sentence, the maximum penalty in Bangladesh is life imprisonment which is imposed for a variety of severe offenses, under Penal Code³⁸ and some other special legislation.³⁹ In Bangladesh, eleven central jails⁴⁰ in divisional headquarters contain all types of prisoners, under trial, and detainees, including those serving life or death sentences.⁴¹ Thus, the congested environment of all jails is easily imagined, as they housed twice as many convicts at a

³⁴ Ibid

³⁵Olivia Rope, 'Life imprisonment – a sentence in dire need of reform' *World prison Brief* (14 Jun 2021) <<https://www.prisonstudies.org/news/life-imprisonment-%E2%80%93-sentence-dire-need-reform>> accessed 26 August 2021

³⁶ World Prison view, 'Bangladesh', <<https://www.prisonstudies.org/country/bangladesh>> accessed 26 August 2021

³⁷Muniza Kabir, 'Releasing prisoners: An act of justice, not mercy' *The Daily Star* (Dhaka, May 28, 2020) <<https://www.thedailystar.net/law-our-rights/news/releasing-prisoners-act-justice-not-mercy-1905937>> accessed 24 July 2021

³⁸ The Penal Code 1860 is the main penal law of Bangladesh.

³⁹ Special Power Act 1974, Nari o Shishu Nirjaton Daman Ain 2000, Madok drobo Niontron Ain, 2018

⁴⁰ The Bangladesh Jail Code (Rules for the Superintendence and Management of Jails in Bangladesh), r 3

⁴¹ Mohammed Tipu Sultan, 'Rights of Prisoners' (*Ain O Salish Kendra*) <<http://www.askbd.org/ask/rights-prisoners/>> accessed 24 August 2021

time.⁴²Prison conditions were harsh and at times life threatening due to severe overcrowding, inadequate facilities, and a lack of proper sanitation.⁴³

There is currently no country data available on the number of people serving life sentences in Bangladeshi prisons or long term prisons (above 5 years).The overall situation is, Bangladesh had a jail population rate of around 51.6 inmates per 100,000 people in 2018.⁴⁴It is reasonable to infer that a significant proportion of inmates are serving long term prison and life sentences. As previously mentioned, life imprisonment is constant for the rest of the inmates' lives resulting in a number of serious repercussions. Life incarceration has a negative impact on a person's economic, social, emotional, and physical health.⁴⁵As a result, life offenders must be treated distinctly than other inmates.⁴⁶ Many lifers lament the loss of family members throughout their long years in jail and the fact that they are no longer able to have or raise children, retain conjugal rights, or give assistance for family members.⁴⁷ In this circumstance, it is critical to evaluate whether our existing laws have made appropriate provisions for all of these people condemned to life in prison to live a constructive prison life both during and after their release, taking into account their prolonged life sentence and the ramifications that it involves.

⁴²Al Aditya Khan, Howard Ryland, Tayeem Pathan, Helal Uddin Ahmed, Amir Hussain and Andrew Forrester, 'Mental health services in the prisons of Bangladesh' [2021] *Bjpsych International* 1

⁴³US Department of State, 'Country Report on Human Rights Practices, '2020 Country Reports on Human Rights Practices: Bangladesh' (BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2020) <<https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/bangladesh/>> accessed 15th September 2021

⁴⁴ Statista Research Department, 'Prison population rates in Bangladesh from 2009 to 2018' (July 2021) <<https://www.statista.com/statistics/699719/prison-population-rates-bangladesh/>> accessed 26 August 2021

⁴⁵ Anita H. S. Hurlburt, 'Building Constructive Prison Reform on Norway's Five Pillars, Cemented with Aloha' [2018] *Asian-Pacific Law & Policy Journal*, 194, 200

⁴⁶ cf Flanagan (n 11)

⁴⁷ Penal Reform International and University of Nottingham, 'A policy briefing on life imprisonment' (2018) <<https://www.penalreform.org/resource/life-imprisonment-a-policy-briefing/>> accessed 25September 2021

A. Governing Law and Policy

In addition to the objective of reducing the rate of recidivism, the contemporary criminal justice system aims to support prisoners in reintegrating themselves as productive members of society.⁴⁸ Many jurisdictions allow prisoners to collaborate on plans for education, employment skills, and personal skills development so that they can be actively involved in shaping their own futures and several nations have gone further to implement MSM to rehabilitate life sentences in a sophisticated manner.⁴⁹ In jail, prisoners are encouraged to practice and prepare for the rest of their life and are given assistance and support to do so.⁵⁰ However, century-old legislations that govern the jail and its inmates in Bangladesh have preserved the prison system as a total institution,⁵¹ fully separated from the outside world and not supportive in molding life convicts' remaining lives.

i) Constitutional Protection of LICs in Bangladesh

The right to life is guaranteed under Article 32 of the Constitution of Bangladesh, which also acts as the legal foundation for the protection of prisoners' rights to life.⁵² In Bangladesh, prisoners are isolated from the society because of their crimes. Right to rehabilitation is not a constitutional right in Bangladesh, however, researchers argue that based on “equal protection”

⁴⁸Sara C Schiavone, 'Wiping the Slate Clean: A Proposal to Expand Ohio's Expungement Statutes to Promote Effective Offender Reintegration' [2017] Cap U L Rev 509 513

⁴⁹ cf Hurlburt (n 45)

⁵⁰ Ibid 235

⁵¹Irene Marti, 'Sensing freedom: Insights into long-term prisoners' perceptions of the outside world' [2021]Incarceration

⁵² cf Kabir (n 37)

theory, and right to rehabilitation can be a constitutional right.⁵³ Additionally, the government has no active role to support them to survive with crime free life. Right to life which is guaranteed in Constitution includes a healthy and dignified life; these two conditions are key aspect for enjoying right to life guaranteed by Constitution. However, prison life of Bangladesh lacks both of these two aspects and thus right to life become an imaginary tale. Subsequent discussion on existing legislations governing their facilities might prove this true.

ii) Legislative Protection of LICs in Bangladesh

The Prisons Act of 1894⁵⁴ and the Bangladesh Jail Code (Rules for the Superintendence and Management of Jails in Bangladesh)⁵⁵ (hereinafter Jail Code) include provisions for lodging, food, clothes, bedding, and medical treatment for life-sentenced inmates in order to preserve fundamental human rights. While the Prisons Act mandates that medical personnel should treat all prisoners quickly⁵⁶, including life convicts. According to the Prisons Act of 1900, any unsound minded prisoner will be transported to a lunatic institution or other place of Bangladesh, where he or she will be held and treated throughout the rest of his or her sentence within the government orders.⁵⁷ Newly enacted law, Mental Health Act 2018 allows for the admission of mentally disordered offenders under the direction of a magistrate, through the use of a ‘reception order’.⁵⁸ Despite the fact that various types of offenders require varying levels of psychiatric

⁵³Md Mustakimur Rahman, ‘Right to rehabilitation’ *The Daily Star* (Dhaka, 16th Feb, 2016), <<https://www.thedailystar.net/law-our-rights/right-rehabilitation-511504>> accessed 15th September 2021

⁵⁴ The Prisons Act 1894 s. 31, 32 and 33

⁵⁵ The Bangladesh Jail Code (Rules for the Superintendence and Management of Jails in Bangladesh) rr 1093, 1094, 1158, 1159 and 1165

⁵⁶ The Prisons Act 1894, ss 14 and 37

⁵⁷ The Prisons Act 1900, s 30

⁵⁸ Mental Health Act 2018, s15

care, the Act does not provide any further on mental health provisions for prisoners.⁵⁹ However, there aren't enough doctors in Bangladesh's jails⁶⁰ to treat both general health issues and mental illnesses.⁶¹ For every 10,000 convicts, there is just one doctor, and 60 jails have no physicians at all.⁶² 2020 Country Reports on Human Rights Practices: Bangladesh by US Department of State revealed that only 11 prison doctors provide care to the 89,000 inmates, causing prisons to employ nurses or pharmacists to provide medical care to them.⁶³ Every month, around 23 prisoners die in jail as a result of sickness.⁶⁴ The conditions of women prisoners are worse, be it treatment or sanitation.⁶⁵ These harsh conditions impede prisoners' access to treatment and act as a trigger for life-sentence inmates' human rights breaches. Only civil and non-convicted criminal inmates were allowed to have visitors under the Prisons Act.⁶⁶ The Jail Code, on the other hand, has general visiting rules that allow family members to pay visits to life convicts.⁶⁷ This basic visiting privilege, however, is insufficient to preserve appropriate familial ties of the LIC. The deprivation of family connections can be regarded as inhumane treatment.⁶⁸ Several commissions

⁵⁹ cf Khan (n 42)

⁶⁰ Odhikar Report on Bangladesh, '*Human Rights Report 2013*' (April 2014)

<<http://odhikar.org/wp-content/uploads/2014/08/Annual-Human-Rights-Report-2013-eng.pdf>> accessed 27 August 2021

⁶¹ Rock Ronald Rozario, 'Bangladeshi prisoners 'dying in misery' *Union of Catholic Asian News* (Hong Kong, 19 September, 2019), <<https://www.ucanews.com/news/bangladeshi-prisoners-dying-in-misery/86126#>> accessed 15th September 2021

⁶² Mohammad Jamil Khan, Shaheen Mollah, '9 prison doctors for 90,000 inmates' *The Daily Star* (Dhaka, 17Sep, 2019) <<https://www.thedailystar.net/frontpage/9-prison-doctors-for-90000-inmates-in-bangladesh-1801108>> accessed 1st September 2021

⁶³ cf US Department of State (n 43)

⁶⁴ cf Rozario (n 61)

⁶⁵ Ibid

⁶⁶ The Prisons Act 1894, s 40

⁶⁷ The Bangladesh Jail Code (Rules for the Superintendence and Management of Jails in Bangladesh), r 663

⁶⁸ cf Hurlburt (n 45) 253

were established in 1957, 1978, 1980, and 2002 to evaluate the prison conditions of Bangladesh and make recommendations. All the commissions proposed comprehensive prison reforms in Bangladesh, but they were exceedingly sluggish in their application⁶⁹ and disregarded any special approach to the life condemned convicts.

Another important aspect of the 1894 Prisons Act is the provision for inmate separation, which, if implemented with inmates' specific needs and issues in mind, might assist to improve prison conditions. Section 27 of the Act contains provisions pertaining to prisoner separation, including female and male inmates, un-convicted and convicted, adult male and juvenile, civil and criminal. The statute, however, is mute on the issue of different treatment for life inmates. Rather the life convicts are victims of a discriminatory system.⁷⁰ Another prisoner-related legislation is the Identification of Prisoners Act of 1920, which merely authorizes the collection of measurements and pictures of convicts, however, its scope does not extend to cover prisoners' rights. With the goal of reforming convicts, the Jail Code requires Jailor to allocate vocational training to inmates condemned to rigorous imprisonment in any trade that is most suited for their rehabilitation after release.⁷¹ The Jail Code offers convicts to work in a limited range of industries and work programs⁷² in order to aid lifer's reformation.⁷³ However, it has made no educational certification programs, college credits or computer skills accessible.⁷⁴

⁶⁹ cf Sultan (n 41)

⁷⁰ cf Rozario (n 61)

⁷¹ The Bangladesh Jail Code (Rules for the Superintendence and Management of Jails in Bangladesh), rr 647, 742

⁷² According to rule 789 of the Bangladesh Jail Code (Rules for the Superintendence and Management of Jails in Bangladesh), Most of the programs offer skills that are directly applicable to work such as Bamboo and Cane work, Blankets, Blacksmith's work, Book-binding, Carpet, Carpentry, Carrying and hauling goods, Chopping firewood, Cleaning and trimming lamps, Coir, Cooking, Convict overseer, Clerical work, Compounder's assistant, Cotton, Dyeing, Gardening, Grain handling and husking for jail use, Hair cutting, Hospital attendants, Khoa or stone

A rehabilitation program improves the chances of convicts successfully reintegrating into society after their release. However, the state's criminal justice systems do not promote life offender's rehabilitation and effective reintegration into society.⁷⁵ There are no counselors available to aid prisoners in taking charge of their own destinies or to motivate offenders to change their lives from criminality to positive contributions to society.⁷⁶ A lack of rehabilitation programs, in addition to the deplorable living conditions, resulted to the individuals imprisoned for life in Bangladesh's jails suffering even more.⁷⁷ Many programs in prison have become obsolete and are now regarded a waste of time and resources, with little guarantee that convicts would be able to make a living following their release.⁷⁸ Jail Code fails to establish work programs that are cost-effective in today's world and have real-world implications for life convicts. In addition, comprehensive prison-based rehabilitative programs⁷⁹ to address life offenders' unique concerns and challenges, both during and after incarceration, are lacking in Bangladesh's present legislative frameworks.⁸⁰In 2006, the government of Bangladesh enacted a commendable piece of law known as, *Karagare Atok Sajaprapto Narider Bishesh Subidha Ain*

breaking, Masonry and building work, Money-bag making, Oakum picking, Oil-pressing, Printing, Repairing Jail roads, Scavenging, Soorkey pounding, Sweeping and weeding roads, Tailoring, Tin-work, Washer man for hospital dress, Guarding staff.

⁷³Ibid r 790

⁷⁴ cf Hurlburt (n 45) 218

⁷⁵ Muriel Jourdan-Ethvignot, 'UNODC's support to foster prisoners' rehabilitation and social reintegration into society' <<https://www.europis.org/file/feature-article-united-nations-work-in-prison-rehabilitation/?download=1>> accessed 2nd September 2021

⁷⁶ cf Hurlburt (n 45) 216

⁷⁷Laura R Dove and Stephen C Miller and Courtney Joslin, 'Alabama Prisons: Challenges and Opportunities for Reform' (2019) 10 *Faulkner L Rev* 197, 218

⁷⁸ cf Hurlburt (n 45) 218

⁷⁹ cf Ethvignot (n 75)

⁸⁰ Ibid

2006(if translated Special Facilities for the Imprisoned Women Act 2006)with the goal of providing special benefits to convicted female inmates. Under the Act, such special benefits include conditional release, vocational training, aftercare services by the Department of Social Services, and any other government declared benefit.⁸¹Any prisoner sentenced to more than one year in jail will be eligible for special benefits after completing half of the term with a concession.⁸²Female inmates sentenced to life in prison for any offence, on the other hand, are ineligible for such special benefits provided by this Act.⁸³

Life imprisonment without the possibility of parole impairs the prisoner's right to human dignity.⁸⁴Due to the lack of explicit legislation governing parole in Bangladesh, potential interpretations can be found in two additional statutes⁸⁵: The Probation of Offenders Ordinance 1960 and The Prisons Act 1894.⁸⁶The most recent government policy on parole is that if a close relative of the prisoner dies⁸⁷, or if a court order or a particular government decision is made, the prisoner will be granted parole for a certain period of time.⁸⁸The Probation of Offenders Ordinance, 1960 on the other hand, allows for probation orders in the case of certain prisoners⁸⁹, although this is not available to LIC offenders. Probation for lifers is not recognized under Bangladeshi law, thus there is no option for community sentences.⁹⁰Because of legislative flaws,

⁸¹ Karagare Atok Sajaprapto Narider Bishesh Subudha Ain, 2006, s 3.

⁸² Ibid s 4

⁸³ Ibid s 5

⁸⁴ cf Penal Reform International and University of Nottingham, (n 47)

⁸⁵ Kamal Ahmed, 'Parole politics and legal questions' *The Daily Star*, (Dhaka, 19 February 2020) <<https://en.prothomalo.com/opinion/op-ed/Parole-politics-and-legal-questions>> accessed 30 August 2021

⁸⁶ Ibid

⁸⁷ Ibid

⁸⁸ The Prisons Act 1894, s 59

⁸⁹ The Probation of Offenders Ordinance 1960, s 5

⁹⁰ cf Khan (n 42)

many previous parole decisions were politically motivated, and regular offenders have never benefitted from it.⁹¹

Those serving life sentences have no idea when or if they will be released, unlike those serving fixed terms.⁹² Many jurisdictions regularly contemplate releasing life-sentenced prisoners after a set period of time.⁹³ The Prisons Act, which is around 126 years old, empowers the government of Bangladesh to shorten a life convict's term or grant earlier release in at least three cases⁹⁴, including assessing a convict's behavior and decreasing sentences⁹⁵, specifying the circumstances and controlling the conditions under which inmates in risk of death may be freed⁹⁶, and confining criminals to particular classes.⁹⁷ In addition, the president has the prerogative power to pardon anybody under the provision of Article 49 of the Constitution of the People's Republic of Bangladesh, section 402A of the Code of Criminal Procedure 1894, and section 55A of the Penal Code 1860.⁹⁸ The Government is also empowered under several legislations to commute⁹⁹, remit and suspend sentences¹⁰⁰ for life imprisoned offenders. These freedom options of LIC Life convicts in Bangladesh have a few options for regaining their

⁹¹ Ahmed (n 85)

⁹² Anna Flynn and Marita Costigan, 'The Management of People Serving Life Sentences in Ireland: A Multidisciplinary Model' (2020) 17 Irish Probation Journal 151, 153

⁹³ cf Penal Reform International and University of Nottingham (n 47)

⁹⁴ Ahmed (n 85)

⁹⁵ The Prisons Act 1894, s 59 (5)

⁹⁶ Ibid s 59 (7)

⁹⁷ Ibid s 59 (9)

⁹⁸ Raisul Islam Sourav, 'Lifelong life imprisonment' *The Daily Star* (Dhaka, 2 August, 2016) <<https://www.thedailystar.net/law-our-rights/lifelong-life-imprisonment-1262995>> accessed 31 August 2021

⁹⁹ The Penal Code 1860, s 55

¹⁰⁰ The Code of Criminal Procedure 1898, s 401

freedom, therefore it is the responsibility of the state to manage their prison lives more meticulously so that their reintegration into society is effective.

iii) Obligations of Bangladesh under International Commitments

In addition to its domestic obligations, Bangladesh is bound by several international legal instruments¹⁰¹ to protect prisoners' fundamental human rights, as well as to treat them with humanity and respect for their inherent dignity. Both The Universal Declaration of Human Rights (UDHR)¹⁰² and The International Covenant on Civil and Political Rights (ICCPR)¹⁰³ reiterates that every human being whether prisoner or freemen inherent right to life. United Nations Basic Principles for the Treatment of Prisoners states that all prisoners should be treated with due respect for their inherent dignity and value as human beings without discrimination of any kind.¹⁰⁴The United Nations Standard Minimum Rules for the Treatment of Prisoners contains so many rules regarding the rights and treatment of prisoners such as accommodation¹⁰⁵, clothing and bedding¹⁰⁶, food¹⁰⁷, exercise and sport¹⁰⁸, medical services¹⁰⁹,

¹⁰¹The Universal Declaration of Human Rights (UDHR), arts 3& 5, The International Covenant on Civil and Political Rights (ICCPR), arts 6, 7 &10, The United Nations Standard Minimum Rules for the Treatment of Prisoners, United Nations Basic Principles for the Treatment of Prisoners.

¹⁰² UDHR, arts 1, 2, 3 & 5

¹⁰³The International Covenant on Civil and Political Rights (ICCPR), art 6

¹⁰⁴Ritesh Kumar, 'Human Rights of Prisoners: International & National Perspectives' *Legaldesire* (1 March 2018) <<https://legaldesire.com/human-rights-prisoners-international-national-perspectives/>> accessed 15th September 2021

¹⁰⁵The United Nations Standard Minimum Rules for the Treatment of Prisoners, rr 9 to 14

¹⁰⁶ Ibid rr 17 to 19

¹⁰⁷ Ibid r 20

¹⁰⁸ Ibid r 21

¹⁰⁹ Ibid rr 22 to 26

prohibition of all cruel, inhuman or degrading punishment¹¹⁰, the rights of prisoners to contact with their family and reputable friends¹¹¹. One of the goals of incarceration is to ensure rehabilitation and denying access to rehabilitation programs hinders such goals from being achieved, as laid forth in the UN Nelson Mandela Rules.¹¹² However, the treatment that life prisoners get, along with the fact that there is no rehabilitation program in place, violates Bangladesh's international obligations.

B) Reality of LIC in Bangladesh

A study of the conditions of 10 Bangladeshi jails conducted by Odhikar¹¹³ in 2012 and 2013 divulged that conditions in Bangladesh's prisons and prisoners were significantly below the standards of dignity and humanity.¹¹⁴ The report stated that overcrowding effects on other human rights problems, such as prison facilities, clothing in winter¹¹⁵, medical services, ventilation,¹¹⁶ and sanitation¹¹⁷. The law allows prisoners whom prison officials designated as “very important persons” (VIP) to access “Division A” prison facilities with improved living conditions and food, more frequent family visitation rights which are not accessible to ordinary prisoners.¹¹⁸ Furthermore, the four walls of prison could not rein the corruption to enter into it.

¹¹⁰ Ibid r 31

¹¹¹ Ibid rr 37 to 39

¹¹² cf Rope (n 35)

¹¹³ Odhikar is a Bangladesh-based human rights organization. see more <http://odhikar.org/>

¹¹⁴ cf Odhikar (n 60)

¹¹⁵ cf Rozario (n 61)

¹¹⁶ cf Odhikar (n 60)

¹¹⁷ cf Rozario (n 61)

¹¹⁸ US Department of State (n 43)

Corruption in higher prison authorities has been widely condemned in Bangladesh.¹¹⁹ Through corruption, jail officials end up owning a lot of money and property when they retire.¹²⁰ Their income is generated through the sale of items produced by convicted inmates in jail.¹²¹ Lack of management of this fund increased the greediness of the authority. Furthermore, they give greater jail facilities to those who can bribe more.¹²² The other convicts who could not pay the bribe lead a hellish existence. According to Odhikar, 1420 inmates died in prison between 2001 and 2021.¹²³ However, there is a lack of accurate statistics on the death rate and the causes of such deaths.¹²⁴

III. Ways of Ensuring Constructive Prison Life for LICs: Long-term Incarceration Necessitates a More Considered Approach

Life inmates generally face a combination of financial, health, and other personal difficulties that, after served, tend to create barriers to their social reintegration which Bangladesh's jail systems have failed to address.¹²⁵ There is presently no comprehensive

¹¹⁹ Rozina Islam, 'Corruption in jails condoned by 'top officials', *Prothom Alo English* (Dhaka, 18 February, 2020) <<https://en.prothomalo.com/bangladesh/Corruption-in-jails-condoned-by-top-officials>> accessed 25 September 2021

¹²⁰ Editorial, 'DIG prisons Rashid arrested over bribery links, sent to jail' *Dhaka Tribune* (Dhaka, 20 October, 2019) <<https://www.dhakatribune.com/bangladesh/corruption/2019/10/20/acc-arrests-dig-prisons-rashid-over-corruption-charges>> accessed 25 September 2021

¹²¹ Editorial, 'Massive corruption inside Bangladesh prison' *BLITZ* (Dhaka, 4 November, 2018) <<https://www.weeklyblitz.net/news/massive-corruption-inside-bangladesh-prison/>> accessed 25 September 2021

¹²² Shariful Islam, 'Nothing is free in Dhaka central jail', *DAWN*, (Dhaka, 18 May 2016) <<https://www.dawn.com/news/1258932>> accessed 25 September 2021

¹²³ Odhikar, 'Statistics on Death in Jail, Death in Jail from 2001 – March 2021' <<http://odhikar.org/statistics/statistics-on-death-in-jail/>> accessed 25 September 2021

¹²⁴ cf Khan (n 42)

¹²⁵ cf Ethvignot (n 75)

statutory framework that provides a consistent and goal-oriented strategy for implementing life convicts priorities, enhancing their care, and guaranteeing a constructive existence both during and after release.¹²⁶ A constructive jail population can be secured if life offenders are involved and assisted in preparing for their own future outcomes.¹²⁷ Life inmates who have a sense of control over their lives are more adaptable not just during their confinement but even after they are released.¹²⁸ According to Article 10(3) of the UN International Covenant on Civil and Political Rights (ICCPR), the objective of the penal system is to reform and socially rehabilitate offenders. Even individuals convicted of the most serious offenses, should be given the chance to reintegrate into society and live a lawful and self-supporting life.¹²⁹ Instead of only incarcerating offenders, Bangladesh's criminal justice system must coincide with its true goals in accordance with international principles.¹³⁰ Not just vocational training and education, but also cultural experience, recreational activities, extracurricular activities, and motivational speeches are also required to effectively rehabilitate the LIC.¹³¹ Nevertheless, the opportunities provided by our legislations or really carried out in prison indicate that our country is a long way from focusing on genuine rehabilitation that eventually allows the prisoners to reintegrate into society.

Being considered a moralizing tool, religious activity can even be a source of personal rehabilitation by virtue of the ethical and moral points of reference that it can give prisoners, thus enabling them to put their lives back into order, to give them a meaning, and to even project

¹²⁶ cf Hurlburt (n 45) 205

¹²⁷ Ibid 216

¹²⁸ Robert Johnson and Ania Dobrzanska, 'Mature Coping Among Life-Sentenced Inmates: An Exploratory Study of Adjustment Dynamics' (2005) 30 *Corrections Compendium* 8

¹²⁹ cf Penal Reform International and University of Nottingham, (n 47)

¹³⁰ cf Kabir (n 37)

¹³¹ cf Hurlburt (n 45) 213

them into the future.¹³² Several researches confirmed that individuals who successfully completed a faith-based reentry program believed that their new sense of higher power strengthened their belief that they could change their life.¹³³ Prison Authorities in Bangladesh permitted religious observance for prisoners¹³⁴, however, no further faith based programs are offered in prison.

Life sentenced convicts have a difficult time adjusting to life both inside and outside the prison system after their release due to their lengthy incarceration. As a result, reintegrating life-sentenced convicts into society necessitates planning that must begin while they are still in jail.¹³⁵ There is a need to develop a new multidisciplinary sentence management (MSM) strategy to address the significant and intricate difficulties linked to persons serving life sentences.¹³⁶ In order to offer a clear roadmap for those condemned to life in prison¹³⁷, such management should involve early multidisciplinary evaluation and expert reviews.¹³⁸ Personalized sentencing planning, and access to meaningful pursuits, should all be part of life incarceration.¹³⁹ MSM

¹³² Irene Becci, Olivier Roy, 'Religious Diversity in European Prisons: Challenges and Implications for Rehabilitation' [2015] Springer, 63

¹³³ Caterina Roman John K. Roman, 'Rehabilitation through Spirituality and Faith: Why isn't the Prison and Reentry Reform Movement Focused on the Capacity Building of Responsive and Compelling Change Agents?' [2019] Berkley Center for Religion, Peace & World peace, <<https://berkeleycenter.georgetown.edu/responses/rehabilitation-through-spirituality-and-faith-why-isn-t-the-prison-and-reentry-reform-movement-focused-on-the-capacity-building-of-responsive-and-compelling-change-agents>> accessed 15th September 2021

¹³⁴ The Independent Advisory Group on Country Information (IAGCI), 'Country Information and Guidance Bangladesh: Prison Conditions' (2015) <<http://icinspector.independent.gov.uk/country-information-reviews>> accessed 20 September 2021

¹³⁵ cf Penal Reform International and University of Nottingham (n 47)

¹³⁶ cf Flynn and Costigan (n 92) 158

¹³⁷ Ibid 164

¹³⁸ Ibid 158

¹³⁹ cf Penal Reform International and University of Nottingham, (n 47)

should include a variety of services such as maintenance of conjugal relationship and family ties, education, healthcare, probation, psychology, housing, work training and employment, faith based programs, personal growth assistance, and exercise options.¹⁴⁰

When life convicts are imprisoned, the Bangladeshi prison system should promote MSM rather than putting a halt to the inmate's life.¹⁴¹ Social reintegration must thus be emphasized as formal objective of implementing the sentence.¹⁴² However, the extent of social reintegration must be determined in light of country's specific challenges and its socio-cultural concerns.¹⁴³ One of the most effective ways to comprehend social reintegration is a means of promoting the human rights stance.¹⁴⁴ It's time to re-evaluate how life-sentenced inmates are treated in jail and in the society, as well as how current in-jail training is assisting them in finding work once they've been released. This could lead to the formulation of comprehensive strategies for these specific convicts, which can be quite beneficial in ensuring that they are able to access a broad array of rehabilitation programs.¹⁴⁵ In addition, country's prison system had no ombudsperson to whom prisoners could submit complaints regarding prison conditions.¹⁴⁶ Legal interventions are needed to provide formal process for offenders to submit grievances.¹⁴⁷

¹⁴⁰ cf Hurlburt (n 45) 258

¹⁴¹ Ibid 196

¹⁴² Veerle Scheirs, 'Doing reintegration? The quest for reintegration in Belgian sentence implementation' (2016) 8 Eur J Probation 82, 83

¹⁴³ cf Hurlburt, (n 45) 205

¹⁴⁴ cf Scheirs (n 142)

¹⁴⁵ Criminal Justice Joint Inspection, 'A joint inspection of Life sentence prisoners' (A Joint Inspection by HMI Probation and HMI Prisons, September 2013) <<https://www.justiceinspectorates.gov.uk/probation/wp-content/uploads/sites/5/2014/03/life-sentence-prisoners.pdf>> accessed 25 September 2021

¹⁴⁶ cf US Department of State (n 43)

¹⁴⁷ Ibid

In Bangladesh, the LIC does not have a constructive jail experience. Existing legislation lacks the criteria required to restore a constructive life, and it is quite unattainable to ensure a constructive jail life for LIC under the century-old current legal framework. While the LIC is incarcerated, two fold measures are required to rehabilitate them.

- I. Firstly, a multidisciplinary sentence management system should be introduced to ensure key facilities such as health checkups, healthy foods, clothing, recreational facilities, private spouse visiting time, religious learning facilities in order to ensure constructive prison life and, more significantly, education, vocational training that improve employment prospects are essential for their effective social reintegration upon release.
- II. Secondly, to establish an accountable and transparent authority in charge of implementing the MSM system in order to ensure a constructive prison life.

It is apparent that LIC requires a more considered approach than other prisoners. Their essentials are basic human rights to live a secure and rehabilitated life; by providing these facilities, states can assure a constructive life for LIC, which will have a long-term advantage to reintegrate the LIC into society and enable them live a dignified life. This article suggests that Bangladesh enact and implement a comprehensive legal regime for LIC, with a specific focus on the above-mentioned facilities to ensure constructive jail life.

IV. Concluding Observation

The experience of being incarcerated for the rest of one's life is itself harsh and dreadful. Implementing strategies for LICs that preserve their dignity, humanity, and a sense of normalcy, could improve social reintegration. Against the sheer hopelessness of the long sentence, this

article tried to highlight the necessity of constructive prison life for the LIC in Bangladesh. Following an analysis of the present conditions of life imprisoned convicts in jail, it suggested certain additional legislative interventions based on an examination of existing legal frameworks related to LIC. The article found that lack of a comprehensive sentence management system and accountability of prison authorities made life imprisoned prisoners' lives more complicated and tied them to live like animals in four walls. The major reasons for the current terrible conditions of all detainees, including LIC, in Bangladesh jails are lack of basic amenities as well as rehabilitative opportunities. Furthermore, such inadequate prison facilities failed to meet international standards and violate LIC's constitutional rights in Bangladesh. It is critical that the whole prison system be overhauled in order to solve these serious concerns that are linked to ensuring jail as a rehabilitation place for LIC rather than a punishment facility. However, the article concluded that a constructive life for LIC is inconceivable without enacting and implementing comprehensive legislation for MSM in Bangladesh.

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