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Privatization of Prisons in Bangladesh:

A possible alternative to the current prison conditions

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Abstract

Conditions in publicly funded and operated prisons in Bangladesh continue to worsen as the number of detainees increase. Overcrowded prisons foster an environment where human rights abuse, including torture and cruel, inhuman, or degrading treatment, become common practice. Other forms of human rights violations, such as shortage in medical care, compromised ventilation, and sanitation problems, are also direct consequences of prison overcrowding. Such an environment significantly harms the health and well-being of the inmates. The dreadful state of the public prison system must be addressed and viable alternatives that could potentially curb the pressure on the aforementioned facilities must be explored. As such, the following will consist of an analysis of the current prison system of Bangladesh and a thorough evaluation of the next best alternative – privatization of the prison facilities, more commonly referred to as private prisons.

Introduction

Prisons in Bangladesh are still administered under regulations and practices dating back to the 19th century, and to date, there have been no notable improvements in prison conditions. There are reports of human rights violations almost on a regular basis in these public prisons. The prisons are overcrowded, the living conditions are dreadful, and even the system has failed to solve these long-forsaken issues. Due to the deplorable condition of the publicly run prisons, the number of deaths by illness, suicide, and violence among prisoners is also mounting. It is high time the government came up with a viable alternative to contend with this situation.

Countries around the world, for some times now, have already been practicing an alternative model to the public prisons, commonly known as the 'private prisons' or 'for-profit prisons.'¹ By definition, a private prison, or for-profit prison, is a place where people are imprisoned in facilities operated and managed by a third party that is contracted by a government agency, and this idea is getting popular day by day. The government of Bangladesh does not have a sufficient budget, adequate establishments, or proper administration to cater to the growing number of prisoners in this country. It is now of immense necessity that to reform the current prison situation, the government of Bangladesh takes the alternative route of establishing and assigning private prisons with the responsibility of imprisoning the excess number of inmates. It is not only a viable alternative to the current prison condition in Bangladesh, but also beneficial in an economic aspect. Even though there are some challenges in the establishment and operation of private prisons, with proper cooperation and government inspection, they can be minimized and subsequently eliminated.

There is an equal number of studies that support the idea of prison privatization and those opposing it. For this reason, the government struggles to know whether or not this idea is an effective one. Meaning that the success of private prisons relies on individual assessment and community involvement, and with the help of proper supervision of the government, it can become a useful business model for the criminal justice system in Bangladesh.

¹U.S. Department of Justice, *Emerging Issues on Privatized Prisons* <<https://www.ojp.gov/pdffiles1/bja/181249.pdf>> accessed 8 September 2021.

Objective of Prisons as an Establishment

It is deemed indispensable for there to be prison systems around the world and any criminal justice system needs a form of retribution, seeking to punish those who break a law of the state. Detaining certain people in prison serves a purpose for public protection; their ejection from society can condense the harm that they pose to the public.² It is also essential to have a system that acts as deterrence for executing crime and for those who are repeat offenders. However, a significant proportion of prisoners are eventually released back into society, so for a prison to serve its purpose it must rehabilitate prisoners, or at least try to. Archaeologically, prisons weren't regarded as establishments for rehabilitation; their original rationale was to confine a prisoner until the real punishment was inflicted, often capital or physical punishment. The formation of 'legitimate', state prisons came to fruition in the nineteenth century, with the first national penitentiary being built in London in 1816. London is often credited as being the home of modern imprisonment, largely due to the philosopher Jeremy Bentham who disagreed with the death penalty and decided to create his own concept.³ The concept Jeremy Bentham was underpinned by is the intention to induce conforming behavior amongst prisoners, while they had the erudition that they were being constantly observed. The aptitude of prisons to initiate reform, present opportunities, and change the attitudes and behaviors of prisoners was an increasingly popular issue for penal reformers.⁴ The transfer in the purpose of prisons being used as punishment and as deterrence became well established and is still seen worldwide in different adaptations. In a more prevailing world, many prison systems are focusing on rehabilitation and achieving this by treating prisoners more humanely. The dehumanization of prisoners is not a direct purpose of prison but it is often a consequence that is catastrophic for the mindset of a prisoner.⁵ The importance of altering the mindset of a prisoner is essential to prevent them from reoffending and achieving this can endorse the objective of prisons.

Nelson Mandela Rules, officially the 'United Nations Standard Minimum Rules for the Treatment of Prisoners' emphasize rehabilitation which is becoming increasingly popular throughout the world. These rules universally stipulate that prisons are not to be confined to the deprivation of liberty, rather it should be the time to re-educate prisoners, with the right to decency, respect, and safety. The function of prisons is not singular, many purposes have

²Raphael Rowe Foundation, "The Purpose of Prisons" (10 October, 2022) <<https://www.rafaelrowefoundation.org/latest-news/the-purpose-of-prisons>> accessed 21 January 2024.

³Ibid.

⁴Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (1789).

⁵Above note, 21.

changed and evolved.⁶ The positive drive for rehabilitation is becoming more popular in global penal systems. The purpose of prisons will change globally, hopefully to create conditions that allow prisoners to be rehabilitated and reintegrated back into society and build safer societies.

Prison Conditions in Bangladesh

As the prison population increases, the conditions within the facilities continue to deteriorate. The Institute for Crime and Justice Policy Research (ICPR) recorded in its World Prison Brief that, as of 21st March 2021, the total number of prisoners in Bangladesh stood at 83,107 in the country's 68 prison establishments, which have an official capacity of 42,450, resulting in an occupancy level of 195.78 percent.⁷ A significant percentage of them were pre-trial detainees.⁸ The number of these prisoners consisted of males, females, minors and foreigners.⁹

The number of detainees in the majority of Bangladeshi prisons grossly outnumbers the actual capacity of the prisons which is made particularly evident in Khulna District Jail. The facility houses six times more detainees than its intended capacity as reported by *Odhikar*. The same report stated that '(t)he number of detainees' staying in the jails are 3.5 times, 2.5 times, 2.5 times, 2.3 times, 2 times, and 2 times more than the actual capacity in Feni, Chittagong, Narayanganj, Rajbari, Sylhet, Thakurgaon, and Pabna jails respectively'.¹⁰ This overcrowding results in human rights violations due to lack of medical facilities, inadequate ventilation, health and sanitation issues, and other inevitable problems. This situation also contributes to the deterioration of the prisoners' health conditions.

The *Country Reports on Human Rights Practices* for 2016, mentioned that, due to overcrowding, the prisoners had to sleep in shifts and did not have acceptable toilet facilities.¹¹ Furthermore, according to *Bangladesh Legal Aid and Services Trust (BLAST)*, the prisons in Bangladesh do not meet minimum standards for adequate light, air, decency, or

⁶Above note, 19.

⁷Institute for Crime and Justice Policy Research (ICPR) based at the University of London, *World Prison Brief – Bangladesh*, March 2021 <<http://www.prisonstudies.org/country/bangladesh>> accessed 8 August, 2021.

⁸BLAST, 'JPR: Justice and Prison Reform for Promoting Human Rights and Preventing Corruption' (1 January 2019- 30 June 2021) <<https://blast.org.bd/whatwedo/ourprojects/%20552>> accessed 8 August 2021.

⁹Ibid.

¹⁰Odhikar, 'Human Rights Report 2013' (April 15 2014), <<http://odhikar.org/human-rightsreport-2013-odhikar-report-on-bangladesh/>> accessed 8 August 2021.

¹¹ US Department of State, *Country Report on Human Rights Practices for 2016 – Bangladesh*, 3 February 2017, <<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220388>> accessed 8 August, 2021.

privacy.¹² Several Human rights organizations and the media stated some prisoners did not receive medical care or water although prison authorities stated that each prison has access to water.¹³

According to the *Country Report on Human Rights Practices for 2016*:

Conditions in prisons, and often within the same prison complex, varied widely, because authorities lodged some prisoners in areas subject to high temperatures, poor ventilation, and overcrowding. The law allows individuals designated as VIPs to access “(D)ivision A” prison facilities with improved living conditions and food, more frequent family visitation rights, and provision of a poorer prisoner to serve as an aide in their cell.¹⁴

Although the law requires holding juveniles separately from adults, many juveniles were incarcerated with adults. Children were sometimes imprisoned (occasionally with their mothers) despite laws and court decisions prohibiting the imprisonment of minors.¹⁵ Authorities routinely held female prisoners separately from men. Although the law prohibits women in “safe custody” (usually victims of rape, trafficking, and domestic violence) from being housed with criminals, officials did not always provide separate facilities.¹⁶ Women were also not permitted to leave this custody without permission from the authorities.¹⁷

The number of deaths in prisons is increasing as well due to these anomalies. In July 2014, *Odhikar* reported that between January and June 2014, ‘26 persons reportedly died in jail. Among them, 23 persons died allegedly due to “illnesses”, three persons allegedly committed suicide’.¹⁸ According to the human rights organization *Ain o Salish Kendra (ASK)*, there were 48 deaths in custody between January and December 2019.¹⁹

¹²BLAST, “Improvement of the Real Situation of Overcrowding in Prisons in Bangladesh” (2019) <https://www.blast.org.bd/content/publications/Brochure%20on%20IRSOP_PRISONS%20handout.pdf> accessed 8 September 2021.

¹³Ibid.

¹⁴Above note, 6.

¹⁵Nahid Riyasad, ‘Children in Conflict with Law: Juvenile Justice System in Bangladesh’ *New Age* (Dhaka, Bangladesh) 1 December 2019.

¹⁶United States Department of State, 2015 *Country Reports on Human Rights Practices – Bangladesh* <<https://www.refworld.org/docid/5716129fc.html>> accessed 8 September 2021.

¹⁷ United States Department of State, 2019 *Country Reports on Human Rights Practices – Bangladesh* <<https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/bangladesh/>> accessed 8 September 2021.

¹⁸Odhikar, ‘Death in Jail : Six-Months Human Rights monitoring Report’(1 July 2014) <http://www.omct.org/files/2014/07/22773/hr_report_jan_june_2014_en.pdf> accessed 8 August, 2021.

¹⁹Ain o Salish Kendra (ASK), ‘Death in Jail Custody Between January and December 2019’(undated)<<http://www.askbd.org/ask/wp-content/uploads/2020/01/Death-in-Jail-Custody-Divisionwise-January-December-2019.pdf>>accessed 8 August, 2021.

Human Rights Violation in Prisons

As reported by the prison authority, the number of prisoners in November 2006 stood at 66,778, which exceeded the capacity of prisons by 2.5 times. Whereas, the number of inmates recorded in October 2006 was even higher at 72,013, which could have been because of the large number of arrests at political rallies and demonstrations.²⁰ Sixty-four percent of the total number of prisoners was awaiting trial.²¹ The number of women prisoners was 2,219 against the capacity of 1,131.²² There was a decrease in under-trial prisoners and detainees between 2005 and 2006. Supposedly, 71 prisoners died in 2006 as compared to 86 in 2005 and 104 in 2004. According to the prison authorities, 35 died of ailment and 11 of heart attack.²³ Out of the 71 prisoners reported to have died in 2006, 45 were awaiting trial.²⁴ On the other hand, thirty-one deaths occurred in Dhaka Division prisons.²⁵ Four prisoners were reported to have died as a result of torture, and one committed suicide. While post mortems are supposed to be carried out in such cases, there was neither public information regarding the conditions which led to a prisoner's death nor any action taken against the prison official who may have been responsible.²⁶

From the time when the Upazilla prisons were not functioning, prisoners were concentrated in central and district prisons, thus adding to the overcrowding. Since the information upheld by the prison authorities was consolidated for prisons in each division, unlike in previous years, it was not conceivable to assess the number of prisoners separately for central and district prisons.²⁷ The highest number of prisoners was quartered in Dhaka Division prisons and the largest number of under-trial prisoners was in Dhaka, Chittagong, and Sylhet prisons.²⁸

The trend in casualties of prisoners showed a decline between 2001 and 2006. Whereas a large number of deaths occurred among prisoners awaiting trial. It reached its peak in 2002.²⁹ In the last six years, the highest number of deaths amongst convicts was reported in 2004 while the

²⁰ Ministerial Committee on Jail Reforms, Ministry of Home Affairs, Meeting held on 13 August, 2006.

²¹ Ain O Salish Kendra, "Rights of Prisoners" <<https://www.askbd.org/ask/rights-prisoners/>> accessed 10 January 2023

²² Ibid.

²³ OMCT, "Bangladesh: Serious human rights violations must end" (February 2022)

<<https://www.omct.org/en/resources/statements/bangladesh-serious-human-rights-violations-must-end?>> accessed 10 January 2023.

²⁴ Ibid.

²⁵ Above note, 13.

²⁶ OMCT, "Odhikar Annual Human Rights Report 2023" (January 2024) <<https://www.omct.org/en/resources/reports/odhikar-annual-human-rights-report-2023>> accessed 10 January 2023.

²⁷ Above note, 5.

²⁸ Rozina Islam, 'Prisons teeming with inmates' Prothom Alo English, (Dhaka, Bangladesh) 8 November 2023.

²⁹ Above note, 39.

highest number of undertrial prisoners died in 2002.³⁰ It was reported that 890 prisoners were held in condemned cells, which had a capacity for 83 persons only.³¹

Nearly 150 prisoners in Wards 22 and 23 in Chittagong Central Prison went on a hunger strike on 22 September, in protest against irregular food supply, and its low quality. According to a report in Prothom Alo, about 90 inmates took two foreign prisoners' hostage from an adjacent ward for about 20 hours. Another 72 prisoners of whom 45 were foreigners were taken as hostages from Ward 25. The crisis was resolved on 23 September 2006 after the prisoners' demands were met.

It is imperious that the Prison Code of 1920 is revised in compliance with the UN Standard Minimum Rules for the Treatment of Prisoners and after consulting legal experts, psychologists, social workers, and human rights advocates. The amendments to the Prison Code 1920 should be implemented promptly and effectively to ensure the rights of all prisoners.³² As suggested by the Munim Prison Reform Commission a Prison ombudsman should be appointed to resolve complaints and to monitor progress on reforms. Additionally, all prison officers/staff should be trained in the UN Standard Minimum Rules for the Treatment of Prisoners. To avoid overcrowding, prisoners held for minor offenses should be freed after a quarterly review of each case. Child prisoners should be transferred from prisons to Child Development Centers. The release process for foreign prisoners who have served their sentences should start three months before their release date. Occupational therapy, counseling, skill training, and advisory services should be made available to all prisoners.³³

It is imperative that, access to legal aid services from Government and non-government agencies are to be coordinated and facilitated by prison authorities. Human rights abuses by security forces, including enforced disappearances, extrajudicial killings, and torture, remain pervasive throughout the country, taking place in an environment of absolute impunity. In a 2019 report, the World Organization Against Torture (OMCT) and its partner highlighted more than 300 reported torture incidents in nine years.³⁴

³⁰ Ibid.

³¹ Above note, 39.

³² Standard Minimum Rules for the Treatment of Prisoners, Article 22.

³³ Above note, 39

³⁴ BLAST, "Improvement of the Real Situation of Overcrowding in Prisons in Bangladesh"
<https://www.blast.org.bd/content/publications/Brochure%20on%20IRSOP_PRISONS%20handout.pdf> accessed 12 January, 2023.

Prison Administration System in Bangladesh

Prisons have always been acknowledged as organizations for institutional reformations, but their conditions mandate immediate notice. There are major requirements that must be fulfilled in line with Bangladesh's pledges under the International Covenant on Civil and Political Rights (ICCPR) and the UN Standard Minimum Rules for the Treatment of Prisoners.³⁵ Bangladesh is obligated under the ICCPR, among others, to treat 'all persons deprived of liberty with humanity and with respect for the inherent dignity of the human person,' under Article 10 and Article 6 of the ICCPR respectively to segregate under trial prisoners from convicts and juveniles from adults and to bring prisoners as promptly as achievable to trial. Bangladesh has also acceded to the ICCPR in 2000. However, Bangladesh has made some reservations and declarations to the ICCPR to limit the application of ICCPR.³⁶ Similarly, Bangladesh ratified (The International Covenant on Economic, Social and Cultural Rights) ICESCR in 1998 along with some other instruments in recognition of its constitutional commitment to human rights.³⁷ The UN Standard Minimum Rules for Treatment of Prisoners requires states to perceive the fundamental principles of security of life, health, and personal integrity, non-discrimination in the treatment of prisoners, and to create conditions that allow prisoners to adjust and integrate into normal communal life.³⁸

Prisons in Bangladesh are administered under the Prison Act of 1894, and the Prisoners Act of 1900. The Act of 1894 has its complementary Rules made under Sections 59 and 60(a). The Jail Code comprises the provisions of the aforementioned acts and rules. It is mentionable that, guidelines for prison administration are also to be found in the Penal Code, 1886, the Code of Criminal Procedure, 1898, the Code of Civil Procedure, 1908, Police Act, 1861, Special Powers' Act, 1974, and the Children Act 2013. Prisons were previously considered as punitive centers of confinement and they have also been endured as such in Bangladesh. Even after years, little to no efforts has been made by the authority to change these into rehabilitative and correctional institutions. Unfortunately, the human rights of the prisoners have never been a

³⁵ Revised Standard Minimum Rules for the Treatment of Prisoners, *UN launches 'Nelson Mandela Rules' on improving treatment of prisoners*, United Nations Human Rights Office of the Commissioner (8 October 2015).

³⁶ National Human Rights Commission, Bangladesh, "The International Covenant on Economic, Social and Cultural Rights: A Study on Bangladesh Compliance" (December 2012)

<https://nhrc.portal.gov.bd/sites/default/files/files/nhrc.portal.gov.bd/page/348ec5eb_22f8_4754_bb62_6a0d15ba1513/International%20Covenant%20on%20Economic%2C%20Social%20and%20Cultural%20Rights%20a%20study%20on%20Bangladesh%20Compliance.pdf> accessed 1 February 2024.

³⁷ Ibid.

³⁸ UNODC, "The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)"

<https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf> accessed 1 January 2023.

stern concern for the public or the administration. Human rights and legal aid organizations have also drawn attention to conditions in prisons that amount to inhuman and degrading treatment and can be exclaimed a source of violation of a person's right to life and personal integrity. These organizations and legal aid services have also pointed out that prisons as they currently operate offer little scope for correction and reintegration into society.

There are four types of prisons in Bangladesh which are controlled under Rule 2 of the Prison Code and maintain different levels of security. Additionally, there are six high-security Central Prisons in divisional headquarters for convicts, under trials and *detenues*, which include prisoners serving life or death sentences. There are also 32 medium security District Prisons for all prisoners except long-term convicts and 26 sub-prisons in district headquarters which offer minimum security for under trials and convicts sentenced to less than five days. Moreover, sixteen thana prisons are not even functioning.³⁹ The Prison Code has correspondingly divided categories of prisoners into those serving death or life sentences, convicts, under trials, detainees, juveniles, women, and those in safe custody. Additionally, there is a further categorization of prisoners entitled to 'division' or special privileges, determined by the 'status of the prisoner'. Male prisoners are not segregated so that under trials or juveniles may live alongside hardened convicts. Women stay in separate wards and it was planned to relocate them to a separate prison.⁴⁰

Prison reforms are instantaneously required. While Commissions were set up in 1957 and 1978 to endorse reforms, the process of implementing these has been extremely deliberate. The Munim Prison Reform Commission Report recommended reforms in 1980, which have yet to be implemented. In 2002, the Government set up a Ministerial Committee for Prison Reforms, headed by the then State Minister for Home Affairs. The Committee held thirteen meetings between 2002 and 2006 and made several recommendations. The Cabinet approved the draft proposals submitted by the Prison Reform Committee for amendment of 146 out of 1,388 articles in the Prison Code 1920, and withdrawal of 192 articles.⁴¹ The Government decided to discharge women convicts on parole, except those who were serving death and life sentences or were convicted for anti-state activities. The Special Privileges for Convicted Women Act, 2006 was enacted by Parliament to facilitate the rehabilitation of convicted female prisoners.

³⁹ Above note,

⁴⁰ Ibid.

⁴¹ Report on the Reference of the Government on Prison Reforms, <<http://www.commonlii.org/bd/other/BDLC/report/R54/54.pdf>> accessed 23 March 2023.

It provided for parole for specific periods to women prisoners who were sentenced to more than five years, and less than ten years, and had already served 40 percent of their sentence; more than three years and less than five years and had served 25 percent of the sentence; less than three years who had served 20 percent of the sentence, one year's sentence who had served 20 percent of the sentence.⁴²

The law stipulated the constitution of a national committee under the Secretary of Social Welfare to recommend the release of women convicts sentenced to more than ten years. Another committee was formed under the District Magistrate to monitor the behavior of women prisoners sentenced to less than ten years to advocate their parole. One Probation Officer was assigned to monitor prisoners on parole. Anyone found violating the conditions of parole was to be sent back to prison, and made to serve the full sentence.

The number of children in contact with the law was 1,100 in 2005. The National Task Force on Juvenile Justice representing 27 Government and non-government agencies found that their number had decreased by December 2006. Nevertheless, there were 78 children below 18 years old in Dhaka Central Prison. This was despite directives from the High Court, in 2003, making it obligatory for juveniles to be kept in Child Development Centers rather than in prisons.⁴³

In 2006, there were 232 foreigners in Bangladeshi prisons, including seven women, who had already completed their sentences. In 2005, there were 292 foreign nationals including seven women. Of this number, 144 men and five women were in the Chittagong division prisons, as their embassies had not arranged for their repatriation.⁴⁴ *Ain o Salish Kendra (ASK)* served a notice to the Ministry of Home Affairs seeking their assistance for the repatriation of foreign prisoners, and implementation of the High Court judgment in Criminal Miscellaneous Case No. 2737 of 2000. In most cases, it was pointed out that the prisoners could not be repatriated because the embassies concerned could not trace their correct particulars.⁴⁵

The Ministerial Committee on Prison Reforms, at their thirteenth meeting held in August 2006, had recommended that women prisoners be housed in a distinct prison. This new prison was

⁴²Ibid.

⁴³OCHA Services, "Rights of the Child come into contact with Law and state of Juvenile Justice system- Bangladesh perspective" (June 2023) <<https://reliefweb.int/report/bangladesh/rights-child-come-contact-law-and-state-juvenile-justice-system-bangladesh>> accessed 23 March 2023

⁴⁴Tribune Desk, '157 foreigners languish in Bangladesh prisons beyond sentences, await repatriation' *Dhaka Tribune* (Dhaka, Bangladesh) 21 January 2024.

⁴⁵Ibid.

under construction in Kashimpur and over 2,000 women were therefore still held along with 72 of their children in otherwise overcrowded prisons.⁴⁶ In those recommendations, it was mentioned that each prison must appoint a social welfare officer, with a background in psychology or sociology. Moreover, it stated that a pathologist, radiologist, lab technician, parttime dentist, and sufficient medical supplies must be provided to ensure primary health and dental care. It was also recommended that Generators be installed to overcome power outages. Furthermore, the construction of watch towers, the provision of binoculars, and the installation of wireless communication equipment were recommended to improve security of the prisons. Authorization of the Prison Superintendent is needed to grant a higher division (better grade of facilities). The prisoners who are entitled to this privilege includes those in the warrant of precedence between one to eighteen, prisoners awarded with titles of Bir Uttam, Bir Bikram, Bir Protik, Independence and Ekushey Awards, Presidents and Secretaries of political parties represented in Parliament, Professors Emeritus and commercially important persons. Additionally, allocation of one bar of toilet soap and two detergent packets per month to each general prisoner was recommended. Previously, prisoners were given soda only. The quantity of coconut oil for female prisoners was increased. Reduction of imprisonment periods to one-third of the sentence has been proposed. Furthermore, a reduction by half the sentences of prisoners not convicted of major offenses had also been added. It is to be provided that no imposition of hard labour such as brick breaking or earth-digging on prisoners should be done. Women prisoners should be provided necessary tools and skill training in sewing, bamboo and cane work for rehabilitation. Supply of additional cosmetics and other items to prisoners in the upper division wards was pronounced to be required. Providing fly proof nets, television, and electric fans to each ward was also required. Increasing the quantity of food and improving the nutrition of all prisoners irrespective of their status had to be done. Nutrition for child prisoners of up to six years had to be improved. Allocation of extra clothing for women prisoners was requested. Appointing imams for religious education of both male and female prisoners at an honorarium of Taka 250.0 per visit is to be done.⁴⁷

The Ministerial Committee on Prison Reforms, at its meeting on 13 August, 2023, chaired by the Minister of Law, recommended that, sick prisoners given 'division' (better facilities) shall be entitled to treatment by the doctor whom they consulted before being imprisoned. Prisoners granted division may be allowed to accept food and bedding from their families. Separate

⁴⁶Above note,

⁴⁷Ibid.

utensils should be supplied for use in toilets and for food. Prison authorities must justify in writing the use of bar fetters. Bar fetters should be made of plastic and leather instead of steel. No work that violates prisoners' dignity should be assigned to inmates. Prisoners' toilets must be clean and hygienic. Even though, corporeality, by the end of the year the recommendations had not been approved by the Cabinet, and are therefore not yet in force.⁴⁸

Prison Reformation in Bangladesh: A Promise Made Only to Renege?

For reforming the current prison condition, the first issue that has to be looked over by the government is the increasing prison population in Bangladesh. The government has assented to take an alternative course to the conventional mode of detaining an individual by endowing bail, conditional discharge, suspension of sentence, probation, binding-over, fines, community service order, compensation, restitution, etc.⁴⁹ Yet the ICPR country report for Bangladesh in the World Prison Brief mentions that as of 2019, 81.3% of prisoners from the total number of detainees confined in the public prison establishments are pre-trial detainees or remand prisoners.⁵⁰

Additionally, these prisoners have been rarely provided access to legal assistance and the length of pre-trial detention is often extended with many prisoners spending months or years awaiting a court date.⁵¹ Section 4 of the *Probation of Offenders Ordinance, 1960* notes, '(n)o person should be detained without trial for an indefinite period. For offences where prescribed maximum punishment is three years trial must commence within 90 days of arrest and for offences where the prescribed maximum punishment is above three years within 180 days of arrest'.⁵² Many had to stay in prison for far longer than the sentence they would have served if they had been convicted of their accused crime. It is also common for people to be detained for minor offenses, which are often linked to poverty.⁵³

⁴⁸Press Release, '15 years of prison reform commemorated' *The Business Standard* (Dhaka, Bangladesh) 13 April 2023.

⁴⁹Law Commission, Report on the Reference of the Government on Prison Reforms Under Section 6 (Ena) of the Law Commission Act, 1996, (Report No 54, 16 November 2002) <http://www.commonlii.org/bd/other/BDLC/report/R54/54.pdf> > accessed 13 September 2021.

⁵⁰Above note, 2.

⁵¹Sally Atkinson-Sheppard and Tim Pfannmüller, *Prisons Need Reform*, 3 March 2011 <<https://www.dandc.eu/en/article/reforming-its-prisons-bangladesh-can-set-example>> accessed 13 September 2021.

⁵²Above note, 15.

⁵³Open Society Justice Initiative, 'Pretrial Detention in South Asia: Examining the Situation in India, Pakistan and Bangladesh' (2014) <<http://www.pensamientopenal.com.ar/system/files/2014/12/doctrina39811.pdf>> accessed 13 September 2021.

Despite these concerns, the Government of Bangladesh has given assurance of improving the situation in prisons and to consider the ‘complete’ reform of the criminal justice system.⁵⁴ To tackle the situation paralegals from non-governmental organizations (NGOs) have been trained to identify ‘forgotten’ prisoners who are often incarcerated for longer than their supposed sentence. This is the first time the government has allowed ‘outsiders’ to work inside prisons. BLAST in its significant project named, Improving the Real Situation of Overcrowding in Prisons (IRSOP) has been working in cooperation with the Prison Directorate of Bangladesh, the Ministry of Home Affairs, and Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), to provide legal assistance to indigent prisoners under trial.⁵⁵ Recommendation No. (b) of Report of the Law Commission on the Reference of the Government on Prison Reforms notes, ‘arrests may not be made where there is no risk of non-appearance of the offender at his trial. Instead of physical arrest personal recognizance bond may be taken’. Even though that has not been the case in many regards, and so far as police officers are concerned, the register for enquiry maintained at police stations has not been properly supervised.⁵⁶ The government has failed to take consideration of any matter on how to reform the physical condition of the prisons as recommended by the UN to reduce human rights violations after an individual has been detained. Additionally, the government has been unsuccessful in increasing accountability for individuals who have been given the power to oversee the provisions provided by the government.⁵⁷

Henceforward, it can be clinched that, even after all the promises that have been made, the government has been unsuccessful in fulfilling them. It is imperative that the government moves forward to an alternative model to the publicly run prison system for better and more efficient management to achieve the goals that they have set.

The Difference Between Public and Private Prisons

The concept of public prisons is well-established and widely recognized in Bangladesh. However, the notion of private prison remains relatively unfamiliar. It is critical to first address the overbearing differences between private and public imprisonment facilities.

⁵⁴Above note, 17.

⁵⁵BLAST, ‘Prisoners Rights’ (2018) <<https://www.blast.org.bd/issues/prisons-rights>> accessed 13 September 2021.

⁵⁶ Md Mustakimur Rahman, ‘Lawful Arrest and false imprisonment’ *Daily Star* (Dhaka, Bangladesh) 27 October 2015, 13.

⁵⁷Faridul Alam Farid, ‘Massive corruption inside Bangladesh prison’ *BLITZ* (Dhaka, Bangladesh) 4 November 2018, 8.

Public prisons are non-profit generating entities that are owned, managed, and financed by the government of a country. This means the government must provide the prison building, staff the guards and administration, and oversee all of the confined individuals and everything that happens inside the prison. These are financed by the taxpayer's money. Yet again, with public prisons, in most cases, some of the services are outsourced to private contractors such as the foodservice, cleaning service, and maintenance.

On the other hand, privately owned prisons are run by a business or company. They are bought by private firms from the government and become accountable for maintaining them. The government is in-charge of providing prisoners, and the prison works as a business and makes a profit. The prison authorities are responsible for the everyday maintenance and staffing of the prison. In return, the government pays the private prisons for the inmates' daily costs. A private prison model takes off an enormous amount of burden from the government and puts it into a private company. Even though the business that goes along with running a prison, the government is still responsible for sentencing, classifying, and assigning inmates to prison and providing oversight.

Research has shown that private prisons usually choose less violent offenders since serious offenders require more security.⁵⁸ The same study revealed that the majority of inmates in private prisons have been convicted of non-violent drug-related offenses.⁵⁹ Thus, public prisons hold more violent offenders, whereas private prisons house relatively nonviolent offenders.

The Birth of Private Prisons: An Inescapable Need

For-profit prison privatization, which dates back to 16th Century England, began to enjoy a modern reincarnation in the United States at large in the 1980s.⁶⁰ At present, there are more than 100 private prisons that are being operated just alone in the USA, and today corporate-run prisons hold eight percent of America's inmates.⁶¹ Although the birth of modern private prisons

⁵⁸Criminal Justice Programs, *Pros and Cons of Private Prisons* <<https://www.criminaljusticeprograms.com/articles/private-prisons-vs-public-prisons/>> accessed 8 August, 2021.

⁵⁹Ibid.

⁶⁰MP Sellers, *The History and Politics of Private Prisons: A Comparative Analysis* (Cranberry, NJ: Associated University Presses, 1993).

⁶¹Madison Pauly, 'A Brief History of America's Private Prison Industry' 23(186), *Mother Jones* (August 2016) 3.

took place in the United States of America, it was not until the early 1980s that Americans became well acquainted with this idea.⁶²

The privatization of prisons accelerated after the Civil War in America.⁶³ Subsequently, the 'War on Drugs' and harsher sentencing policies, reigning at that time including mandatory minimum sentences, fueled a rapid expansion in the nation's prison population beginning in the 1980s.⁶⁴ Owing to President Reagan's 'War on Drugs' policies, the public prison system was overwhelmed with inmates, and to take off the burden on state prisons which were already overcrowded, private prisons were created. The main reason for turning prisons over to companies was the soaring population of public prisons, and the government couldn't afford to run their penitentiaries themselves anymore.⁶⁵

Soon the model earned popularity as the government-run prisons were overcrowded, costly to operate as compared to the privately run prisons. Private prisons started receiving funds to operate from government contracts. The advantages of private prisons included lower operating costs, controlling the population of prisoners, and the creation of jobs in the community. At that time, the establishment of private prisons turned out to be an inescapable need to combat the ongoing prison problems.

In the year 1983, the Corrections Corporation of America (CCA) later rebranded as CoreCivic, a private entity, stepped onto the scene as the first private corrections company. It was founded by Thomas Beasley, Doctor R. Crants, and T. Don Hutto.⁶⁶ Two years later, in 1986, Corrections Corporation of America went public, to operate larger prisons with fewer staff than would have been needed in traditional prisons.⁶⁷ Looking at its success, later many private prisons were established and contracted by the government and soon the model was followed by many countries around the world.⁶⁸

⁶²Shane Bauer, *The True History of America's Private Prison Industry*, 25 September 2018 <<https://time.com/5405158/the-true-history-of-americas-private-prison-industry/>> accessed 9 September 2021.

⁶³Shane Bauer, *American Prison: A Reporter's Undercover Journey into The Business of Punishment* (Penguin Press, 2018).

⁶⁴Betsy Pearl, *Ending the War on Drugs: By the Numbers*, June 27 2018 <<https://www.americanprogress.org/issues/criminal-justice/reports/2018/06/27/452819/ending-war-drugs-numbers/>> accessed 9 September 2021.

⁶⁵National Park Service, *Alabama Penitentiary: Prison Labor before and after the Civil War (Teaching with Historic Places)* <<https://www.nps.gov/articles/000/alabama-penitentiary-prison-labor-before-and-after-the-civil-war-teaching-with-historic-places.htm>> accessed 9 September 2021.

⁶⁶Source Watch, *CoreCivic* <<https://www.sourcewatch.org/index.php?title=CoreCivic>> accessed 9 September 2021.

⁶⁷Ibid.

⁶⁸States of Incarceration, *Today CCA is America's Largest Private Prison Company* <<https://statesofincarceration.org/story/today-cca-americas-largest-private-prison-company>> accessed 9 September 2021.

Before, the early 1980s, private prisons were practically unheard of, and as of 2015, there were approximately 126,000 inmates in privately owned facilities.⁶⁹ San Quentin, located in California, was the first private prison in America, although it is now an institution managed by the state itself. Because of the success and efficiency of private prisons around the world, between 2000 and 2016, the number of people incarcerated in private prison facilities increased by 47 percent, while the overall prison population increased by only 9 percent.⁷⁰

Constitutionality of Private Prisons Around the World

The concept of modern private prisons took place in the United States of America. At that time, one of the primary concerns raised regarding prison privatization was its constitutionality. Antagonists of privatization contended that it may be unconstitutional for the authority to contract with private firms to imprison felons. Even though, in reality, there have not been any direct challenges to private prisons brought to the courts.⁷¹ One visible opponent of privatization has been the American Bar Association in the United States..⁷² One spokesperson stated that there should not be any doubt that an attempt to delegate total operational responsibility for a prison or jail would raise grave questions of constitutionality under both the federal Constitution and the constitutions of the fifty states.⁷³ If the question is raised about the possibility of private firms running prisons and if it could be constitutional, the answer could be supported with references from different scholars. Most scholars who discussed the constitutionality of private prisons pointed out the 1936 United States Supreme Court case of *Carter v Carter Coal Company*.⁷⁴ In this case the court upheld, the federal government's delegation of broad powers to private actors. The capacity of private security firms to detain people has also been supported. The issue is more baffling at the state level. State laws do not prohibit private prisons, but state governments may, according to prevailing doctrine, take any action they wish to as long as it does not go against the United States Constitution. To clarify this legal question, some state legislatures have passed laws authorizing the delegation of correctional authority to private firms. This part of the deliberation seems decided since no

⁶⁹Ibid.

⁷⁰Kara Gotsch and Vijay Basti, 'Capitalizing on Mass Incarceration: Growth in Private Prisons' (Policy Research Working Paper, The Sentencing Project, 2 August 2019) <<https://www.sentencingproject.org/publications/capitalizing-on-mass-incarceration-u-s-growth-in-private-prisons/#II.%20Trends%20in%20Privatization>> accessed 9 August 2021.

⁷¹ Lauren-Brooke Eisen, *Inside Private Prisons: An American Dilemma in the Age of Mass Incarceration* (Columbia University Press, 2017).

⁷² Megan Swanson, The Private Prison Debate: A Look into the Efficiency of Private Prisons vs. Public Prisons (2002) 4 *Major Themes in Economics*.

⁷³ Peter M. Carlson and Judith Simon Garrett, *Prison and Jail Administration: Practice and Theory* (Jones & Bartlett Publishers, 2nd ed, 2007).

⁷⁴ Ibid.

lawsuit has yet succeeded in declaring private prisons unconstitutional.⁷⁵ Most authorities have accepted it as a legal delegation of power by the government. The fact that private prisons have not been declared unconstitutional is a necessary condition for their use.

Privatization of Prisons in Bangladesh: Aspects and Prospects

The conditions of the public prisons in Bangladesh are deteriorating day by day, and there are a number of direct and indirect factors to it. The government does not have the adequate budget to properly facilitate the escalating number of prisoners in Bangladesh.⁷⁶ There is an increasing number of deaths in these prisons, and the prisoners are even deprived of their human rights. Human rights such as, the “right to life or live” donot confine to mere physical existence but also include the right to live with human dignity, which unfortunately the government-run prisons have failed to provide.⁷⁷ There is considerable corruption in the government-run prisons in Bangladesh. Irregularities such as bribery and misuse of power are known to be rampant.⁷⁸ Since the government does not have the sufficient budget or staff to maintain these public prisons, it is essential for the government to introduce privately operated prisons. The government can very well pay a significantly less amount of money to the private sector, for the supervision of less violent offenders. The corruption in the public prisons would also decrease as there would be fewer prisoners and an adequate number of authorized people to inspect their activities.

In public prisons, due to the scarcity of appropriate inmate capacity, thousands of prisoners who have committed minor crimes or no crimes at all are kept with dangerous criminals, and many of them have afterward gotten involved with more serious crimes over the course of their release.⁷⁹ Due to the terrible public prison conditions, convicts are also suffering from many psychological disorders making them more violent than they used to be. The rate of recidivism is increasing in the prisoners living in such unhealthy conditions as harsher prison conditions lead to more post-release crimes.⁸⁰ Subsequently, there are fewer incidents of recidivism from prisoners coming out of private prisons.⁸¹ By transporting these non-violent criminals to private prisons, the government can impede this situation. The establishment of private prisons,

⁷⁵ Above note, 39.

⁷⁶ Md. Asaduzzaman, ‘The Plight of Prisoners in Bangladesh’ *The Daily Star* (Dhaka, Bangladesh) 23 January 2000.

⁷⁷ *Maneka Gandhi v Union Of India* (1978) AIR 597 (India).

⁷⁸ Rozina Islam, ‘Corruption in jails condoned by ‘top officials’ *Prothom Alo* (Dhaka, Bangladesh) 18 February 2020.

⁷⁹ Md Shahnawaz Khan Chandan, ‘Rotting Behind Bars’, *Daily Star*, (Dhaka, Bangladesh) 4 September 2015.

⁸⁰ M. Keith Chen and Jesse M. Shapiro, ‘Do Harsher Prison Conditions Reduce Recidivism? A Discontinuity-based Approach’, (2007) 9 *American Law and Economics Review* 1 at 3.

⁸¹ Williams Bales et al, *Recidivism: An Analysis of Public and Private State Prison Releases in Florida* (United States, 2003).

would solve the problem of overcrowding. It would also be easier for the government to monitor the violent offenders in public prisons and provide better security in the prisons. The private prisons due to being a profit-generating entity would have the ability to provide adequate safety, security, and living conditions to the non-violent offenders, and when they are done with their sentences, they can hopefully live a reasonably normal life.

Another key problem with government-run prisons is caused by bureaucratic inefficiency. At times decision needs to be taken faster. Decisions related to administration of public prisons in Bangladesh must go through several levels of bureaucracy. Local administrative bodies may require involvement in the process as well. Any public changes to the jail may need to be approved by the Deputy Inspector General of Prisons (or even the Ministry of Home Affairs). The processes of change in the public sector can, in some cases, take more than a year to complete.⁸² With a private prison, everything runs through the company running the facility instead. That means any policy or procedural changes receive immediate and direct implementation.

A substantial benefit of the private prison system is that its operation is conducted at a lower cost. Since its main goal is to generate profit, the administration tries to minimize irregularities to ensure government contracts. Hence, private prisons maintain the ratio between prison inmates and prison personnel to control the prison environment. Additionally, for-profit prisons work toward efficiencies that keep costs down as much as possible for the taxpayers. Even though the government might be able to control its size as a way to endorse less spending on this societal need, private prisons can use their better processes to do the same thing.

To sum up, setting up private prisons is not only beneficial to private corporations, but also to the government. By the implementation of this model, the government, along with the taxpayers, is saving a huge amount of money.

Operation Model of Private Prisons

It is to be understood that the main difference between private and public prisons is their intention to generate profit. Where the main goal of a private prison is to generate profit,

⁸²The lawyers and Jurists, *The Development of Prison Administration in Bangladesh* (August 2021) <<https://www.lawyersjurists.com/article/development-of-prison-administration-in-bangladesh/>> accessed 9 August 2021.

the end goal of a public prison is to house confined individuals in an attempt to rehabilitate the prisoners or eliminate them from the streets.

To operate a private prison the entity enters into a contract with the government. The contract states the basis for payment to the corporation. It is usually based on the size of the prison, based on a monthly or yearly set amount. In most cases, it is paid based on the number of inmates that the prison houses and their average length of time served, meaning that the more inmates these prisons can hold with longer sentences the more money they earn.⁸³

For example, if it costs a private prison 1000 BDT per day to incarcerate someone (assuming full capacity, including all administration costs), and the prison building can hold 1,000 inmates. A private prison can offer its services to the government and charge 1500 BDT per day, per inmate. Usually, the governments agree to these terms if the offered money is less than if the prison was publicly run. That difference is where the private prison makes its profit. By this model, the government is also saving money, and the corporation is also making a profit.

An alternative form of income by private prisons is through labour.⁸⁴ This model operates by making the prisoners work long hours with minimum payment through which private prison corporations generate a hefty profit. Additionally, in any business, saving money wherever possible increases the bottom line of that business, and expanding also allows the business to bring in more money, but it needs capital to do that. For gaining more exposure and profit the business can also go public and raise more capital for its expansion, but in order to stay in business, these prisons need a constant stream of inmates coming in to replace those that have served their sentences.

Private Prisons Around the World: A Success or a Failure?

In present time, prison privatization exists in various forms in at least 11 countries in the world.⁸⁵ Even though the orbit of prison privatization is relatively wide, it is evident that prisons have been privatized at large in only a handful of predominantly English-speaking countries

⁸³ Brett Burkhardt, *Private prisons, explained*, 21 March, 2017 <<https://theconversation.com/private-prisons-explained-73038>> accessed 8 September 2021.

⁸⁴ Jonathon Booth, 'How Private Prisons Profit from Forced Labor', 1(21), *Current Affairs* (October 26 2020), 18.

⁸⁵ Office of the Federal Detention Trustee, *Average Daily Population* <<http://www.justice.gov/ofdt/population.htm>> accessed 9 September 2021.

which includes Australia, Scotland, England and Wales, New Zealand, South Africa, and the United States, making Mexico and France an exception.⁸⁶

Privatization advocates promised to provide low-cost, better-quality, detention services at a time when the government resources were being strained under the weight of exploding prison populations.⁸⁷ It was on the basis of these promises that lawmakers and officials handed over eight percent of America's prisoners as well as larger amounts of its federal pre-trial and immigrant detainees, to privately owned or operated facilities by 2011.⁸⁸

Even though private prisons have relished a steady reemergence in the United States, the companies managing these facilities have faced persistent criticism for providing low-quality services, failing to save taxpayer money, and negatively affecting criminal justice policy.⁸⁹ Despite these failures, several countries have followed the United States in utilizing private prisons and detention centers with the intent of decreasing correctional expenditures and reducing prison overcrowding.⁹⁰

Australia, Britain, New Zealand, Canada, France, the Netherlands, and the Czech Republic have successfully copied the American private prison model.⁹¹ For instance, 14 percent of the revenue for America's second-largest private prison company, GEO Group, came from international services in fiscal year 2012.⁹² Similarly, the spread of prison privatization has also benefited for-profit companies from other countries, including UK-based G4S, which claims to be the largest security service provider in the world.⁹³

Together, these companies have thrived off of the expanded privatization of prisons, immigration detention systems, and other governmental services, while often failing to deliver the services that were promised.

⁸⁶ Ibid.

⁸⁷ Carson, E.A. & Sabol, Washington, DC: Bureau of Justice Statistics, September 2012 <<http://bjs.ojp.usdoj.gov/content/pub/pdf/p11.pdf>> accessed 10 September 2021.

⁸⁸ Office of the Federal Detention Trustee, *Average Daily Population* <<http://www.justice.gov/ofdt/population.htm>> accessed 10 September 2021.

⁸⁹ C. Mason, *Too Good to be True: Private Prisons in America*, July 2012 <http://sentencingproject.org/doc/publications/inc_Too_Good_to_be_True.pdf> accessed 10 September 2021.

⁹⁰ James Byrne, April Pattavina and Faye S. Taxman, 'Racial Disparity and the Legitimacy of the Criminal Justice System: Exploring Consequences for Deterrence' (2005) 16 *Journal of Health Care for the Poor and Underserved* 4.

⁹¹ Above note, 35.

⁹² The GEO Group, *2012 Annual Report* <http://geogroup.com/documents/GEO_2012_Annual_Report.pdf> accessed 10 September 2021.

⁹³ G4S, *Key Facts and Figures* <<http://www.g4s.com/en/Media%20Centre/Key%20facts%20and%20figures/>> accessed 10 September 2021.

As in the United States, immigrant detention has been a particular target of privatization in the United Kingdom, which has 73 percent of its immigrant detainees held privately, and Australia, which has a wholly private immigrant detention system.⁹⁴ On 1 January 2016, of the 188 prisons in France, 68 were run partly by private companies. More than half of the 77,000 inmates in the country serve their time in a privatized establishment but the situation in France is still nothing like the US, where more than 130,000 inmates are detained in private prisons.⁹⁵

Media reports from countries including the United Kingdom, New Zealand, Australia, and Canada have reflected research conducted in the United States showing that private prison companies' profit motives often lead to inadequate services and unsafe conditions.⁹⁶ On the other hand, recent studies by a special committee of the Tennessee Legislature have concluded that the prisons run by the Corrections Corporation of America operate at a lower cost and provide better and safer services than comparable prisons governed by the State Department of Corrections.⁹⁷

A critic of such privatization, John J. DiIulio Jr., professor of Politics and Public Affairs at the Princeton University, said he was impressed with the results in Tennessee and several other private prisons. Professor DiIulio Jr. notes, 'This success comes as a surprise. Because of widespread corruption and the exploitation of inmate labor when private prisons were in vogue in the 18th and 19th centuries, I expected more abuses when for-profit prisons were first revived in the Reagan Administration.'⁹⁸

Henceforward, there is evidence of both success and failure of the operation of private prisons, depending on a country's policies, governance, and political situation. With a given suitable condition, the successful operation of private prisons is indeed possible.

⁹⁴United Kingdom Home Office, *Detention Data Tables, Immigration Statistics*<<http://www.homeoffice.gov.uk/publications/science-research-statistics/researchstatistics/immigration-asylum-research/immigration-tabs-q1-2012/detention-q1-2012-tabs>> accessed 10 September 2021.

⁹⁵Prisoners in 2014, *Bureau of Justice Statistics Report*, September 2015<<https://bjs.ojp.gov/content/pub/pdf/p14.pdf>>accessed 10 September 2021.

⁹⁶Ibid.

⁹⁷ Joseph Shannon Gregson, 'Comparing Public and Private Prison Systems' unpublished graduate thesis, Master of Public Administration Program, submitted to Faculty of Public Administration of University of Michigan, 2000, at 26 <<https://deepblue.lib.umich.edu/bitstream/handle/2027.42/117712/Gregson.pdf?sequence=1>> accessed 10 September 2021.

⁹⁸National Institute of Justice, *Private Prisons* <https://books.google.com.bd/books?id=yX9IT-Elf4C&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false> accessed 10 September, 2021.

Possible Concerns Arising from Privatization of Prisons and the Way to Combat It

From an economic perspective, private prisons are a viable option, as an alternative to government-run prisons. It is not only providing better living standards to the detainees, due to the dispersion in the number of detainees housed in public facilities, but also creating employment opportunities for those within the locality of the facilities. In the United States, both federal and state governments have increasingly relied on privatization since 2000, and the federal prison system's commitment to privatization has grown more dramatically.⁹⁹ The reason is, the efficiency, and positive results are coming out of the private prison model. Some possible concerns may come with the privatization of prisons.

For a private prison to operate, the first thing that they require is prisoners. Private prisons may try to persuade the government to make stricter laws so that they can keep a prisoner for a longer time to make more profit. However, this is the discretion of the government through the law and practiced administration to sentence, classify and assign inmates to the prisons, public or private. In June 2011 a report submitted by the Justice Policy Institute titled '*Gaming the System: How the Political Strategies of Private Prison Companies Promote Ineffective Incarceration Policies*' disclosed how private prison companies have used political campaign donations, political lobbyists, and relationships with the government officials to increase their profits by promoting policies that resulted in more people being incarcerated.¹⁰⁰ Even in tight budgetary times, when many policymakers want to reform the criminal and juvenile justice systems by safely condensing the prison population, private prison companies create and fund political opposition seeking to preserve the status quo in policies and have successfully increased the incarceration rate.¹⁰¹ Because the private prison companies receive their revenue almost exclusively from the government, the taxpayers are indirectly funding a group that opposes the policies most favourable to the taxpaying public.

⁹⁹Kara Gotsch and Vijay Basti, 'Capitalizing on Mass Incarceration: U.S Growth in Private Prisons' (Policy Research Working Paper, The Sentencing Project, 2 August 2019) <<https://www.sentencingproject.org/publications/capitalizing-on-mass-incarceration-u-s-growth-in-private-prisons/#II.%20Trends%20in%20Privatization>> accessed 9 August 2021.

¹⁰⁰Zerline Hughes, *Gaming the System: How the Political Strategies of Private Prison Companies Promote Ineffective Incarceration Policies*, 22 June 2011 <<https://justicepolicy.org/research/gaming-the-system-how-the-political-strategies-of-private-prison-companies-promote-ineffective-incarceration-policies/>> accessed 8 September 2021.

¹⁰¹Matthew Clarke, *Study Shows Private Prison Companies Use Influence to Increase Incarceration*, 22 August 2016 <<https://www.prisonlegalnews.org/news/2016/aug/22/study-shows-private-prison-companies-use-influence-increase-incarceration/>> accessed 8 September 2021.

As the main objective of private prisons is to earn a profit, it may tend to avoid prisoners that are high-maintenance, leaving it to the government to take care of those they do not deem fit to be incarcerated in their facility.¹⁰² It is to bear in mind that, the less violent offenders should be transported to the private prisons so that they can be there with adequate supervision and free of any prison-borne violence.

Without the proper supervision of the government, the for-profit entity may also make the detainees work long hours with minimum wage.¹⁰³ To combat this situation there should be direct inspection and supervision from the government so that the private sectors cannot take disproportionate advantage of the system. To cut-off expenses some for-profit prison entities may pay the correctional officers or management less, which is immoral, considering they are not paid what they should have been paid. Even in some cases to earn extra profit, some immoral private entities cut out the cleaning services to save management costs.¹⁰⁴ There should be proper guidelines and rules provided by the government when any contract is entered with any private entity so that these irregularities can be combated.

Private prisons have been serving a reluctant need in many countries, such as Canada, France, the USA, the UK, New Zealand, and Brazil.¹⁰⁵ Amendments to legislation may condense population levels as effectively, if not higher, than permitting more companies to open prisons that they operate to make profits. Privatization also creates more safety risks and offers insufficient services, which can be a treacherous combination for underpaid correctional officers to manage. It needs to be made sure by the government that, there is more transparency in the administration of the private prisons, or else it would become a place for immoral businessmen to profit out of inhuman activities.

Conclusion

A prison is a correctional institution where persons are confined while on trial for punishment. Historically, the prisons of Bangladesh are primarily concerned with punishing offenders

¹⁰²Ibid.

¹⁰³Human Trafficking Search, 'Comparing Compensation: What Inmates in Private Prisons Would Otherwise Get Paid' (November 2017) <<https://humantraffickingsearch.org/comparing-compensation-what-inmates-in-private-prisons-would-otherwise-get-paid/>> accessed 9 August 2021.

¹⁰⁴Kara Gotsch, 'Capitalizing on Mass Incarceration: U.S Growth in Private Prisons' (Policy Research Working Paper, The Sentencing Project, August 2019) <<https://www.sentencingproject.org/publications/capitalizing-on-mass-incarceration-u-s-growth-in-private-prisons/>> accessed 8 September 2021.

¹⁰⁵Carey Biron, 'More Countries Turn to Faltering U.S. Prison Privatisation Model' *Inter Press Service* (Washington, USA) 20 August 2013.

through incarceration. Bangladesh is far behind in conforming to international standards of prisons. It has not yet been able to implement all the recommended reforms. Bangladesh is committed to treating 'all persons deprived of liberty with humanity and with respect for the inherent dignity of the human person'. Bangladesh is also committed to segregating under-trial prisoners from convicts and juveniles from adults to bring prisoners as early as possible to trial and ensure humane treatment to all persons in custody. The UN Standard Minimum Rules for Treatment of Prisoners provides guidelines for their treatment in prisons and the management of prisoners. It requires states to observe the fundamental principles of security, life health, personal integrity, non-discrimination in the treatment of prisoners, and to create conditions that allow prisoners to be released from the prisons and integrate into normal community life. It further requires the administration to respect the prisoner's right to information regarding jail regulations as well as rights to religious beliefs and communication with the family and to notify the family of a prisoner's death or illness.

Additionally, privately run prisons are not exactly an obscure idea as various countries around the world are currently utilizing this model; it is indeed a viable alternative to the prevailing system in Bangladesh which is on the verge of potential collapse if something radical or visionary is not done in possibly a few years. Among the things that could be done, building multiple new mega-facilities will most likely be the most essential. However, to undertake a project of such magnitude, massive amounts of taxpayer money are required to be pumped in by the government which would otherwise be used to finance other sectors that desperately need additional funding, such as education and healthcare.

Nevertheless, allowing the partial privatization of the prison system comes with its own difficulties. Most vital among which are concerns regarding the vehement violation of the human rights of prisoners. As most of the prisoners in the facilities will be citizens of Bangladesh, they are entitled to their fundamental rights as guaranteed by the Constitution but incidents and reports arising from countries that are actively using this model give a reason for brows to be raised. In addition, other concerns such as horrific working & living conditions, improper management of detainees, and manipulation of the judicial system to prolong the detainment period of prisoners are all known. Therefore, it is crucial to ensure that if such a model is adopted, safeguards are in place to prevent any citizen of Bangladesh or any foreign citizen detained in such facilities, from having their civil and human rights undermined in the name of profit or progress. Close supervision and specialized regulators must be put in place

by the relevant authority of the government to ensure that the internationally recommended standard is maintained, and more importantly that in no way whatsoever such standard be allowed to drop.