

## RIGHTS OF PRISONERS

*Bangladesh is far behind in conforming to international standards for prisons. It has not yet been able to implement all the recommended reforms. This chapter describes how little has changed in the conditions of ordinary prisoners. However, this year an unusual number of high profile inmates were able to access special privileges and violating the rules and regulations.*

Bangladesh is committed to treat "all persons deprived of liberty with humanity and with respect for the inherent dignity of the human person."<sup>1</sup> Under the ICCPR, 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 to ensure humane treatment of all persons in custody. The UN Standard Minimum Rules for Treatment of Prisoners adopted by ECOSOC provides guidelines for the fair treatment of prisoners and the management of prisons. It requires states to observe 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 on release to adjust and integrate into normal community life. It further requires the jail administration to respect prisoners' right to information regarding jail regulations, as well as rights to religious belief and communication with the family, and to notify the family of a prisoner's death on illness.

The laws governing prisons, namely, the Prison Act of 1894, its accompanying Rules, and a range of internally issued circulars, notices and orders which together form the Jail Code of 1920, the Penal Code 1860, the Code of Criminal Procedure 1898, the Lunacy Act 1974 and the Children's Act 1974 directly contravene the ICCPR or the Standard Minimum Rules. For example, the Jail Code allows for arbitrary and discriminatory classification between rich and powerful prisoners and others, with the former being entitled to "division on special privileges", determined by court according to the social status of the prisoners.

### Draft Jail Code

A significant development in 2008 is the approval by the CTG of the draft Jail Code, proposed by the Special Prison Committee after necessary amendments to the colonial-era laws. This provides options, amongst others, for the creation of "open prisons" and "camp prisons", allows the prison authority to take decisions regarding the allocation or cancellation of status/division to prisoners (earlier only decided by the court), and also provides separate kitchen and toilet facilities for inmates.<sup>2</sup> The new Jail Code also introduced provisions for freeing inmates on parole, freedom of observing religious rituals inside jails, entertainment for prisoners, simplification of the division facility system, and removal of discrimination in allocation of foods for inmates. The new Jail Code does away with rigorous imprisonment.

### Over Crowding

Over crowding continues to be a chronic problem in Bangladesh prisons, and is a major cause of poor prison conditions. In January 2008, the total number of prisoners stood at about 78,000 against a capacity of 26,000 only.<sup>3</sup> This number exceeded 86,000 in June when the capacity had increased up to 27,368.<sup>4</sup> Prisoners, even women prisoners, have to sleep in shifts due to shortage of sleeping space. The Dhaka Central Jail has above

1 ICCPR (International Covenant on Civil and Political Rights).

2 *Ittefaq*, 14 June 2008.

3 ASK, *Human Rights in Bangladesh 2007*, ASK, Dhaka 2008.

4 *Inqilab*, 26 June 2008.

10,000 inmates, three times more than its actual capacity of 2,682 only.<sup>5</sup> The Chittagong Central Jail accommodated 6,468 prisoners, against a capacity of 1,507 only.<sup>6</sup> The usual over-crowding was exacerbated by the sudden jump in ‘mass arrests’. Reportedly between 28 May-12 June, on average some 1,698 persons were arrested every day, compared to 1,291 in May-June 2007.<sup>7</sup> The consequent over crowding, and scarcity of food space and facilities has encouraged further corruption and malpractice in the jail administration. Reportedly the prison authority terminated at least 130 prison staff to control corruption.<sup>8</sup>

**Table XXIII.1: Prison population between January 2001 to July 2008<sup>9</sup>**

Month/Year	Capacity	Number of Prisoners
January 2001	23,942	60,887
January 2002	24,997	62,486
January 2003	25,018	75,135
January 2004	25,396	69,519
January 2005	26,157	74,710
January 2006	27,112	72,836
January 2007	27,254	68,278
May 2007	27,254	85,941
July 2008	27,451	87,011

### Foreigners in Prison

Several hundred foreigners, including persons who have already served out their sentences, are languishing in jails across the country, with at least 434 being from Myanmar and about 400 from India, and others from Pakistan, Sri Lanka and Saudi Arabia.<sup>10</sup> Among them, over a hundred prisoners from Myanmar have remained in jail for over 9/10 years after serving out their sentences, as they lack valid travel documents and Myanmar refuses to support their repatriation.

### Women in Prisons

As reported in the *Ittefaq* of 7 August 2008, there were at least 3,480 women inmates in several prisons in Bangladesh. Despite the Jail Code provisions requiring women to be segregated from men, an under trial female prisoner reportedly became pregnant and delivered a child on 21 October this year.<sup>11</sup> A convict was later produced by the jail authorities before the magistrate who confessed to being responsible. During the year, the first women-only prison constructed in late 2007 came into use with women prisoners from the grossly overcrowded Dhaka Central Jail being shifted there.

### Children in jails

The High Court’s 2003 directive to transfer any children and juvenile prisoners in jails to correction centers remained unrealized five years on, with at least 387 children and juvenile offenders remaining in prisons across the country.<sup>12</sup>

5 “Sardined into prisons”, *The Daily Star*, 26 July 2008.

6 *Naya Diganta*, 2 March 2008.

7 “Tattabodhayak Sarkar Amoler Karagar: Thai Nai, Thai Nai- Choto se Tori” [Jails Under the Caretaker Government : There’s no space anywhere], *Inqilab*, 26 June 2008.

8 *Ittefaq*, 2 February 2008.

9 “Sardined into prisons”, *The Daily Star*, 26 July 2008.

10 *Jugantor*, 7 September 2008.

11 *Shamokal*, 28 October 2008

12 “Improve quality of care for abandoned children”, *The Daily Star*, 31 August 2008.

### Reported Irregularities

The national press reported several incidents of illegal use of cell phones in prison by former political leaders imprisoned on corruption charges, and punitive measures taken against several VIP prisoners including Moudud Ahmed, Salauddin Quader Chowdhury, and Mossedek Hossain Falu, Lutfuzzaman Babar, Mirza Abbas, Altaf Hossain Chowdhury, Najmul Huda, Wadud Bhuiyan, Khondokar Mosharraf Hossain, Nasiruddin Pintu, Iqbal Hasan Mohamad Tuku (all BNP leaders) and some Awami League leaders. The jail authorities also seized at least 15 cellphones and ipods from a number of VIP prisoners.

Reports of two leaders of the Jamat i Islam and the BNP holding political meetings on 28 August with Begum Khaleda Zia for three hours<sup>13</sup> did not appear to merit any kind of official investigation although it was a clear breach of the jail code. Similar reports of about 20/25 persons mostly BNP members having met Mujibur Rahman Sarwar (Mayor of Barisal City Corporation in Manikgonj Jail apparently for a political discussion, again met with no official censure.<sup>14</sup> These meetings took place following a statement by the DIG Prisons that prisoners should refrain from making political statements.<sup>15</sup>

A two-member probe committee was set up to investigate the security lapses leading to the escape of four prisoners, on 15 May 2008, from Chuadanga Jail but no actions against the persons responsible were reported.<sup>16</sup>

### Health Facilities in Prison

Over the years, the steady rise in the prison population has not been accompanied by any initiative to set up new hospitals or to improve health care facilities in existing jail hospitals. According to the DIG (Prisons), "Not only the general prisoners, every one in jails suffers because of the shortage of doctors and other health care facilities".<sup>17</sup> Reportedly there are only 16 doctors against 77 posts to look after about 90,000 inmates in jails all over the country. Hospital facilities are available in twelve prisons only and the remaining prisons lack any such health service facilities; none of these hospitals has an ambulance for emergency transport. Usually, these hospital beds are occupied by rich and powerful prisoners; so that other prisoners in serious condition are denied access to appropriate treatment. On the other hand, the VIP prisoners get extra priority and advantages in treatment, they even occupy all beds for prisoners available in specialized prison wings of Government hospitals.<sup>18</sup> Former BNP State Minister for Home Affairs Lutfuzzaman Babar, sentenced to 17 years imprisonment in an arms case (later released on bail in December) was staying at the prison cell of Bangabandhu Sheikh Mujib Medical University (BSMMU) Hospital for about 18 or 19 months of his detention.<sup>19</sup> Like him, most of over 150 high profile prisoners detained after 11 January 2007 and later freed on bail or parole, spent a large portion of their detention at different hospitals under jail custody. They included Tarique Rahman, Arafat Rahman Koko, two sons of former prime minister Khaleda Zia, Adviser to Khaleda Zia (MP) Salauddin Kader Chowdhury, former BNP ministers Tariqul Islam, Mirza Abbas, Altaf Hossain Chowdhury, Najmul Huda, Khandakar Mosharraf Hossain and Moudud Ahmed, former deputy minister Amanullah, former state ministers Iqbal Hasan Mahmud Tuku and Mir Nasir, Former BNP-MPs Nasiruddin Ahmed Pintu, Hafiz Ibrahim, Ali Asghar Lobi, Manjurul Ahsan Munshi, Wadud Bhuiyan. Chittagong City Corporation Mayor (Awami League leader) ABM Mohiuddin, *Janakantha* publisher Atiqullah Khan Masud, Former AL Secretary General Abdul Jalil were also among those who spent

13 *Jugantor*, 9 October 2008.

14 "Karagare baithoker roshoshsho ummochon shiggire" *Shamokal*, 1 September 2008.

15 *Inqilab*, 24 April 2008.

16 Kailash Sarkar, "Neglect of duty, poor bldg construction blamed for jailbreak" *The Daily Star*, 17 May, 2008.

17 "Sick inmates suffer as jails lack docs", *The Daily Star*, 11 May 2008.

18 Kailash Sarkar, "Hospital hospitality for 'VIP prisoners' Babar spends highest 16 out of 17 months in hospital", *The Daily Star*, 20 October 2008.

19 *Ibid*.

most of their prison time in hospital bed. The Inspector General of Prisons said, “There is a tendency of ailing high profile prisoners to get hospitalised and stay there as long as possible. It was also revealed that in many cases the doctors concerned at hospitals let them prolong their stay citing various made-up causes and excuse.”<sup>20</sup>

### **Deaths in Prison**

According to ASK documentation, 61 prisoners including 37 under trial prisoners died in jail or in jail hospitals up to 30 September, 2008. According to the prison authorities, many died from sickness. It was reported that at least 49 prisoners were admitted into Dhaka Central jail hospital with serious injuries and wounds but failed to get required urgent treatment outside the prison.<sup>21</sup>

Besides the deaths for various causes, two convicts were hanged to death upto November this year and one convict (who was a freedom fighter) sentenced for hanging was pardoned by the President just a few hours before his execution at the personal request by the Army Chief of Staff.

### **Positive Developments**

The Government’s initiatives this year to improve prison conditions include reconstruction projects and budget allocations for construction and reconstruction of 34 existing prisons. It has also introduced improvements in jail conditions in certain places: for example Moulvibazar Central Jail authority reportedly undertook some income generation, skill development and education programmes for prisoners.<sup>22</sup> A garment factory having 26 knitting machines was established in the Dhaka Central Jail which was inaugurated on 3 November aiming to skill development and rehabilitation of the prisoners.<sup>23</sup>

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20 *Ibid.*

21 *Jugantor*, 4 July 2008.

22 “Moulvibazar Jail Turns into a Rectification Centre”, *New Age*, 10 April 2008.

23 “Factory opens inside Dhaka jail to rehabilitate prisoners”, *The Daily Star*, 4 November 2008.