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**The Children of Incarcerated Parents - Legal Analysis In The
Perspective Of Bangladesh**

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DECLARATION

I, Chowdhury Samira Bintha Shafiq, hereby declare to state and certify that the research paper made for the undergraduate program as Law- 406 (Supervised Dissertation), Department of Law, East West University was written entirely by me. Additionally, it has not been submitted for examination for another academic or professional award. Each data source or content that was useful in finishing this study is appreciated and cited. My undergraduate degrees must be completed as a prerequisite of that research, so that is its prime purpose.

Date : 25.05.2023

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LIST OF ABBREVIATIONS

ECHR - European Convention on Human Rights

NICFS - National Institute of Criminology and Forensic Science

QUNO - The Quaker United Nations Office

UN - United Nation

UNCRC –United Nations Convention on the Rights of the Child, 1989

ABSTRACT

The thesis commences with an overview of the main topic “The International Human Rights Law” which mainly ensures the human rights. My topic is a part of this broad topic which are about the children right of whose parents are in prison. Children whose parents are in custody or behind bars are an unnoticed and extremely vulnerable population whose rights and wellbeing are impacted at every level of the criminal proceedings against their parents. Criminal justice systems still largely ignore the rights of children whose parents are in prison. Due to limited social welfare services, unclear laws and policies regarding how to handle them, and inadequate protection for children housed in jails, children fall through the cracks that are formed. When a parent or carer gets in legal trouble, children must overcome a number of obstacles. This thesis is an analysis of the rights of the children of imprisonment parents in legal perspective of Bangladesh.

Keywords – Children, Incarcerated Parents, Prison, Human Rights, Bangladesh, Legal

**The Children of Incarcerated Parents - Legal Analysis In The
Perspective Of Bangladesh**

Chapter 1

Introduction

1.1 — Introduction

The best interests of the child are one of the special rights, and it's possible to argue that this is the most popular idea in the framework for children's rights. The only demographic whose "best interests" are safeguarded under international human rights law is children. "All decisions regarding children must be made with the child's best interests in mind."¹ A crucial yet vague concept is the child's best interests. Taking it into account became a criterion for human rights after its inclusion in the CRC in 1989. It became a human rights issue, but the rights of the children are not well defined in Bangladesh yet.

According to the World Prison Brief, in total, 81,156 people are imprisoned in Bangladesh (from the 2022 report). "More than half of parents who are incarcerated and have children haven't seen them since they were there."² What are their children's rights? The best interest principle does not apply to those children whose parents are incarcerated.

1.2 — Significance of the Research

"The topic of children of prisoners has given rise to a small but growing body of literature over the past few decades; much of it focuses on the lack of affirmative action taken by governments in many nations to support the children."³ Insufficient levels of involvement exist in a number of crucial sectors. Because of this, there are no obvious lines of responsibility, and no particular state agency has been established or given the power to take care of the requirements of this extremely vulnerable community. "It can be difficult to reverse the unintended consequences of parental prison sentences on children."⁴ Nowadays, most of the country is aware of the matter, and they try to find a solution or resolve it, but Bangladesh totally ignores it. There is no proper law, and there are not many articles or journals relating to this issue. The people of Bangladesh are not concerned about this issue and because of this the children of imprisoned parents lead a sorrowful life. So research is necessary on this issue to inform the people as well as the government.

¹ United Nations Convention on the Rights of the Child (CRC),(adopted 20 November 1989, entered into force 2 September 1990,Art 3(1)

² The Council on Crime and Justice ,Children of Incarcerated Parents ,January 2006, Academia,
< https://www.academia.edu/47107405/Children_of_Incarcerated_Parents >

³ Patrick Burton, 'Children of prisoners : passive victims or humans with rights ?'2013 Academia
<www.academia.edu/78557941/Children_of_prisoners_passive_victims_or_humans_with_rights> accessed on 13 March 2023.

⁴ Roger Shaw , *PRISONERS CHILDREN what are the issues?*,(1st Edition 1992, ebook published in 1 June 2002)page xii
< <https://www.taylorfrancis.com/books/edit/10.4324/9780203193044/prisoners-children-roger-shaw> > accessed on 1 March, 2023

1.3 — Research Question

1. Whether The Children Act 2013 ensure the right of children of incarcerated parents?
2. What are the effects of parental imprisonment on children ?

1.4 — Research Methodology

This thesis can be described as qualitative research. In conducting the research, resources like statutes, international conventions, and books are considered primary sources. Regarding secondary resources, national and international journals, newspaper articles, websites and online journals are considered. This research paper looks at a range of challenges to find a solution to the research question. The objective of the research paper is to explore and find out how far the existing law ensures the children's rights of incarcerated parents. In addition, the necessary materials related to this issue were collected from websites, journals, scholars blogs and some articles.

1.5 — The Research Scope and Limitations

In this research paper, I'm focusing on the legal analysis of the rights of children of incarcerated parents in the perspective of Bangladesh. Many restrictions were encountered while doing the research. Because of my time limitations, I could not utilise many of my academic resources. There is a shortage of current information on this research area. If there are no time constraints and if other things are available for free on the internet, I will try to do more research and obtain more results. This study would be more planned, spontaneous, and informative without this limitation.

1.6 — Literature Review

The book named "**Children of Incarcerated Parents**" authored by Katherine Gabel, Denise Johnston. The main theme is about the children which parents are in prison.

In this book first chapter titled "Incarcerated parents". In this chapter the writers explain who are the incarcerated parents. In second chapter the writers describe "The effects of parental incarceration" . Then in third chapter the writers explain "Care and Placement" in this chapter the writers explain the current placements of prisoners children treatment of prisoners in foster care .The chapter four is about "legal issue" and chapter five is about "The Intervention" and chapter 6 is about the "Policy Issues".

Here authors give idea about what are the consequences of their parent's incarnation and also what happened after they get out from prison, the book explains it. Authors said that, based on sex roles and duties, there are disparities in parenting styles and prisoner behaviours that are tied to gender. Services for detained parents that address concerns with pre-arrest, post-release reunion, and recidivism must be provided in these cases, potentially as a top priority.

Here the writers and their collaborators provide advice that we need to assist social workers, psychologists, and others who deal with children whose parents are in jail satisfy the children's needs and avoid future delinquency, adult crimes and eventually cross-generational imprisonment.

In second literature review, I am going to make is of the article named “**Children of Incarcerated Parents**” created by The Council on Crime and Justice. This article explains what are impact on children because of their parental incarceration.

Here this article try to said that, Both the kids and the parents experienced social isolation and stigma. In general, the families were unable to connect with other families like themselves or programs, individuals or activities that would make them feel less excluded in general. They were sometimes able to find some helpful resources, but on the whole they were unable to do so. In addition, it is difficult for kids to find motivation to act morally because their parents are not with them or in their life who can show them the way to a happy and healthy adulthood.

This article also recommends some ideas how we can solve this problem. Here it is said Criminal justice procedures must take into account an offender's parental status, and sentencing guidelines and alternatives must take the needs of children of jailed parents into consideration. To make it easier for children to see their parents who are imprisoned, a family impact assessment and prison visiting bus service are advised. To better meet the needs of both parents and children, child welfare agencies must work in collaboration with penal systems. It is important to establish policies and processes into place that encourage good communication between jailed parents and their kids. This would include modifying visiting policies and environments to be more kid-friendly and supportive of relationships between family members. The effect on children should be taken into account while deciding on sentence processes, such as allowing the kid or caregiver to speak.

1.7 — Conclusion

Numerous consequences, including a high percentage of children living without one or both parents because of the criminal justice system. This may result in many disorders and trouble forming wholesome relationships. When an infant experiences trauma like this, they are more likely to develop unhealthy attachment patterns and have worse health consequences. Parental incarceration contributes to a cycle that results in subsequent offenders, who suffer more severe negative consequences than their parents. Now in the next chapter I will be discussing the concept of incarcerated parents in relation with their children born in prison which will make it clearer to understand.

Chapter 2

Concept of Incarcerated Parents

2.1 — Introduction

“Incarceration is the act of putting someone in a facility such as a prison, remand home where they would be cut off from the rest of society.”⁵ “The judges give sentences to the offenders but what about their children? These children are frequently disregarded by this sentences . This is not a trivial problem; rather it affects a young generation in major, everyday ways.”⁶ We have the statistics how many people are incarcerated among them, how many men and how many women we also know this things. For the simple reason that we don't ask convicts about their children while keeping detailed records on prisoners, there are no exact data on the number of children of detained parents. We also don't maintain accurate records of the number of children born by the mothers who are in prison.

“Children of detained parents are the unseen victims of mass incarceration. They bear heavy financial, educational, psychological and physical responsibilities. Despite the fact the decision-makers, courts and officials in charge of visiting policies have mainly disregarded them.”⁷

2.2 — Parental Imprisonment

A mother or father who has ever been incarcerated is referred to as having parental imprisonment. “Millions of children whose parents are incarcerated are thought to exist worldwide.”⁸ There are no specific number. “There are statistics how many prisoners are in jail in total but that fact that we don't question convicts about their children despite the fact that we retain extensive records on prisoners means that there are no exact data on the number of children of detained parents.”⁹

Although it is well known that incarceration has an impact on both inmates and their partners, there is growing evidence that the negative effects also extend to inmates children. “Others have claimed that the number of children who experience parental incarceration has never been higher in the world due to the recent increases in incarceration rates. A substantial and

⁵ Jayesh D’Souza “Global prospective on reforming the criminal justice system”, IGI Global ,(2021)
< <https://www.igi-global.com/dictionary/incarceration/85963> >

⁶Chesa Boudin, “Children of Incarcerated Parents: The Child’s Constitutional Right to the Family Relationship”, 101 Journal of Criminal Law. & Criminology 77 (2013).

< <https://scholarlycommons.law.northwestern.edu/jclc/vol101/iss1/3/> >

⁷ Amy B. Cyphert , “Prisoners of Fate :Challenges of Creating Change for Children of Incarcerated parents”, Vol 77, Issue 2 Maryland law Review .385(2018)

< <https://digitalcommons.law.umaryland.edu/mlr/vol77/iss2/4/> >

⁸ “Children of imprisoned parents”, Panel Reform International

<<https://www.penalreform.org/issues/children/what-were-doing/children-incarcerated-parents/>>

⁹ Katherine Gabel ,Denise Johnston ,“*Children of Incarcerated Parents*” (ISBN 0-02-911042-4 ,LEXINGTON BOOKS 1995) accessed on 3 March

expanding body of research has demonstrated that this might have unfavourable short- and long-term effects for young kids.”¹⁰ For instance, children of immoral parents are more likely to develop into and are at higher risk of becoming criminals. “The truth is that the prisoner still has kids who really need their parents, regardless what they may have done.”¹¹

“More than 10.77 million individuals are detained in prisons and jails around the world.”¹² The majority of these inmates are men, yet there hasn't been any formal focus on these men's parental status.”¹³ “91 per cent of fathers gave their families some form of income prior to being imprisoned, so the family suffers severely from the loss of income if the father is incarcerated.”¹⁴ The effects of having a parent in prison twice caused depression and rage in the children. The mother often works many jobs to make ends meet, so the children cannot find their both parents. Even after the father is out of custody, re-establishing relationships may be difficult due to shame, struggle to find housing, and trauma.

“In 2021, 3,222 women were initially incarcerated for various illicit activities in Bangladesh.”¹⁵ “Women are involved in these incidents at an alarmingly high proportion.”¹⁶ Among them, how many people have children? There is no clear data on this issue. The most important people in a child's life are their mothers. When a child finds out that their mother is behind bars, it is the most tragic time in their lives. The incarceration of the father has a different impact on a child's wellbeing than that of the mother. When a mother is incarcerated, the child is exposed to a variety of living situations, including those with the father, other relatives, or the foster care system. Prior to their mother's arrest and separation from the family, children of imprisoned mothers are likely to have dealt with a variety of life stresses. Now I will explore who the incarcerated parents children are.

2.3 — Incarceration and Children

There are two groups of children those are affected by the parent's incarceration. First group who were born to an imprisoned mother and resided in prison for a time. And the second groups who were separated from their imprisoned parent (mother, father, or both).

¹⁰ S.G.A. van de Waijer, H.S. Smallbone, V. Bouwman, “Family formation patterns of children who experienced parental imprisonment” 2012, Science Direct.
<<https://reader.elsevier.com/reader/sd/pii/S1040260819300395?token=2BB52600DE2D2C4DA0D7417F29E59AF253A842E30F3EC148157D5908258A55116DFD4B32595A414391A8C1D5BF74AE46&originRegion=eu-west-1&originCreation=20230403153702>>

¹¹ Alan Michel Graves, ‘Fathers ,Imprisonment and the impact on kids’ ,(First 5 la Organisation, 13 July 2016) < <https://www.first5la.org/article/focus-on-fathers-imprisonment-and-the-impact-on-kids/> > accessed on 26 March, 2023.

¹² World Prison Population List, Thirteen edition 2021

¹³ Alan Michel Graves, ‘Fathers ,Imprisonment and the impact on kids’ ,(First 5 la Organisation, 13 July 2016) < <https://www.first5la.org/article/focus-on-fathers-imprisonment-and-the-impact-on-kids/> > accessed on 26 March, 2023.

¹⁴ ibid

¹⁵ World Prison Population List, Thirteen edition 2021

¹⁶ Julie Poehlmann, “Incarcerated mother’s contact with the children perceived family relationships and depressive symptoms” [2005], Vol 19, No. 3

Children of Incarcerated Parents

“The "forgotten children" and "victims of justice" labels are frequently applied to children of incarcerated parents.”¹⁷ Everyone struggles to deal with the emotional pain when a loved one is given a prison sentence. “The burden may fall primarily on unintended victims of crime, including kids whose parents are in jail. The caring environment that every child deserves can never be provided in a prison.”¹⁸ Children whose parents are behind bars therefore confront unique difficulties. One of the most vulnerable groups of children is seen to be minor children whose parents are subject to some kind of criminal justice oversight.

“Despite the fact that rising detention rates show an increase in kids who have lost one or both of their parents to incarceration, little attention is given to this helpless demographic.”¹⁹ The child's interest in continuing a regular relationship with their parents is rarely taken into account when decisions are made regarding parents who have been given a prison sentence. At the time of sentence, judges don't often ask about a defendant's children, giving them a second chance to see them and mediate. This leaves them the most vulnerable group in society and their rights not fully specified in Bangladesh.

Children born In Prison

Many kids are born in jails each year. “Along with their imprisoned mothers, several hundred children are housed in the nation's main jails. According to specialists, such seclusion could harm their regular upbringing and cause them to stray. But, according to jail sources, the number of kids awaiting trial with their moms has stayed essentially constant over time.”²⁰

“There are 351 kids who are incarcerated in jail with their moms in Bangladesh Prison sources state that, 172 of them are boys and 179 are girls. There are 103 children in Dhaka, 123 in Chattogram, 23 in Sylhet, 41 in Rajshahi, 17 in Rangpur, and 26 in Khulna out of the total 351 children. Children under the age of six are permitted to stay inside the institution with their moms, under prison regulations.”²¹ As a result, many kids reside inside the walls of the prisons.

However, there are reasons both in favour and against locking up kids with their mothers due to the wide variations in methods between nations and even within individual prisons. “Some

¹⁷ Dr. Randhir Singh, “Rights of Children of Incarcerated Parent’s a Constitutional Perspective” Vol 5, Issue 3 https://www.researchgate.net/publication/354833973_RIGHTS_OF_CHILDREN_OF_INCARCERATED_PARENTS_A_CONSTITUTIONAL_PERSPECTIVE

¹⁸ ibid

¹⁹ The Council on Crime and Justice ,Children of Incarcerated Parents, January 2006, Academia, < https://www.academia.edu/47107405/Children_of_Incarcerated_Parents >

²⁰ Sajibur Rahman, ‘Many children in jails for no offence of their own’ The Financial Express (Dhaka, 20 March 2018) < <https://thefinancialexpress.com.bd/national/many-children-in-jails-for-no-offence-of-their-own-1521483758> >

²¹ Jamal Uddin, ‘Over 350 children living with mothers in prison’ *Bangla Tribune* (Dhaka, 29 January 2020) < <https://en.banglatribune.com/others/news/89940/Over-350-children-living-with-mothers-in-prison> >

contend that, in the absence of better alternatives to care, young kids gain from the deep emotional bond that forms as a result of their extensive time with their moms. Some claim that prisons are unsuitable settings for kids to live and develop. Both permitting young children to stay with their moms in prison and taking them from their mothers are universally acknowledged to be harmful.”²² The majority of nations that permit young kids to be imprisoned alongside their mothers have an upper age limit, after which the youngster is taken. The ideal separation age varies between nations. “The link between a mother and her newborn during the first few months after delivery is considered the most reliable indicator of the child's future mental welfare. Studies have shown that when a mother-child relationship is broken, these kids often have serious issues due to an unorganized attachment pattern and other abnormal behaviors.”²³ Whichever option is chosen for infants in prison, it should be based on the child's best interest.

2.4 — Conclusion

Any person who is imprisoned has an impact on people besides themselves, but this is especially true for children. Children of imprisoned parents are frequently referred to as the unseen or forgotten victims of the criminal justice system. Additionally, it has been emphasised that many children of imprisoned parents live in circumstances that go against accepted social justice standards. Hence, even if some could contend that the pain experienced by these children is only an unfortunate consequence of a criminal justice system that is otherwise ethically legitimate, it is also challenging to argue against the idea that something should be done to reduce the harm inflicted. In my next chapter I will discuss the legal framework in Bangladesh in relation to the children of incarcerated parents and how far their rights are secured in Bangladesh.

²²Nicole Mazoue, ‘Children Incarcerated With Their Mother’s: a Critique of The Current Age-Based Approach to The Separation of Children From Their Mothers’ (dSPACE thesis, University of Kwazulu-Natal 2012)

< <https://researchspace.ukzn.ac.za/xmlui/handle/10413/9982> >

²³ Jiang Stein, Cheryl H. Truscott, ‘Babies Behind Bars’, Vol.19, No4,(2010) JSTOR

< <https://www.jstor.org/stable/48625950> >

Chapter 3

Legal Framework In Bangladesh

3.1 – Introduction

“Bangladesh has been working to align its laws and practises with the standards outlined in the Convention on the Rights of the Child since it was ratified, there are still some aspects of juvenile justice that are at inconsistency with the Convention.”²⁴ In Bangladesh, there is no single idea of juvenile justice; instead, it is dispersed among several laws that have an impact on minors. Though these laws and policies may not expressly refer to children of incarcerated parents, it is important to keep in mind that they nevertheless apply to all children in Bangladesh, including those whose parents are behind bars.

Constitution of the Bangladesh expressly addresses the rights of the citizens which definitely include the children as well. Therefore I am going to highlight the most important Articles relevant as well as some other statues which are enacted and active regarding this issue. The Children Act 2013, National Children Policy 2011 and The Jail Code are also going to be discussed .

3.2 — Analysis of Relevant Laws and Policies In Bangladesh Regarding The Rights of Children of Incarcerated Parents

Constitution of The People’s Republic of Bangladesh

The Constitution of Bangladesh has provisions relevant to children rights in its directive Fundamental Principles of State Policy. These are unenforceable by law. In Constitution Part 3 described these state policies from Article 8 - Article 25. Among them under these Article ensure the incarcerated children right also .

- Article 15 of ensure that, The state is responsible for fostering economic expansion, raising the labour force, and providing for fundamental needs such as food, clothes, shelter, education, medical attention, the right to work, rest, recreation, and leisure time, as well as the right to social security in times of unjust need, falls under this category.

Here it’s people mean all the citizens in Bangladesh, which includes all the children fundamental needs also. That means the government try to ensure the fundamental needs which is needed for the vulnerable group.

²⁴ Magdalena Forowicz, “Rights of the Child in Bangladesh – Report on the implementation of the Convention on the rights of the child in relation to Children in Conflict with the Law by Bangladesh”, (Committee on the Rights of Child 34th Session -Geneva , September 2003), OMC
< https://www.omct.org/site-resources/legacy/27235-bangladesh_10_2003_en.pdf >

- Article 17 ensure that, The State shall implement effective steps to establish a uniform, mass-oriented and universal educational system, link education to societal demands, and eradicate illiteracy within a given time limit.

Here the government try to ensure the education for all people and here in all people under also the prisoners children came and in this Article where also said the government try to remove the illiteracy problem in specific time.

- Article 18 also ensure that, the state shall improve the public health of the citizens.

Here in this Article all citizens means also the prisoners children and the government try to ensure the public health of all children.

There are some rights in Constitution of Bangladesh which are the fundamental rights of all the citizens. In Constitution Part 4 described these fundamental rights from Article 26 - Article 47(A) and these rights are enforceable by law.

- Article 27 states that, All citizens are entitled to equal protection under the law and are equal before the law.

Here this Articles states all the citizens which includes also the children's. All the children's which parents are in prison will get the same right and equal protection like the other people of Bangladesh.

- Article 28 states that, No citizen shall be subject to discrimination by the State on the basis of religion, race, caste, sex, or place of birth.

Here this Article stated every citizen can not be discriminated on the basis of religion, race, caste, sex, or place of birth. The incarcerated children born in prison. So these children's are not be discriminated because they born in prison.

- Article 29 guarantees that, Nothing in this article prevents the State from making special accommodations for any underprivileged group of citizens, implementing laws that call for reserving positions institutions of a particular religion or denomination, or reserving classes of employment or office for members of one sex.

Here this Article states, If state want to make arrange any special accommodations for underprivileged group of citizens then state can do so. We can assume that, the children of incarcerated parents are the underprivileged group.

- Article 35(1) states that, No person shall be convicted of any offence except for violation of a law in force at the time of the act.

The Children Act 2013

In this Act there are Eleven Chapter and One hundred sections. This act tries to ensure the children rights in Bangladesh. Chapter 10 tells about the Alternative care of the children, which is related to the right of children of the incarcerated parents.

- Sec 89(1) of this act said about which child's are the disadvantages children. According to the sub sections (c) The child who lacks a legal or lawful guardian the child whose parents are incarcerated or who resides in a prison alongside their mother.

And the sub section (d) tells that, the child whose parents are incarcerated or who resides in a prison alongside their mother.

So according to this sections whose parents are incarcerated these children are the disadvantaged children and the children who lives in the prison along with the mother these children are also the disadvantages children.

- Sec 84 (1) of this Act states that, to considering a complete report on the child's assessment, alternative care can be started to ensure the welfare of disadvantaged children and those who are in contact with the law.

And In Sub-section (2) said that, At first they try to reunifying the child with their parents but if this is not possible, the child may be committed to one of the institutions named in section 85.

So this Section mainly said about the alternative care. The disadvantages children's means the children of incarcerated parents will get the alternative care. At first the child given to the parents and if it is not possible then the children will given to the institution which is mentioned in Sec 85 of this Act.

- Sec 90 of this Act said that, A children who is in need of legal representation, regardless of their circumstances, should be registered with the Department of the Children Affairs Police Officer at the relevant police station.

So this sections mainly said about those children who needed legal representative. That means when the parents of the incarcerated children are both in prison and they needed representation for them this section will apply for them. Department of the Children Affairs Police Officer deal with this matter .

- Sec 92 states, If it becomes necessary to take a child away from their parents, caregiver, authority in supervision, legal or legitimate guardian, or another individual charged with the child's care and control, The Board may send a case to the Children's Court to impose alternative care.

That means when the children are in prison along with their mother and if the Children Welfare Board thinks it is important to remove the children from there they may send the case the Children Court.

National Children Policy 2011

Each and every child in Bangladesh who is a citizen is subject to the National Children Policy. In response to the UNCRC committee's recommendations, the government of Bangladesh amended the National Child Policy that had been adopted in 1994 with the intention of supporting the development of Bangladesh's children's present and future.

In this policy point no 5 tells about the Aims and Objective and the point no 6.11 tells about the Special Programme For the backward and small ethnic group children.

- Point no 5.2 states that, Efforts must be made to provide facilities for female children, children with disabilities, and children with special needs.

Here said the special needs children. We can assume that the prisoners children are in this group's. So government will try to ensure all facilities provided for them according to this point.

- Point no 5.5 states that, All the measures must be done to ensure the development of a friendly family atmosphere.

Here in this point said the government will take some measures to ensure friendly family atmosphere. Prisoners children parents are in jail so we can assume they try to create the family atmosphere for these children.

- Point no 6.11.1 states that, It is necessary to provide all rights to a child's growth and advancement for underprivileged communities and small ethnic groups.

Here in this point said the government will provide all rights to the underprivileged communities. The prisoners children are also the underprivileged children. So we can also assume they try to said about them here.

The Bangladesh Jail Code

The Jail Code is made up of the provisions of the Prisons Act of 1894, the Prisoners Act of 1900, the Identification of Prisoners Act of 1920, the Rules made under Section 59 of the Prisons Act of 1894, and Section 60(a) of the same Act of 1894 for the superintendence and management of jails and subsidiary jails, respectively.

- Sec 957 - Female inmates are allowed to raise their children up to the age of four, or up to six years with the Senior Superintendent's or Superintendent's approval.
- Sec 959 - When a child in custody reaches the age of four or six, or when a female prisoner passes away, notice must be submitted to the district magistrate who will make arrangements for the child's care.

3.3 — Examination of the Implementation of these laws and policies

Article 15 of the Constitution

There are many Law relating to the Children right in Bangladesh but these laws are not fully ensure the children's rights. According to the Article 15 of the State policy of The Constitution of Bangladesh try to ensures the basic needs of all people. "Unfortunately, these rights are often infringed due to ignorance, lack of social awareness, and discrimination. Additionally, most children lack access to proper nutrition, housing, facilities, information and education."²⁵ Bangladesh do not fully ensure the basic needs of the children .

Article 17 of the Constitution

According to the jail code the children At the age of 4, children can stay in jail with their mothers or with the permission of Senior Superintendent children to stay in prison upto 6 years. The pre-school education of these children is not fully started, but the Shishu Academy started the program but this is not enough. After returning to normal life from prison, they can

²⁵ Haradhan Kumar Mohajan, "Child Rights in Bangladesh" (March 2014), Vol 2, pp. 207-238, ResearchGate < https://www.researchgate.net/publication/265411954_Child_Rights_in_Bangladesh >

not go to school due to shame and financial problems. So we can see, Article 17 of the Constitution are not be ensured here. State can not providing education for all people.

Article 18 of the Constitution

The children who are in prison they can not get proper clean water ,the healthy food even the children who born in jails can not get the proper milk as well as those children who aren't in prison with their parents there life is also miserable. The guardian of them are not with them and because of the poverty problems. "Lata, who was pregnant and Brishti, a 20-year-old mother from the Karwan Bazar rail-line slum, were subjected to torture by the prison system. Lata's seven-month-old daughter received bitter gourd for dinner, whereas Brishti's daughter was scheduled to receive meat once daily. Because they feared retaliation if they were discovered speaking to a reporter, Brishti and Lata both decided to go by a pseudonym. They are more likely to experience the shortcomings of prisons since they reside in what is currently the greatest drug den in the nation."²⁶ This is the real situation of them. Here also Article 18 of the Constitution are not be ensured.

Article 27 of the Constitution

According to then Article 27 of the Constitutions, All the person will get the equal right and equal protection that means all the children's which parents are in prison will get the same right and equal protection like the other children in society. But it is not properly happening in society the underprivileged children whose parents are in prison they can not go to school like other children in the society, they they can not get the proper care from the family, they can not stay with their parents like other children's. Their life is fully different from other people in society." The rape and murder of a 15-year-old girl by Shazneen Tasnim Rahman attracted public attention and altered her life. Six suspects, including Estema Khatun Minu and her sister Parvin, were sent on death row. One of the six was carrying a child who is currently living in an orphanage."²⁷ One children right to stay with their family specially mother. Here their mother is alive but they had to stay at orphanage home. Is it equal right like other children?

Article 28 of the Constitution

Here the children who born in prison these children are mainly discriminated because of their place of birth."This is a theory of social behavior that contends that how people are perceived by other members of society has a big impact on how they act. Various social behaviours among groups, including criminal deviance, have been explained using it."²⁸ People thinks this child born in prison and in prison only the offender stays so he will also be offender or when

²⁶ Zyma Islam, 'Prison babies: childhood behind bars ,growing up with an incarcerated mother' *The Daily Star* (Published on October 20,2017) < <https://www.thedailystar.net/star-weekend/spotlight/prison-babieschildhood-behind-bars-1478830?amp> >

²⁷ ibid

²⁸ 'What is 'labelling theory' in sociology?' *THE HINDU* (January 23,2019) <<https://www.thehindu.com/opinion/op-ed/what-is-labelling-theory-in-sociology/article26062527.ece/amp/> >

the children's parents anyone or both if in jail the people thought the children will also be a offender like their father or mother. For example - If the children father theft something and he is in prison the people will think the children will also be thief . People label them offender for their place of birth and their parents. According to the Article 28 of the Constitutions, any citizen can not be discriminated on the basis of place of birth but the children are discriminated here.

Article 29 of the Constitution

According to Article 29 of the Constitution, State shall make any special arrangements for underprivileged group of the citizens. But here clearly not said that the prisoners children are the underprivileged citizens.

Article 35(1) of the Constitution

According to Article 35 (1), No person can not be convicted unless the person breaks law . But here the children who are victims of their parents crime. Their parents are liable for their work but they are also punished for their parents work. So according to this Article these children rights are violates.

The Children Act 2013

Sec 89 (c)(d) of recognised the prisoners children. In this Act Chapter 10 from Section (84 - 92) said about the procedure of alternative care for these children but in real these are not happening. These children do not get the alternative care rather they lead a miserable life without their guardians. Most of the children do not know about the alternative care and the probation officer even do not work properly for these children.

National Children Policy 2011

It is mainly a policy about children rights. This is made in 2011 and it's been 12 years but it do not became law yet . In this policy point no 5.2 said the special needed children, they do not mention prisoners children are in this group.

point no 5.5 states that, take measures to ensure the development of a friendly family atmosphere. But how can they make it? These children parents are in prison. Without their father or mother how is it possible?

Point no 6.11.1 states that, government will provide right to the underprivileged community's. Here also it is not clearly said that the prisoners children are the underprivileged children.

The Bangladesh Jail Code

In Bangladesh Jail Code Section 957 and 959 only said about the children who born in prison. There only said about how much time they spend with their mother in prison but what will be after separation from their mother that is not said there and what will be the facility for them this is also not mentioned there.

Day Care Centre

“The Shishu Academy is carrying out a project financed by the Women and Children Affairs Ministry by establishing "pre-education centers" in 10 jails Dhaka Central prison, Kashimpur prison in Gazipur, Rangpur Prison, Rajshahi prison, Chittagong prison, Mymensingh Prison, Jessore Prison, Comilla Prison, Sylhet Prison and Barisal Prison across the nation for kids as young as four years old. The Shishu Academy is carrying out the education program for "jail children" in accordance with the National Curriculum and Textbook Board's (NCTB) curriculum as part of the "Preprimary Education for Flourishing of Children" project. The project provides educational resources to the jail centers.”²⁹

This is a great initiative by Shishu Academy establishing the project "pre-education centers" in 10 jails but this is only in 10 jails. What about the other jails children pre education? They are deprived from it .

Now I will discuss what will be the effects of the children because of their parents incarceration and what will the impact of them for their parental imprisonment.

3.4 —Impact of Parental Incarceration on Children

The detrimental impacts of imprisonment have spread from the individuals who are imprisoned to their families and the wider society as incarceration rates have risen in Bangladesh. “Policymakers, historians and psychologists do not frequently use the term "punishment drift," yet the detrimental effects of child detention have been extensively studied and recorded for years. The impacts are divided into three groups: psychological, economic, and environmental effects.”³⁰

Psychological Impact

On children, punishment drift can have a variety of detrimental effects, including psychological and social ones. The family dynamic of a child is upset by imprisonment, which also adds unneeded emotional stress. “Children may experience a variety of unfavourable consequences from it, including embarrassment, increased delinquency, and antisocial behaviour. Studies showed that, Parental incarceration has been connected to juvenile offences include sexual misbehaviour, truancy, drug misuse and gang involvement.”³¹ “According to a 2009 study,

²⁹ Zyma Islam, ‘Prison babies: childhood behind bars ,growing up with an incarcerated mother’ *The Daily Star* (Published on October 20,2017) < <https://www.thedailystar.net/star-weekend/spotlight/prison-babieschildhood-behind-bars-1478830?amp> >

³⁰ Medison Alliston, ‘How to Combat the Negative Effects on Punishment Drift on Children’ (Honours Theses.2695, University of Mississippi 2022) < https://egrove.olemiss.edu/hon_thesis/2695 >

³¹ Lois E. Wright, Cynthia B. Seymour, ‘Effects of Parental Incarceration on Children and Families’ (Perdue University, 2000)

20% of the kids in the sample showed signs of becoming more violent. In addition, boys in particular tended to exhibit violent behaviour and delinquent behaviour after experiencing the negative effects of parental incarceration.”³² “According to research by the National Council on Family Relations, children’s despair and anxiety rose 5%–6% and their aggressive behaviour rose 18%–33% after seeing parental detention.”³³

Economic Impact

Children’s growth and development can suffer from punishment drift since it exacerbates and multiplies the many economic disadvantages currently facing them. “Children’s socioeconomic well-being is the first and most obvious economic impact of parental incarceration because they frequently have to bear financial obligations when one of their parents is away.”³⁴ “In fact, the average reduction in family income due to parental incarceration is 22%.”³⁵

“According to a 2009 study, children whose parents are incarcerated have financial challenges, are less likely to live in two-parent households, and are more likely to experience housing instability.”³⁶ As a result of families’ potential financial difficulties and inability to pay for their children’s fundamental needs.

Environmental Impact

“Child abuse is a result of poverty’s affects and may have psychological and behavioral repercussions.”³⁷ When a child’s family environment is disrupted, it may result of physical aggression, mental abuse, and neglect.

“According to research, there is a connection between parental incarceration and children’s low educational achievement.”³⁸ “Children’s mental health and behavioural issues might worsen while they are incarcerated, which can affect their academic achievement and cause them to

< https://www.purdue.edu/hhs/hdfs/fii/wp-content/uploads/2015/07/s_mifis05c03.pdf >

³² Eric Martin, “Hidden Consequences: The Impact of Incarceration on Dependent Children” (March 2017) Issue No.278 NIJ Journal .

³³ Sara Wakefield, Christopher Wildeman, Contact with Child Protective Services is Pervasive but Unequally distributed by race and ethnicity in large US countries” June 2021, PNAS
<<https://www.pnas.org/doi/10.1073/pnas.2106272118> >

³⁴ Lois Erdmann Wright, Cynthia B. Seymour, ‘Effects of Parental Incarceration on Children and Families’ (Perdue University, 2000)
< https://www.purdue.edu/hhs/hdfs/fii/wp-content/uploads/2015/07/s_mifis05c03.pdf >

³⁵ Eric Martin, “Hidden Consequences: The Impact of Incarceration on Dependent Children” (March 2017) Issue No.278 NIJ Journal .

³⁶ Amanda Geller, Irwin Garfinkel, Carey E. Cooper, Ronald B. Mincy, “Parental Incarceration and Child Wellbeing: Implications for Urban Families” (National Library of Medicine, 1 December 2010)
< <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2835345/> >

³⁷ Lois E. Wright, Cynthia B. Seymour, ‘Effects of Parental Incarceration on Children and Families’ (Perdue University, 2000)
< https://www.purdue.edu/hhs/hdfs/fii/wp-content/uploads/2015/07/s_mifis05c03.pdf >

³⁸ Eric Martin, “Hidden Consequences: The Impact of Incarceration on Dependent Children” (March 2017) Issue No.278 NIJ Journal .

repeat grades.”³⁹ In addition to behavioural issues, a lack of parental participation can make kids feel lonely and prevent them from learning to their full potential in school.

3.5 — Conclusion

Although they are prisoners, these men and women are also parents. The same as others parents, they share the same goals and dreams for the lives and futures of their children. “According to research, those who remain close to their families while incarcerated have a better chance of succeeding once they are released.”⁴⁰ Correctional facilities, state agencies, and social service organisations must actively promote these connections and actively work to strengthen the links between incarcerated parents and their children.

³⁹ Sara Wakefield, Christopher Wildeman, Contact with Child Protective Services is Pervasive but Unequally distributed by race and ethnicity in large US countries” (June 2021) PNAS
<<https://www.pnas.org/doi/10.1073/pnas.2106272118> >

⁴⁰ Creasie Finney Hairston, “The forgotten parent: Understanding the forces that influence incarcerated fathers' relationships with their children” (1998) Child Welfare, Vol 77, No5, pp.617–639 JSTOR
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Chapter 4

International Aspect

4.1 — Introduction

In general, determining the rights of inmates' children is a difficult issue. Although prisoners' children are not generally recognised as a distinct group, they may benefit from rights under other legal provisions, such as those relating to prison rules, rules for prisoners who are pregnant and general human rights provisions. The United Nations Convention on the Rights of the Child (UNCRC) 1989's provisions have been implemented into domestic law in the majority of nations.

Now I will give idea how international law deals with the rights of children whose parents are incarcerated, as well as how our neighbouring country India and the UK as western developed country, deal with this matter.

4.2 International Obligation

“At the international level, the Salvador Declaration of the 12th UN Crime Congress (Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and their Development in a Changing World, 2010) and other UN bodies have emphasised the need to address the needs of children of prisoners while also taking into account their human rights.”⁴¹

“The duties imposed by the UNCRC are the most important international commitments that concern children. This convention does not specifically address how parental imprisonment affects children, but because it takes a holistic approach, it includes rights for prisoners' children that have been called "ample".”⁴² “The four guiding principles of the Convention must be studied in conjunction with each of the other sections. Therefore, the four key principles are: non-discrimination (Article 2); the child's best interests (Article 3); the child's right to life, survival, and development (Article 6); and the child's right to express their opinions (Article 12). The best interests of the child must be the top priority in all legal proceedings involving children, according to Article 3.

There are also specific provisions that apply to prisoners' children, such as Articles 9(1) and 9(3), which state that kids shouldn't be kept apart from their parents unless it's absolutely necessary to protect their best interests, and that even then, they need to have regular, one-to-one contact with both parents. Following the Convention, the UN Committee on the Rights of

⁴¹ Helen Codd, “The Rights of Children of Imprisoned Parents” (2019), UCLan.

⁴² Fiona Donson & Aisling Parkes, "Weighing in the Balance: Reflections on the Sentencing Process from a Children's Rights Perspective." (2016) Volume 63, Issue 3. SAGE journals
< <https://journals.sagepub.com/doi/abs/10.1177/0264550516649575> >

the Child (CRC) established that these best interests determinations should be incorporated into a number of aspects of the criminal justice system as experienced by prisoners children.”⁴³

“(QUNO), which has led the way in identifying and publicising global perspectives on a range of issues relating to the children of incarcerated parents, has made a significant contribution to UN policy-making and continues to do so.

By hosting a Day of General Discussion on September 30, 2011 CRC demonstrated its dedication to fostering and sustaining the wellbeing of inmates children. This led to the creation and publication of guidelines on a variety of impacts of the criminal justice system on children, including those relating to parental detention and arrest, the confinement of mothers, babies, and children, and further exploration of pertinent issues. In its closing views, the CRC has continued to show interest in and dedication to the rights of children affected by parental incarceration since the Day of General Discussion in 2011.”⁴⁴ “On April 14, 2014 the Third Optional Protocol to the Convention on the Rights of the Child entered into force, giving kids or their representatives the chance to access justice on a global scale.”⁴⁵

4.3 — India’s Perspective In this Issue

“The Constitution of India have several Articles for protecting the rights of the children. United Nations established The Declaration of All the Rights of the Child in 1959, and it is adopted in Article 24 of the International Covenant on Civil and Political Rights 1966. The Children's Act 1948 contains extensive measures that address this issue.”⁴⁶

There are not directly said in their law about the Children of incarcerated children but the Court has accepted International Conventions is being enforceable when they clarify and put into practise constitutionally guaranteed rights. It was said in **Vishaka v. State of Rajasthan**⁴⁷ and In **Sheela Barse v. Secretary, Children's Aid Society**⁴⁸ case that children are the citizens of the future age and that the correct upbringing of children and providing them with the right training to become decent citizens depends on the future of the country.

“According to a 2002 report by the National Institute of Criminology and Forensic Science (NIFC), the majority of children lack access to basic right and protection. The Tata Institute of Social Science's field action initiative identified five key issues. At first children's growth and development were hampered by the prison atmosphere. Secondly, the majority of children never have a typical family life. Thirdly, prison life has a negative impact on people's social

⁴³ Laurel Townhead,“. Briefing Paper: Children of Incarcerated Parents - International Standards and Guidance (2015)Geneva: Quaker United Nations Office.

⁴⁴ Helen Codd,“The Rights of Children of Imprisoned Parents“(2019),UCLan.

⁴⁵ Jane Fortin, “ Children rights and the developing law”(2012) Pp. 3-32, Cambridge University press < <https://www.cambridge.org/core/books/abs/childrens-rights-and-the-developing-law/theoretical-perspectives/8D68F85883B630B2183B6B332984DBC7> > accessed on 9 March,2023.

⁴⁶ *R.D. Upadhyay vs State Of A.P. & Ors* (13 April, 2006) [Writ Petition (Civil) No. 559 of 1994]

⁴⁷ *Vishaka v. State of Rajasthan* [1997] 6 SCC 241

⁴⁸ *Sheela Barse v. Secretary, Children's Aid Society* [1987] 3 SCC 50]

behaviours. Fourthly, the continual moving from one prison to another disturbed the youngsters. Finally, the kids in the jail displayed violent and aggressive characteristics.

The Supreme Court established guidelines after considering numerous reports, affidavits, and submissions, which include: -

1. Children living with parents in prison should not be treated as convicts or under-trial; they should be entitled to food, shelter, medical care and other basic rights.
2. When a female prisoner is found or suspected of being pregnant, she must be taken to the district government hospital for a medical examination and delivery, if necessary.
3. The prisoners ought to be granted a brief respite from custody for delivery.
4. The children should spend their first six years of life in jail with their mother. They will then be given to the surrogate of the mother's choosing or to a fitting facility managed by the Social Welfare Department. Until their mother is released from care or until they are old enough to support themselves, such children must be maintained in protective custody.
5. They should have access to appropriate educational and recreational options while incarcerated, and women who are also parents should not be housed in sub-jails unless adequate facilities are provided.”⁴⁹

“When sentencing offenders who have children, courts should consider the guidelines, and several state legislatures have passed legislation to assist children in this situation. Children of prisoners serving two years in Kerala receive a stipend, and in West Bengal, the government will provide financial assistance to inmates children who are enrolled in high school or a college.”⁵⁰

4.4 — UK’s Perspective In this Issue

“A variety of children's rights are outlined in the UNCRC and ECHR, which the UK has ratified. A set of rights are granted to both adults and children under (ECHR), an international agreement that was signed in 1950. Most of the ECHR became UK law to the Human Rights Act 1998. This implies that if the children’s rights have been violated, children can file a complaint to a UK court and, if their claim is denied, take it to the European Court of Human Rights.”⁵¹

“In England the Government also provide Social Care Service who needed it specially the children and old people. If the government thinks this children need care the government will provide the services under The Care Act 2014 in England and The Social Services and Well-being (Wales) Act 2014 in Wales.”⁵²

⁴⁹ *R.D. Upadhyay vs State Of A.P. & Ors* (13 April, 2006) [Writ Petition (Civil) No. 559 of 1994]

⁵⁰ *ibid*

⁵¹ Children and the law,(2022) NSPCC Learning < <https://learning.nspcc.org.uk/child-protection-system/children-the-law> >

⁵² “Health and Social Care Right”,mind < <https://www.mind.org.uk/information-support/legal-rights/health-and-social-care-rights/about-social-care/> >.

“One example of this is the UK Court of Appeal, “which held that a mother with dependent children convicted of a nonviolent crime should not be imprisoned where an alternative was available.”⁵³

Children's rights should be given top priority in discussions of criminal justice debates and judicial decisions making, the Commissioner for Children and Young People of Scotland demanded in 2008. The UNCRC's child's best interests principle, which mandates that the rights and best interests of children must always come first in all decisions involving children, served as the foundation for this. This idea has become widely accepted in UK case law, most notably in the ZH (Tanzania) decision of the UK Supreme Court.

“A Scottish High Court Appeal resembled this interpretation of the importance of a dependent child's interests to the punishment of an offender.”⁵⁴

The Children and Young People (Scotland) Act 2014 is a crucial step in tackling the problem of the lack of comprehensive support networks for children of prisoners. According to the Criminal Justice (Scotland) Act 2016, Scottish Ministers are required to inquire of inmates about any dependent children they may have.

The Scottish Government's acknowledgment that imprisonment is an inappropriate punishment for the majority of female offenders comes from its statement in early 2015 that building on HMP Inverclyde would be put on hold. The Guidelines, which were created in 2009 by Working with Children and Families of Prisoners and modified in 2013, include features meant to make jail visits more kid- and family-friendly.”⁵⁵

There are some Children's Charity for these vulnerable children's, for example “Families Outside are a national charity in Scotland working on behalf of families of prisoners.”⁵⁶ “Barnardo's offers 21 services to assist children and families affected by parental incarceration in all four UK countries. They are supporting the entire family of the vulnerable population.”⁵⁷ And “NICCO⁵⁸ compiles detailed data from governmental and nonprofit organisations in England and other countries. The three directories give professionals the ability to do searches for Services, Resources or Research to guide their work with children and families of offenders.”⁵⁹

⁵³ *R v Mills* [2000] CR APP R 52

⁵⁴ *Gorrie v. Procurator Fiscal, Haddington* [2014] HCJAC 10.

⁵⁵ Candice McGilivray, Rendering them Visible: a review of progress towards increasing awareness and support of prisoners families “(2009), Families Outside .
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⁵⁶ Kristy Deacon, “ The rights of children and young people as family members of prisoners and as prisoners with family members”(2020), FACULTY OF LAW BLOGS / OXFORD OF UNIVERSITY.
< <https://blogs.law.ox.ac.uk/research/global-prisoners-families-research-group/blog/2020/12/rights-children-and-young-people> > accessed on 29 April, 2023

⁵⁷ Proposed Theme For Day of General Discussion: Children of Imprisoned Parents (2010), bice.org.
< https://bice.org/app/uploads/2014/10/cde_2011_enfants_detenus_EN.pdf >.

⁵⁸ NATIONAL INFORMATION CENTRE on children of offenders.

⁵⁹ Sara Kincaid, Manon Roberts, Professor Eddie Kane, “Children of Prisoners fixing a broken system” (2019).

4.5 — Conclusion

“Even though reports about the hardship of children of prisoners date back at least to 1963, the topic hasn't being given importance globally until recently.”⁶⁰ The rights of the children are often badly impacted when a parent is taken away from them in order to put them in jail. These rights include the core principles of the right to development, the right to equality and ultimately, the right to the child's best interests. Next chapter will be my last chapter. In this chapter I will discuss what is my findings and give recommendations for them also with the conclusion remark.

⁶⁰ Pat Burton, “Children of Prisoners: Passive victims or human with rights?”, (Masters thesis, University of Tasmania 2012). < https://eprints.utas.edu.au/19334/1/whole_BurtonPatrickGerard2013_thesis.pdf >

Chapter 05

Findings and Recommendation

5.1 — Introduction

Children are the vulnerable groups in the society .So when the decisions are taken about the children, it should be made on the basis of best interest principle. The rationale behind the concept is that children require special protection because they are less fortunate than adults and as a result, their interests shouldn't be ignored or mixed up with other interests while making decisions. The children of incarcerated parents are the most ignored groups n the society so they needed special care from other children. Now I will discuss what I find from the thesis and give also proper recommendations for the findings.

5.2 — Findings and Recommendation

The children of incarcerated parents are most vulnerable, neglected groups in the society. There are two types of incarceration of children one whose parents are in prison and others one who are in prison with their parents. However, the following are some potential outcomes that might be drawn from a thesis on the rights of prisoners' children in Bangladesh:

Legal Rights

We found from the analysis that children of incarcerated parents in Bangladesh face various challenges related to their legal rights, Without The Children Act 2013 no other law recognized those children but do not ensure their right properly, Jail Code slightly touch only the children who stays prison with their mother. There are also no statistics how many children's parents are in prison. So the government may,

1. Make any law or policies for only the children whose parents are incarcerated (any of them) by this law which ensure the right and welfare of these children.
2. There are no data or statistics how many children parents are incarcerated. So make a correct database of them (Keep in mind that among them how many are minors).
3. Sadly, the imprisonment of a parent or other adult guardian disrupts the lives of many children. The government should be forced to restructure prison sentences, particularly for less serious offenders, as a potential remedy for the harmful environmental impact on children. The sentence may be given focused on,

Family focused Sentencing

Implementing family-focused sentencing measures is one strategy to reduce prison terms and positively impact kids who are affected by punishment drift. “When evaluating how much time a person must spend behind bars, family-focused approaches take into account the seriousness of the crime committed, the dangers and strengths of the offender, and the offender's family background. Additionally, this strategy enables offenders to obtain community service, home arrest, and penalties as alternatives to jail sentences .Because it takes into account the role an offender plays as a caregiver, this interdisciplinary approach to sentencing would be in conformity with the fair and effective sentencing standards established by the National Conference of State Legislatures.”⁶¹

Stigmatisation and discrimination

Due to their familial circumstances, children of incarcerated parents might face stigma, discrimination, and social isolation, which can have long-lasting effects on their well-being and social improvement.

The government as well as the NGOs need to come forward to solve the problem. Public awareness is very important. The media can also play an important role here. They can make a campaign or show on television or social media that the children of incarcerated parents are not the burden of society or that they are the same children as others.

Negative effects on children's welfare

Children who live with their mother's in prison endure a variety of difficulties and unfavorable effects, including issues with their physical and mental health, developmental delays, academic difficulty, and social stigma. A child's wellbeing may be negatively impacted for a very long time if they face separation from their primary caregiver and live in a very constrictive and stressful environment and those children whom are not in prison they are also effected with these issues.

Unfortunately, the imprisonment of a family member puts many families in financial danger. Therefore, providing financial aid to children of incarcerated people could be a way to lessen the financial strain on them. The government may give,

Child Allowance

One option to make sure children are receiving welfare help is to implement a child allowance that will be given to any child affected by parental incarceration. They may give monthly allowance until their back to the prison and any minor child whose parent is behind bars would be qualified for this stipend.

⁶¹ Lauren Feig,” Breaking the Cycle: A Family Focused Approach to Criminal Sentencing in Illinois”, (Advocates Forum. University of Chicago, Crown Family School of Social Work, Policy and Practice, 2015). [Publication]. < <https://crownschool.uchicago.edu/sites/default/files/uploads/Breaking> >

Support Centre

Ensure that there are sufficient support mechanisms in place, including mentoring, counselling, and access to healthcare and education. With such assistance, children's well-being can be less negatively impacted by their parents' incarceration and they may thrive despite their circumstances.

Prison system

Prisons need to be more accessible for the children and spouses. Unfortunately in our current prisons are not suitable for the children who stays in prison with their mother. Though it is not to easy to change the prison environment or system easily it's a very lengthy process so, the government may initiate,

Open prison

In Bangladesh, a system of open prisons might be implemented as a means of improving jail accessibility and minimising the impacts of punishment drift. “Offenders can live like regular people in a prison without bars under an open prison system, which has been adopted in nations including Finland, Sweden, and Norway”⁶². “Offenders at the Suomenlinna Island can leave the prison premises to work, study, or visit family. They are allowed to wear their own clothes, and can interact with other inmates and employees in the dining hall and gym. To maintain compliance, inmates frequently wear electronic monitoring when having family visits”⁶³. Systems developed in European nations would serve as a model for the implementation of open prison systems.

Overall, the results of a thesis on children of imprisoned parents may emphasize the detrimental effects of parental incarceration on children's development and well-being, the value of support systems, and the necessity of legislative and regulatory changes to defend the rights of these children.

⁶² Magne Mogstad, Gordon Dahl, Katrine Loken, Manudeep Bhullar, “Incarceration can be rehabilitative”, (VOX. Center for Economic and Policy Research, 2019)..

< <https://cepr.org/voxeu/columns/incarceration-can-be-rehabilitative> >

⁶³ Dorian Larson, “Why Scandinavian Prisons Are Superior” (The Atlantic, 2013)

< <https://www.theatlantic.com/international/archive/2013/09/why-scandinavian-prisons-are-superior/279949/> >

5.3— Conclusion

In concluding this discussion I would like to submit that solution is that the government may, Make law these children, Start family focused sentencing, Increase public awareness, Give child allowance to these children, Make support centre for them and Start open prison system.

The additional research is needed on the issue of children of prisoners. Estimates are used to establish the number of children impacted, which is concerning from both a researcher's and an advocate's point of view. Although the advocacy for the rights of children of prisoners by international and national organisations is being discussed in the UN, it appears that interpreting the different charters into law and policy is a struggle. Despite this, a variety of publications have been created in response to worries about their rising numbers, which is consistent with rising rates of parental incarceration (especially for mothers) and due to the numerous problems the kids face and their complex personalities. Sustaining the family relationship should not be seen as giving the offender a favour, but rather as doing so for ourselves and our society. Ideally, the definition of "victims of a crime" should include children, families, and community members in addition to the individuals directly implicated in the crime. This awareness of a wider influence will motivate individuals to play a bigger part in reducing Bangladesh's crime and incarceration rates.

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