

# Promising Practices

## On the Human Rights-Based Approach in German Development Cooperation. Justice Reform: Improving the Situation of Overcrowding in Prisons in Bangladesh

### Background

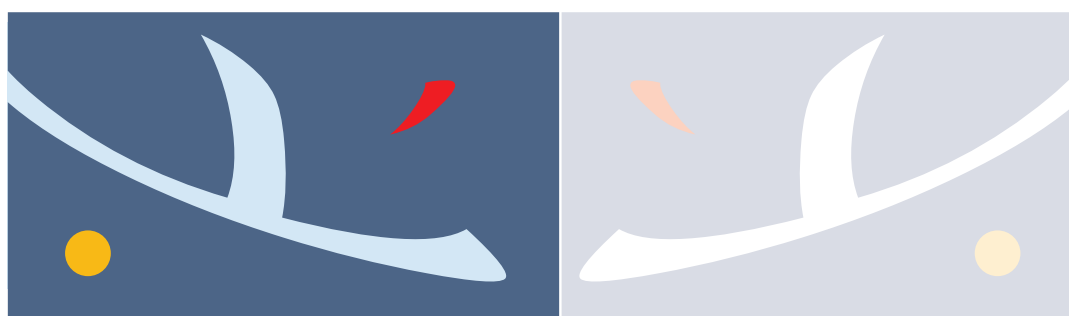
Prisons in Bangladesh are severely overcrowded by over three times their actual capacity. This is due to an inefficient, irregular and anachronistic criminal justice system. Bangladesh's prisons are governed by laws which date back to the 19th century. Many people, particularly the poor, face severe violations of their human rights.

Prisoners have limited access to legal assistance. Many prisoners spend months or years awaiting a court date. A staggering 70 % of the prison population is yet to be convicted. Frequently the length of pre-trial detention exceeds the eventual sentence. Convicted detainees often stay longer in prison than their actual term because the prison administration has lost overview of lengths of sentence. Many people are detained for minor offences which can be associated with poverty. Release on parole or on probation is uncommon. Women and children who have become victims of violent crimes, such as human trafficking or rape, are kept in prisons for their own 'safety' rather than because they have committed any type of crime, as they don't have a safe place to stay. This practice is called "safe custody".

The conditions under which prisoners are held are appalling, contravening all international human rights standards. For example, up to 200 inmates share one cell of just 40 m<sup>2</sup> forcing them to sleep in turns. Juvenile and unconvicted offenders are often housed with convicted felons. Food, sanitation and hygiene are inadequate; violence and infectious diseases such as tuberculosis are rampant. It is reported that prisons become breeding grounds for disease, crime and religious fundamentalism.

The objective of the joint Bangladesh-German project 'Improvement of the Real Situation of Overcrowding in Prisons in Bangladesh' (IRSOP) is to reduce prison overcrowding and improve legal protection for poor and vulnerable prisoners. There is a focus on speeding up the release of those detainees whose detention was unlawful or disproportionate, especially women, children and other disadvantaged groups.

The project is carried out in cooperation with the Bangladesh Ministry of Home Affairs, the Prison Directorate and GIZ. It is financed by the German Ministry for Economic Cooperation and Development and co-financed by Spain and the UK. The project started in 2008 and is expected to run until 2018.



## Human rights framework

The right to equality before the law, due process, a fair trial and human treatment in detention are codified in a number of articles of the International Covenant on Civil and Political Rights (ICCPR), namely articles 7, 9, 10, 11, 14, 15, 16, and 26.

ICCPR [General Comment Nr. 13](#) on the administration of justice specifies the core guarantees regarding a due and fair process.

In addition, detainees also have the right to enjoy basic economic, social and cultural rights such as their right to adequate food, water, sanitation and health as codified in the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The state also must respect and protect the specific provisions detailed in the conventions on women's rights (CEDAW), the rights of the child (CRC) and the rights of persons with disabilities (CPRD).

Bangladesh has ratified these conventions and thereby has the legal obligation to respect, protect and fulfil the human rights standards contained therein.

## Towards a Human Rights-Based Approach

IRSOP supports the Government of Bangladesh to fulfil its obligations under international human rights law. As an entry point issues of overcrowding were addressed by discussing challenges to public health and security. Afterwards practical low-cost interventions have been identified that can quickly and permanently reduce the prison population.

Approaches which have illustrated successes from around the world have been adapted to suit the Bangladesh context. For example, a major activity area has been the establishment of **paralegal aid services**. Paralegals work to bridge the gap between prisoners, courts, police and lawyers, and to provide legal assistance to some of Bangladesh's most poor and vulnerable prisoners.

Paralegals have been trained and are operating in three pilot prisons (out of 68 prisons in total) – Dhaka Central Jail, Bogra District Prison and Madaripur District Prison, work in seven further prisons will begin in 2013 and it is planned that by 2017 IRSOP will work in 40 prisons in total. An intensive training programme was designed following a multi-agency approach. Training for paralegals is delivered by judges, magistrates, police and prison officials and lawyers. Three non-governmental organizations, BRAC, Bangladesh Legal Aid and Services Trust (BLAST) and Madaripur Legal Aid Association (MLAA), provide support services to the paralegals in Dhaka, Bogra and Madaripur, respectively. Paralegals are not lawyers; they are the paramedics of the

criminal justice system, who are bound by a very strict code of conduct agreed with prison authorities.

Through a census of the prison population in three sites, paralegals gather information on the legal status of prisoners and then present this information to lawyers, prosecutors, courts, police and prisons to ensure that appropriate action can be taken. Members of these institutions meet monthly in Case Coordination Committees (CCC) to act on the information from their local prisons. The census serves as a baseline against which the committee members will measure their success. The data from these surveys reveals, for example, the percentage of prisoners who are poor; who have legal representation; the average time spent in custody pending trial; the number of women and children in prison, including women and girls in safe custody; the percentage who were granted bail, but cannot afford the terms; or the percentage of prisoners who have overstayed the term of their warrant.

Paralegals also provide free legal assistance to prisoners and their families. Or they attempt to locate the prisoner's family or contact his/her embassy should they be a foreign national. Paralegals also hold courtyard clinics to educate prisoners on basic legal procedures, from arrest to appeal, so that they can apply the criminal law and procedures in their own cases if they lack the means to engage a lawyer. At their request paralegals may also provide legal and social support to persons on their release from prison.

The second set of project activities seeks to **address the training needs of prison staff** as identified by the Inspector General of Prisons, especially concerning risk assessment of prisoners under sentence. The Prison Directorate estimates that a large number of the prison population is made up of persons sentenced for or accused of minor crimes, who pose no real threat.

At the same time the project supports government agencies, such as the Prison Directorate, the Ministry of Home Affairs, the Ministry of Law, Justice and Parliamentary Affairs or the National Legal Aid Services Organisation, in their **efforts towards reforming the criminal justice system as a whole**. It provides expert advice and support on revising the colonial Jail Code from 1864 to draft a new contemporary Prison Act. The project also facilitates dialogue among all relevant actors on improving the provision of legal aid through the state.

The project has generated great interest among members of Bangladesh's judiciary. The Chief Justice of Bangladesh has appointed three Justices of the Supreme Court to advise and guide the project.

## Achievements and Impact

By March 2013, **over 21,417 legal interventions had taken place**, comprising of legal advice and assistance by paralegals. Case Coordination Committees are operating successfully in Bogra and Madaripur.

These two mechanisms together have been able to achieve the release on condition or a **discharge of over 2,500 prisoners** in the three pilot sites.

It is estimated that this number will increase significantly once the work at Bangladesh's largest prison, Dhaka central jail, is scaled up. The Government is currently evaluating how and when they will adopt the mechanism of paralegals to roll out across the country, which will undoubtedly lead to an increase in the number of releases.

The **situation for juveniles and women** has improved significantly. The cases of 'safe custody' in Bogra or Madaripur have decreased and there are no longer juvenile offenders in these prisons. Whenever a juvenile enters the prisons he or she is now referred directly to the paralegals.

Support for the approach at institutional level has yielded results. For the first time the Prison Directorate has drafted a **strategic plan**, which will allow issues such as the rehabilitation of prisoners, training of staff and support for vulnerable prisoners to be prioritised over the next five years. Furthermore, GIZ has been asked by the Ministry of Home Affairs to support the **drafting of a modern Prison Act** to replace the colonial Jail Code. IRSOP assisted these processes with external expert advice.

A perhaps less tangible but highly significant side effect is that **trust and collaboration** between key stakeholders has improved

which has had a positive effect on transparency and effectiveness of the criminal justice system as a whole.

Overcoming its initial hesitation to discuss human rights issues, the Government of Bangladesh now prides itself on being a beacon for improving the human rights in prisons in South Asia. In October 2010, the Government, supported by IRSOP, organised an **international conference on prison reform**, during which the 'Dhaka Declaration on Reducing Overcrowding in Prisons in South Asia' was developed. It highlights that imprisonment should be a remedy of last resort and urges governments to use pre-trial detention less frequently and for shorter periods. It also makes recommendations to amend relevant laws accordingly.

## Challenges

Whereas the project has been able to achieve the release and access to justice for many prisoners in the pilot sites, there still is a high influx of prisoners due to **wider systemic challenges** in the criminal justice system. Addressing this issue requires a review of the criminal justice system as a whole: arrest and pre-trial detention, modes of investigation etc. It is therefore necessary for the government to seriously consider and enforce alternatives to custody such as parole or probation, as well as to strengthen the existing legal aid system.

Further, many prisons were built during colonial times. Some are **dilapidated** and nearly all **lack the necessary amenities** such as power generators, air-conditioning etc. The prison system is also suffering from a lack of modern information technology, which would allow them to record information relating to prisoners effectively and reliably. Software has been developed, however the surroundings are not fit for computers. Prisons therefore need to be renovated and modernized from top to bottom.



Paralegals enter a prison



Juliane Osterhaus,  
[juliane.osterhaus@giz.de](mailto:juliane.osterhaus@giz.de)

Promita Sengupta  
[promita.sengupta@giz.de](mailto:promita.sengupta@giz.de)

*Paralegal in conversation  
 with a judge*



## Lessons Learned

Working with such a sensitive topic requires **respect for political sensitivities** and needs trust from all sides. It was not necessary to mention human rights in order to achieve major improvements in the human rights situation of prisoners.

From the beginning of the project it has proved crucial to **build trust among all stakeholders**. **Transparency** between stakeholders is mandatory to achieve the agreed goals. The project always communicates next steps, achievements, challenges, etc. with all concerned stakeholders. This has helped the project team to build enormous trust and justifies the decision that Germany is the only donor country that is allowed to assist Bangladesh to reform their prison system.

Moreover, it is crucial to come up with **local solutions to local problems**. Beneficiaries have to identify their needs and stakeholders must develop tools or ideas that fit the local context. This has clearly shown validity in the process of drafting a strategic plan for the Prison Directorate, which was supported by international experts but always focused on local problems and realistic solutions.

Published by Deutsche Gesellschaft für  
 Internationale Zusammenarbeit (GIZ) GmbH

Registered offices  
 Bonn and Eschborn, Germany

Cross sectoral programme  
 'Realising Human Rights in Development Cooperation'  
 Dag-Hammarskjöld-Weg 1-5  
 65760 Eschborn, Germany  
 T +49 (0)61 96 79 - 1523  
 F +49 (0)61 96 79 - 801523  
[sv-menschenrechte@giz.de](mailto:sv-menschenrechte@giz.de)  
[www.giz.de](http://www.giz.de)

Layout Ira Olaleye

As at April 2013

GIZ is responsible for the content of this publication.

In cooperation with German Institute for Human Rights  
 Zimmerstraße 26/27  
 10969 Berlin, Germany

On behalf of Federal Ministry for Economic  
 Cooperation and Development (BMZ)

Division Human rights; gender equality; culture and development

Addresses of the  
 BMZ offices

**BMZ Bonn**  
 Dahlmannstraße 4  
 53113 Bonn, Germany  
 T +49 (0)228 99 535 - 0  
 F +49 (0)228 99 535 - 3500

[poststelle@bmz.bund.de](mailto:poststelle@bmz.bund.de)  
[www.bmz.de](http://www.bmz.de)

**BMZ Berlin**  
 Stresemannstraße 94  
 10963 Berlin, Germany  
 T +49 (0)30 18 535 - 0  
 F +49 (0)30 18 535 - 2501