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A Scenario of Probation System in Bangladesh: An Appraisal

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ABSTRACT

When looking at the history of legal actions in Bangladesh, considerable legal advancements have been made in the area of access to offenders throughout the last century, with a focus on allowing access to minors. Probation, on the other hand, is still a relatively new concept in the criminal justice system. The unnatural congestion of inmates in prisons as a result of an over-reliance on imprisonment as a sole means of punishing offenders has a devastating impact on inmates both before and after their release. To get out of such a bad scenario in prison, offender-friendly methods must be considered as an alternative to imprisonment, notably enhancing the existing probation system. This study tries to put the recommendations for relevant attention into action in light of realistic needs and analyzes how to activate the probation system and enhance important laws and policies for the wider goal of reducing the number of overcrowded inmates in prisons, reforming offenders for specific crimes, and reintegrating them into society as decent citizens.

Keywords: Probation, inmates, minor, offender, legal, system, reform, imprisonment.

I. INTRODUCTION

In addition to the jail system, there has been a need for other reformative methods since the middle of the nineteenth century. The decision to enter the criminal justice system is extremely critical. Criminals are judged and punished in every civilized country. In truth, no amount of chastisement can completely dissuade a criminal from committing a crime. The imposition of severe punishment can neither guarantee an offender's disinclination for crime nor his/her prospect of being re-established as a rectified civilian in a society. In light of this, criminologists, modern intellectuals, and social workers have devised a system of constructive reformation rather than the usual punishment to help the criminal. While joining the developed world is a wise move, it is new to our country. Probation is a type of legal reformation in which the offender's punishment is suspended in order to expect acknowledged behavioural and characteristic sanitization from him/her in the neighbourhood under the supervision of a probation officer. Probation is a well-defined course of action intended to restore the offender's

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manageable behaviour. It should be emphasized that the admission procedure in our country is handled by the Department of Social Services, which is part of the Ministry of Social Welfare. The offender is brought back into society as a good citizen, with the opportunity to reform himself/herself by instilling moral principles in his/her heart through these activities. However, as feared, our country's admission procedure has failed to set any precedent. It is unknown how many offenders have been rehabilitated through release at various times. The current article makes recommendations for activating the admission system and upgrading key laws and policies in light of realistic demand and analysis.

(A) Objective of the Study

The overall goal of this research is to identify and analyze the evolution and operation of the probation system within the judicial framework of Bangladesh, with a particular focus on the following objectives:

- Rehabilitation of the criminal through social and psychological healing, i.e., discovering the crime's core causes.
- Keeping adolescent criminals out of the dreaded prison atmosphere.
- Re-establishing wrongdoers in society when they have been reformed.
- Attempting to change the negative attitude of the parents, other relatives, and neighbours into sympathy for the offenders.
- Allowing offenders to regain their reputations as helpful and responsible members of society.
- Preventing an offender from being labeled as a 'tainted miscreant' is only a misdemeanour.
- Giving the offender a chance to purify himself/herself for the first time.
- Providing offenders with various sorts of technical training in order to rehabilitate them.
- Attempting to reduce the rate of criminal offenses in society.
- Scrutinizing the existing laws (both substantive and procedural) in Bangladesh to ensure smooth service of probation.
- Monitoring the practice of probation in Bangladesh.
- Examining the discrepancies between the law and probationary practice in Bangladesh.
- Proposing effective policy ideas and methods for implementing alternatives to incarceration in Bangladesh, with a concentration on probation.

II. DEFINITION AND CONCEPT OF PROBATION

The word ‘probation’ originated from the Latin term ‘probare’, denoting “to prove” or “to test”, which eventually indicates, “I prove my worth”.

Probation is variably defined under different laws as an “order for conditional discharge” or “an order requiring [the offender] to be under the supervision of Probation Officer”.²

According to Wikipedia, “Probation in criminal law is a period of supervision over an offender, ordered by the court often in lieu of incarceration.”³

National Commission on Law Observance and Law Enforcement defined, “Probation is a process of treatment, prescribed by the court for persons convicted of offences against the law, during which the individual on probation lives in the community and regulates his own life under conditions imposed by the court (or other constituted authority) and is subject to supervision by a probation officer”⁴

Edwin H. Sutherland defines, “Probation is the status of a convicted offender during a period of suspension of the sentence in which he is given liberty conditioned on his good behavior and in which the state by personal supervision attempts to assist him to maintain good behavior.”⁵

About probation Cavan quotes, “It is a type of suspended sentence, buttressed with legal restrictions, and implying study of the offender’s personality and background mainly through a guiding supervision by an officially assigned person.”⁶

Donald Taft defines, “The 1960 Ordinance states that the purpose of probation is to “prevent a repetition of the same offence or a commission of other offences by the offender and for rehabilitating him as an honest, industrious and law abiding citizen”.”⁷

From the analysis of the definitions stated above, we may determine that probation is the conditional release of an offender both before and after the jail term under surveillance as a preventive remedy. It is a discretionary sanction imposed by the court after carefully examining the offender’s public status and individual past record. The probationary system entails the release of an accused on temporary remission of punishment, either with or without the imposition of a penalty.

² Section 4 & 5, The Probation of Offenders Ordinance, 1960.

³ <https://en.wikipedia.org/wiki/Probation>.

⁴ National Commission on Law Observance and Law Enforcement, Penal Institutions, Probation and Parole, *Report No. 9, Wickersham Report* (1931), p. 184.

⁵ Sutherland, Edwin H., Probation, Chapter Twenty, Principles of Criminology, Fourth Edition, J.B. Lippincott Company (1939), p. 382.

⁶ Cavan, Ruth Shonle (1962) Criminology (3rd Ed.), Thomas Y. Crowell Company, Illinois, P. 519

⁷ Section 5, The Probation of Offenders Ordinance, 1960.

The theory of establishing probation is nourished by the notion that most criminal behaviour is influenced by a person's environment and unique situation, and that, in some cases, it may be possible to alter the factors that prompted a person to stray from the norm and thereby facilitate his/her position as a law-abiding citizen. Probation, opposing incarceration, renders the law-breaker autonomous and makes him/her accountable for his/her own support. It helps the probationer to keep away from the criminogenic milieu of prison and live peacefully without troubling the family or society.

However, unlike what some reviewers may claim, probation does not effectively 'acquit' an offender because the probationer must either behave well or face incarceration. During the probationary period, the initial offense is not yet penalized, and the offender is still subject to punishment if the probation order's terms are broken. Again, probation is not a coercive measure because it is based on the probationer's consensual acceptance of the terms. Hence, compliance with the provisions of the probation order and probation law relies on the voluntary support of the probationer.

Nevertheless, first-time non-serious offenders, whether adults or minors, are benefited through probation service and other strategies to reform as clear-headed, useful, and honest inhabitants in order to stop the tide of crime, particularly delinquency, in today's society. In both industrialized and emerging nations, probation is now a widely accepted and employed form of legal action.

III. ORIGIN AND DEVELOPMENT OF PROBATION SERVICES

In the Middle Ages, English criminal law is where probation first appeared. The medieval idea of "benefit of the clergy", which persisted in England and America until the last of the nineteenth century, is where probation got its start. The advantage of the "benefit of the clergy" allowed religious leaders and the literati to bypass the harshness of the penal code. It implied pausing the implementation of the punishment for a term, which might eventually be prolonged unspecifically if the offender behaved properly.

Both adults and kids received harsh penalties indiscriminately, even for petty offences. Branding, flogging, amputation, and death-sentence became more common. For example, King Henry VIII's reign saw the death penalty applied to more than 200 crimes, many of which were minor infractions. This sternness sparked unrest in progressive English societies, which pushed for changes to the current legal system. Intending to lessen the impact of ongoing cruel treatments, a number of strategies were developed and implemented gradually but with firmness.

The convicts might acquire royal pardons, activist judges might choose to read the law leniently or not at all, and the price of purloined items might be reduced by the court so that lawbreakers would be accused of mild offenses. Additionally, techniques like abstinence, refuge, legal remission, and ecclesiastical benefits gave convicts some scope to evade severe punishments.

Finally, the courts adopted the procedure known as “binding over for good behaviour”, which is a type of judicial period within which offenders might follow steps to receive forgiveness for minor penalties. A few courts started arguably adjourning verdicts.

Probation has significant origins in the evolution of prior approaches to dealing with offenders as a modern invention of the judicial service. In this regard, Edwin Hardin Sutherland and Donald Ray Cressey comment, “As... the punitive reaction was at one time mitigated by such practices as securing sanctuary, right of clergy, judicial reprieve, and technical circumvention of statutes.”⁸ Offenders were occasionally required to furnish a financial guarantee in support of their vow to behave properly while on probation. In these situations, people volunteer to assist the offender in achieving the suspension’s objective, which is referred to as a parallel method of probation. One of the first volunteers, John Augustus, a Boston shoemaker, helped obtain the release of a verified intoxicated person from a Boston Court in 1841 by serving bail for him. Surprisingly, his endeavor to properly correct the drunkard resulted in success. Kindled by this instance, he launched a mega project of reforming a huge number (1,946) of offenders⁹ over the course of the following 17 (seventeen) years (1858), inspiring many other volunteers who later became renowned as ‘Probation Officers’ before probation was officially recognized by the law.

The Massachusetts Legislature, passing Chapter 198 of the Acts of 1878, established probation as an alternative to jail for the first time, which was the introduction of the probationary statute. By authorizing the municipal court to place criminals on probation, the statute empowered the Mayor of Boston who instituted the Massachusetts Probation Service (MPS) in 1878, the leading agency to appoint a salaried probation officer.

IV. START OF PROBATION SERVICE IN BANGLADESH

The Probation of Offenders Ordinance, which was enacted in 1960, established probation as a correctional program in Bangladesh. Two initiatives were started during the Second 5-Year Plan period: Probation of Offenders and After Care Service Project (in 1962). These programs began

⁸ Sutherland, Edwin Hardin & Cressey, Donald Ray, (1955), *Principles of Criminology*, Luckenbill, David F, (Eleventh Ed.), 1992, Dix Hills, Gerard Hall - A Division of Rowman & Littlefield Publishers Inc., N.Y. , p. 448.

⁹ The number was: Male - 1152 and Female – 794.

in ten locations across the country individually at first. Later, in 1965, these two initiatives were consolidated into one, and since then, 21 units have been operating in 21 district headquarters (mostly old) under the supervision of the Bangladesh Government's Social Service Department. It is worth noting that the Probation of Offenders Ordinance of 1960, by definition, stipulated that a 'Probation Department' would be responsible for the Ordinance's¹⁰ administration. The probation officer who would be assigned to the job was to be appointed by the probation department, and his or her qualifications were to be set forth in the Ordinance's¹¹ rules.

After being amended by the former East Pakistan Assembly in 1964, the Ordinance became the Probation of Offenders Act of 1964. The Directorate of Social Welfare now has responsibility for carrying out probation services as a result of this amendment (now Social Service Department). As a result, the Social Service Department has been in charge of implementing the probation programme, as well as its other services such as casework, group work, community development, and general welfare.

V. NECESSITY OF PROBATION SYSTEM IN BANGLADESH

It is a well-known fact that an offender's transition to society after release is fraught with difficulties. It is primarily owing to the 'stigma' he/she has acquired as a result of formal punishment. Given the socio-legal aspects of the situation, it may be argued that the criminal's final disposition should be determined by the conditions under which he/she can seek readjustment with the community after being released. Alternative techniques of liberating offenders have resulted in the emergence of these realities. Suspended sentences, probation, unconditional release of the offender after a brief period in prison, payment of a fine, and so on are examples. On the other hand, all of these solutions are either illogical or counterproductive. However, two of these methods—probation and restitution—are governed by legal philosophy with the noble goal of saving criminals who are not inherently criminal in their attitude or life organization. In the better interest of society, the relatively inexperienced individuals whose habits are still in the beginning phase are deemed to remain unstigmatised.

The main feature of probation is the deferral of either final verdicts or the execution of the sentence, in combination with certain conditions imposed by the court and monitored by a probation officer. After being instilled with the ideals that "attitudes are not changed merely by platitudes" and "human conduct is improved through guided human contacts," underage deviants, preferably first offenders (but also adults), are granted probation by the court, letting

¹⁰ Probation of Offenders Ordinance, 1960 under the preliminary elaboration of the concepts, Clause [1(2) (6)]

¹¹ Ibid, see also Appointment of Probation Officers, Clause [12 (1) (2) (3)]

them live freely in the community with family members, relatives, friends, or foster parents while being monitored by a probation officer.

The analysis of above facts would give us the respective social elements of probation conducting possible adjustment for the offender in the society. “The social elements of probation are threefold: (1) probation permits the probationer to live a normal life in the community and to readjust to socially acceptable attitudes without being confined, during this period, to a penal or correctional institution; (2) it is granted, on the basis of a social investigation by the court, assuming that the probationer will be able to live a lawful life and may be expected to do so; and (3) it is a process of adjustment with the supervision of a probation officer.”¹²

The High Court Division also explains the purpose of probation as follows: “...the penal system of Bangladesh is essentially reformatory in character as opposed to retributive. The Probation of Offenders Ordinance is a prime example of such a policy. If a sentence of probation is imposed for a period of time, then it is likely to be more of a deterrent and will have a rehabilitating effect which will fulfill the intention of the legislature.”¹³

The Children Act of 2013 authorizes the National Child Welfare Board to develop a policy, strategy, and implementation plan for the integration and rehabilitation of children who have broken the law. It also protects anyone on probation from being stigmatized as a convicted person by stating that probation is “deemed not to be a conviction,” especially for those under the age of 18 (eighteen).

In addition, “A court directing the discharge of an offender under Section 4 or making a probation order under Section 5 may order the offender to pay such compensation or damages for loss or injury caused to any person by the offence and such costs of the proceedings as the court thinks reasonable:

Provided that the amount of compensation, damages and costs so awarded shall in no case exceed the amount of fine which the court might have imposed in respect of the offence.”¹⁴

In Bangladesh, the goals of probation are deterring criminal recurrences and promoting re-assimilation, desegregation, destigmatization of trustworthy convicts in the society, besides in applicable situations, recompensing the sufferers.

¹² Friedlander, Walter A. Introduction to Social Welfare, 2nd Edition, PRENTICE-HALL INC., Fifth Printing, February 1965, Englewood Cliffs, New Jersey, 1965, p. 429.

¹³ Abdul Khaleque vs. Hazera Begum, 58 DLR 322 (2006).

¹⁴ Section 6 (1), The Probation of Offenders Ordinance, 1960.

VI. FACTORS FOR GRANTING OR NOT GRANTING PROBATION

(A) When Probation is granted:

Probation can be granted to a person on several factors. Such as–

According to the Section 4 of “*The Probation of Offenders Ordinance, 1960*:

- Non-existence of conviction report regarding the individual.
- Offender with a conviction report sentenced no more than 02 (two) years in prison.
- The offender’s gender.
- The offender’s personality.
- The offender’s physical condition.
- The offender’s mental state.
- The nature of the wrongdoings.

According to the Section 34(6) of The Children Act, 2013 granting probation or passing any order for the child depends on:

- Age.
- Sex.
- Physical state.
- Mental health.
- Educational credentials.
- Social, cultural, and ethnic origins.
- Lifestyle of the individual and relevant family.
- The reasons behind the offense.
- The individual’s point of view.
- Social investigation.

(B) When Probation is not granted

Probation is not granted for an adult when the individual is:

- Is sentenced to death or life imprisonment.¹⁵
- Is against the State.¹⁶
- Related to the Army, Navy and Air Force.¹⁷

¹⁵ Section 5, The Probation of Offenders Ordinance, 1960.

¹⁶ Chapter VI, The Penal Code, 1860.

¹⁷ Chapter VII, The Penal Code 1860.

- Accused of harbouring robbers or dacoits.¹⁸
- Accused of causing hurt by means of poison, etc, with intent to commit an offence.¹⁹
- Charged with Theft after preparation made for causing death, hurt or restraint, in order to commit theft.²⁰
- Accused of extortion by putting a person in fear of death or grievous hurt.²¹
- Accused of putting any person in fear of death or of grievous hurt, in order to commit extortion.²²
- Accused of extortion by threat of accusation of an offence punishable with death or Imprisonment, etc.²³
- Accused of putting person in fear of accusation of offence in order to commit extortion.²⁴
- Accused of robbery.²⁵
- Accused of attempted robbery.²⁶
- Accused of robbery or dacoity, with attempt to cause death or grievous hurt.²⁷
- Accused of attempted robbery or dacoity when armed with deadly weapon(s).²⁸
- Accused of making preparation to commit dacoity.²⁹
- Sentenced for participating gang of thieves.³⁰
- Accused of assembling for purpose of committing dacoity.³¹
- Accused of lurking to house-trespass or house-breaking after preparation for hurt, assault or wrongful restraint.³²

¹⁸ Section 216A, The Penal Code 1860.

¹⁹ Section 328, The Penal Code, 1860.

²⁰ Section 382, The Penal Code, 1860.

²¹ Section 386, The Penal Code, 1860.

²² Section 387, The Penal Code, 1860.

²³ Section 388, The Penal Code, 1860

²⁴ Section 389, The Penal Code, 1860.

²⁵ Section 392, The Penal Code, 1860.

²⁶ Section 393, The Penal Code, 1860

²⁷ Section 397, The Penal Code, 1860.

²⁸ Section 398, The Penal Code, 1860

²⁹ Section 399, The Penal Code, 1860.

³⁰ Section 401, The Penal Code, 1860.

³¹ Section 402, The Penal Code, 1860.

³² Section 455, The Penal Code, 1860.

- Accused of lurking, house-trespass or house-breaking by night, after preparation for hurt, assault or wrongful restraint.³³

VII. HOW AND WHEN PROBATION IS GRANTED

A. When a person is found guilty under the law of probation, the judge adjourns the final trial and instructs the Probation Officer on duty to investigate the offender's social and economic circumstances and create a detailed pre-sentence report in line with Rule 12 of the Probation Code. From a neutral standpoint, the Probation Officer evaluates the offender's character, social and economic status, family, and relationships with his/her neighbours. The investigation will focus on the offender's physical condition, personal experience, mental state, and social and cultural surroundings. If the Probation Officer determines that the offender needs to be corrected, he will recommend for the offender to be admitted. Otherwise, the wrongdoer must face the consequences. The judge may award probation if the probation officer's report recommends that the offender's sentence be suspended.

B. On their own initiative, magistrates or judges may grant probation. When a judge finds that the offender has been convicted for the first time for offenses other than those listed in Section 5 of the Probation Ordinance, he may grant probation for one to three years, subject to certain conditions, after reviewing the case file and the overall condition of the accused.

VIII. PRACTICE OF PROBATION IN BANGLADESH

The current practice of probation has been pithily described by Justice M. Imman Ali of the Appellate Division of the Supreme Court of Bangladesh:

*“The use of [probation] by our trial Courts is very rare, possibly due to the punitive attitude of the learned Judges which appears to be prevalent across the country”.*³⁴

As we found in the course of this study, lawyers were generally neither aware of nor interested in the law concerning probation of adults. In this context, individuals who may otherwise be released on probation are sent to prison, with the result that very few convicts are found in the probation system in Bangladesh. There is also a lack of administrative and logistic capacity within the DSS to provide appropriate support to promote the probation system. For instance, the acute shortage of female Probation Officers restricts the possibility of probation for female offenders as the law forbids supervision of female probationers by male Probation

³³ Section 45, The Penal Code, 1860.

³⁴ Justice M Imman Ali, *Towards a Justice Delivery System for Children in Bangladesh*, (Dhaka: UNICEF, 2010), 217.

Officers.³⁵

The probation process for children is supposed to be initiated by police officers through contacting the nearest available Probation Officer. In practice however, police officers appear reluctant to inform Probation Officers. This is well illustrated in the case of *Fahima Nasrin v Government of Bangladesh*: “The petitioner pointed out that it is evident from the charge sheet that the accused was at that time only 14 years of age, and yet the police did not consider his bail as required by section 48 of the Act (the Children Act, 1974). They also failed to inform the child’s parents, as required by section 13 and did not inform any Probation Officer, which is a violation of the mandatory requirement of section 50 of the Act. By referring to the order sheet of the trial Court, the petitioner pointed out that the learned trial Judge only mentioned that the trial would be held in accordance with the provisions of the Children Act, 1974 declaring his Court to be a Juvenile Court. But there is nothing on record to show that [R]’s parents/guardians were ever informed or that a Probation Officer was ever appointed during the course of the trial. It is also patently apparent that [R] was kept in jail custody from the time of his arrest on 25-11-03 till 4-3-2004 when he was enlarged on bail.”³⁶

IX. PRECEDENTS OF PROBATION IN BANGLADESH:

- An offender was given 01 (one) year rigorous imprisonment and 2000 taka fine. Later the offender confessed about his offence and expressed repent. The Judge with his own motion granted probation by giving him 7 conditions under Under Section 5 of The Probation of Offenders Ordinance, 1960.³⁷
- 3 students of class nine were arrested for drug dealing. However, they confessed about their offence. The court by considering their social condition, student life and future employment granted Probation by giving them 9 conditions under The Probation of Offenders Ordinance, 1960.³⁸
- An offender named Hasan Ali Sardar (25) was given 01 (one) year imprisonment. However the court granted Probation by giving him 5 conditions under The Probation of Offenders Ordinance, 1960.³⁹

³⁵ Development and Use of the Probation System in Bangladesh, Bangladesh Legal Aid and Services Trust (BLAST), Penal Reform International (PRI), pp. 49–50.

³⁶ *Fahima Nasrin vs Government of Bangladesh*, 61 DLR (HCD) 232.

³⁷ The Daily Prothom Alo, 05 January, 2021.

³⁸ Notun Feni, 28 December, 2020.

³⁹ Jagonews24.com, 01 December, 2020.

- An offender was given 06 (six) months imprisonment. As the offender's age was above 60, so the court by considering age of the offender postponed the sentence and gave him a chance to reform outside of the court under The Probation of Offenders Ordinance, 1960.⁴⁰
- An offender was given 01 (one) year simple imprisonment and 1,000 taka fine and non-payment of fine he shall be given 15 (fifteen) days more simple imprisonment. Later the Judge by considering the age of the offender postponed the sentence and granted Probation by giving him 8 conditions under The Probation of Offenders Ordinance, 1960.

X. NUMBER OF PROBATION ORDERS GRANTED BY THE COURT

The general state of probation can be observed in the numbers below, which show the trend in awarding probation orders to date.⁴¹

Year	Number of probation orders granted
2015-16	570
2016-17	760
2017-18	405
2018-19	543
2019-20	1080
2020-21	1535
2021-22	3659

Probation service is getting admired day by day and the number of probationary release is gradually multiplying.

Table 01: Number of probation orders granted by the Court in Kushtia District

Kushtia District				
Year	Adult Male	Adult Female	Children	Total
2019	3	–	–	3

⁴⁰ Channelionline.com 26 September, 2021

⁴¹ Government of Bangladesh, Ministry of Social Welfare, *Annual Report 2015-16, 2016-17, 2017-18, 2018-19, 2019-20, 2020-21, 2021-22.*

2020	–	–	3	3
2021	4	–	–	4

Table 02: Number of probation orders granted by the Court in Meherpur District

Meherpur District				
Year	Adult Male	Adult Female	Children	Total
2019	–	–	–	0
2020	2	–	–	2
2021	2	–	–	2

Table 03: Number of probation orders granted by the Court in Chuadanga District

Chuadanga District				
Year	Adult Male	Adult Female	Children	Total
2020	–	1	–	1
2021	–	–	–	0

XI. FACTORS DETERRING SMOOTH PROBATION SERVICE IN BANGLADESH

- In Bangladesh, a number of lawyers, along with prosecutors and defense counsel, including judges, are uninformed of the possibilities for granting inmates probation. Furthermore, there is a common misconception that probation only applies to first-time offenders who are sentenced to no more than two years in jail. In actuality, these restrictions only apply to Section 4 of the Ordinance, which deals with conditional release and other matters. These misunderstandings contribute to the low amount of probations that are issued in practice.

- The police, probation officers, judges, lawyers, prosecutors, and local government institutions are all lacking in cooperation. The probation system cannot work without coordination between these bodies.

- When police officers arrest juvenile (child) offenders, they must call Probation Officers and follow special procedures for dealing with juveniles. When there is no proof of age to identify a person as a child, children are denied this privilege. Despite recent increases in birth registration rates, it remains limited in impoverished and disadvantaged communities,

particularly the homeless. Due to the difficulty in establishing their ages, children from these areas may forfeit their chance of probation in some situations.

- The number of Probation Officers available to supervise all people eligible for probation is woefully inadequate. Only 64 Probation Officer positions are available around the country but no officer is available at upazila level. It will be impossible to anticipate more criminals to be released on probation until the probation system's institutional capability is strengthened. Probation Officers face severe budgetary and logistical constraints, which are also key concerns.

- In recent years, the tendency of awarding probation has dramatically decreased raising doubts about the government's readiness to include the probation system in the scope of punitive interventions.

- The prevalent correctional ideology in Bangladesh is still retribution and deterrence. The public, the prosecution, and the courts appear to have lost faith in non-custodial penalties.

- If there are insufficient administrative measures to monitor probationers under supervision in a society with significant levels of politics and corruption inside institutions, there is a genuine possibility of probation being misused.

- There is currently no budgetary allocation for probation services, and the funding allotted to the district DSS Office is quite minimal.

XII. RECOMMENDATIONS

- There is a need for sufficient human resources and logistic support for extending probation services in all Districts with proper coverage in Upazilas and Metropolitan areas.

- The use of probation, adopting laws and practices that describe the potential alternatives to incarceration, such as community service, adjourned sentences, fines, or even Alternative Dispute Resolution (ADR). Alternatives to incarceration can be introduced into criminal interventions. Women with young children should be prioritized.

- It is essential to allocate separate and sufficient budget for probation services. In addition, additional resources need to be channeled to ensure capacity development of Probation Officers with regard to adult and child probationers respectively.

- Increased monitoring and supervision by the concerned Ministry and respective Court is required for existing organisations involved in the probation system, including for the Department of Social Service, District Probation Officer, Child Development Centre and Upazila Social Welfare Offices.

- Comprehensive rules need to be framed and adopted to urgently address the new concepts of non-custodial measures, including diversion and alternative to imprisonment for smooth implementation of the newly enacted Children Act, 2013.
- Continuous capacity building activities (training, seminars and workshops) must be conducted for stakeholders engaged in probation such as judges, Probation Officers, police officers, prison officials, lawyers and Social Welfare Officers.
- Findings show that Probation Officers, to a great extent, rely on local government representatives to monitor and rehabilitate probationers. It is recommended that local government officials should be engaged formally (by law) in the process of probation and rehabilitation.
- Probation Officers should be categorized and classified separately depending on whether they deal with adult probationers or children in conflict with the law and children in contact with the law.
- Offices of Probation Officers need to be shifted to court buildings from their current location at DSS offices and/or DC's offices. Probation Officers must be linked with the Courts which pass the probation orders.
- The provisions on probation need to be incorporated in professional training programmes for lawyers such as those organised by the Bangladesh Bar Council.
- The forms and registers provided in the Probation of Offenders Rules, 1971 need to be revised to ensure gender neutrality and eliminate references to religion of the offender which are immaterial.
- Human rights organizations must educate both duty-bearers (lawyers, police officers, prosecutors, and judges) and right-holders (accused, defense) on the provisions for probation as well as the scope for using non-custodial measures such as probation, diversion, conditional release, and early release.
- Facilitating organizations who focus on criminal justice reform may conduct pilot programs on offender supervision, reform, reintegration, and rehabilitation.
- Dedicated criminal justice organizations can run capacity-building programs for judges, lawyers, and probation officers. Organizations specialized in criminal justice research may do substantial study on alternatives to jail and engage in legislative lobbying to give evidence on the benefits of probation.

XIII. CONCLUSION

Yet, because many criminal justice authorities believe that jail is only designed for punitive or deterrent purposes, not for rehabilitation, probation is still not extensively used. The existing state of Bangladesh's probation system, as previously mentioned, demonstrates that it desperately requires amendment and modification. The success of probation is apparent in today's crime rate, which is gradually increasing. It is up to those who have been entrusted with the task of reforming Bangladesh's court system to create successful programs that are overseen by specialists who are devoted to helping reduce re-offending by offenders. To attain the ultimate goal of reclaiming all criminals back into organised society, the reform and recovery process must be carried out in the context of the contemporary social situation. Probation, like the juvenile justice system, has brought the human concerns and socio-economic issues at the heart of the criminal justice system to the fore. It also assists in the development of good attitudes toward convicts and increases the role of law enforcement beyond ordinary sentencing. Probation can be beneficial in circumstances where people attempt suicide due to family strife, financial hardship, the loss of close relatives, or other similar factors. Its goal is to help the offender change his/her ways and see the light. Probation is the optimistic encouragement that every potential offender deserves, which must be valued.

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