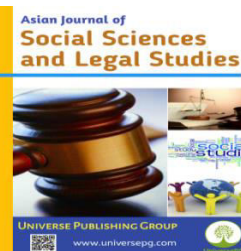




Publisher homepage: www.universepg.com, eISSN: 2707-4668

Asian Journal of Social Sciences and Legal Studies

Journal homepage: www.universepg.com/journal/ajssls



OPEN ACCESS | Research Article



Prospects of Alternative Sentencing in the Criminal Justice System of Bangladesh

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Received Date: 18 January 2026 Accepted Date: 23 February 2026 Published Date: 1 March 2026

Abstract

The criminal justice system of Bangladesh has traditionally relied on custodial punishment as the primary sentencing approach, which has contributed to prison overcrowding and limited opportunities for offender rehabilitation. In recent years, there has been growing recognition of the need to introduce alternative sentencing measures that focus more on reformation than punishment. This paper explores the prospects of alternative sentencing in Bangladesh by examining the historical development of sentencing policies and the gradual shift toward more rehabilitative approaches. The study is based on qualitative research methodology, including an analysis of relevant laws, judicial practices, and secondary sources. It identifies key challenges to the effective implementation of alternative measures, such as limited institutional capacity, inadequate awareness, lack of training, and prevailing public perceptions favoring imprisonment. The paper suggests that legislative reform, judicial training programs, and public awareness initiatives are necessary to strengthen the use of alternative sentencing. Proper implementation of these measures may reduce prison overcrowding, improve case management, and promote offender reformation. Overall, alternative sentencing offers a promising path toward a more balanced, effective, and humane criminal justice system in Bangladesh.

Keywords: Alternative sentencing, Prison overcrowding, Backlog, Sentencing reform, Community service.

1. Introduction

The criminal justice system of Bangladesh, like many other nations, has long adhered to the principles of retributive justice, which emphasizes punishment as the central response to criminal offenses and centers its core principles exclusively on the application of punishment, neglecting considerations of deterrence, rehabilitation, or prevention of future offenses. This conventional approach seeks to establish a sense of retribution and proportionality, linking the severity of punishment directly to the gravity of the crime committed. However, despite its historical prominence, the

retributive model has faced mounting criticism for its limited focus on punishment, neglecting the vital aspects of prevention and offender rehabilitation. As a result, the existing system has encountered adverse consequences, ranging from prison overcrowding to high rates of recidivism, ultimately challenging the realization of its desired goals.

The conventional retributive justice as a means to reduce crime rates in Bangladesh has proven ineffective. Prison overcrowding is a prevalent problem, accompanied by mismanagement and various issues within the prison system. This

overcrowding leads to a mixing of amateur and experienced offenders, creating an environment where criminal knowledge and techniques can be transmitted. Upon release, these recently incarcerated individuals may introduce new criminal practices into society, perpetuating a cycle of crime. Imprisonment also incurs substantial financial and social costs, as significant investments are required for prison construction, staffing, and maintenance. Furthermore, professionals such as doctors and lawyers lose their ability to serve society while incarcerated, and the stigma faced by ex-offenders hinders their reintegration, increasing the likelihood of recidivism.

Modern penology suggests that alternative sentencing may be more effective than conventional imprisonment in reducing crime rates. Alternative sentencing include probation, parole, fines, boot camps, house custody with electronic monitoring, furloughs, compensation to victims, conditional discharge, community service, and open jail systems. These alternatives aim to address the fundamental social and individual factors associated with offending behavior, promote rehabilitation and facilitate successful reintegration into society.

The traditional reliance on imprisonment as the primary means of controlling crime has proven inadequate. Alternative sentencing presents a potential solution to the issues of prison overcrowding, high costs, and limited effectiveness. This paper aims to assess the relative performance of non-custodial sentencing options compared to imprisonment in Bangladesh. The study will employ comparative analysis, case studies, and examination of relevant statutes, reports, and documents to substantiate the efficacy of alternative approaches. Shedding light on the strengths and limitations of alternative sentencing, the research seeks to provide policymakers with evidence-based information for utilizing alternative sentencing within the criminal justice system.

In such backdrop, this research paper seeks to identify the practical effectiveness of non-custodial sentencing measures through a comparative study of and making a socio-economic cost-benefit analysis between conventional and alternative method of sentencing. It further intends to compare between imprisonment and alternative sentencing regarding

the efficacy of more control over the prisoners. In so doing, this research paper explores how the alternative sentencing mechanism can be more effective than the conventional mechanism in the criminal justice system of Bangladesh?

To make the research fruitful, this paper follows qualitative research methodology reviewing relevant published literatures. Several study reports, statutes, case reports and other primary sources of data are used here to get an in-depth opinion and outcome regarding the research. Decisions of scholars are also relevant here.

The qualitative nature of the research on alternative sentencing brings forth certain limitations that warrant acknowledgement. For example, the findings of the study may lack generalizability beyond the specific context and participants involved, given the qualitative approach employed. Besides, reliance on qualitative data sources, such as case studies, statutes, and reports, may introduce limitations in terms of data availability and reliability, impacting the robustness of the findings. Since qualitative studies primarily focus on exploring and understanding phenomena rather than establishing cause-and-effect relationships; therefore, the research may not provide definitive causal relationships between alternative sentencing and crime reduction.

The research on alternative sentencing in Bangladesh holds significant importance due to several reasons. It addresses the complex relationship between crime rates and imprisonment, exploring more effective methods to tackle the fundamental factors contributing to offending behavior. By implementing alternative sentencing, it aims to reduce crime rates, alleviate prison overcrowding, and mitigate the financial and social costs of imprisonment. The research contributes to the ongoing discourse on criminal justice reform and rehabilitation in Bangladesh, promoting a more humane and rehabilitative approach to criminal justice. Ultimately, its findings can lead to more effective and equitable criminal justice practices, fostering a safer and more inclusive society.

Evolution of Sentencing Policies in the Bangladeshi Criminal Justice System

Prior to achieving independence in 1971, Bangladesh was a part of Pakistan since 1947, and its

earlier history witnessed a prolonged period of British colonial rule over Bengal from 1757 to 1947 (Rahman, 2017, p. 70). It is pertinent to note that during the pre-colonial era, Bengal was characterized by a Hindu majority, with limited impact from Muslim rule in rural areas. Consequently, the application of criminal law was distinct, with Muslim law prevailing at the official level and Hindu law exerting influence informally. To gain a comprehensive understanding of the transformation of the sentencing framework in the post-colonial era, an examination of sentencing policies during the Pakistani rule in Bangladesh is essential. This chapter sequentially explores the sentencing policies of pre-colonial Hindu law and Muslim law, the colonial regime, and the post-colonial period under Pakistan's governance. By tracing this historical trajectory, a detailed insight into the development and transformation of sentencing policies in Bangladesh emerges, shedding light on their evolution in relation to the socio-political context of the country.

Crimes and Punishments under the Hindu Period

In the ancient Indian Hindu period, the political landscape consisted of multiple autonomous states, each governed by an all-powerful King. In matters of criminal justice, the King held supreme authority and played a central role as the primary source of justice. The King's Court served as the highest Court of Appeal in the State. Notably, the era's distinctive feature was 'Trial by Ordeal', a custom based on religious beliefs and trust in a higher power, used to determine guilt when concrete evidence was lacking (Halim, 2018, p. 44). This practice involved subjecting the accused individual to an arduous and perilous ordeal, often resulting in severe physical pain or even death.

In Hindu mythology, fire holds a divine status and is believed to possess purifying attributes. The ordeal of fire, based on this belief, involved directing the accused to walk through, stand, or sit within a fire for a prescribed duration. If the accused emerged unscathed from the fire, they were deemed innocent (Halim, 2018, p. 44). For example, the ordeal of Sita to establish her honor.

In ordeal by lot, reflecting the concepts of Right (*Dharma*) and Wrong (*Adharma*), two lots of identical nature were deposited into a container. The

accused individual was instructed to select a lot from the container, with the determination of their innocence contingent upon drawing the lot representing *Dharma* (Halim, 2018, p. 45).

In ordeal by water, the accused was instructed to stand in water up to their waist and subsequently sit down while an archer shot an arrow. Remaining in the water for the prescribed duration without adverse consequences signified innocence. Alternatively, the accused was compelled to consume water used in bathing an idol. If the accused had no detrimental effects within the following fourteen days, the accused was deemed innocent (Halim, 2018, p. 44).

In Ordeal by Rice-grains, the accused was directed to masticate unhusked rice and subsequently expel it from their mouth. The presence of blood in the expelled rice indicated guilt, while its absence denoted innocence (Halim, 2018, p. 45).

Another particular method of (ordeal by poison) determining innocence drew upon the belief that divine protection extended to the innocent. The accused individual was mandated to consume poison and retain it within their body without experiencing disgorging. In the event of the accused's survival, he was declared as innocent.

In the ancient Indian Hindu legal system, the philosophy governing crime and punishment revolved around the idea that punishment could transform and morally reform the accused. Judges considered various factors before imposing punishment, including the specifics of the offense, as well as the offender's background, conduct and societal status. Available forms of punishment included admonition, fines, and corporal penalties, which could be used individually or combined based on the circumstances. Judicial discretion played a significant role, and the hierarchical caste system influenced the severity of punishment, shaping the sentencing practices in that era.

The interaction between individuals of different castes had significant consequences. Lower-caste individuals who associated with those of higher castes were subjected to branding on the buttocks. Murder cases required compensatory payments, with 1000 cows for killing a *Kshatriya*, 100 cows for a *Vaishya*, and 10 cows for a *Sudra*, all of which were

given to the King for distribution to the victim's relatives (Halim, 2018, p. 46). Additionally, a bull was presented to the King as a fine for committing murder.

In the event that a person from a lower caste was responsible for the death of a Brahmin, the offender would face capital punishment and their assets were seized as a consequence. Where a Brahmin killed another Brahmin, the offender would face branding and banishment. However, if a Brahmin killed someone from a lower caste, the punishment involved various forms of capital punishment, such as roasting alive, drowning, trampling by elephants, devouring by dogs, cutting into pieces, and impalement. These severe penalties were also imposed for offenses like involvement in the King's harem, inciting army revolts, matricide or patricide, and committing serious arsons.

The ancient criminal justice system's reliance on ordeals and religious beliefs led to disparities in punishment based on caste status, compromising legal fairness. The effectiveness of severe punishments in deterring crime was uncertain, and the emphasis on moral reformation through punishment raised questions about its efficacy and potential harm. As societies evolved, more rational and evidence-based justice systems were pursued to achieve the principles of justice, rule of law, and effective crime prevention.

Mughal Period

During the Mughal era, a well-structured judicial process was established, guided by two Muslim Codes known as *Fiqh-e-Firoz Shahi* and *Fatwai-i-Alamgiri*. Muslim criminal law encompassed three main categories of crimes: offenses against God, offenses against the King, and offenses against private individuals. The courts during the Muslim rule employed three forms of punishment specific to each category of crime:

Hadd represented a form of punishment that remained fixed and unalterable (Halim, 2018, p. 53), impervious to human intervention. It entailed specific and predetermined penalties dictated by Sharia for offenses such as theft, robbery, adultery (*Zinah*), apostasy (*Ijtidad*), defamation, and drunkenness. This standardized punishment system applied universally to both Muslims and non-

Muslims, with the state assuming the responsibility of prosecuting all individuals found guilty under *Hadd*. Compensation or financial restitution was not granted in *Hadd* cases, exemplified by instances like stoning to death for adultery or alcohol consumption, and amputation of the right hand for theft. Offenses subjected to *Hadd* punishment were categorized as transgressions against God, thus signifying violations of 'public justice.'

Tazir is another category of punishment, encompassed crimes not falling within the *Hadd* classification. Offenses subject to *Tazir* were also considered transgressions against divine law and included acts such as gambling, causing injury, and minor theft. Unlike *Hadd*, *Tazir* allowed judges complete discretion in determining the nature and severity of punishment. Courts had the authority to devise innovative methods of punishment, such as tongue removal or impalement (Halim, 2018, p. 53). The underlying objective of *Tazir* was to reform the offender and promote rehabilitation.

Qisas based on the principle of proportionate retaliation (limb for limb and life for life) (Halim, 2018, p. 54), entailed an equivalent punishment for intentional killing and certain severe injuries or mutilations that constituted offenses against the human body. *Qisas* was considered the personal entitlement of the victim or their closest relatives, granting them the right to inflict comparable harm upon the perpetrator as was inflicted upon the victim. However, under *Qisas*, the relatives or successors of the deceased had the option to pardon the offender. When the victim's next of kin accepted monetary compensation, known as *Diya*, in place of *Qisas*, it transformed into a form of blood money. The determination of *Qisas* or *Diya* was beyond the authority of both the *Quazi* (judge) and the emperor, and in cases where *Qisas* was applicable, it could be replaced by *Diya* through mutual agreement.

The impact of Mughal-era punishments on justice was multifaceted. *Hadd* punishments offered certainty and deterrence but raised questions about their alignment with societal values. *Tazir* punishments allowed for rehabilitation but required fair judges to avoid abuse. *Qisas* and *Diya* aimed for balance but depended on an impartial judicial system. Ensuring justice in that era was complex, relying on fairness, consistency, and appropriateness

of punishment application according to Mughal societal norms.

British Period

During the colonial British rule, the apex court established in 1772 under the Company Adalat administration, known as the Sadar Nizamat Adalat, consisted of a native judge assisted by a Qazi and a mufti (Rahman, 2017, p. 99). However, challenges in applying sharia sentencing norms led to piecemeal interventions and changes in substantive law. Between 1790 and 1807, the court structure was remodeled, introducing circuit courts and limiting native judges' powers. The courts' focus shifted from sharia justice to serving the Company's interests. Regulations on *Hadd* and *Qisas* transformed Islamic criminal law, increasing extreme penalties and implementing penal colonies for life convicts, like Port Blair and the Andaman and Nicobar Islands. The colonial administration's approach led to significant changes in the inherited sharia justice system, impacting its original principles and application.

The Penal Code was formulated by the first Law Commission, presided over by Lord Macaulay, who emphasized the pressing necessity for a complete and uniform legal code for Indian subcontinent. Their approach aimed for uniformity- when possible, diversity- when necessary, but above all, certainty in the law. To create the Penal Code, they drew inspiration not only from English and Indian laws but also from legal codes such as Livingstone's Louisiana Code and the Code of Napoleon (Ranchhoddas & Thakore, 2004).

Although Macaulay's Penal Code was hailed as a remarkable piece of legislation by some, it also faced significant criticism from others. Rankin, for instance, noted that while the code had served its purpose reasonably well, its sentences were considered excessively severe. He argued that no modern civilized country imposed such heavy penalties, and urged indigenous legislatures to thoroughly revise the sentences to align with contemporary standards (Rankin, 2016). The circulation of the Penal Code's draft for feedback resulted in substantial opposition, with numerous eminent judges and advocates expressing their reservations. Ilbert humorously remarked that in East Bengal, it was said that every little herd boy carried

a red umbrella under one arm and a copy of the Penal Code with the other, highlighting its widespread influence and impact on society (Kulshreshtha, 2007).

Pakistan Period

During the initial stage of Pakistan period, the Penal Code underwent eight amendments (Rahman, 2017, p. 117), introducing several new offenses. These changes included the addition of Section 364A, which made the kidnapping or abduction of a child under the age of ten a capital offense. Another peculiar provision was Section 123A, which prescribed a maximum sentence of ten years' imprisonment even for expressing condemnation of the creation of the state. It is worth noting that the colonial regime had progressively tightened the "sedition" clause of the Penal Code through various amendments, using it as a potent tool against political elements.

During Ayub Khan's regime, the Penal Code underwent six amendments having significant impacts on the political landscape and dissent in Pakistan. Notably, one significant change was the criminalization of "inducing students to take part in political activity." Historical accounts reveal that students emerged as the primary threat to the regime's political dominance, especially during the massive movement in 1962. In this context, the introduction of this offense raises concerns about whether it genuinely served as a legitimate exercise of the state's power to criminalize certain actions.

The Agartala conspiracy case in 1967 aimed to suppress political opposition through stringent penal laws but backfired, leading to increased popularity for Sheikh Mujibur Rahman and the autonomy movement. The case exemplifies the regime's attempt at over-deterrence to control dissent and resistance. Ayub Khan's acknowledgment of the limits and political implications of such deterrence highlights the regime's awareness of potential consequences. The events demonstrated the potential for resistance and unintended consequences when over-deterrence was employed.

Sentencing Policies under the Current Legal Framework in Bangladesh

In Bangladesh, the Constitution explicitly acknowledges the need to separate the judiciary from the

executive branch (Constitution of the People's Republic of Bangladesh, 1972, art. 22). However, in the context of the sentencing process, both the legislature and the judiciary play significant roles. The legislature is responsible for establishing the limits of state intervention through sentencing, while the judiciary exercises discretion in determining appropriate sentences on a case-by-case basis.

No individual should face a penalty that is greater or different from what could have been imposed under the law prevailing at the time the offense was committed. This necessitates that when the legislature establishes penalties for offenses, it cannot retrospectively apply the law in a manner that adversely affects individuals who committed the acts prior to the enactment of the law.

The Penal Code of 1860 in Bangladesh explicitly outlines five classifications of criminal sentencing (Penal Code, 1860, s. 53):

The highest form of punishment authorized by Bangladeshi law is the death penalty. When an individual receives a death sentence, it entails their hanging by the neck until death (Code of Criminal Procedure, 1898, s. 368). Only the High Court Division, the Courts of Sessions Judge, or the Additional Sessions Judge have the authority to pass a death sentence. Additionally, the execution of death sentences passed by the Sessions Judges requires confirmation from the High Court Division (Code of Criminal Procedure, s. 374). However, the President possess the authority to suspend, remit, or commute a death sentence to another form of punishment (Code of Criminal Procedure, s. 402A).

The concept of 'imprisonment for life' in the Bangladesh Penal Code, 1860 lacks a specific definition. However, Section 57 of the Penal Code provides some guidance by equating life imprisonment to a term of 30 years (Penal Code, 1860, s. 57). The 30-year equivalence only applies for computing fractions of punishment. Nevertheless, it is argued that the phrase 'imprisonment for life' should be interpreted in conjunction with Section 45 of the Penal Code, in which the term 'life' refers to the life of a human being unless the context suggests otherwise. Therefore, 'imprisonment for life' typically signifies incarceration for the entire duration of the convict's natural life. In other jurisdictions like India, the UK, and Singapore, life

imprisonment is generally understood as a sentence for the entirety of the convict's remaining life span.

In a recent decision of the Appellate Division of Bangladesh, the dissenting opinion interpreted "life imprisonment" as imprisonment for the entirety of the convicted person's natural life (Ataur Mridha alias Ataur v. The State, 2017). However, the majority opinion concluded that 'imprisonment for life' should be considered equivalent to 30 years of imprisonment when certain sections of the Penal Code (45, 53, 55, and 57) and section 35A of the Code of Criminal Procedure are taken into account (Ataur Mridha alias Ataur v. The State, 2017). Furthermore, the majority decided that in cases where the court, tribunal, or International Crimes Tribunal imposes a sentence of imprisonment for life until the convict's natural death under the International Crimes (Tribunal) Act, 1973, the convict would not be entitled to the benefits provided under section 35A of the Code of Criminal Procedure (Ataur Mridha alias Ataur v. The State, 2017).

There are two types of imprisonment: rigorous imprisonment and simple imprisonment. Rigorous imprisonment involves hard labor, while simple imprisonment does not entail any form of hard labor. In instances where life imprisonment is imposed, the imprisonment is always considered rigorous. When the nature of imprisonment is not specified in a judgment, it is generally assumed to be simple. The sentence of imprisonment can be either wholly or partly rigorous or simple.

Both short-term and long-term imprisonments have inherent drawbacks. Short-term imprisonment is deemed ineffective because there is insufficient time for institutional training or rehabilitative measures. Additionally, it is considered risky as prisons can serve as ideal environments for inexperienced and minor offenders to further develop their criminal tendencies. Conversely, long-term imprisonment is criticized for its potential to dehumanize the convict and erode their finer sensibilities (Ashok Kumar v. State, 1980).

Forfeiture is an established punitive measure (Mobarakullah v. The State, 2004) whereby individuals are deprived of their possessions as a consequence of a crime, offense, breach of agree-

ment, or as a penalty for transgression. A penalty involving forfeiture of property should not be conflated with the confiscation of property. Confiscation, unlike forfeiture, is not a fundamental part of the sentence for an offense but rather a means by which courts can dispose of property presented in criminal trials.

The imposition of fines serves as a financial punishment distinct from physical penalties (Rowshan Ali v. The State, 2000), offering an effective alternative to incarceration for many offenders. Fixed fines for specific offenses are advocated by some as a means to avoid the complexities surrounding determining appropriate fine amounts on a case-by-case basis. In situations where equality is paramount, efforts should be made to ensure that fines are proportionate to the offender's income, thereby maintaining an equitable punitive impact. When no specific amount is stipulated, fines must not be deemed excessive. Fines represent charges imposed on the property of the convict as public obligations and remain recoverable even after the convict's demise. Many contend that individuals who default on fines should not face automatic imprisonment as a consequence, urging authorities to explore alternative approaches for addressing such defaulters. Nevertheless, it is legally permissible to order imprisonment for non-payment of fines, without it being considered illegal. Apart from section 53 of the Penal Code 1860, the legal system of Bangladesh provides various other forms of criminal sentencing, like verbal sanctions, Conditional Discharge and probation order:

Verbal sanctions include admonitions, reprimands, warnings, etc. Unconditional discharges accompanied by a formal or informal verbal sanction, offer lenient responses from courts following a conviction. Courts can discharge first-time offenders, convicted of crimes carrying a maximum imprisonment term of two years, after delivering an admonition (Probation of Offenders Ordinance, 1960, s. 4). The court considers multiple elements, such as the offender's age, character, antecedents, physical or mental condition and the particular nature of the criminal act to determine the appropriateness of verbal sanctions. These formal but mild responses aim to prevent further involvement with the criminal justice system while promoting rehabilitation.

Conditional discharge requires strict compliance with court-imposed conditions. Courts can impose conditional discharge for first-time offenders convicted of offenses punishable by up to two years of imprisonment. The court can direct the offender to execute a bond, with or without sureties, committing to no further offenses and good behavior for a specified period, typically not exceeding one year (Probation of Offenders Ordinance, 1960, s. 4(1)). Implementing mechanisms are crucial to ensure the effective monitoring and enforcement of these conditions. Conditional discharge serves as an alternative to more severe punishments, emphasizing the reform of offenders and their successful reintegration into the community.

Probation laws aim to provide certain individuals with an opportunity for rehabilitation instead of imprisonment. By granting probation, the court avoids subjecting offenders to the negative aspects of prison life and exposure to hardened criminals. This approach also helps alleviate overcrowding in jails. The court can issue probation orders that require offenders to be supervised by probation officers for a period of one to three years (Probation of Offenders Ordinance, 1960, s. 5). The orders may contain specific conditions. To successfully comply with a probation order, the convict must enter into a bond, with or without sureties, committing to law-abiding behavior, appearing in court when required, and having a fixed residence or regular occupation within the court's jurisdiction.

The current penal scheme in Bangladesh heavily relies on imprisonment as the principal method of sanction, but its effectiveness in achieving criminal justice goals is limited. Rising crime rates call for reevaluation and consideration of alternative sentencing options, such as probation, verbal sanctions and conditional discharge. Alternative sentencing provides a rehabilitative approach, addressing the fundamental causes of criminal conduct and promoting successful reintegration into society, reducing recidivism rates. Embracing alternatives can alleviate prison overcrowding and enhance cost-effectiveness. By adhering to human rights standards, alternative sentencing prioritizes rehabilitation and grants the judges greater discretion to ensure a fair, impartial and balanced sentencing process in Bangladesh.

Understanding Alternative Sentencing

The concept of ‘punishment’ has been presented throughout human history, documented across various historical records. From an early age, individuals are taught that violating rules or deviating from societal norms, whether imposed by parents or the wider community, carries consequences in the form of punishment. In the realm of criminal justice, courts administer punitive measures upon individuals who have been convicted of committing crimes.

In recent years, alternative sanctions, also referred to as ‘intermediate sanctions’, ‘community sanctions’, or ‘task-sanctions’, have gained significant popularity in Western countries. The adoption of alternative sanctions represents a crucial advancement in sentencing policy, prompting a comprehensive reevaluation of offenders, victims, the community, and the overall concept of sentencing. This shift in approach has led to a profound transformation in perspectives and approaches concerning critical elements of the criminal justice framework.

Alternative Sentencing, also known as community sentencing, offers non-custodial punishment options as an alternative to imprisonment or capital punishment (Ranjan, 2021). It is used for individuals convicted of less serious offenses. The court imposes specific limitations, obligations, and rehabilitation programs on the offender to address their needs and facilitate their reintegration into the community. Alternative sentencing aims to hold offenders accountable, reduce the risk of reoffending, and promote rehabilitation. It provides a personalized, community-centered approach to punishment while considering public safety.

Senna argued that, intermediate sanctions offer a cost-effective alternative to imprisonment, as they incur lower expenses. These sanctions play a vital role in meeting the demand for equitable, proportionate, and fair community sentences. Moreover, individuals subject to intermediate sanctions contribute to the economy through income generation, tax payments, restitution to victims, engagement in community service, and other cost-saving measures that would not be possible if they were incarcerated (Mangalla, 2018).

Czajkowski defines alternative sentencing, as a distinct form of criminal punishment that diverges from traditional sentencing practices. Implementing alternative sentences offers a more cost-effective solution to address prison overcrowding compared to expanding correctional facilities. Incarcerating offenders can be financially burdensome, while alternative punishments for non-violent criminals are more economically efficient and do not compromise public safety (Mangalla, 2018).

Community punishment refers to a situation wherein an individual, who has been convicted of a crime by a court, is not incarcerated but instead engages in unpaid work within their local community as a form of restitution. This unpaid work, commonly known as community payback, may involve tasks such as clearing debris, maintaining public spaces, or performing other beneficial actions. Community punishment is typically assigned for offenses like property damage, benefit fraud, or assault. The decision to impose community punishment is based on several factors, including the likelihood of deterring future criminal behavior compared to imprisonment, the offender’s first-time offense status, and their mental health condition, which may impact their conduct.

Historical Background of Alternative Sentencing Policies

Enrico Ferry introduced the term “criminal alternative” as a means of social defense against the social factors contributing to crime (Milani and Moghadam, 2015). He emphasized the importance of preventive measures and holistic approaches to address criminal behavior. Following Ferry’s ideas, Gramatica proposed a reinterpretation of alternative policies, focusing on individual responsibility and the consideration of sociopathic signs and degrees. Gramatica advocated for personalized social defense tactics that replace traditional punishment and target the specific needs of offenders (Milani and Moghadam, 2015). These alternative approaches aim to deal with the fundamental causes of offending behavior and provide more effective solutions than punitive measures alone.

The latter portion of the twentieth century witnessed a significant period of exploration and reform in the field of criminal justice execution. This era was characterized by revolutionary political and eco-

conomic changes, leading to a reevaluation of criminal activity and the associated sanctions in various countries. As a pivotal aspect of criminal policy modernization, the issue of alternative punishments gained prominence, alongside a renewed focus on social work with offenders. Consequently, a quest for alternatives to custodial sentences emerged, evolving along three main directions. The first sought to reduce the confinement nature of custodial sentences, allowing convicts certain privileges and activities similar to those outside prison walls. The second direction discarded intramural detention, advocating for alternative forms of punishment such as probation, fines, community service, or daily fines. The third direction manifested as depenalization, employing conditional sentences or diversions to forgo punishment (Gejdos, 2019). The motivation behind these alternative measures was to address challenges such as court overload, prison capacity issues, and the cost of civil proceedings effectively. Additionally, the pursuit of effective crime prevention strategies while maintaining judicial integrity remained a paramount goal. This modernization drive extended to the international level, with United Nations (UN) Congresses on the Prevention of Crime and the Treatment of Offenders convening regularly since 1955 (Gejdos, 2019). These congresses yielded important resolutions, exemplified by Resolution 16, which underscored reducing prison populations and promoting alternatives to imprisonment and offender social integration, adopted by the 7th UN Congress in 1985. The subsequent 8th Congress introduced the “Tokyo Rules” or “Standard Minimum Rules for Non-Custodial Measures”. Similar modernization efforts were witnessed at the Council of Europe, which adopted Resolution (76)10 in 1976 and Recommendation No. R (96)16 in 1992, both focusing on specific alternative penal measures and European community sanctions and measures rules, respectively (Gejdos, 2019). These regulations aimed to strike a balance between societal protection and compensating victims, while also acknowledging the needs of perpetrators for social adaptation to safeguard their human rights. Furthermore, clear guidelines were provided for personnel involved in applying community sanctions and measures, and their impact on society at large was considered (Gejdos, 2019).

Modes of Alternative Sentencing

Alternative punishments refer to intermediate sanctions that are implemented as alternatives to prison or traditional forms of punishment. These sanctions aim to provide a middle ground between imprisonment and less severe measures, such as probation or social sanctions.

Sentencing alternatives serve to prevent excessive sentences and provide non-custodial punishment options. In the case of community service, the law should specify the total hours to be worked and impose limits on daily and weekly work hours to comply with human rights standards. Clear and communicated conditions must be established for individual offenders. Consent of the offender is required for the imposition of community service. The Tokyo Rules, offer a range of non-imprisonment dispositions for sentencing, which, if properly defined and implemented, can effectively incorporate punitive elements (United Nations, 1990, r. 8.2).

First, Verbal sanctions, including admonitions, reprimands, warnings, or unconditional discharges with accompanying formal or informal verbal sanctions, represent some of the least severe responses available to a court upon establishing guilt or legal responsibility. Such a sentencing option can be imposed expeditiously without additional measures and administrative infrastructure. Hence, as an alternative sanction, they serve as a minimal intervention while ensuring the resolution of the matter (United Nations Office on Drugs and Crime [UNODC], 2007).

Second, Conditional discharges can be implemented relatively easily, but it requires authorities to establish a mechanism within the community to ensure compliance with the conditions set by the court when discharging an offender without imposing additional penalties. If the existing police force is entrusted with this responsibility, it is crucial to acknowledge the additional administrative workload it entails (United Nations Office on Drugs and Crime [UNODC], 2007).

Third, Status penalties serve as an alternative sanction by denying specific rights to offenders within the community. These penalties are designed to be proportionate to the offense committed, aiming

to restrict offenders from engaging in positions or activities related to their wrongdoing. For instance, someone convicted of fraud may be barred from holding positions of trust, such as a lawyer or company director. However, the broader society may also suffer from the professional restrictions imposed, if their skills are valuable to the community (UNODC, 2007).

Fourth, Economic penalties, such as fines, offer effective alternatives to incarceration for many offenders. While fines are relatively straightforward to implement, their imposition and enforcement require administrative support. Fixed fines for specific offenses are believed to simplify the determination of the penalty; however, they disproportionately affect the poor compared to the wealthy. Therefore, fixed penalties should be reserved for minor offenses where imprisonment is unlikely and offenders are assumed to have some income to pay fines. In cases where equality is sought, fines should be proportionate to the offender's income, ensuring an equitable "penal bite". Courts can assess the offender's income and adjust the fine accordingly, but this method only provides a rough balance between individuals with varying financial means (UNODC, 2007).

Fifth, Confiscation or expropriation orders operate outside the purview of criminal courts. Authorities are directed by statutory frameworks to confiscate crime proceeds and forfeit them to the state, often by liquidating non-monetary assets. Fair implementation of confiscation orders necessitates detailed evidence linking specific funds in the offender's possession to the crime. Expropriation orders must have a close connection to the offense to avoid complications, resembling a fine paid in kind rather than in monetary form. Proportional expropriation orders require a thorough investigation similar to assessing a day fine, with the added challenge of managing expropriated goods or property (UNODC, 2007).

Sixth, Restitution to the victim or a compensation order share similarities with fines as economic penalties from the offender's viewpoint. Both sanctions face comparable difficulties in establishing an amount that aligns with the offender's ability to pay (UNODC, 2007).

Seventh, suspended or deferred sentences are characterized by the pronouncement of a prison sentence that is temporarily withheld on specific conditions determined by the court. By articulating the threat of imprisonment, a deterrence effect can be achieved. Ideally, the need for actual execution of the sentence is obviated as long as the individual under sentence complies with the prescribed conditions (UNODC, 2007).

Eighth, Probation and judicial supervision have evolved into an agency responsible for ensuring offenders comply with court orders to avoid imprisonment. The probation service acts as a government entity providing information and monitoring offenders' adherence to community sentences while assisting them with challenges. Comprehensive social inquiry reports are essential for courts to order probation, detailing offenders' backgrounds, circumstances, and treatment recommendations. While direct judicial supervision is impractical, courts may involve community organizations in overseeing probation.

Ninth, Referral to an attendance center involves the offender spending the day at a designated facility and returning home in the evenings. Attendance centers serve as centralized locations that offer a range of therapeutic interventions. In many jurisdictions, there is a significant demand for therapy or treatment, particularly in relation to drug addiction. These centers provide various programs, including anger management and skills training, to address the specific needs of offenders, and then offer a more conducive environment compared to a prison setting, increasing the likelihood of positive responses from offenders (UNODC, 2007).

Tenth, House arrest serves as an alternative to imprisonment, offering a less invasive form of punishment. In countries like Bangladesh, where living conditions vary significantly, imposing 24-hour house arrest could impose an intolerable burden on the offender's household, particularly if they reside in crowded or disadvantaged environments. As a potential alternative, the court has the authority to impose restrictions on the hours of house arrest, allowing the offender to engage in gainful employment during the day while confining them to their residence at night. This approach balances the need for punishment with practical considerations

and potential social reintegration opportunities (UNODC, 2007).

Eleventh, Shaming sanctions have gained prominence in the American criminal justice system since the mid-1980s and have historical roots in various jurisdictions worldwide (Braithwaite, 1989). Shaming penalties have unpleasant consequences, including a decline in societal respect and self-esteem, and potential financial hardships due to social exclusion. However, some research suggests that shaming penalties are effective in promoting compliance with the law, exerting greater pressure than imprisonment. Shaming penalties may raise concerns of being cruel or degrading under certain legal frameworks. Despite debate, shaming sanctions continue to be explored as an alternative form of criminal sanction.

Twelfth, Shock incarceration introduces offenders to a shock phase experience, potentially followed by a period of probationary supervision. The specific duration of the “shock” phase may vary across states, typically involving a few months in prison, jail, or a boot camp facility. Boot camps are institutions where young, first-time offenders are temporarily confined and subjected to strict military-style discipline and stringent standards.

Thirteenth, Electronic monitoring (EM) enables the monitoring of individuals charged or convicted of offenses within the community. Through the use of an EM device, the individual’s location is tracked, ensuring compliance with the prescribed terms for sentencing or supervised release. EM is considered as an effective alternative for different populations across multiple phases of the criminal justice system, including pre-sentencing release and post-release supervision.

Fourteenth, Community service offering cost-effective benefits, involves an offender performing unpaid work or fulfilling specific tasks as part of a community service order (United Nations, 2007). Prior to imposing such an order, the court must ensure the availability of appropriate supervised work opportunities. For instance, in Thailand, instead of three-month prison terms, drunk drivers receive suspended sentences and probation, with a requirement to complete 24 hours of community service. The designated community service activities

aim to raise awareness among drunk drivers about the potential injuries they could inflict on themselves and others. These activities may involve assisting car accident victims, contributing to hospital work, and volunteering for road accident emergency response units.

Fifteenth, Open prisons were introduced in the United Kingdom during the 1930s, offering convicts the freedom to reside with their families and secure employment. However, such prison system must be subject to stringent criteria for eligibility (Maharashtra Open Prisons Rules, 1971).

Various nations have embraced diverse forms of alternative sentencing measures within their criminal justice systems. In Bangladesh, verbal sanctions and conditional discharge are utilized as lenient responses for first-time offenders found guilty of minor offenses. Whereas the efficacy of economic sanctions may be restricted by the financial circumstances of the convicts (Afroz, 2007). In contrast, suspended sentencing is effectively practiced in various jurisdictions worldwide, including Austria, Denmark, France, Germany, the Netherlands, and Sweden (Afroz, 2007). Naming and shaming sanctions have gained prominence in the American criminal justice system since the mid-1980s, and similar practices have historical origins in ancient Rome, socialist China, Cuba, and some indigenous tribes like the Crow Indians (Afroz, 2007). Community service, introduced in Finland in 1994 and the Netherlands in 1987, is also gaining acceptance in other countries (Stern, 1999). Electronic monitoring has been implemented in the USA, with thousands of offenders sentenced to it since 1990 (Junger-Tas, 1994). House arrest, frequently combined with electronic monitoring, is another prevalent form of alternative sentencing used in the USA. The adoption of such non-custodial sentencing measures varies among states, contingent upon their legal systems, socio-cultural contexts, and policy objectives.

Advantages of Alternative Sentencing

By aligning with local cultural traditions and values, alternative measures promote fairness and community involvement. These sentencing options prioritize rehabilitation and reintegration, addressing the specific needs of offenders to reduce the likelihood of reoffending. Furthermore, alternative

sentencing helps alleviate prison overcrowding, ensuring that human rights are respected. Being cost-effective and community-based, these measures provide opportunities for offenders to maintain connections and develop crucial life skills (Junger-Tas, 1994). Embracing alternative sentencing enables policymakers to strike a balance between punishment, rehabilitation, and community safety.

Challenges of Conventional Imprisonment

Despite its widespread existence, the reliance on conventional imprisonment as the main method of sanction is not without drawbacks. Empirical evidence suggests that conventional imprisonment may be counterproductive, especially for minor offenders and vulnerable populations, as it hinders their rehabilitation and reintegration into society. The escalating global use of imprisonment fails to demonstrate a corresponding improvement in public safety, instead leading to issues such as severe prison overcrowding and substandard living conditions that violate established international standards of human dignity. Moreover, the financial costs associated with maintaining and operating prisons are substantial. Consequently, a critical evaluation of the effectiveness and human rights implications of conventional imprisonment is imperative, promoting the exploration of alternative sentencing approaches that offer more viable solutions to the challenges encountered across the criminal justice framework.

Role of Alternative Sentencing in Reducing Crime Rates

While the administration of harsh punishments has long been perceived as a deterrent, modern penology recognizes that such punitive measures are often ineffective in reducing crimes and preventing recidivism. Instead, alternative sentencing approaches prioritize the humane treatment of offenders while focusing on their rehabilitation and reintegration into society. The UN standards and domestic penal laws provide a framework for the frequent use of alternatives such as fines, probation, parole, community service, and open jails. These approaches can facilitate the successful reentry of released prisoners into society. By embracing alternative sentencing and tailoring it to the socio-legal context, Bangladesh can effectively contribute to reducing crime rates and promoting a more rehabilitative approach across the criminal justice framework (Rahim, 2017).

Rehabilitation and Reintegration of Offenders

The role of alternative sentencing in the rehabilitation and reintegration of offenders is driven by changing societal perspectives favoring a more rational and humane approach to crime. Instead of concentrating exclusively on punitive measures, the prime concern has become the rehabilitation of offenders. This reformatory approach acknowledges that offenders can be positively changed through ethical and religious teachings, narrowing the gap between incarcerated life and free life. The philosophy of rehabilitation, supported by indeterminate sentencing, has emerged as a response to the understanding that the causes of criminality often stem from biological, psychological, or social conditions. In light of this, treatment programs have been developed by social scientists to address the needs of institutionalized inmates, emphasizing the importance of treating offenders rather than simply punishing them.

Economic Analysis of Alternative Sentencing

Economics, as the study of rational decision-making in the face of limited resources, seeks to maximize societal welfare (Cooter and Ulen, 2016). By examining the costs and benefits associated with different forms of punishment, economics provides a valuable tool for evaluating the effectiveness of alternative sentencing. Crimes not only cause harm to victims but also impose costs on society, such as the loss of resources and income. Traditional incarceration carries social costs in terms of constructing and maintaining prisons, as well as the opportunity cost of the productivity lost from imprisoned individuals. In contrast, alternative sentencing offers potential social benefits, including deterrence, retribution, rehabilitation, and incapacitation. Economic-analysis suggests that punishments should exceed the gains obtained by criminals to deter future criminal activity effectively. By considering the economic costs and benefits, alternative sentencing offers the potential for more efficient allocation of resources compared to conventional imprisonment, making it an important aspect of economic analysis within the criminal justice framework.

Cost-Benefit Analysis of Alternative Sentencing

The cost-benefit analysis of alternative sentencing compared to traditional imprisonment involves complex considerations. Cost savings can be

achieved by closing down or preventing new prison constructions, but the impact is primarily symbolic and directed towards future circumstances. Calculating costs and potential savings is challenging, particularly in relation to the substitution of prison sentences. The extent of cost savings depends on the proportion of alternative punishments that effectively replace incarceration. Net-widening may lead to higher costs as some programs require greater resources. Failures in alternative sanctions for serious offenders can result in increased supervision and technical violations, leading to additional costs associated with renewed prosecution and imprisonment. Precisely estimating costs is difficult due to various factors, including the number and duration of substitutions, institution type, trial outcomes, probation personnel expenses, intensity of supervision, and scope of rehabilitative programs. Simply releasing prisoners without addressing underlying issues does not bring substantial changes, as new offenders continue to be incarcerated at similar rates. In contrast, restorative justice shows promise in reducing costs within the criminal justice system through volunteer mediators, swift handling of less serious cases, and avoidance of legal representation (Bouffard, 2007). Victims perceive restorative justice as a more cost-effective and timely approach, emphasizing reconciliation and compensation over prolonged criminal prosecutions. Overall, conducting a comprehensive cost-benefit analysis is crucial in understanding the potential advantages and limitations of alternative sentencing measures.

Comparison of Financial Implications between Conventional and Alternative Sentencing

From an economic standpoint, an efficient criminal justice system aims to maximize citizen safety, minimize criminal activity, and limit the costs associated with its policies. The evaluation of the criminal justice framework involves weighing its societal benefits in terms of reduced crime against the societal costs, including direct government spending and collateral consequences for individuals. Crime imposes significant burdens on victims, families, and society at large. These costs encompass not only direct monetary losses, such as stolen or damaged property and medical expenses, but also intangible costs like pain, suffering, trauma, fear, and diminished quality of life. Moreover, crime can have indirect costs on the community.

In Bangladesh, the prison system faces a pressing issue of overpopulation, with 83,107 inmates being held in 68 jails despite a maximum capacity of 42,459, as reported by the Department of Prisons' statistics for March 2021 (Ahmad, 2021). This overcrowding not only poses social challenges but also incurs significant human costs. Analyzing the financial implications of conventional and alternative sentencing methods is essential in understanding their relative advantages. The objective is to find a balance between reducing crime-related costs and promoting societal well-being, while also addressing the challenges of prison overcrowding and its associated social and human costs.

Introducing Alternative Sentencing in Bangladesh

The penal policy of Bangladesh is criticized for its limited availability of alternative measures to imprisonment. The predominant form of criminal punishment is imprisonment, which is deemed ineffective in reducing the overall crime rate and preventing recidivism. Consequently, proponents from various theoretical perspectives advocate for the implementation of alternative sanctions as a more favorable approach. For example, Kazakhstan underwent penal law reforms in 2002, emphasizing the increased utilization of alternative sentencing instead of imprisonment (UNODC, 2007). This strategy resulted in a reduction in the prison population and a noteworthy decline in the crime rate within a three-year period.

However, to implement the alternative sentencing policies, a few challenges need to be mitigated by the proper authority of Bangladesh.

Legal and Policy Barriers

A thorough review of existing legislation is required to ensure that unnecessary criminalization of conduct is minimized, thus avoiding further strain on the already overcrowded prison system. Authorities need to establish a comprehensive legal framework at all levels, supported by statutory requirements, to facilitate the adoption and execution of alternative measures. The law should explicitly prioritize alternatives to imprisonment, making incarceration the last resort. However, the mere enactment of new legislation is insufficient; it should be accompanied by seminars and training programs aimed at promoting effective implementation. These initia-

tives should initially target judges and subsequently extend to all relevant stakeholders involved in the enforcement of newly established alternative sentencing practices.

Public Perception and Acceptance

Some people still believe that these alternatives, although cheaper and more efficient, can still be cruel and degrading to offenders, which makes them unacceptable. Even when the alternatives themselves are not considered cruel, if they are implemented incorrectly, they can cause problems. Additionally, the concerns of crime victims and the interests of society may not be adequately addressed with these alternative sentencing methods. All of these factors may make it difficult for the public to fully embrace and support alternative sentencing in Bangladesh.

Political Initiative

To effectively reduce the prison population and promote alternatives to imprisonment, it is crucial for politicians and senior policy-makers to demonstrate a shared commitment to this objective. They should have an ideological stance favoring the reduction of incarceration rates and the exploration of alternative measures. In order to gain public support for such a policy, authorities need to educate the public about the drawbacks and costs associated with imprisonment, as well as the moral, practical, and financial advantages of alternative sentencing (UNODC, 2007).

Promotion of Alternatives

Media plays a vital role in influencing public discourse and shaping public attitudes towards criminal justice policies, including alternative sentencing. Negative media portrayals and sensationalized reporting may create misconceptions and fuel resistance to alternative approaches. To overcome these challenges, it is crucial to engage with the media effectively, promoting accurate and balanced reporting that highlights the benefits and effectiveness of alternative sentencing. Building partnerships with media outlets, conducting public education campaigns, and fostering open dialogue can help to address misperceptions and enhance public understanding of the value and importance of alternatives to imprisonment in achieving positive outcomes for offenders as well as the whole society (UNODC, 2007).

Resources and Infrastructures

Insufficient funding and a lack of suitable facilities impede the development and operation of effective alternative sentencing programs. To address these challenges, it is crucial for authorities to allocate adequate resources and invest in the necessary infrastructure, including program funding, staff training, and specialized facilities (UNODC, 2007).

Training and Capacity Building

It is imperative to design comprehensive training programs that offer a robust educational framework for justice system professionals, including judges, prosecutors, and probation officers. These programs should aim to equip them with the necessary knowledge and skills required to proficiently implement alternative sentencing measures. Effective capacity building initiatives should focus on deepening comprehension of alternative sentencing principles, procedures, and best practices. Moreover, the establishment of dedicated training institutes and workshops can serve as valuable platforms for continuous support and skill development.

Monitoring

Introduction of alternative sentencing practices requires continuous evaluation and adjustment. Setting specific deadlines and benchmarks can provide a framework for measuring progress and identifying areas of success and failure. When benchmarks are not met, swift remedial action should be taken to address shortcomings. It is crucial to ensure that alternatives are implemented correctly to maintain their credibility (UNODC, 2007). Motivating offenders to participate in community sentences should go beyond merely avoiding imprisonment, but also present an opportunity for personal improvement. Building community support for alternative sentencing fosters an environment of cooperation and mutual trust, facilitating effective monitoring and evaluation of the program's outcomes.

Recent Trends of the Alternative Sentencing in Bangladesh

Though several alternative sentencing measures are available, these alternatives unfortunately, remain largely underutilized, because many legal practitioners are unaware of the laws providing for alternative measures. Subject to monitoring by a

probation officer, individuals on probation are frequently released under the condition of engaging in various social and community activities, such as tree planting, reading, and providing care for elderly parents and children. The probation system is governed by three legislations: the Probation of Offenders Ordinance 1960 applying to offenders in general, the Children Act 2013 pertaining to children, and the Special Privileges for Convicted Women Act 2006 addressing women offenders. These legislative frameworks lay down the provisions and guidelines for implementing probationary measures aimed at fostering rehabilitation and reintegration into society for individuals involved in the criminal justice system (Manir, 2022).

In Bangladesh, community service activities have gained recognition as effective alternatives to traditional imprisonment for minor offenses. Notable examples include environmental conservation tasks, such as cleaning public spaces, planting trees (Editorial, 2020), and supporting wildlife preservation efforts. Social services involve collaborating with organizations that assist vulnerable groups, including homeless shelters, food banks, and elderly care facilities. In some cases, professionals such as doctors and lawyers who have been incarcerated contribute their expertise to enhance social welfare through community service.

Educational programs are another avenue where offenders contribute by providing tutoring or mentoring, participating in after-school initiatives, and engaging in literacy campaigns and reading books (Editorial, 2020). Community infrastructure projects encompass tasks such as painting public buildings, repairing playgrounds, and renovating community centers. Rehabilitation and counseling efforts focus on addressing the underlying causes of offenses, with offenders attending therapy sessions, substance abuse programs, anger management courses, or restorative justice programs.

Additionally, community service involvement extends to emergency services, with offenders volunteering as firefighters, paramedics, or search and rescue personnel. Although the implementation of these community service initiatives remains limited, their popularity is gradually increasing in

Bangladesh as alternatives to traditional sentencing methods.

Judicial Support for Alternative Sentencing in Bangladesh

In recent times, the High Court Division of Bangladesh (HCD) has made noteworthy decisions by granting conditional release as an alternative to imprisonment under the probation ordinance. In a narcotics-related case, the HCD allowed the convict to live with his family, subject to ensuring his daughter's education until the 10th grade, taking care of his elderly mother, and refraining from marrying off his daughter before she reaches 18 years of age (Md. Moti Matbor v. State, 2017). In another case (Abdul Khaleque v. Hazera Begum, 2002), the HCD emphasized on granting probation acknowledging that the penal system in Bangladesh is primarily focused on reforming individuals rather than seeking retribution.

To extend the reformatory approach to all offenders, the Appellate Division ruled that all courts, including magistrates and the High Court, have the authority to grant probation instead of imprisonment for minor offenses (Nur Mohammad v. State). In so doing, the court should consider the factors like age, gender, maternity, and familial responsibilities (Md. Moti Matbor v. State, 2017). These decisions underscore the necessity of raising awareness among judges regarding the benefits of alternative sentencing and its potential to alleviate prison overcrowding and case backlogs while providing offenders with opportunities for reintegration and rehabilitation into society.

Prospects of Alternative Sentencing in Bangladesh

In Bangladesh, alternative sentencing is gaining traction as a more rehabilitative and reformatory approach to the criminal justice framework. Measures such as probation, conditional release, and community service have been introduced to deal with the fundamental causes of offending behavior and offer offenders opportunities for redemption. Recent judgments by the High Court Division and Appellate Division underscore the potential of alternative sentencing in reducing prison overcrowding, alleviating case backlogs, and promoting offender rehabilitation (Md. Moti Matbor v. State, 2017).

In the perspective of Bangladesh's socio-economic structure, several modes of alternative sentencing show potential effectiveness. Probation, conditional release, and community service can be particularly beneficial in this context.

Probation permits offenders to reside in their own communities under the supervision of probation officers, which aligns well with Bangladesh's strong community bonds and support systems. This mode of alternative sentencing can offer rehabilitative opportunities and support networks that aid in the offender's reintegration into society (Hossain, 2020).

Conditional release, as demonstrated in recent judgments, provides an opportunity for offenders to serve their sentences while living with their families under specific conditions (Probation of Offenders Ordinance, 1960, s. 4(2)). By allowing offenders to maintain connections with their families and communities, conditional release encourages their reformation and reduces the risk of recidivism.

Community service may be another effective mode of alternative sentencing in Bangladesh. Community service allows offenders to make amends to society and contribute positively to their neighborhoods. This mode of sentencing enables offenders to give back and restore their standing within their communities (Lamba, 2020).

Furthermore, these modes of alternative sentencing address the socio-economic challenges faced by Bangladesh, such as prison overcrowding, case backlogs, and limited resources. By reducing the prison population, alternative sentencing measures free up resources to invest in other aspects of the criminal justice system, including rehabilitation programs and support services for both offenders and victims.

Overall; probation, conditional release, and community service demonstrate effectiveness in the Bangladeshi context due to their compatibility with the country's socio-economic structure, emphasis on community ties, and potential to address the challenges faced by the criminal justice system.

2. Conclusion

The evolution of sentencing policies in Bangladesh demonstrates a shift from traditional punitive approaches toward reformative and rehabilitative

mechanisms. The adoption of alternative sentencing reflects this positive transformation, offering practical solutions to challenges such as prison overcrowding, case backlogs, and limited opportunities for offender rehabilitation. While implementation faces obstacles-including limited awareness, inadequate resources, and prevailing public perceptions-these can be addressed through legislative reforms, capacity building, and public education initiatives. Despite these challenges, alternative sentencing holds significant promise in promoting offender reformation, enhancing judicial efficiency and fostering a more balanced, fair and just criminal justice system. Institutionalizing such measures can ensure that the system not only deters crime but also facilitates offender reintegration, ultimately benefiting both individuals and society at large.

3. Acknowledgment

The author sincerely thanks the editorial team and reviewers of the *Asian Journal of Social Sciences and Legal Studies* for their constructive feedback and valuable suggestions, which have greatly enhanced the quality of this manuscript. The author also expresses gratitude to colleagues and mentors at the Department of Law, Gono Bishwabidyalay, for their continuous guidance and support throughout the research process.

4. Conflicts of Interest

The author declares that there are no conflicts of interest related to the publication of this research article. The author has carefully reviewed and approved the final manuscript and confirms that no financial, personal, or professional relationships exist that could have influenced the objectivity or integrity of the work presented.

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Citation: Refat MAM. (2026). Prospects of alternative sentencing in the criminal justice system of Bangladesh, *Asian J. Soc. Sci. Leg. Stud.*, 8(2), 521-538. <https://doi.org/10.34104/ajssls.026.05210538>

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