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Visiting Suspects, Accused and Prisoners in Nangarhar

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Abstract

This article defines the terms suspect, supervisory, defendant, detainee, prisoner, and prison. The first step is to identify the suspects and the shortcomings in the process of meeting the suspects in Nangarhar. Then there is a discussion about how to meet the defendants. After these two sections, types of appointments, on the subject of meeting prisoners, and deficiencies in this regards have been discussed and researched in Nangarhar. The main purpose of visiting suspects, accused and prisoners is to keep their social spirit alive and to establish relationships with the community, their families and friends. The importance of this issue is that suspects, detainees and prisoners can visit their family and friends at any stage and get information from each other. This leads to emotional and psychological relief for the parties. As a result, it can be said that Visiting suspects, and strengthens the spirit of maintaining their social ties with their families. And in the future, it rehabilitate and train suspects, accused and prisoners.

Keywords: Prison, detention center, suspected person, accused person, detainee, prisoner, meetings

Introduction

According to the law of detention centers and prisons, prisoners and detainees meetings and contacts with their families should be regulated in ways which do not harm the order of the society. According to the prisons related laws and regulations of Afghanistan, prisoners can meet their families, but a number of measures must have been taken to ensure that these meetings are not causing any harm to the society and its standards and values. It should be emphasized that these measures should not deprive detainees to meet their families, because such meeting are necessary for social reintegration of offenders and keeping their social spirit alive. In Nangarhar, the suspects are kept in custody by police, accused are detained by the prosecution departments and courts, and prisoners are kept in prison.

This article first discusses some necessary terms including suspects, lock up, accused/detainee, detention facility, prison and prisoner. Secondly, the article discusses the procedures for meeting suspects, detainees and prisoners in Nangarhar.

1) Suspect, lock up, Accused, detention facility, prison and prisoners

Each one of these terms have been defined as follows:

a) Suspect and lock up

i) Suspect

The bylaw ratified on 2/3/2017 for the Regulation of Lock up defines suspect as follow:

“Suspect is a person who is alleged of committing a crime or the one to whom precautionary measures have been taken against before accusation.” (21: p 16)

The current Criminal Procedure Code defines the suspect in its Article 4, paragraph 11 as: “[Suspect is a] person who is suspected of committing the crime or before attributing the crime to him/her precautionary measures are taken.” (5:p6).

ii) Lock up

Lock up is defined at Article 3 and paragraph 1 of the Regulation on the Conduct of lock up.

Lock up is a place and space that is allocated by the government for the protection of suspects temporarily during detection of a crime.

b) Accused and detention Facility

Defining each term as follows:

i) Accused

Accused is defined in Article 4 (13) of the current Criminal Procedure Code of Afghanistan:

Accused person: person who is identified as the perpetrator of the crime based on evaluation of the collected evidences during investigation.

ii) Detention Facility

Detention is defined in Para 7 of Art 1, of the Prisons and Detention Centers Law, as follows::

Detention Facility: The place where accused are kept awaiting for trial.

c) Prisoners and Prison

Each terms is explained as follow:

i) Prisoners

)Prisoner is a person who has been sentenced in a court to imprisonment or deprived his/her liberty, in accordance to the law.

ii) Prison

Prison is defined in Article 7, Para 2 of the Prisons and Detention Centers Law:

Prison, A place where people are kept who are convicted of the final court verdict(10:p79).

2) Meeting Suspects Accused and Prisoners in Nangarhar.

All above issues are discussed separately:

a) Meeting suspects in Nangarhar

Suspects can meet their relatives and friends at the Nangarhar Police Headquarters lockup. The first step is to search visitor, then enters the lockup entrance, and there it has a small coach in the corridor. The suspect is called to the corridor, suspect talks to the interviewer and sit on the same coach, In addition, there is a small room in the corridor, which is three meters long and two meters wide, is designated for meeting, can be used, If there are plenty of visitors.

There are some disadvantages in the meeting process of suspects:

1. There isn't any designated time for meeting suspects, It is important to establish a regular schedule for meeting suspects, there has to be assigned time and day for appointment and the process must be monitored very carefully through officials, so there would not be any chance for detainees to flee.

2. Meeting between the suspect and visitor takes place in the absence of the observer in the adjoining room, It is possible that family members, relatives and friends, or members of a criminal gang or group may instruct the suspect during a visit to make the interrogation difficult or even impossible to detect and prove a crime. While there one have attempted serious crimes, so very tight and strict measures have to be taken when the visitors are meeting suspects, it has to base on needs and the meeting should be organized carefully and professionally, because it is very sensitive stage.

In addition, if a letter is sent from the family to visitors or vis versa, in both cases the letter should be carefully studied and controlled.

Finally, it is worth mentioning that Surveillance period of suspects during police execution phase According to the police law, up to (72) hours is forecast.(9: p23)

b) Meeting accused in Nangarhar

It has already been said that accused is persons who is identified and charged as the perpetrator or offender on the basis of the evidence gathered during the investigation, According to the principle, accused person should be kept in separate places from prisoners, Unfortunately, in Nangarhar, the accused and convicted are kept together in the Nangarhar Prison within the same building, and has the same meeting procedure. Therefore, we will discuss the issue of meeting detainees and prisoners at one topic, as follow:

Meeting Prisoners in Nangarhar

One of the most important issues in maintaining the social relations of prisoners is the issue of meeting and visiting prisoners with their family members, relatives and friends, In addition to relatives and friends, other's may also visit the prisoners. The prison administration has arranged a proper plan and schedule for visiting prisoners and detainees. For example, a certain day in the week, a certain hour and time within the day is set out for the visitors to meet the prisoners and detainees. So that the prisoner does not have the opportunity to escape or commit any crime.

Prisoner's visits are mainly of two types:

The first type of meeting is with the lawyers and other officials, which can be done at any time as needed.

The second type of meeting is between the prisoner and his family and relatives.

Nowadays, There are different methods of meeting prisoners, the most important are as follows:

- In some countries there is a special meeting room for prisoners, in the middle of which is a strong metallic cage that has a very small holes, So that nothing can be exchanged between the prisoner and its relatives, and cannot contact each other physically. The prisoner is on one side of the cage and the visitor is on the other side (4,p130-131).

-There a large table is set between the prisoner and the visitor, both are sitting at each side of the table, the table is arranged in such a way that the prisoner and visitor can shake their hands, they can hug each other in the presence of the prison guard either at the beginning or end of the meeting.

- the meeting room is divided into two parts by a clear and transparent glass, the visitor on one side and the prisoner on the other, and can talk through phone, though in some places, there are small holes in the glass that they can hear each other's voices.

According to Article 188 of Iran's Prisons Law, public meeting places must be equipped with unbreakable glass and phones, This type of meeting takes place in a special hall.

- There are special rooms for meeting families, As one is sitting with the family at home Watching TV, cooking meals, eating meals or etc together, There it is same as home, and they can also maintain sexual relation.

Such meetings are also called "special" (Shari'a) meetings and the inmates are allowed to have specific appointments if there are legal knot of Nikah, To keep a husband and wife together in a room for a few hours, a prisoner can keep sexual relation with his/her spouse. The special meeting between the husband and wife strengthens the social spirit of the prisoner and makes the prisoner able to return society, and The natural desires of both parties are saturated, that deviate them from immoral activities, and married life is promoted and prolonged.

The prisoners might also be benefited from special meetings, So, they may behave in very good manner, such meetings are allowed in Australia, Brazil, Canada, Denmark, Germany, India, Israel, Mexico, Russia, Spain, and the US states of Mississippi, California, and Los Angeles. In Saudi Arabia, it is permissible for a man and a woman to meet according to Islamic law, Husbands can have special meetings with his wife once a month, if someone has more wives than one is allowed twice a month. .((fa.m.wikipedia.org

(Tele video technology) (25, new site)

- It is video visits, It is a new technology that allows visitors to stand in front of a screen in the meeting room or any other special place, and the prisoner also stands in front of the screen in a certain place and looks and talks to each other, This is called tele video technology , (the technology of watching and hearing).

Following points must be taken into account while meeting or visiting prisoners:

1. Talking during the meeting should be done in the presence of the prison guard.
2. During the meeting, the parties should speak loudly so that the guard can hear them.
3. Conversation must be in national languages, not in foreign languages or local languages, so that the prison guard can understand it.
4. Conversation should be simple and easy to understand, wouldn't be with hints and un-understandable dialogues.
5. They should talk about family, relatives and friends and normal life issues and not about political or any other sensitive issues.

If any of the above points are not met, the prison guard can Interrupt and end the meeting at any stage

(4: p132-133).

Detainees and prisoners in Nangarhar Prison can visit their family members and other relatives, They are scheduled to meet twice a week, on Wednesdays and Thursdays, On these days, the time lapse is from 8:00 am to 1:30 pm.

Strong security and security measures are being implemented by the prison administration on both days of the meeting, The prison administration issues orders to all staff to ensure that the process (meeting) is well organized, And no one may exchange or transfer a prohibited object or device within themselves, also to prevent possible ways of escape, When visitors visit the detainee or Prisoner, At the first gate of the prison, at the appointed time, the visitors are lined up, and searched one by one, by authorities. All the prohibited items are temporarily taken as a deposit by the duty officer, the visitors can take necessary items for the detainee and prisoners, which are not prohibited by the prison administration. After the body search, a seal is affixed to the

visitor's hand and he enters the prison compound through the second door, There, an officer also signs the seal on the visitor's hand And then the guards lead the way to the meeting place.

detainees and the prisoner often came out of the cells on visit days, , the prison compound is divided into two parts, one for the accommodation of detainees and prisoners with strong walls and iron gates, And the second part exists for prison administration personnel and for official departments, On the day of the visit, the detainees and prisoners enters the main courtyard of the prison and if no detainee or prisoner has come out, the security guard at the door announces through a loudspeaker that they are leaving for the meeting, To meet his relatives and friends in the general courtyard of the prison. No special meeting place has been set up, but the meeting will take place on the ground in the main courtyard of the prison.

To support detainees and prisoners UN Commission has published a journal on Social Defence, explains this way:

Accused and prisoners must be allowed to Inform their relatives and friends about their detention and imprisonment, And visit them, Unless there is a restriction from the prison's internal regulations, or their visit have been restricted by authority that has ordered to detain them.(11:p11):

There is a similar explanation in the guidelines for fair trials under the subject of (Access to Family).

People who are being held in pre-trial detention Must have adequate facilities to meet and communicate with family and friends. These rights may be restricted or monitored when there are judicial, security or discipline issues.(12: p 22)

The Prisons and Detention Centres law clarifies this under the subject of family relations:

Detainees and prisoners have the right to meet and correspond with their families, in special places or by any other means, though not to violate law in order within the prison. Authorities can just observe their meeting, and can control their conversation if court or prosecution provide orders. (10:p25-26).

There are some shortcomings in the procedure of meeting detainees and prisoners in Nangarhar General Prison, the most important of which are as follows:

1. Detainees meet their relatives on the same day and time the criminal and political prisoners meet, there isn't any distinction made in terms of how, when, or where they meet, though, they all enjoy the right to meet collectively, in one form, one time and in one place.

This method has the following disadvantages: A Comment

A. To prevent the accused from contacting criminal and political prisoners during their meetings and not to get influenced of their criminal character and ideas. Their meetings should be arranged on separate days.

B. Another disadvantage of meeting collectively is that the prison administration can not properly control the meeting process as required.

c. It is possible that a number of professional and recurrent imprisoned criminals will attract detainees to their criminal bonds and gangs in various ways to influence them, And may provide some instructions to the accused and show them ways how to escape from justice and law.

d. Political criminals should be given the opportunity to have meeting on separate days, as it is possible for political criminals to incite detainees and criminals to revolt. On the other hand, today there are privileges and facilities for political criminals in prisons, increase the appointment time, which is different from both (detainees and criminal prisoners), therefore visiting time of detainees, criminals and political criminals should be arranged on separate days and times.

2. on visiting days that all the departments, detainees and prisoners are placed, all of them are meeting their relatives in courtyard and there isn't any restriction. So, there it is the possibility of violence within the prisoners. therefore, to prevent the threat, the meeting places have to be located separate from the departments. There must be strong disciplinary measures.

3. No security measures or restrictions are imposed on visitors, they are free while meeting, If any visitors come to visit, they sit and talk with them in a separate place on the earth and there isn't any observer during meeting, So They can talk to each other about all kinds of topics.

4. Detainees and prisoners can be visited by their male and female relatives, They are allowed to visit their spouse separately, Special rooms have been set up for such meetings, But the problem is, how do they know if they've really come to visit their spouses? There is no specific procedure for this identification, Everyone who comes and say that they have come to visit so-and-so, They are searched by female bodyguards and left inside, In this regard, the standard, accuracy, religious and moral principles and procedures have not been taken into consideration to prevent this potential corruption.

Conclusion

According to the prisons related laws and regulations of Afghanistan, prisoners can meet their families, but a number of measures must have been taken to ensure that these meetings are not causing any harm to the society and its standards and values. It should be emphasized that these measures should not deprive detainees to meet their families, because such meeting are necessary for social reintegration of offenders and keeping their social spirit alive. In Nangarhar, the suspects are kept in custody by police, accused are detained by the prosecution departments and courts, and prisoners are kept in prison. According to the law of detention centers and prisons, prisoners' meetings and contacts with their families should be regulated in ways which do not harm the order of the society. This paper recommends that meeting in prison and detention centers at Nangarhar should be properly scheduled, and the meetings should be monitored by relevant authorities. In addition, the prisoners and detainees should be separated from each other and their should be different days of their meetings with their families.

Recommendations

Here are some recommendations on how to meet suspects, detainees and Prisoners in Nangarhar:

1. The meetings of the suspects in Nangarhar should be carried out according to a regular schedule and should be closely monitored to prevent absconding or other possible problems.
2. In Nangarhar, detainees and prisoners should be kept in separate places because the detainees are in a state of accusation and the alleged charges against them have not yet proved, but the prisoners are in a state of conviction and guilt, which is not legally appropriate.
3. In Nangarhar prisons, criminal prisoners, military prisoners and political prisoners should not be kept together on the one hand, and on the other hand, the days of their visit should also be different from each other.
4. The special meetings between prisoners and their wives and husband should be regulated through a transparent system, so that any possible misuse of the meetings is avoided. In order to do so, a transparent, accurate and religiously and ethically established procedure must be observed in Nangarhar prisons.

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