

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 4 | Issue 5

2021

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Credibility of Witness: An Act is Required to Protect the Witness in Bangladesh

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ABSTRACT

Witness plays a very significant role to decide over any legal dispute. The significance of witness is high in criminal law legal system. Witness is considered eyes and ears of the court. The magistrate sees nothing by himself, he solely pronounces judgement relying on the testimony of the witness. The protection of witness is a crying need as criminal law legal system aims only to ensure justice. If witness, in a case, is manipulated or bribed, it is impossible to ensure justice. Moreover if the witness is threatened to life or social security, he will not be willingly eager to testify in the court. This will affect the legal proceeding grievously. Thus no witness will have courage to testify in the court if the accused is powerful. For this reason witness protection is required in all type of criminal case. It is unfortunate that state protects the victim to ensure fair trial whereas it is totally dependent on the witness. Most of the time state doesn't protect the witness or fail to protect the witness. So eye-witness fears to testify in the court. And thus justice is being ignored. Here the author has documented the importance of witness protection, history of witness protection in the ancient time, highlighted some important precedent regarding witness protection and finally, suggested how Bangladesh can take steps to protect the witness, during and after criminal proceeding, to ensure justice.

Keywords: Credibility, Witnesses Protection, Victim, Competency, Testimony.

I. INTRODUCTION

In Bangladesh legal system, the victim has passive recognition which is the victims right to meaningful access to criminal proceedings.² On the other hand, legal system provides more rights and privileges to the wrongdoer escape the criminal liability using the length criminal trial process.³ Our commitment to fair trial, in the constitution and international human rights instruments including International Covenant on Civil and Political Rights (ICCPR)⁴, basically

¹ Author is a LLM student at Dept. of Law and Justice, Southeast University, Dhaka.

² D'Costa, B., Hossain, S., "Redress for Sexual Violence Before the International Crimes Tribunal in Bangladesh: Lessons from History, and Hopes for the Future.", *Crime Law Forum*, 21(2010). pp. 335. Available at: <https://doi.org/10.1007/s10609-010-9120-2>. (Last visited on August 15, 2021).

³ M. S Alam, *Bangladeshe Ainer Sangsker o Ain Commission* (Legal Reforms in Bangladesh and Law Commission), New Warsi Book, Dhaka, 2016, p. 122.

⁴ International Covenant on Civil and Political Right (ICCPR) 1966. available at [http:// www.ohchr.org/en/](http://www.ohchr.org/en/)

deals with a cluster of procedural safeguards to the accused. Moreover, the victim is not allowed to participate in the justice process to serve as a witness. To uphold criminal justice, ensure justice to the victim, hold a fair trial for both the parties and save time during criminal trial, it's the duty of the state to protect the witness in the case. It is essential for the witness to come forward and stay confident to assist the court to decide over the dispute. Otherwise he may be bribed, manipulated, threatened to life and property, threatened to his family members, even the witness may be killed.

Criminal law legal system is the most ancient legal procedure. Most of the countries developed and developing have uploaded its national law to protect the witness and the victim. In our country, the criminal law legal system and a criminal case is mostly dealt by The Code Of Criminal Procedure, 1898, The Evidence Act, 1872 and The Panel Code, 1860. The Code of Criminal Procedure, 1898⁵ provides no better protection for the victims of crime. Over the years a lot of special legislations have been enacted to combat violence against women which also offer hazy victim protection scheme. Though the victims need protection, safe accommodation, support counselling and legal assistance, the criminal law legal system authorities like court, investigators and prosecution etc. are found absent-minded to assure the victim and the witness. As there is no legal as well as institutional framework, the victim and the witness remain highly endangered in our criminal law legal system.

This paper includes the importance of credibility of the witness to ensure justice, how to protect the credibility, the importance to ensure the safety of the witness, existing law holding the provision for witness protection; documented the states that already enacted witness protection law and finally highlighted some recommendations to the Government to show the procedures how the protection of the witness be ensured. In fact, the writer has sought for a special law to protect the witness. This legal paper is based on both primary sources including statutes, rules, regulations, and secondary sources including books, journal articles, periodicals, reports and other sources from internet, specially from google scholar.

(A) Literature Review

A number of books and articles have written on the protection of witnesses in international tribunals and developed countries. However, there is almost no literature on the protection of witnesses in Bangladesh. There is no law regarding protection of the witness. However, the author has gone through numbers of articles on foreign journal,

professionalinterest/pages/ccpr.aspx. (Last visited on August 15, 2021).

⁵ Act V of 1898.

newspapers and law protecting the witness.

There is a bill provided by the Bangladesh law Commission named The Victim and Witness Protection Act, 20...⁶ which is yet to be passed. The author has gone through a book titled “Criminal Justice in Bangladesh”⁷ where the writer has showed the loopholes in your criminal justice system as to protection of the witness. The writer has strongly suggested for legal provision to protect the witness during trial.

The Penal Code, 1860⁸; The Constitution of the People’s Republic of Bangladesh⁹; The Evidence Act, 1872¹⁰ hold some provisions in this regard but those aren’t enough to ensure security of the witness. This strongly suggested rights and protection of the witness but there is no strong provision for the protection of witness and to keep him safe. Nazrul Islam in his book titled “Reflections On The Law of Evidence” described how the credibility of the witness can be checked.¹¹

The article titled ‘Insufficiency on witness protection’¹² published in The Daily Star gave a brief idea about the present scenario of witness protection in Bangladesh. Journalist had noted some cases where witness was physically and psychologically harmed. A journal article ‘Necessity of Legislation for the Protection of witness in Bangladesh: A Legal Study’¹³ briefly described the necessity of witness protection and basic steps to be taken immediately to protect witness and to ensure justice.

‘Some Loopholes and deficiencies in the existing laws relating to trial of Criminal Cases’ the article was completed by Justice Md. Hamidul Haque who showed the reasons why does Bangladesh need immediately enact an Act to protect the witness and victim.¹⁴ A.R.M.

⁶ A Final Report provided by Law Commission-Bangladesh on 09.02.2011. Available at: <http://www.lc.gov.bd/reports.htm>. (Last visited on August 20, 2021).

⁷ Moran, G, Criminal Justice in Bangladesh, UNDP Bangladesh, (November, 2015). Available at: [https://www.undp.org/content/dam/bangladesh/docs/Projects/jsf/Best%20Practice%20Handbook%20\(Final%20Draft\).pdf](https://www.undp.org/content/dam/bangladesh/docs/Projects/jsf/Best%20Practice%20Handbook%20(Final%20Draft).pdf). (Last visited on August 20, 2021).

⁸ Act No. XLV of 1860.

⁹ The Constitution of the People’s Republic of Bangladesh. Available at: <http://bdlaws.minlaw.gov.bd>. (Last visited on August 20, 2021).

¹⁰ Act No. I of 1872.

¹¹ Islam, Nazrul, *Reflections On The Law of Evidence*, 1st ed. Al-Afsar Press, Malibagh, 1998, pp. 516-526, at p. 518.

¹² Rahman, A & Hassan, M, ‘Insufficiency on witness protection’, *The Daily Star*, May 12, 2015. Available at: <https://www.thedailystar.net/law-our-rights/law-watch/insufficiency-witness-protection-81716>. (Last visited on August 20, 2021).

¹³ Mahdy, Muhammad and Rahman, Atwar, ‘Necessity of Legislation for the Protection of witness in Bangladesh: A Legal Study’, 14 (2015), *Journal of Judicial Administration Training Institute*, pp. 26-34. Available at: https://www.academia.edu/19050521/Necessity_of_Legislation_for_the_Protection_of_witness_in_Bangladesh_A_Legal_Study. (Last visited on August 20, 2021).

¹⁴ Haque, Justice Md. Hamidul, ‘Some Loopholes and deficiencies in the existing laws relating to trial of Criminal Cases’, *Human Rights and Peace for Bangladesh*. Available at: <https://www.hrp.org.bd/article-published.php>. (Last visited on August 20, 2021).

Borhanuddin in his book denoted some case laws how the witness is harassed by police during investigation.¹⁵

United Nations Office of Drugs and Crime held a workshop with Bangladesh and Nepal on importance as to enactment of law relating to protection of witness.¹⁶ A study or research had been done by New Tactics in Human Rights named “Protecting Survivors and Witnesses” where it was found that most of case can’t be pronounced to conviction as the witness are not secured and protected.¹⁷ There are a number of writings on this topic online. The author has gone through and worked on those, and added those as references.

II. WHO IS A WITNESS?

There is no definition of witness provided in any statute law in our country. Witness is a person who observes a criminal event take place; or a person, by swearing, gives testimony to a court or to the police; a person who is present at the signing of a document and signs it to confirm this.¹⁸

Witness¹⁹ is

- i. any person, by oath, testifies during trial; or a deposition which can be used in the court if he is absent; or an expert in special dispute.
- ii. a party to the lawsuit (plaintiff or defendant) may be a witness, or
- iii. a person who sees an event, or
- iv. a person who himself signs any document or observes other to sign any document like contract, will etc. in his presence.

The word 'witness' means a person present at some event and able to give information about it.

In the Witness Protection Program Act, 1996 of Canadian Legal System says that "witness" means a person who has given or has agreed to give information or evidence on the matter relating to the offence being tried in the court, or any matter relating to enquiry or

¹⁵ Borhanuddin, A.R.M., *The Code of Criminal Procedure: Section Analysis and Case laws thereof*, 3rd ed. University Publication, Dhaka, 2014. pp. 216-225.

¹⁶ Seminar titled ‘Bangladesh, Nepal: Call for strengthening legislative framework on victim and witness protection in terrorism cases’ held by United Nations Office on Drugs and Crimes, (2014). Report available at: <https://www.unodc.org/southasia/frontpage/2014/Sept/bangladesh-nepal-call-for-strengthening-legislative-framework-on-victim-and-witness-protection-in-terrorism-cases.html>. (Last visited on August 20, 2021).

¹⁷ “Protecting Survivors and Witnesses” by New tactics in human Rights, (2016) Available at: <https://www.newtactics.org/conversation/protecting-survivors-and-witnesses>. (Last visited on August 20, 2021).

¹⁸ Witness, Oxford Learner’s Dictionaries, Available at: https://www.oxfordlearnersdictionaries.com/definition/english/witness_1. (Last visited on August 22, 2021).

¹⁹ Witness, The Legal Dictionary. Available at: <https://legal-dictionary.thefreedictionary.com/witness>. (Last visited on August 22, 2021).

investigation.²⁰ Therefore, we can define the witness as any person including a child, who is or may be needed to provide information in investigation, or trial relating to the commission of an offence. Even an insane person may be witness if he could understand the question and answer accordingly.

III. CREDIBILITY OF WITNESSES

(A) Definition

Credibility means trustworthiness or a capacity of belief. While speaking about credibility of witness, it means that a witness may be asked question and even may be attacked by the opposite party; still his testimony is believable.²¹

Credibility of testimony of the witness depends on his competency and likelihood. It is always upheld by surrounding evidences. The testimony of the witness, the investigation and the inventory must go on parallelly. If the testimony of the witness and the investigation are different, question may be raised about the credibility of the witness.²² Two facts at the same time cannot be true. In this regard judges play vital role, alone they determine the credibility of the witness along with truthfulness and accuracy.

(B) Credibility Factors And How Those Are Destroyed

In fact, there is no prescribed process to evaluate the truthfulness and accuracy of the statement for the testimony of the witness. It depends on your experiences. However, psychological science provides some method to check the statement if it is true or false just checking behavior and the body language of the witness while he was testifying. Well this can be destroyed by many ways like bribe, threat to life and property etc.

(C) In General

There are some factors by which the court can consider while evaluating the testimony of a witness. Those are as follows_

- ❖ If the witness had prior opportunity to see or hear about the incident which he testified in the court?
- ❖ Will the accused be able to remember the actual fact of the crime specifically?

²⁰ Section 2, the Witness Protection Program Act, 1996 of Canada. Available at: <http://laws.joiis.justice.gc.ca/eng/actsw-11.2/FullText.html>. (Last visited on August 22, 2021).

²¹ Credibility, USLEGAL. Available at: <https://definitions.uslegal.com/c/credibility>. (Last visited on August 30, 2021).

²² Credibility, MERRIAM-WEBSTER. Available at: <https://www.merriam-webster.com/dictionary/credibility>. (Last visited on August 30, 2021).

- ❖ Was the testimony of the witness likely to be true, or improbable and not likely to be true?
- ❖ Was the testimony of the witness consistent or inconsistent with the evidence and previous testimony of the witness?
- ❖ Did the demeanor of the witness, while testifying, support his testimony?
- ❖ Educational background, skill, experience of the witness that support his believability.
- ❖ If the witness shows any hostility, bias and negative attitude during testifying that effect his trustworthiness?

These questions set the criteria whether the witness is credible or not.²³

(D) Bribery

In recent time and history, we always intent to bribe the opposite party to win. Here the same happens. During investigation and trial when the accused came to know about the prime witness, he tries his best to bribe the witness escape the criminal liability. If he fails or the accused is politically powerful, he threatens or try to threaten the witness to life and property.

(E) Motive

The motive of a witness to lie in criminal proceeding relies on presumption of the court. The court may presume that a witness did not have a motive to lie, then may consider that as well in evaluating the witness's truthfulness.²⁴ The motive (to lie) of the witness is created by means of bribe, or threat to life. However this can't be protected.

(F) Benefit

The court may consider if the witness may have any benefit to testify in the case. If the answer is yes, then it may presume to what extent the benefit may destroy the testimony of the witness.²⁵

(G) Inconsistent Statements

The court may consider whether a witness made statements to the investigation officer and at this trial, that statement is inconsistent with each other. The court may also consider a witness's previous statements during trial.²⁶ Such inconsistency is increased through time goes by investigation before trial and trial in the court. During this period by any means witness

²³ Martin, M., "Challenging Witness Competency", 35 (1990), *IPrac.Litig.* Available at: http://ir.lawnet.fordham.edu/faculty_scholarship/72. (Last visited on August 30, 2021).

²⁴ Delisle, "Witnesses: Competence and Credibility.", 16.2 (1978), *Osgoode Hall Law Journal*, pp. 337-360. Available at: <http://digitalcommons.osgoode.yorku.ca/ohlj/vol16/iss2/4>. (Last visited on August 30, 2021).

²⁵ Ibid 339.

²⁶ Supra note 12, at p. 520.

changes his statement and thus justice is affected and can't be ensured. Inconsistent statement of the witness destroys his credibility.²⁷

(H) Police Testimony

Testimony of a police officer is not totally inadmissible or solely believable by the court.²⁸ The court evaluate a police officer's testimony in the same way as a prudent man would evaluate the testimony of any other witness. But testimony of the witness given to a police officer is not admissible in the court.²⁹ Besides, if the investigation officer makes much delay, without reasonable cause, to take the testimony of the eye-witness, the trust-worthiness of the witness isn't without doubt.^{30 31}

(I) Witness Pre-Trial Preparation

The prosecutor, or lawyer, or investigator may speak to a witness about the case before the witness testified at this trial. The existing law never refrains the prosecutor, defense, investigator from speaking to a witness about the crime or suit; nor does it restrict them the question with the witness; the questions that will be asked at trial. Thus the witness becomes confused what he is to tell before the court and what needs to hide. Moreover there is a threat of police which always exists during investigation and trial as well.³²

IV. WITNESS PROTECTION

In fact, protection of the witness means to protect the witness and other person whose testimony is related to the case from threat, bribe etc. It also includes the victim, the defendant and other clients before and during trial, after the judgement as well. This protection generally provided by the police department. The witness may need protection not only during trial, but also need post trial protection too. Some witness may be provided with new identity and live their rest of life under state protection.

(A) Protection Of The Witness During Ancient Period

In Babylon, the dispute would be solved by 'the Council of elder'. It took the witness into a safe place until the dispute or crime is adjudicated to protect them from being manipulated and

²⁷ Supra 25, at p. 340.

²⁸ Ansar Ali vs. State, 35 DLR 303.

²⁹ Supra note 15, at p. 218.

³⁰ *Mohammad Jalaluddin vs. State*, 58 (2006) DLR 410, at p. 416.

³¹ Hosen, Sajib, *What lessons may be learnt from the operation of the ICT-BD in the areas of international criminal law and transitional justice?* Doctoral thesis, Anglia Ruskin University, 2019. Available at: <https://arro.anglia.ac.uk/id/eprint/706744>. (Last visited on August 30, 2021).

³² Kashem, M.B., *Issues and Challenges of Police Investigative Practices in Bangladesh: An Empirical Study*, Palgrave Macmillan, London, 2017. Available at: https://doi.org/10.1057/978-1-137-50750-1_10. (Last visited on August 30, 2021).

bribed.³³ During Mughal period, it was the duty upon the party to save his witness, present the witness before quazi, if he is unable or sick.³⁴ Even, Table II of the Roman Twelve Table holds a principle to protect the witness. Here the person whose witness failed to testimony before the jury, may call him every third day.³⁵ During Hindu Reign in Indian subcontinent, it was solely emphasized on the credibility and reliability of the witness rather than number of the witness. Thus the witness was protected to ensure justice among seekers.³⁶

V. WITNESS PROTECTION IN BANGLADESH LEGAL SYSTEM

In spite of having huge number of existing laws enforced, there is no specific law to protect the witness in Bangladesh. The author has discussed some legislation to find out the present scenario of witness protection in in criminal law legal system.

(A) The Constitution

The Article 35 of the constitution of the People's Republic of Bangladesh provides that the accused of a criminal offence shall get a speedy and public trial by an independent and neutral court where he shall be presumed innocent until and unless his guilt is proved. So, it appears that Constitutional Law and Legal principles in Criminal Law Legal System are, may be a bit, still in favor of the accused.³⁷ But there is no specific law to protect and provide privilege to the victim and the witness despite the prosecution needs to prove its case beyond all reasonable doubt.

(B) The Evidence Act, 1872

Sections 151 and 152 of the Evidence Act, 1872³⁸ says about scandalous and insulting questions of Evidence Act. The two sections merely protect the witness inside the court during trial. Section 151 of the Act protects the witness from being asked indecent, scandalous question while testifying in the court. On the other hand, section 153 of the aforesaid Act protects the witness from the questions that make him annoyed and tend to insult him. The

³³ Roni, G.M, "Beautiful Susanna, two old and one lawyer!", *The Bangladesh Protidin*, 30 September, 2016, The original article is in Bangla, the author translated it in English.

Available at: <http://www.bd-pratidin.com/editorial/2016/09/30/173413>. (Last visited on September 2, 2021).

³⁴ Mughal Empire 1526-1707, Available at: <http://www.san.beck.org/2-9-MughalEmpire1526-1707.html>. (Last visited on September 2, 2021).

³⁵ The Laws of the Twelve Tables, c.450 B.C. Available at: <http://www.historyguide.org/ancient/12tables.html>> (Last visited on September 2, 2021).

³⁶ Saini, BR, "Protection of witness under law of evidence: a comparative study", *Inflibnet Centre*, (2012). Available at: http://shodhganga.inflibnet.ac.in/bitstream/10603/8788/1/11_chapter%202.pdf. (Last visited on September 2, 2021).

³⁷ Halim, Md. Abdul, *Constitution, Constitutional Law And Politics: Bangladesh Perspective*, 14th ed., CCB Foundation, Bangla Motor, Dhaka, 2019, pp. 74-100, at p. 77.

³⁸ Act no. 1 of 1872.

prohibitions under these two sections are discretionary with the court. The court won't prohibit a question even it is indecent and scandalous if it relates to fact in issue.³⁹

(C) The Penal Code, 1860

The Section 506 of the Penal Code, 1860⁴⁰ provides for punishment for committing criminal intimidation. Section 503 of the Penal Code, 1860 defines criminal intimidation. It means to threaten a person with any injury to his life, reputation, or property to make the person do something which he is not entitled to do, or to prevent him to do something which he is entitled to do. The aforesaid crime is wide no doubt, still it is not enough or special to protect the witness.⁴¹ The threat is not necessary to be made in presence of the person threatened. If the threat is communicated to the witness some way, it will be enough.⁴² The threat, to form a criminal intimidation, must be for a specific person, not for person in general.⁴³ Section 506 of The Penal Code, 1860 punishment for criminal intimidation as imprisonment up to two years, or fine, or both.

(D) The International Crimes (Tribunals) Act, 1973

There is no provision to protect the witness under The International Crimes(Tribunals) Act, 1973. But the Rules of procedure has been amended in June, 2011 where under the new Chapter VIA, a new Rule 58 A(1) has been inserted on witness and victim protection.⁴⁴ It states that the tribunal itself or regarding application of the either parties may order any concerned authorities to ensure protection and privacy of the witness and victim. The process shall be confidential and the state itself will confirm it. Sub Rule (2) states about accommodation for the witness and other necessary arrangements for camera trial and confidentiality by the state. And any violation of such procedures is punishable under section 11(40) of the Act.

(E) Bangladesh Law Commission

Bangladesh Law commission has reported to the Law ministry twice about the importance of witness protection and also drafted a bill on the ground. Still the government has not taken any steps to protect the witness. At first, the report titled "Final Report on a proposed law relating

³⁹ Supra note 12, at p. 516.

⁴⁰ Act no. 45 of 1860.

⁴¹ Kabir, Dr. L., *Lectures on the Penal Code with leading cases*, Ain Prokashan, Dhaka, 2009. pp.293-294.

⁴² Borhanuddin, A.R.M., *The Penal Code: A Comprehensive Section Analysis and Case laws thereof*, University Publication, Dhaka, 2009. pp. 714-716, at p. 715.

⁴³ Alhaj Zahirul Haq, *Zahirul Haq's Penal Code*, 5th ed., Anupom Gyan Bhandar, Dhaka, 2010. pp. 1558-1561, 1566-1567, at p. 1560.

⁴⁴ Rahman, M. and Billah, S. M., "Prosecuting War Crimes in Domestic Level: The Case of Bangladesh", *Northern University Journal of Law*, 1(2014), pp. 14-23. Available at: doi: 10.3329/nujl.v1i0.18522. (Last visited on September 2, 2021).

to protection of victims and witnesses of crimes involving grave offences' (Report No 74) was submitted by the Law Commission in 2006.⁴⁵ The second one was submitted on 2011(Report No. 108).⁴⁶ In the report it has proposed a draught bill on the protection of witness and victim. Moreover, much has been said by various organizations and persons connected with the field of legal area including Bangladesh Law Commission for enacting a specific law providing for protection and providing certain rights and privileges for the witness of criminal cases. No such law has been enacted by the government, not till now.

VI. NECESSITY OF WITNESS PROTECTION LAW IN OUR COUNTRY

The conviction rate in Bangladesh is too poor, especially in criminal case. There are too many loop holes which decrease the rate. Among too many causes the prior cause is safety of the witness.⁴⁷ The witness fears to face the trial, and always threatened of life.⁴⁸ The occurrence of rape generally takes place in closed rooms or in secret places and there is no eye witness available to such occurrence. In such situation, money of the victim is vital for the prosecution. Even then such witnesses are reluctant to appear before the court for fear of their life and property or that of their families.⁴⁹ Because there is no specific provision of law for the protection of the witness . As a result, cases of such crimes of heinous nature are resulting in acquittals in most of the cases witnesses named in charge sheets of crimes of grave nature, are also subjected to threats, intimidation and harassment by the accused or their associates preventing them from attending a court or tribunal to give their evidence at the trial of the case.⁵⁰

In some cases, the witness feels uneasy to answer the questions in front of the offender. So it is a crying need to enact a special law providing rights, privileges and protection to the witness and the victim against the threat and intimidation caused by the accused and his accomplice. Similarly, the court finds that the complainant as a witness in court testifies something different it of his own statement he provided in FIR(First Information Report). Because he fears that he could not return home safely after his testimony.⁵¹ In order to facilitate the victim to give his/her

⁴⁵ Final Report on a proposed law relating to protection of victims and witnesses of crimes involving grave offences by Law Commission, Report No. 74 in 2006. Available at: <http://www.lc.gov.bd/reports.htm>. (Last visited on September 2, 2021).

⁴⁶ Ibid.

⁴⁷ Naznin, S.M. A and Sharmin, T, *Reasons for the Low Rate of Conviction in the VAW Cases and Inconsistencies in the Legislative Frameworks*, BRAC University Press, Dhaka, 2015, p. 43.

⁴⁸ Ibid 47.

⁴⁹ Habib, Nowroz and Sohel, A. K. M., "Witness and Victim Protection Laws of Bangladesh: A Need for a New Law", 9(1)(2015), *ASA University Review* , pp. 311-322, at p. 320.

⁵⁰ Supra note 14, at p. 30.

⁵¹ Supra note 15.

testimony in court freely and without any fear of pressure, it is necessary that the witnesses are provided with certain rights and protection. It is found that in most of the case involving the rich and political persons, the witness becomes hostile and provide testimony against the crime. It is so occurred that the witness is lost and sometimes they are just vanished.

The witnesses are also threatened and intimidated by using the subtle means of cross-examination during their deposition before the court thereby rendering the witnesses helpless for lack of their sufficient right to protect themselves under such circumstances although the witnesses should be able to speak before the court to narrate the entire incident in a free atmosphere without any embarrassment. Sometimes a mere sight of the accused may create extreme fear in the mind of the witness and he gets shocked. As a result he cannot provide proper testimony in such mental imbalance. This obviously results in miscarriage of justice. If the state provides proper protection, rights and privileges for the witness as well as for the victim, it will definitely be helpful for free and truthful participation of witness during trial.⁵² Therefore, there is an urgent need of making a specific law providing for the rights and protection of the witnesses.

VII. WITNESS PROTECTION LAW IN NUMEROUS STATES

(A) United Kingdom

The UK has formed the UK Protected Persons Service (UKPPS) to protect the witness and the victim. The service is provided by the National Crime Agency.⁵³ The UKPPS was formed in 2013 and local police forces protect the witness under the program.⁵⁴

(B) Canada

Canadian legal system has enacted an Act named the Witness Program Act, 1996.⁵⁵ Section 3 of the Act denotes its aim as "to promote law enforcement by facilitating the protection of persons who are involved directly or indirectly in criminal law legal system". Protection given to a witness may include relocation, accommodation and change of identity as well as

⁵² U. Wara, 'Witness Protection and the ICT in Bangladesh' A Contrctrio International Criminal Law. Available at: <https://acontrarioicl.com/2013/04/17/witness-protection-and-the-ict-in-bangladesh>. (Last visited on September 2, 2021).

⁵³ "National Crime Agency - Central Bureau". Available at: <https://www.nationalcrimeagency.gov.uk/>. (Last visited on September 23, 2021).

⁵⁴ G Rowe Jr., "Who Informed on Klan In Civil Rights Killing, Is Dead states? He was buried under the name of Thomas Neal Moore, the identity that Federal authorities helped him to assume in 1965 after he testified against fellow Klansmen..."*The New Dork Times*, (4 Oct,1998). Available at: <http://mobile.nytimes.com/1998/10/04/us/gary-t-rowe-jr-64-who-informed-on-klan-in-civil-rights-killing-is-dead.html>. (Last visited on September 23, 2021).

⁵⁵ The Witness Protection Program Act,1996, Parliament of Canada. Available at: <https://www.legislationline.org/documents/action/popup/id/6186>. (Last visited on September 23, 2021).

counseling and financial support to ensure the security of the protected or to facilitate his becoming self-sufficient. The royal Canadian Mounted Police assisted by the government and police forces runs the program.

(C) India

India has already taken steps to enact law to protect witness. It has passed a bill, The Witness Protection Bill, 2015.⁵⁶

(D) Switzerland

The National Witness Protection Unit by federal police provides protection to the victim and the witness in all cases.⁵⁷

(E) Pakistan

Witness and the victim in Pakistan during criminal trial were always under extreme threat and intimidation.⁵⁸ Under Witness Protection, Security and Benefit Act, 2017 special measures will be taken by the government to ensure foolproof security is provided to witnesses.⁵⁹

(F) Australia

The Australian Witness Protection Act, 1994 establishes the National Witness Protection Program in which (amongst others) the Commissioner of the Australian Federal Police provides protection and other assistance for witnesses.

(G) Ireland

The Elite Special Detective Unit (SDU) was established in 1997 and the national police force provide the security for the witness in the Republic of Ireland. This program is headed by attorney general of Ireland. Following the program, witness gets new identity, address and armed police protection in Ireland and abroad, generally in Anglophone countries. Witness protection is used in cases of serious, organized crime and terrorism.⁶⁰

⁵⁶ Professor K. Shamsuddin Mahmood, "The necessity of enacting witness protection law", *The Daily star*. (11 February, 2020). Available at: <https://www.thedailystar.net/law-our-rights/news/the-necessity-enacting-witness-protection-law-1866439>. (Last visited on September 23, 2021).

⁵⁷ Witness Protection in Switzerland by Federal Office of Justice. Available at: <https://www.fedpol.admin.ch/fedpol/en/home/sicherheit/zeugenschutz.html>. (Last visited on September 23, 2021).

⁵⁸ R Tanveer, 'Witness protection law in Pakistan', *The Express Tribune* (Pakistan May.01,2017). Available at: <https://www.google.com.bd/search?q=witness+protection+law+in+Pakistan&client=ucweb-b&channel=sb>. (Last visited on September 23, 2021).

⁵⁹ Witness Protection, Security and Benefit Act, 2017 (Act No. XXI of 2017) Available at: https://www.ilo.org/dyn/natlex/natlex4.detail?p_isn=104940&p_lang=en. (Last visited on September 23, 2021).

⁶⁰ "Witness protection in Ireland: history and reality". *Irish Examiner*. 27 March 2012. Available at: <https://www.irishexaminer.com/news/arid-20188453.html>. (Last visited on September 23, 2021).

(H) New Zealand

The witness protection program in New Zealand is run by the police. It ensures the welfare of the witness and if needed provide a new identity for the witness.⁶¹ The police and the department of correction in New Zealand have made an agreement to provide protection to the witness and the victim.⁶²

(I) United States

A program of witness protection is run by the US Marshal service. It was established under the organized crime control act, 1970. The FBI also create new identities for the witness.⁶³⁶⁴ State courts have their own witness protection program to ensure safety of the witness and the victim.⁶⁵ It has made special programs named as S5 and S6 visas. By this, important witness is brought to the US from abroad.⁶⁶ T-visas are used to bring the victims from outside of the United States to testify in the trial of prosecuting the human traffickers.⁶⁷

VIII. RESPONSIBILITY OF THE STATE TO ENACT LAW TO PROTECT WITNESS

Bangladesh became independent in the year 1971 after being ruled by Pakistan for about 24 years. Earlier the British ruled Bangladesh for about 200 years as a colonial part of the then British India. Almost all the statutes including the Code of Criminal Procedure, 1898; the Penal Code, 1860 and the Evidence Act, 1872 were introduced by then British Government ruling India, which were subsequently adopted by then Pakistan (Bangladesh being then known as East Pakistan) and thereafter, by Bangladesh. Those statutes are still in force with some

⁶¹ New Zealand Police. "CIB: International Organized Crime". Archived from the original. Available at: <https://www.police.govt.nz/careers/police-groups/national-organised-crime-group>. Witness Protection, Security and Benefit Act, 2017 (Act No. XXI of 2017) Available at: https://www.ilo.org/dyn/natlex/natlex4.detail?p_isn=104940&p_lang=en. (Last visited on September 23, 2021).

⁶² Corrections Department NZ. "Corrections Department NZ - Witness Protection". Archived from the original on 2007-11-07. Available at: <https://www.justice.govt.nz/about/learn-about-the-justice-system/explore-the-criminal-justice-system/trial-and-prison/>. (Last visited on September 23, 2021).

⁶² California Witness Protection Program - California Bureau of Investigation - California Dept. of Justice - Office of the Attorney General at the Wayback Machine. Available at: <https://oag.ca.gov/witness-protection>. (Last visited on September 23, 2021).

⁶³ "METRO NEWS BRIEFS: CONNECTICUT; Witness Protection Plan Is Created by New Law". *Nytimes.com*. Published: July 09, 1999 (1999-07-09). Available at: <https://www.nytimes.com/2000/03/06/nyregion/metro-news-briefs-connecticut-teenager-is-accused-of-sales-fraud-on-internet.html>. (Last visited on September 23, 2021).

⁶⁴ G William "LIE OR DIE -- Aftermath of a Murder; Justice, Safety and the System: A Witness Is Slain in Brooklyn". *The New York Times*, (2003-07-06).

⁶⁵ Matthew, O'Deane. *Gangs: Theory, Practice and Research*, India, Lawtech. 2010. Available at: <https://www.amazon.com/GANGS-Ph-D-Matthew-David-ODEane/dp/1933778199>. (Last visited on September 23, 2021).

⁶⁶ Siskind, Gregory, "The ABC'S Of Immigration: S Visas for Aliens Assisting Law Enforcement". Available at: <https://www.lexisnexis.com/practiceareas/immigration/pdfs/web594.pdf>. (Last visited on September 23, 2021).

⁶⁷ 'Victims of Human Trafficking: T Nonimmigrant Status'. Available at: <https://travel.state.gov/content/travel/en/us-visas/other-visa-categories/visas-for-victims-of-human-trafficking.html>. (Last visited on September 23, 2021).

changes, amendments, additions and deletions made from time to time. Criminal courts in Bangladesh still follow those procedures to decide over a criminal case. Apart from that there are some special laws are also in force. Though there are many statutes and laws prevailing in Bangladesh to punish the offender but there is no law available till to date to protect the victim and witness. The victim of crime has got every right to attend his/her trial and depose. It is their fundamental right guaranteed under Articles 27 (Equality before law) and 31 (Right to Protection of Law) of the Constitution of the People's Republic of Bangladesh.

It is no doubt that it is high time we should seriously consider to enact law on witness protection in Bangladesh. In this regard apart from getting necessary help, cooperation and logistic support from the international communities, help and cooperation from local private and public sectors are also very much necessary for providing and developing the concept of witness protection in the developing countries as Bangladesh. A law relating to witness protection in Bangladesh is required for the purpose of carrying out effective and meaningful inquiry, investigation, prosecution and for the courts carrying out the trial. It is also required to protect the parties engaged in the criminal proceedings. Special funds/budget has to be allocated for the witness protection program. The word victim has not been defined either in the Penal Code, 1860 or in the Code of Criminal Procedure, 1898 (hereinafter mentioned as CrPC). The victim can be defined as a person or persons who you have suffered any injury or whose right had been violated. Witness may be defined as a person who can testify in the court or assist in any investigation to conclude the judicial proceedings.

The organizations and the persons working in the legal sector have requested the government many times to connect specific laws for the protection of rights and benefits of the victims and the witness of criminal cases when the case is grave and serious, when the accused is rich and powerful.⁶⁸ Yet the government have not paid any heed.

The rights, benefit and protection to be given to the victims and witnesses shall include, among others, counseling and financial support, security, transport facilities, medical treatment and other facilities to ensure the security of the victim and witness to feel free in court at the time of giving his/her evidence and depose truthfully and fearlessly before the court.

In brief, necessary law and/or rules could be made providing for the rights, privileges and protection of the victims and witnesses and where necessary their family members. To ensure

⁶⁸ Bari, Hussain Mohammad Fazlul, "An Appraisal of Victim Protection in Bangladesh", 61(2)(2016), *Journal of the Asiatic Society of Bangladesh (Hum.)*, pp. 183-205, Available at: <https://ssrn.com/abstract=3417626>. (Last visited on September 23, 2021).

justice, the court needs to ensure protection of the witness and the victim to provide their best evidence in a secure environment.

According to section 545 sub-section (1) of CrPC the trial courts pass an order to pay expense or compensation out of fine to any person or his legal heirs for any loss or injury caused by the offence. This provision is not mandatory and being rarely used by the court. To ensure compensation for the crime victims this provision should make mandatory.

IX. WAY FORWARD

State Responsibility On Protection Of Victim Of Crime And Witness May Be Recommended As Follows:

- a. Necessary law and/or rules should be made providing for the rights, privileges and protection of the victims and witnesses and where necessary their family members.
- b. If the victim or witness of a crime has reason to believe that he is under serious threat of his life, property and his family member before, during and after investigation or criminal trial, he applies before the court that pronounce the judgement for his safety. The Chief Judicial Magistrate/Chief Metropolitan Magistrate on receiving the application from the victim/witness on his own initiative shall consider the nature and circumstances of the case and make an order for sending the victim and/or witness and if necessary, their dependents, to a place of safety.
- c. The protected person shall have a place of safety with a secured housing facility with the satisfaction of the Court until he provides his testimony in the court and his apprehension has been disappeared.
- d. The protected person whenever practicable should be assisted in obtaining a means of livelihood and shall be entitled to a financial assistance from the state for his/her support and that of his dependent family in such amount and for such duration as the Court shall determine.
- e. The witness shall be provided with reasonable travelling expenses and subsistence allowance by the State for the reason that he may attend the court to testify and return home. This expense shall include cost for attending the interview with the prosecutor and the investigator. Section 544 of CrPC and relevant Rules made thereunder needs to be amended accordingly.
- f. The protected victim and witness shall be provided with free medical treatment, hospitalization and medicines for any illness or injury suffered by him/her.

- g. The Court by an order can terminate the protection of a protected person, if the presiding Judge is of the opinion that the safety of the protected person is no longer threatened and a satisfactory alternative arrangement has been made for the protected person.
- h. After rescuing a victim, he/she will be taken into safe custody. The victim and the accused after his/her rescue must be kept in separate rooms. He will be provided proper counselling if necessary. The police shall take his statement with respect and dignity.

X. STEPS ALREADY TAKEN TO PROTECT THE WITNESS

(A) High Court Division

To ensure appearance before the court and the security of the witness, and to lessen the time to dispose the case; the High Court(HC) has already asked the government to enact law.⁶⁹ A High Court bench participated by justice M Enayetur Rahman and Justice Amir Hossain passed an order that the police and the public prosecutor must be held accountable for the absence of the witness. The bench has directed the home and law secretariat to enact legal provision on this ground.⁷⁰

The High Court in 2010 in a writ petition namely BNWLA v Government of Bangladesh,⁷¹ where it was said that “Government shall take immediate steps to enact law for introduction to protect the victim and witness of sexual harassment related case and the people who resist the crime.”⁷²

(B) The State

UNODC (United Nations Office of Drug and Crimes) had arranged two national workshops in Bangladesh to address the witness protection program on the 25-26 August, 2014.⁷³ Bangladesh has already taken notable steps to prevent threat of terrorism. But for the Protection of victim and the witness, it still has to walk long way. It has not taken a single step yet. Specifically it has not taken steps in terrorism case either.⁷⁴

⁶⁹ ‘HC asks govt to enact witness protection law, *The Independent*, (December, 2015). Available at: <http://m.theindependentbd.com/printversion/details/25951>. (Last visited on August 17, 2021).

⁷⁰ Ibid.

⁷¹ Writ Petition No. 8769 of 2010.

⁷² Rahman, A. & Hassan, M, ‘Insufficiency on witness protection’, *The Daily Star*, (May 12, 2015). Available at: <https://www.google.com.bd/amp/s/www.thedailystar.net/law-our-rights/lawwatch/insufficiency-witness-protection-81716%3famp>. (Last visited on August 18, 2021).

⁷³ United Nations Office of Drug and Crimes. Available at: <https://www.unodc.org/unodc/en/about-unodc/index.html>. (Last visited on August 19, 2021).

⁷⁴ UNODC, ‘Bangladesh, Nepal: Call for strengthening legislative framework on victim and witness protection in terrorism cases’, 2014. Available at: <https://www.unodc.org/southasia/frontpage/2014/Sept/bangladesh-nepal-call-for-strengthening-legislative-framework-on-victim-and-witness-protection-in-terrorism-cases.html>. (Last visited on August 19, 2021).

(C) Ministry Of Law

A Bill titled “The Witness Protection Act, 2011” has already drafted by the Ministry of Law and sent to the Home Ministry.⁷⁵ Still there is no sign of commencement of the law.

(D) Bangladesh National Women Lawyers’ Association

Bangladesh National Women Lawyers’ Association took a very important initiative by organizing a national level advocacy workshop where they presented a paper on the draft of the victim and witness protection act supported by Plan Bangladesh. Summary of the legal provisions are as follows:⁷⁶

1. The witness and the victim will have protection from criminal intimidation and threat before, during and after trial and investigation.
2. The family member of the witness and the victim will have the same rights and privileges as of safety.
3. The Identity e of the witness and the victim shall not be disclosed in public where it is a crime of sexual in nature.
4. A child witness or victim must be treated specially.
5. 9ECamera trial may be introduced to protect the witness identity.

(E) Law Commission Bangladesh

It has already proposed the government to enact the law regarding protection of the witness and the victims. It has submitted a draft bill named the Victim and Witness Protection Act, 20.....⁷⁷The law yet to be approved and enforced.

XI. FINDINGS AND RECOMMENDATIONS

(A) To Enact Law

The witness protection law should ensure protection of the witness before trial, during and after the trial. The state needs to enact law to protect witness which shall include safety of witness, change of identity, police protection, financial support and family protection of the

⁷⁵ Sakib, N’ Law for witness protection in ‘deep freezer’, *The Dhaka Tribune*(September 08, 2013). Available at: <https://www.dhakatribune.com/law-and-rights/2013/09/08/law-for-witness-protection-in-deep-freezer/>. (Last visited on August 19, 2021).

⁷⁶ S Sultana,’ Importance of Witness Protection’, *Linkedin*,(August 15, 20170. Available at: <https://www.linkedin.com/pulse/importance-witness-protection-shahzia-sultana>. (Last visited on August 19, 2021).

⁷⁷ A Bill titled “A Draft Bill for making a Law providing for protection facilities to victims and witnesses of crimes of specific grave nature” by Law Commission. Available at: <http://www.lc.gov.bd/reports.htm>. (Last visited on August 19, 2021).

witness. The Government while enacting specific law for the protection of the witness and the victim, it can consider the law of SAARC countries.⁷⁸

(B) To Established Separate Court

The government can establish separate tribunal to try the cases where protection of the witness and the victim was breached. It is needed to ensure the credibility of the witness.

(C) Police Witness Protection Programs

Responsibility to protect the witness from being threatened or intimidated by the offender or his accomplice can be ensured by the police department.⁷⁹ A separate branch of police may be established like other countries the author has stated earlier.

(D) Role Of Ngo

The state, due to political pressure, mostly fails to enforce witness protection programs. Therefore the NGOs can play a very vital role. It can make the state understand the importance of witness protection and also help the government to enact new legal provision.

(E) Video-Link Testimony

Video-link testimonies or teleconference can be arranged. It will definitely prevent the witness to face the offender directly.⁸⁰

(F) Protection To All Witnesses

When a case gains more public attention through media, the state provides protection to its witness and the victim. But a low-profile case and in rural area witness and the victims are not protected. Sometimes victim withdraws the case or the witness become hostile and become uneager to testify in the court. All this happens as they are not protected. So government should take initiatives to protect all the witnesses and victims.

(G) Short-Term Measures to Protect Witnesses

Investigators and prosecutors must carefully consider which witnesses need protection. It will be evaluated on the level of risk they face before, after and during the track. Witnesses in serious criminal cases may include victims and bystanders, as well as individuals who have

⁷⁸ Faruque, Dr. Abdullah Al and Rahaman, Md. Sazzatur, "Victim Protection In Bangladesh: A Critical Appraisal Of Legal And Institutional Framework", 1 & 2 (2013), *Bangladesh Journal of Law*, pp. 33-37, at p.36.

⁷⁹ Supra note 33.

⁸⁰ Rashed Ahmed, Nishat Tarannum, A Critical Review on Women Oppression & Threats in Private Spheres: Bangladesh Perspective, 1(2) (2019), *American International Journal of Humanities, Arts and Social Sciences*, pp. 98-108. Available at: <https://scholar.archive.org/work/andygyzggrd5vbbseky6gvdz2e/access/wayback/https://www.acseusa.org/journal/index.php/aijhass/article/download/131/185>. (Last visited on August 30, 2021).

been involved in criminal activity but who are cooperating with police or who have received immunity from prosecution or a mitigation of sentence in return for their testimony. All the witness, by legislative and regulatory measures, needs protection that includes hiding identity and funded program, permanent or temporary, to provide them safe house. Their family members may also require protection.

When to Protect:

Police resources are finite and can only be made available to protect witnesses who are at serious risk of intimidation or harm. Then it will be a matter of recommendation by the investigator and the prosecutor by taking into the factors as follows

- the nature of the alleged crime (Is it serious enough to warrant protection?)
- the nature of the threat (Has an overt and credible threat already been made against the victim?) the relationship between the witness and alleged perpetrator (Does the accused has access to the witness through any means who have not yet been apprehended?)
- the status of the alleged perpetrator (Has the alleged perpetrator been released on bail?)
- the criminal record of the alleged perpetrator (Does he/she have a history of violence or reprisals?) the importance of the testimony to be given by the witness (Does it implicate an individual or a larger organized group? How important is the evidence to the overall success of the trial? Is the testimony credible? Has the witness agreed to sign the writing to testify at the trial?)
- the psychological state of the witness (Is he/she likely to be intimidated into refusing to testify? Does he/she have problems with drug abuse, alcoholism, mental disorders, or an inability to appreciate the need for security? Was the witness involved in the crime and also at risk of flight?)
- the period in which the witness is likely to be at risk (How long might the risk continue after the trial?)

XII. HOW TO PROTECT

There are several measures that can be undertaken expeditiously to improve witness security.

(A) Police Training

A trained squad of police can be created and trained, specially to protect credibility of the witness during investigation, to adopt policies to reduce the likelihood of witness intimidation.

These include:

- standard investigation procedures that protect the identity of potential witnesses. The police should not disclose the Identity of the witness to anybody except the prosecution and take interview of the witnesses later at a location other than their home or the police station;
- deployment of police officers of appropriate ethnicities to serve ethnic communities and to strengthen ties with leaders who may have influence over community members disposed to violence; and
- (iii) greater emphasis on investigation of reports of witness intimidation. This would also engender trust in the police and encourage reporting of other crimes.

(B) Close Protection

Once a witness has been identified as being at risk, he/she can be placed under close protection. Police or unit of military may provide protection to the witness and his family. It may also include placing the witness in a safe house or other secure location or transporting the witness to another city to minimize risk before and during the trial. The composition and level of training of a close protection team will vary according to the nature and level of the threat.

(C) Trial Observation

Another method of protecting witnesses is observation of the trial by independent monitors. This only offers limited protection as a monitor can merely report to local and international authorities and the media on the conduct of the trial, including any threats or intimidation but cannot actually secure the physical safety of witnesses. Effective observation may be enough in some circumstances to deter threatening behavior.

XIII. LONGER-TERM MEASURES TO PROTECT WITNESSES

(A) Procedural Protection

The legislative can amend the criminal procedure laws to upgrade witness protection measures and also can insert new provision in the existing laws.

Specific legislative provisions are required in order to specify who is eligible for procedural protection, how the prosecution or defense should apply for such protection, whether and under what circumstances a judge should conduct a hearing to decide upon an application, and the nature of the protection available.

Procedural protection measures can be controversial if they are prejudicial to the defense (e.g. by denying the defense the right to confront a witness) and should only be used where strictly necessary. Before making a decision, a court should give the defense the right to be heard as

to why procedural protections are not appropriate.

When exercising procedural power, the court will have power to order detention or the custody of the accused which may include to;

- ❖ issue a restraining order to prevent the alleged perpetrator from coming into contact with victims and witnesses;
- ❖ order non-disclosure to the accused and his/her lawyer of any records that identify the witness until a reasonable period prior to the trial. This may include the power to assign a pseudonym to the witness;
- ❖ hear testimony from witnesses who require protection as early as possible during the proceedings; conceal the witness during trial (e.g. by videotaped examination of the witness prior to trial; placing the witness behind a screen at trial; the use of voice modification technology, or examination of the witness by the judge in chambers or by closed-circuit television);
- ❖ control the questioning of witnesses to prevent intimidation or harassment during the proceedings. The judge may also be given power to sanction threatening behavior by issuing a warning or by imposing a fine or custodial sentence;
- ❖ temporarily remove the accused from the courtroom during certain testimony;
- ❖ close court sessions to the public;
- ❖ redact (or remove sensitive information from) court documents; and
- ❖ order non-disclosure of the identity of the witness to the public and/or expunge from the public record of the court any information that could identify the witness.
- ❖

(B) Family Protection

Family of the witness must have proper protection. Because everybody is worried about his family. If the accused and his accomplice threat the witness to harm his family member, it will definitely destroy the credibility of the witness.⁸¹ If the court make arrangement to protect the family member of the witness, it will definitely increase the confidence of the witness to testify.

XIV. CONCLUSION

Bangladesh lacks international standard in criminal law legal system as it fails to upgrade its legal procedure, relevant legal provision for protection, compensation and rehabilitation of the

⁸¹ Miah, M. D. and Paul, S. C. (2018) "Measures Resolving Potential Risks to Successful Implementation of REDD+ in Bangladesh", *The Chittagong University Journal of Science*, 40(1), pp. 1–20. Available at: Doi: 10.3329/cuj.s.v40i1.47906. (Last visited on September 2,2021).

witness and the victims. There has been widespread concern about the lack of rights and protection of the victims and witnesses in our legal regime. Though our constitution pledged to fair and speedy trial, it has slightly provided favor for the offender. Our legal provision and institutional framework, to protect the victims and the witness, is not sufficient. It may be said that the victim was protect before 150 years ago when we were being ruled by British colony. But with the passage of time, human behavior, our lifestyle, technology and culture have been changed. The Code Of Criminal Procedure ,1898 ; The Evidence Act ,1872 ; and The Penal Code ,1860 may be considered to change a bit to hold the provision relating to protection of the witness. Moreover, the investigator, prosecutor, judges, defendant and probation officer are required to play active role to ensure justice. In particular, legal provision for the protection of victims and the witness is a burning question and thus urgently needed. The raising voice of the victims in criminal litigation, state sponsored compensation scheme, quick and compassionate response of the justice sector officials to the concerns of the victims, collaborative efforts of the Government and Non-Governmental Organizations and creative intervention of the judiciary will surely ameliorate the current dismal status of the victim protection in our jurisdiction. A protection program for the victim and the witness must include physical and psychological protection, compensation and rehabilitation. It will be the key steps to ensure justice towards the parties. Thus the quality of criminal justice in Bangladesh will automatically be developed as per international standard.

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