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Necessity of Legislation on Protection for the Victims of Crime in Bangladesh

HOMAIRA NOWSHIN URMI¹

ABSTRACT

Despite these groups' piecemeal and passive statutory recognition, victims' meaningful access to criminal proceedings is not sufficiently protected. When special protection measures are not in place, victims of may feel especially vulnerable and hesitant to pursue justice. Survivors experience social exclusion and isolation in addition to the unavoidable psychological trauma, which severely jeopardizes their personal and professional prospects and further lowers their self-esteem. The fair trial guarantee outlined in our constitution is centered on a number of procedural protections for the accused. Traditionally, the legal system of Bangladesh has not provided any rights or protections for victims. But recently, victims have come under the spotlight in a number of legal systems, and there is growing pressure for the criminal justice system to take into account the concerns of crime victims and provide them with access to and participation in criminal proceedings. However, current institutional and legal framework of Bangladesh for protecting victims is insufficient and poorly thought out. There isn't a single legislative framework that addresses every aspect of victim protection. The fragmented legislative approach is ineffective in giving crime victims the proper care and support. Therefore, it is imperative that comprehensive legislation be put in place to protect victims.

Keywords: *crime victim, protection, criminal justice system, right, legislation.*

I. INTRODUCTION

Right from the beginning of the judicial system, it has been accepted that discovery, justification and establishment of truth are the main purposes of the courts of justice. The effective principle of the judicial system is to ensure fair trial and justice to both, the accused and the victim of crime. Criminal Law has always discouraged the acts or omissions which in general can affect right in *rem* and violators have always been punished with strict sanctions but the crime rate is not falling and State is in regular quest to preserve social solidarity and peace in society.²

Traditional justice systems have not invariably been ideal from the point of view of the victim.

¹ Author is an Assistant Professor in Law at Premier University, Chattogram, Bangladesh.

² Abhishek Anand, "Compensation to the Victim of Crime: Assessing Legislative Frame Work and Role of Indian Courts." Legal Service India. Accessed February 4, 2024. <https://www.legalserviceindia.com/articles/pun.htm>.

Many research works have been devoted in determining the loopholes of the criminal justice system for the purpose of protecting the rights and interests of the accused. On the other hand, almost nothing has been done on what happens to that other group of citizens touched by the criminal justice system, namely the victims. There is no comprehensive regime on how victims are treated by the criminal justice system and what happens to them, nor are there any architectural monuments constructed on their behalf. It is a common complaint of all victims that they are treated like defendants, that they are only used for the information they can supply, and that their human needs are completely ignored by criminal justice officials.³ Thus States have a responsibility to respect the fundamental rights of the victims of crime, assist them in accordance with their special needs and protect them from further harm.

The main objectives of the study is to scrutinize the international legal rules on victim protection, to examine the legal context on victim protection in Bangladesh, to analyse the loopholes of legal framework on victim protection in Bangladesh, to explore the role of government and non-government organisation in protection of victim's rights and their support and service. It also suggests that efforts should be taken by the Government of Bangladesh for enacting a law recognizing and granting compensation as a right of the victims of crime. The recommendations made in the Draft Bill prepared by the Law Commission of Bangladesh on protection to crime victims and witnesses would be helpful to meet the purpose. This article is based on both primary and secondary sources. The author conducted interviews of different kinds of victims of crime and family members of victims to explore their sufferings.

II. THE INTERNATIONAL LEGAL NORMS ON VICTIM PROTECTION

The provision of victim protection is fundamental to the credibility of any justice system and to the battle against impunity.⁴ Asking victims to come forward without the provision of protection may indeed be irresponsible in cases where they face the possibility of re-victimised or becoming victims in their own right by reason of living up to their duty to provide their evidence.⁵ Traditionally, international law has paid insufficient attention to victims. International human rights law has been explicit in specifying procedural rights of the accused that are necessary ingredients for fair trial discourse.⁶ By the last quarter of twentieth century

³ William McDonald, "Criminal Justice and the Victim: An Introduction," in *Sage Criminal Justice System Annuals, Vol. VI*, ed. William McDonald (London: Sage Pub., 1976), 23.

⁴ Sipo Rosalind, "The Draft Bill for the Assistance and Protection of Victims of Crime and Witnesses: Critique and Recommendations", Centre of Policy Alternatives. Accessed January 18, 2024. https://cpalanka.org/wp-content/uploads/2007/10/_and_Witness_Protection_Bill.pdf.

⁵ *Id.* p. 2.

⁶ Mohammad Fazlul Bari, Hussain. "An Appraisal of Victim Protection in Bangladesh." , *Journal of the Asiatic Society of Bangladesh (Hum.)* 61, no. 2 (2016): 183–205.

the United Nations General Assembly adopted Basic Principles of Justice for Victims of Crime and Abuse of Power in 1985. After adopting this declaration, a new and powerful victim perspective has emerged. The Declaration urged the member States to protect the rights of crime victims through their legal systems.

Under article 17 of the Bangkok Declaration on Synergies and Responses: Strategic Alliances in Crime Prevention and Criminal Justice⁷ adopted by Eleventh United Nations Congress on Crime Prevention and Criminal Justice, member States professed the prominence of providing extra consideration to the requirement to shield victims and witnesses of crime and terrorism. ECOSOC adopted Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime in 2005⁸ which states that crime is increasingly transitional in nature and there is an urgent need to ensure equivalent assistance and protection to child victims and witnesses all over the world.

It is important to note that most of these declarations are covered by soft international law and do not impose any direct legal obligations on the State parties.⁹ Nonetheless, the persuasive significance of these instruments cannot be easily ignored, as the great majority of member States approved these declarations. The High Court Division (HCD) has declared that, unless they are in conflict with currently in effect national laws, the advantageous provisions and principles of international law may be applied and implemented in pertinent cases.¹⁰

III. THE EFFECTS OF CRIME ON VICTIMS

Crime is one of the most challenging concerns for the socio-economic progress of Bangladesh. Here the crime rate is alarming and it is a grave obstruction on ways to economic development and social stability of the country. Crime may be committed against person or property or it may affect either person or property, whenever it happens, it causes harm to the victim. Most of the time crime leaves long term effects on the victim. All crimes are serious and should be treated as such and even comparatively minor crime can enormously affect a person's life.¹¹ The consequences of crime-on-crime victims, on their families and friends, on witnesses and even on communities are huge.¹² Crime victim suffers from bodily injury as well as

⁷ UN General Assembly, Resolution 60/177, Report of the International Criminal Court, A/60/177 (August 1, 2005), https://www.icc-cpi.int/sites/default/files/NR/rdonlyres/EDBEBEC0-7896-46EC-9AD6-7C867F67CF1B/278503/ICC_Report_to_UN.pdf

⁸ United Nations (ECOSOC), Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, <https://www.un.org/en/ecosoc/docs/2005/resolution%202005-20.pdf>.

⁹ *Supra note 6*, p. 185

¹⁰ *Id.*

¹¹ Canadian Resource Centre for Victims of Crime. 2005. "The Impact of Victimization Prepared by the Canadian Resource Centre for Victims of Crime." at <https://www.crcvc.ca/docs/victimization.pdf>.

¹² Eidell Wasserman & Carroll Ann Ellis, 'Impact of Crime on Victims', National Victim Assistance Academy at

psychological injury as a consequence of crime. Sometimes it causes not only physical or psychological injury but also financial and social injury to the person who has experienced the crime. Crime affects mainly the victims vastly. Criminal victimization is a scary and disquieting experience for the person who has gone through the crime. It is unpredictable, largely unpreventable and often unexpected. Unlike normal life experiences, victimization is not sought out and never welcomed. It is debilitating and demoralizing. Its effects can be long-term and challenging to overcome.

Victims may feel confused, dreadful, irritated and livid after experiencing a crime. They want to know why this happened, and the reason of its happening to them. Most of the time they suffer to find out the way to turn them in the aftermath of crime. Feeling of insecurity does not let them to trust or rely on anyone for support, understanding and help. Not only do they suffer physically, emotionally, psychologically and financially from their victimization, they are also often burdened by the society or the complexity of the criminal justice system. They may be treated insensitively or not receiving the services or information that a victim requires. Victims may become isolated after being victimized and most of the times, victim is interviewed by the police and questioned by others, family, friends etc., in a negative manner, suggesting that the victim somehow caused or did something to increase their chances of becoming a victim of crime.¹³

IV. LEGAL FRAMEWORK IN BANGLADESH ON PROTECTION TO VICTIMS OF CRIME

Bangladesh follows the tradition of common law.¹⁴ In Bangladesh, legal provisions on victim protection is still inadequate and there is no comprehensive law on it. The Code of Criminal Procedure, 1898¹⁵, the Penal Code, 1860¹⁶, the Evidence Act, 1872¹⁷ along with few special laws laid the basic foundation of legal regime dealing with substantive offences and criminal procedure that are followed in our criminal justice system.¹⁸ The Code of Criminal Procedure, 1898 is almost silent about victim protection. There are several laws which have some provisions on protection of victims of crime. The legislative framework in Bangladesh relating

<https://silo.tips/download/chapter-6-impact-of-crime-on-victims>

¹³ Lt. Perez James, 'Effects on a Crime Victim', Accessed January 8, 2024, <http://blog.ctnews.com/crimewatch/2012/04/07/effects-on-a-crime-victims>.

¹⁴ Alam, M. Shah. *Bangladeshe Ainer Sangskar O Ain Commission*. New Warsi Book, 2016 at p.122.

¹⁵ The Code of Criminal Procedure of 1898, No. 5, 1898 (Bangladesh).

¹⁶ The Penal Code of 1860, No. 45, 1860 (Bangladesh).

¹⁷ The Evidence Act of 1872, No. 1, 1872 (Bangladesh).

¹⁸ Mohammad Fazlul Bari Hussain. "An Appraisal of Sentencing in Bangladesh: Between Conviction and Punishment", *Bangladesh Journal of Law*, 14 (2014): 89-116, 90. Also see Shahdeen Malik, "Perceiving Crimes and Criminals: Law Making in the early 19th century Bengal", *Bangladesh Journal of Law*, 6, no. 1&2 (2002): 59-89, 59.

to protection for the crime victims and witnesses may be traced through the following legislations:

(A) The Evidence Act, 1872¹⁹

The Evidence Act, 1872 clearly provides for court room protection of the witnesses which includes the victim as well by way of prohibiting indecent, scandalous and insulting questions put to the witnesses by way of cross examination.²⁰

(B) The Penal Code, 1860²¹

The Penal Code, 1860 has provision for punishment according to section 503 and 506 for those who commit criminal intimidation to any person which may necessarily include the victim.²²

(C) The Legal Aid Act, 2000²³

The Legal Aid Act, 2000 aims at providing legal aid to the litigants including victims of crimes who are poor, insolvent, destitute and otherwise incapacitated, for socio-economic reasons, to be engaged in legal fights. This Act empowers a district committee to engage a lawyer, at the expense of the Government, for a poor and destitute person who has become a victim of offences or abuse of power.²⁴

(D) Nari O Shishu Nirjatan Daman Ain, 2000²⁵

Different procedures are laid down in section 13, 15, 16, 32 and 33 of the said Act. For instance, procedure of realization of fine from future property, procedure for realizing fine and compensation, procedure of medical test of the person victimized with offence, provisions relating to children as outcome of rape. Sub-section 6 of section 20 of the Act provides for trial *in camera* for the protection privacy of rape victim and witnesses to the offences.²⁶ Sub-section 4 of section 20 of the Act provides that while deciding the custody of a woman or of a child-victim under this Act, courts must take into consideration the interests of the victim.²⁷ Section 22 of the Act makes provision for the recording of statements of the victims and witnesses by the Judicial Magistrate at the scene of the crime, or in hospital, instead of calling the witnesses to the court.²⁸ Any statement so recorded can be relied upon while deciding the merit of the

¹⁹ *Supra note 17.*

²⁰ *Supra note 17.*, sec. 151 & 152.

²¹ *Supra note 16.*

²² *Id.* sec. 503 & 506.

²³ Legal Aid Act of 2000, No. 6, Acts of Parliament, 2000 (Bangladesh).

²⁴ *Id.* sec. 6

²⁵ Nari O Shishu Nirjatan Daman Ain of 2000, No. 1, Acts of Parliament, 2000 (Bangladesh).

²⁶ *Id.* sec. 20(6).

²⁷ *Id.* sec. 20(4).

²⁸ *Id.* sec. 22.

case. Section 31 of this Act provides for victims of offences to be kept in a safe home to be maintained by the Government.²⁹

(E) The Act for Control of Acid, 2002³⁰

The Act for Control of Acid was enacted in consideration to the interests of victims of acid related offences and aims for the protection of acid victims to some extent. The Act contemplates the formation of the National Acid Control Council whose duty, among others, is to make funds available for treatment and rehabilitation of the victims of acid offences. According to the Act the Government should establish a rehabilitation center and local officers should make arrangements for the treatments of acid victims.³¹ This Act authorizes the district committee to make arrangements for giving legal aid to acid-victims.³² The Act also provides that fine imposed by this Act would be given to the victims³³

(F) The Act for Suppression of Acid Offences, 2002³⁴

The Act for Suppression of Acid Offences, 2002 also makes some provisions for protection of victims of crime. This Act provides that a person burnt or maimed or killed in consequence of an acid related offence is entitled to get compensation from the convict.³⁵ The Act dictates the Government to set up rehabilitation center for the acid survivors.³⁶ It also advocates in favour of the acid survivors for Medicare.³⁷

(G) Law and Order Disrupting Offences (Speedy Trial) Act, 2002³⁸

This Act empowers the trial judge to direct the convict to pay appropriate compensation to the victim.³⁹

(H) Prevention and Suppression of Human Trafficking Act, 2012⁴⁰

The main objective of this law is to prevent and suppress human trafficking, protection of rights of the victims of human trafficking and ensuring safe rehabilitation for them. This Act provides for comprehensive victim protection. There is a provision of trial *in camera* in appropriate

²⁹ *Id.* sec. 31.

³⁰ The Act for Control of Acid of 2002, No. 1, Acts of Parliament, 2002 (Bangladesh).

³¹ *Id.* sec. 13 & 14.

³² *Id.* sec. 15.

³³ *Id.* sec. 44.

³⁴ The Act for Suppression of Acid Offences of 2002, No. 2, Acts of Parliament, 2002 (Bangladesh).

³⁵ *Id.* sec. 9.

³⁶ *Id.* sec. 13.

³⁷ *Id.* sec. 14.

³⁸ Law and Order Disrupting Offences (Speedy Trial) Act of 2002, No. 11, Acts of Parliament, 2002 (Bangladesh).

³⁹ *Id.* sec. 4(2)

⁴⁰ Prevention and Suppression of Human Trafficking Act of 2012, No. 3, Acts of Parliament, 2012 (Bangladesh).

cases.⁴¹ The Act's distinctive feature is that the victim may testify in court on their own, on commission, directly, or electronically.⁴² Government will set up adequate asylum center and rehabilitation center for the victims with a view to rendering them physical and psychological Medicare.⁴³ If after rescue, it is not possible to send the victims to the society or to their family, the court may order for safe custody of the victim to make the Government an arrangement for their rehabilitation in any government or non-government organization or any other suitable place for the welfare of the victim.⁴⁴ Section 37 speaks about the protection of the victims and witnesses.⁴⁵ The bottom line of this section is that without permission of the tribunal, name, photograph or information or identity of the victims or their family members cannot be published or broadcast or telecast.⁴⁶ Protection of victims of human trafficking who are child and child witnesses is also maintained in line with international norms and standard.⁴⁷ And steps should be taken not to taint the image of them and prevent the chance of being ostracized.⁴⁸ Section 39 empowers the victims to file civil suit to realize the compensation.⁴⁹ Section 40 provides that the victims can get financial aid from the Government and other organizations.⁵⁰

(I) Domestic Violence (Prevention and Protection) Act, 2010⁵¹

This Act also provides for adequate protection for the victims of domestic violence. Upon a petition the court may pass an order directing the opposite party not to obstruct the stay right of the victim in the house.⁵² and a victim shall have the right to stay in the joint house.⁵³ The court may also order for safe custody of the victim under the supervision of the enforcing officer in an appropriate situation.⁵⁴ In appropriate cases the court may pass an interim protection order for the victim and court may pass a protection order if it deems fit.⁵⁵ The Act contains provision regarding the power of the court to award compensation to the victims of domestic violence.⁵⁶ With the consent of the parties or in opinion of the court the trial proceeding may be held *in*

⁴¹ *Id.* sec. 25.

⁴² *Id.* sec. 22.

⁴³ *Id.* sec. 35.

⁴⁴ *Id.* sec. 36.

⁴⁵ *Id.* sec. 37.

⁴⁶ *Id.*

⁴⁷ *Id.* sec. 38.

⁴⁸ *Id.*

⁴⁹ *Id.* sec. 39.

⁵⁰ *Id.* sec. 40.

⁵¹ Domestic Violence (Prevention and Protection) Act of 2010, No. 58, Acts of Parliament, 2010 (Bangladesh).

⁵² *Id.* sec. 10.

⁵³ *Id.* sec. 15.

⁵⁴ *Id.*

⁵⁵ *Id.* sec. 13 & 14.

⁵⁶ *Id.* sec. 16.

camera.⁵⁷ Enforcement Officer is duty bound to take proper steps for arranging legal aid for the victim.⁵⁸

(J) Torture and Custodial Death (Prevention) Act, 2013⁵⁹

This Act contains provisions regarding payment of compensation to the victim or aggrieved party to the custodial torture.⁶⁰ If a person brought before a court complains of torture, the court will immediately record the statement of the person, send a copy to the police and direct that a case be registered.⁶¹ The law further provides that victims or their families may apply to the court for protection measures.⁶²

(K) Children Act, 2013⁶³

According to the Children Act, 2013, Children Court is given ample power to pass necessary orders for the better protection of the child victims. Some measures to reduce fear through the avoidance of face-to-face confrontation with the accused may be placed for the child victim.⁶⁴ For instance, shielded testimony, *in camera* session, presence of parent or guardian as support for the child, withholding the identity of the child, evidence by video linkage etc. are few illustrative measures aiming at juvenile victim.⁶⁵ The Children Court may direct the convict to pay compensation to the child victim of crime in appropriate case.

(L) The International Crimes (Tribunals) Act, 1973⁶⁶

Though the 1973 Act contains no provisions for victim protection, the Rules of Procedure contains a new Rule 58 A(1) on Witness and Victim Protection under the new Chapter VIA which states, “The Tribunal on its own initiative, or at the request of either party, may pass necessary orders directing the concerned authorities of the government to ensure the protection, privacy, and well-being of the witnesses and or victims. This procedure will be confidential, and the opposing party will not be informed.” Sub-rule 02 was amended by the addition of provisions for the lodging of witnesses or victims, as well as other measures relating to a trial *in camera* and the maintenance of confidentiality, if a violation of such an undertaking is to be prosecuted under section 11(4) of the Act.

⁵⁷ *Id.* sec. 23.

⁵⁸ *Id.* sec. 6.

⁵⁹ Torture and Custodial Death (Prevention) Act of 2013, No. 40, Acts of Parliament, 2013 (Bangladesh).

⁶⁰ *Id.* sec. 15(1) & 15(2).

⁶¹ *Id.* sec. 5.

⁶² *Id.* sec. 11.

⁶³ Children Act of 2013, No. 24, Acts of Parliament, 2013 (Bangladesh).

⁶⁴ *Id.* sec. 17, 25 & 28.

⁶⁵ *Id.* sec. 55

⁶⁶ The International Crimes (Tribunals) Act of 2013, No. 19, Acts of Parliament, 1973 (Bangladesh).

V. CRITICISM OF THE LEGISLATIVE FRAMEWORK IN BANGLADESH FOR THE VICTIMS OF CRIME

The existing legal framework provides protection, compensation, rehabilitation, legal aid, shelter, and privacy to the victims. To provide relief to the victim and promote social welfare are the main goals of providing protection. Although recent laws seem to be victim friendly, there are some setbacks inherent in the legal framework designed for the protection of victims. The major drawback found in the legal framework is that a timely intervention is absent in most of the legislation for the victims of crime. Some procedures have been found too much formalistic, vague and time consuming in addressing the grievance of the victims. These obstacles should be removed without delay. Furthermore, the legal provisions for the victim protection remain under-utilized.

VI. INSTITUTIONAL FRAMEWORK IN BANGLADESH ON PROTECTION OF VICTIMS OF CRIME

In Bangladesh, the following NGO's and actors have been found engaged to help alleviate the yell of the victims of crime:

1. Victim Support Centre (VSC)
2. One stops Crisis Centre (OCC)
3. Ain O Salish Kendra (ASK)
4. Acid Survivors Foundation (ASF)
5. Bangladesh National Women Lawyers' Association (BNWLA)
6. Bangladesh Legal Aid and Services Trust (BLAST) etc.

Under the auspices of the government, OCC and the VSC are providing support for the protection of the victims of crime. The Ministry of Women and Children Affairs in joint collaboration of other four ministries has established OCC for victims of violence that provide medical, legal and social services to victims in six divisional governmental hospital.⁶⁷

Although many actors including government and non-government are working on victim protection, they are not getting a full protection according to their needs. The main reasons for such inadequacies are that there are some built-in limitations with the actors. No actors working for the victims can provide a foolproof protection to the victims. For example, ASF, is providing

⁶⁷ See generally, Mia Md. Abdur Rahim. "Role of One Stop Crisis Centre (OCC) in protecting Women's Rights: An Analysis with Special Reference to Rajshahi District", *Bangladesh Journal of Law*, 11 (2011): 149-174.

protection only to the victims of crimes especially who are acid survivors. Moreover, a tendency of passing through the victims to other partner organizations has been found in most of the actors. This tendency actually often makes the victims of crime suffer twice. Limitations have been found with regard to the services available amongst the actors. For example, VSC does not provide rehabilitation as well as a long term stay facility for the victims of crime. The services of BNWLA are also limited within some selected areas. The same thing goes for ASK as well. So it can be said that their services are not available country wide. Moreover, even after availing services of the actors, the victim of crime fall a prey to the nonchalance of the actors. For example, the cases run at a snail's pace due to simply the apathy of the staff lawyers of the concerned actor's. Probably the lawyers think that it a pro bono service.

There are also some limitations outside the actors' e.g. procrastination in trial, non cooperation between police and public prosecutors and most importantly political and administrative interferences in the cases. In fine, it can be said that if the above mentioned limitations are removed, then the victims will be able to avail a foolproof service from the actors. Each actor would be able to become a forum of soothing relief for the victims of crime.

VII. LEGAL DEVELOPMENT ON PROTECTION TO THE VICTIMS OF CRIME IN BANGLADESH

The Supreme Court of Bangladesh has discretion to pass judgment to issue appropriate remedy to crime victims by way of making order of protection. In Writ Petition No. 8769 of 2010 filed by BNWLA named *Bangladesh National Women's Lawyers Association v The Government of Bangladesh*, the higher judiciary tried to take 'victim friendly' initiative. In this writ petition a Bench of the HCD ordered the government to enact a law to protect the victim of sexual harassment on November 2, 2010.⁶⁸ In 2015, the higher judiciary made same kind of direction which is an indication of the higher judiciary's intention to ameliorate the suffering of the victims of crime. A HCD Bench issued an order to the government directing to enact a law to protect the victims on December 7, 2015, during the hearing of the 'Rinku murder case'.⁶⁹ In August 2017, with the joint effort of the UNDP and the Supreme Court of Bangladesh, the Witness Management Policy for subordinate Courts and Tribunals 2017 was drafted.⁷⁰ The HCD stated that the government will take the necessary steps to enact legislation protecting

⁶⁸ S M Mahbubullah, *The State of Witness Protection in Bangladesh*, The Daily Star (April 7, 2023), <https://www.thedailystar.net/law-our-rights/news/the-state-witness-protection-bangladesh-3291146>

⁶⁹ TRW, *Witness Protection Laws in Bangladesh*, <https://tahmidurrahman.com/witness-protection-laws>

⁷⁰ Sujayet Ullah, 'Protection of Victims of Crime and Victims of Abuse of Power: The Legal System in Bangladesh vis-a-vis the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power – An Overview', https://www.unafei.or.jp/english/pdf/RS_No70/No70_13PA_Ullah.pdf, accessed February 21 2024.

victims.⁷¹ Despite all these steps, no victim protection law or scheme has been enacted to this day.

There are two landmark judgments on victim protection containing a set of directions though these judgments did not talk about protection for victims of all classes. Directions in Writ Petition No. 10663 Of 2013 and directions in Writ Petition No. 5541 of 2015 very specifically provided a scenario where a victim of sexual offences or a rape victim can get protection during filing of cases, investigation and trial of the offences. But it only focuses on the female victim or on a victim of a certain offence, while there are a lot of other offences where victim of either gender lack security or protection from being harassed while filing the case as well as during or after the trial.

VIII. PROPOSAL OF BANGLADESH LAW COMMISSION ON PROVIDING PROTECTION TO VICTIMS OF CRIME

Bangladesh Law Commission has realized that there is an urgent need for making a new law providing for the rights, privileges, benefits and protection of the crime victims and witnesses and where necessary their family members and a comprehensive victim and witness protection scheme is now a need of the hour and as such in early 2006, the Commission prepared a Draft Bill⁷² to meet this end. Again, in 2011, the Commission submitted another report on the matter to the law ministry.⁷³ The rights of the victims and witnesses shall be to ensure that justice is done more often and more quickly and to empower them to give their best evidence in the most secured environment possible. The aim of the law should be to protect the victims and witnesses and grant them certain rights and benefits to ensure their appearance before the investigative bodies and the courts or tribunals to give their evidence in respect of the alleged crime without fear of threat or intimidation of the accused.

The Act in the Draft Bill seems to have touched all dimensions of plausible protection regime.⁷⁴ It would be appreciated considering its essence, magnitude and intensity.⁷⁵ Nonetheless, there exist some conceptual complexities in the Draft Bill. Victim who is already in an intimidated

⁷¹ *Id.*

⁷² The Law Commission of Bangladesh, *74th Final Report on a proposed law relating to protection of victims and witnesses of crimes involving grave offences*, <http://www.lawcommissionbangladesh.org/reports.htm>; accessed February 9 2024.

⁷³ The Law Commission of Bangladesh, *108th Final Report on a proposed law relating to protection of victims and witnesses of crimes involving grave offences*, <http://www.lawcommissionbangladesh.org/reports.htm>; accessed February 9 2024.

⁷⁴ Farzana Faruq & Mohammed Ziaul Hoque, "Compensation for Crime Victims in Bangladesh: A new era in criminal justice system", *Stamford Journal of Law*, 3 (2012): 242-258, 247.

⁷⁵ *Id.*

condition will not be interested to undergo through the intricate application process for protection. Provisions should be made in favour of the victims so that they can avail the opportunity of getting protection more rapidly and easily as well as the process of applying for protection should be tranquil and cost-effective.

IX. PROTECTION TO THE VICTIMS OF CRIME IN DIFFERENT COUNTRIES

There are a number of instruments in different countries which recognize the need to protect crime victims from intimidation, threats and harm. Several States have taken statutory measures to protect crime victims from being threatened or intimidated by the accused or his collaborators. It is the duty of the state to take necessary steps to make statutory provisions regarding protection of victims of crime and to implement them. Most of the developed countries started to enact laws regarding victim protection after 1980. Today USA, UK, Australia, New Zealand, Canada, many European countries, Nepal, Sri Lanka, even recently India have enacted legislations regarding the rights of victims and all of them have their own victim and witness protection schemes. Thus right to protection to victims of crime has become a fundamental part of the criminal justice system of many developed countries. Moreover, many developing countries have started to enact victim protection laws. But the development of entitling victims a right to protection is at an early stage in those countries. Although some rights have been granted to victims to these countries but still more is required, to give them a fair and respectable status.

X. CONCLUSION

Extensive interest in the study of impact of crime on victims and ways to assist them has been conducted in the current decade of victimological research. Protection to victim of crime is of great significance since victim suffers irreparable damages and harm as a result of crime. The problems of crime victims and the impact of crime on them are diverse and complex. In this situation, responsibility goes on the state if it cannot protect its citizen from being victimized because it is the duty of the state to ensure security of life and property of its citizen. State has to play a participatory role by cognizing the degree of its responsibility to console the sufferings of the victim. Therefore, the agencies of the criminal justice system should be approachable to the needs of the victims of crime and deal with their issues sincerely and compassionately. Although the successful prosecution and trial of criminal cases depend on the active participation of victims of crime, Bangladesh's criminal justice system falls short of international standards in terms of providing victims with adequate protection, compensation, restitution, and rehabilitation. The lack of rights and protection for victims under our legal

system has drawn a lot of attention. It seems that our institutional and legal framework is insufficient and inconsistent when it comes to safeguarding victims. In order to achieve a paradigm shift in the way the justice system is balanced, a thorough review of the Penal Code, 1860, the Code of Criminal Procedure, 1898, and the Evidence Act, 1872 may be seriously considered in light of the passage of time, advancements in human values, philosophy, and technology. Even with the aforementioned difficulties, investigators, prosecutors, judges, and probation officers still need to take the initiative to expedite victim justice within the confines of the current legal system. Therefore, it is noteworthy and progressive that the Law Commission of Bangladesh has come forward with proposal to provide protection to the victims of crimes involving grave offences which is required to provide justice to that neglected part of our society. However, it is disheartening to see that the Government did not take any initiative to introduce and pass the proposed draft bill as an Act in the Parliament. This is an indication of the apathy of our society towards the suffering of victims of crime. Although the proposed draft bill does not contain all rights of victims of crime like those of the victims of crime of developed countries, the Government of Bangladesh may have to take efforts to implement the proposal of the Commission with necessary amendments and additions for reforms of the status of the victim in our criminal justice system. A comprehensive victim protection program should offer them all forms of physical and psychological support, fostering an environment that encourages reporting of crimes and timely completion of related criminal proceedings. It is essential to guaranteeing that people have access to justice, which in turn fights the impunity of criminals. There should be a change in the focus from criminal justice to victim justice, but victim justice should be perceived as complementary and not contradictory to criminal justice. The quality of criminal justice in Bangladesh will eventually be improved by the victims of crime playing a more active role.

XI. REFERENCES

- Abhishek Anand, “Compensation to the Victim of Crime: Assessing Legislative Framework and Role of Indian Courts.” Legal Service India. Accessed February 4, 2024. <https://www.legalserviceindia.com/articles/pun.htm>.
- William McDonald, “Criminal Justice and the Victim: An Introduction,” in *Sage Criminal Justice System Annuals, Vol. VI*, ed. William McDonald (London: Sage Pub., 1976), 23.
- Sipo Rosalind, “The Draft Bill for the Assistance and Protection of Victims of Crime and Witnesses: Critique and Recommendations”, Centre of Policy Alternatives. Accessed January 18, 2024. https://cpalanka.org/wp-content/uploads/2007/10/_and_Witness_Protection_Bill.pdf
- Mohammad Fazlul Bari, Hussain. “An Appraisal of Victim Protection in Bangladesh.” , *Journal of the Asiatic Society of Bangladesh (Hum.)* 61, no. 2 (2016): 183–205
- UN General Assembly, Resolution 60/177, Report of the International Criminal Court, A/60/177 (August 1, 2005), https://www.icc-cpi.int/sites/default/files/NR/rdonlyres/EDBEBEC0-7896-46EC-9AD6-7C867F67CF1B/278503/ICC_Report_to_UN.pdf
- United Nations (ECOSOC), Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, <https://www.un.org/en/ecosoc/docs/2005/resolution%202005-20.pdf>.
- Canadian Resource Centre for Victims of Crime. 2005. “The Impact of Victimization Prepared by the Canadian Resource Centre for Victims of Crime.” at <https://www.crcvc.ca/docs/victimization.pdf>.
- Eidell Wasserman & Carroll Ann Ellis, ‘Impact of Crime on Victims’, National Victim Assistance Academy at <https://silo.tips/download/chapter-6-impact-of-crime-on-victims>
- Lt. Perez James, ‘Effects on a Crime Victim’, Accessed January 8, 2024, <http://blog.ctnews.com/crimewatch/2012/04/07/effects-on-a-crime-victims>
- Alam, M. Shah. *Bangladeshe Ainer Sangskar O Ain Commission*. New Warsi Book, 2016.
- The Code of Criminal Procedure of 1898, No. 5, 1898 (Bangladesh).

- The Penal Code of 1860, No. 45, 1860 (Bangladesh).
- The Evidence Act of 1872, No. 1, 1872 (Bangladesh).
- Mohammad Fazlul Bari Hussain. “An Appraisal of Sentencing in Bangladesh: Between Conviction and Punishment”, *Bangladesh Journal of Law*,14 (2014): 89-116.
- Shahdeen Malik, “Perceiving Crimes and Criminals: Law Making in the early 19th century Bengal”, *Bangladesh Journal of Law*,6, no. 1&2 (2002): 59-89.
- Legal Aid Act of 2000, No. 6, Acts of Parliament, 2000 (Bangladesh).
- Nari O Shishu Nirjatan Daman Ain of 2000, No. 1, Acts of Parliament, 2000 (Bangladesh).
- The Act for Control of Acid of 2002, No. 1, Acts of Parliament, 2002 (Bangladesh).
- The Act for Suppression of Acid Offences of 2002, No. 2, Acts of Parliament, 2002 (Bangladesh).
- Law and Order Disrupting Offences (Speedy Trial) Act of 2002, No. 11, Acts of Parliament, 2002 (Bangladesh).
- Prevention and Suppression of Human Trafficking Act of 2012, No. 3, Acts of Parliament, 2012 (Bangladesh).
- Domestic Violence (Prevention and Protection) Act of 2010, No. 58, Acts of Parliament, 2010 (Bangladesh).
- Torture and Custodial Death (Prevention) Act of 2013, No. 40, Acts of Parliament, 2013 (Bangladesh).
- Children Act of 2013, No. 24, Acts of Parliament, 2013 (Bangladesh).
- The International Crimes (Tribunals) Act of 2013, No. 19, Acts of Parliament, 1973 (Bangladesh).
- Mia Md. Abdur Rahim. “Role of One Stop Crisis Centre (OCC) in protecting Women’s Rights: An Analysis with Special Reference to Rajshahi District”, *Bangladesh Journal of Law*,11 (2011): 149-174.
- S M Mahbubullah, *The State of Witness Protection in Bangladesh*, The Daily Star (April 7, 2023), <https://www.thedailystar.net/law-our-rights/news/the-state-witness-protection-bangladesh-3291146>
- TRW, *Witness Protection Laws in Bangladesh*, <https://tahmidurrahman.com/witness->

protection-laws

- Sujayet Ullah, ‘*Protection of Victims of Crime and Victims of Abuse of Power: The Legal System in Bangladesh vis-a-via the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power – An Overview*’, https://www.unafei.or.jp/english/pdf/RS_No70/No70_13PA_Ullah.pdf, accessed February 21 2024.
- The Law Commission of Bangladesh, *74th Final Report on a proposed law relating to protection of victims and witnesses of crimes involving grave offences*, <http://www.lawcommissionbangladesh.org/reports.htm>; accessed February 9 2024.
- The Law Commission of Bangladesh, *108th Final Report on a proposed law relating to protection of victims and witnesses of crimes involving grave offences*, <http://www.lawcommissionbangladesh.org/reports.htm>; accessed February 9 2024.
- Farzana Faruq & Mohammed Ziaul Hoque, “Compensation for Crime Victims in Bangladesh: A new era in criminal justice system”, *Stamford Journal of Law*, 3 (2012): 89-116.
