

Ensuring Victims' Participation in the Criminal Justice of Bangladesh

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Abstract: It is seen that if the main actors in a criminal justice framework are to be identified, the most commonly identified would be the alleged, his legal representative, the prosecutor and the judge. In our current legal system, the victim appears to be one of the overlooked and disregarded parties, when in reality they should be considered a vital stakeholder in the criminal justice process to secure justice. Due to adversarial legal system in Bangladesh the burden of proof lies upon the prosecution or victim in a criminal proceeding. There is hence no comprehensive law securing rights and participation of victims in criminal justice system though few supports exist for them. In accessing the justice system, victims face numerous challenges and the plight of crime victims continues to go from bad to worse. In this background, the research relies on qualitative methods to explore their status, participation and challenges in the justice system and lastly recommends how to make the justice system victim oriented.

Keywords: Victim, participation, criminal justice system, Bangladesh, criminal procedure, trial.

INTRODUCTION

The criminal justice system of Bangladesh is originated from the English common law, which upholds the adversarial system- the competitive mechanism between prosecution and defense to determine the facts (Dammer & Albanese, 2014). Between the two parties of the prevailing legal system, the victims- individuals who are undeniably emotionally impaired by the crime and the resulting legal procedures- are much ignored as well as receive insignificant attention compared to another party- the accused (O'Hara, 2005). Victims do have an active role as participants in the criminal justice process which lead them to be responsible not only for initiating a lawsuit but also for prosecuting the offenders. Nevertheless, the public prosecution system started to replace the private practice of 'self-help,' and the victims became sidelined as he/she has to prove the case that a crime has been committed. It is apparent that the shift from an absolute victim-run prosecution mechanism to a public system of prosecution became costly for the victims in a way that it made the offenders get more procedural rights, which made them more active and dominant over the system in Bangladesh (Alam, 2016). Because of the unequal equilibrium set by the justice system, the victims are considered 'mere witness' to the state in the existing legal system of Bangladesh (Bari, 2014), which not only disregards the recognition of the victims but also has produced enormous challenges for them to participate and to get justice.

In reaction to the victims' participation in criminal proceedings, many nations have passed enactments making different procedural rights and have set up venues of restoration or restitution of victim's rights. Such redresses should have the objectives to protect victims' dignity throughout the criminal justice system that ultimately helps to reduce the opportunity of second victimization.

In spite of the fact that most rights and benefits that facilitate victim support have been to some extent acknowledged in Bangladesh, still effective participation within the legal process and to have a voice in claiming compensation has largely been overlooked by the courts. Again, Bangladesh has also yet to develop a comprehensive law ensuring victims' protection and participation in criminal justice system as well as there have been many challenges, while they face to access the existing amenities for them. Against this background, the article concentrates on the current framework how the victims participate in prevailing criminal justice system of Bangladesh, and the challenges faced by them. It also comes up with the proposed reforms to make the criminal justice system balanced and more participatory for them.

LITERATURE REVIEW

Tracing the roots of the contemporary criminal justice system, it appears that victims used to possess significant jurisdiction over the entire legal proceedings in the earlier phase of its development (O'Hara, 2005), which has become narrowed to that of a mere witness of an offense to the state in the prevailing system (Wemmers, 2009). The displacement of victims, from the dominant of the system to a trivial component of it,

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has not transpired overnight; instead, it followed the prolonged chronological evolution of the criminal justice system throughout the world, which has been articulated by numerous scholars.

V.D. Mahajan (2006), in his work has reviewed the advancement of the administration of justice and divaricated the process into three phases, where the marginalization of victims can be perceived simplistically. Mahajan had put the era of private vengeance in the initial phase when victims used to enjoy the sole authority to penalize the wrong-doers by themselves. Thereafter, the second phase commenced with the emergence of political states across the world, but since the states back then were impotent to regulate the justice system persuasively, victims' authority remained the same. Afterward, since when the states, with gradual power expansion, began to function as mediators, the victims became sidelined from the conventional criminal proceedings (Mahajan, 2006).

Wemmers (2009), however, has narrated the transformation of victims' position explicitly through a historical timeline. During the 11th century, as argued by the author, victims used to administer the whole criminal proceedings, including the apprehension, charge, and prosecution of perpetrators (Wemmers, 2009), which is referred to as the 'Golden Age' for the victims by Schafer (1968). The supremacy of victims began to shrink with the emergence of monarchies from the 13th century onward (Wemmers, 2009), and arguably, the notion that crime is a menace to society, rather than to an individual, originated in that period (Morgan, 1987). Doak (2008) suspected that the Kings deliberately inaugurated that conception to generate more funds and enhance their jurisdiction since the offenders were compelled to compensate both the victims and the state (Morgan, 1987). However, the dominance began to be replaced with the evolution of parliamentary and bureaucratic sovereignty from the 17th century onward; nevertheless, the plight of victims remained as earlier (Wemmers, 2009). Thereafter, following the progression of the criminological aspects from the 18th century onward, the criminal justice system commenced to marginalize victims as its concentration transposed to providing security to the state as a whole (Kirchengast, 2006), and until the second half of the 20th century, the non-appearance of them remained out of context (Wemmers, 2009).

Initially, the state monopoly over the criminal proceedings began based on two arguments. Firstly, it

was believed that the excessive private vengeance resulted in extreme social unrest (Bessler, 1994), and secondly, the forgiving propensity of few victims endangered the entire society (O'Hara, 2004), and hence, the state control over the system was considered the remedy. However, O'Hara has partly outlined the grounds on which the displacement of victims got rationalized. For instance, according to the author, it was argued that public prosecution could ascertain justice equally, enhance judgment's validity, make certain that no innocent gets penalized, and so forth (O'Hara, 2005). Thus, it is apparent that with the chronological evolution, the victims have been marginalized and their participation has rarely been confirmed in the conventional criminal justice system over the years.

In context of Bangladesh, the ideas of victims' rights were entirely ignored in the literature till the last decade. As there is no independent law for ensuring the crime victims' rights and the crime victims and their roles are not properly defined and often jeopardized, their participation is not often ensured (Faruk, 2021). Bari (2016) also points out poor conviction rate in criminal cases, inadequate procedural supports and absence of comprehensive law possibly hamper the active participation of victims in criminal justice system of Bangladesh.

METHODS

The methods used in this paper are qualitative based on primary and secondary sources. In order to understand the extents of victim's participation in the justice system and what challenges they face, this study has used in-depth interviews of the victims of common crimes committed in Bangladesh. It is also noteworthy to mention that purposive sampling method was used to carry out this study as this method is advantageous for collecting and analyzing data in a qualitative manner. Total 20 victims of crimes (10 females and 10 males) were interviewed through purposive sampling to find out reliable data from the victims. Females being interviewed are victim of domestic violence, sexual harassment, dowry violence, women repression, grievous hurt, human trafficking. On the other hand, 10 male victims are victim of money laundering, drug abuse, extortion, human smuggling, police violence and torture. In addition, 8 Key Informant Interviews were conducted with law enforcement officials, prosecutions, legal representatives of victims, magistrates and officials from victim support center. Apart from that, secondary data have been collected

from scholarly articles, thesis papers, books and electronic and printed media.

FINDINGS

Bangladesh mostly carries the colonial legacies in legal system, and thus the major criminal laws focus on the representation of offender rather than promoting victims' participation. Most importantly Code of the Criminal Procedures (1898), the Penal Code (1860), and the Evidence Act (1872) which constitute the prevailing framework of Bangladesh's criminal justice contain sporadic provisions that provide them with a few legal and institutional supports (Bari, 2016).

Initially, referring to the Code of Criminal Procedure (1898), Bari (2016) maintained that it renders victims with several fundamental rights that help them proceed across the legal proceedings. According to the code, for instance, victims have the right to get into the justice system through two doors, firstly, under section 154, through lodging an FIR to the police in-charge; and secondly, under section 190, through filing a complaint to a judicial magistrate. Bari (2016), thereafter, asserted that under the code, victims get the scope to counter nearly every move of the offender, including the release, bail, appeal, and prayer of revision by the offender. Moreover, section 493 of the Code incorporates the room for victims to engage a private prosecutor in the trial proceedings, yet, the privately appointed lawyer has to function under the public prosecutor's instructions. Afterward, following the verdict, victims may appeal against both the decision of acquittal and insufficient penalty of the accused, which are considered substantial rights of victims in criminal proceedings (Bari, 2016).

However, in addition to the foregoing code, the Penal Code and the Evidence Act have few provisions that safeguard victims in criminal trials. For instance, under sections 151 and 152 of the Evidence Act of 1872, the court is sanctioned to forbid any attempt of defense attorneys to re-victimize the victim through offensive, disgraceful or indecent questions. Furthermore, the Penal Code of 1860, in sections 503 and 506, shields victims by penalizing any criminal intimidation committed against them (Bari, 2016).

Other than the colonial statutes, with the growing concern regarding the plight of victims, several special laws have come into effect incorporating scattered services for victims (Bari, 2016). Referring to the Act for Suppression of Cruelty to Women and Children of

2000, Ullah (2006) argued that it offers supports for the women and children victims of certain offenses, including in-camera trial under section 20(6), statement recording at the crime scene under section 22, and custody in safe-homes under section 31. Thereafter, among various attributes of the Prevention of Human Trafficking Act 2012, Bari (2016) referred to the scope of taking the testimony of victims electronically as the prime feature. However, along with the foregoing, few more specific provisions are in force to facilitate victims in the realm of Bangladesh, including the Act for Control of Acid, Acid Offences Act, Prevention and Protection of Domestic Violence Act, and Children Act of 2013 (Bari, 2016: 192-194).

In addition to the statutory services, the Government of Bangladesh (GoB) has instituted several institutional frameworks for the support of victims (Bari, 2016:195). Having determined the objectives to provide legal assistance, information, health care, and psychological counseling to the victims of crime, the first Victim Support Center (VSC) was inaugurated in 2009 at Tejgaon Police Station, which is referred to as a 'ground-breaking initiative' quoted in Akter and Shakil (2020). Moreover, the One-Stop Crisis Center (OCC), which renders legal, health care, and social services to the victims of violence, has been established in every governmental hospital at the divisional level (Mia, 2011, cited in Bari, 2016). Thereafter, with the intent to provide legal services to 'incapable justice seekers' without any charge, the District Legal Aid Office (DLAO) has been formed in every district court (Bari, 2016:195). Besides the governmental institutions, numerous NGOs, including The Ain Salish Kendra, Bangladesh Legal Aid Services Trust, and Acid Survivors' Foundation, are functioning to facilitate victims while demanding justice. However, although diverse scopes have been produced to assist victims in criminal proceedings thus far, the parallel implementation of such scopes remained a substantial concern. This in consequence causes many inconveniences to the victims throughout different procedural stages in criminal justice system.

DISCUSSION

Absence of Comprehensive Law for Victims

Even though the status and engagement of victims within the criminal justice system have evolved throughout the years, the legislations pertaining to victims have not quite so changed. There are a handful of legal rights for the victims which is provided by the

Criminal Procedure Code 1898 including lodging lawsuit, certain rights and duties during investigation, scope as prosecution-witness in CR case, right to appeal and other protective framework under the Evidence Act and Penal Code. Mentioned earlier, a number of other special legislative reforms have been made in the past few years that have resulted in the promulgation of victim related laws like the Act for Suppression of Cruelty to Woman and Children, the Act for Control of Acid, Law and the Order Disrupting Offences (Speedy Trial) Act, the National Legal Aid Act, the Torture and Custodial Death (Prevention) Act, etc. However, despite the availability of these legislations, their implementation is never ensured duly and neither do they always offer the victims their rightful redress. Again, Bangladesh has no comprehensive law to ensure the protection of the victims of criminal cases, even no law has defined the concept of victim. Thus most of the procedure involving victims in criminal cases are mostly practice oriented and victims are, as Mohammad Abdus Salam, Deputy Registrar (Protocol) of the Supreme Court of Bangladesh asserts, *since the criminal justice system of Bangladesh is developed from the adversarial model, having started working as a magistrate, I also get habituated with the primary focus that often concentrated on the offender and require the victim to prove a criminal case. In accordance with that we always find reliable evidence in support of accused's argument whereas victim's active participation is often sidelined during the process leaving the victims often helpless and unheard..... This also seems unreasonable that the practice we maintain is that if the victim and informant is not the same person, victims are not used to be informed of the updates of the case. In most of the cases then, the victims have to visit the Court upon his/her own motion to get information about the progress of the case.*

Absence of Restorative Justice in Formal Criminal Justice

Restorative Justice is a diverse set of practices related to the concept of crime, justice and the healing of relationships (Ney, 2012). Unlike the developing nations in the contemporary world, Bangladesh lacks restorative ideas in criminal cases though there has been under constant pressure to government to shift the punitive nature of justice to restorative justice. The process is quite new in South Asian region, and in Bangladesh the current legal system widely does not allow restorative process in mainstream criminal justice system. However, Bangladesh's restorative justice

practices in between the formal and the informal justice spectrums (Asadullah & Morrison, 2021).

Victims' rights most often are jeopardized in different stages of criminal justice administration, absence of restorative justice in formal criminal justice practice lacks victim centeredness and their participation. Though several special laws advocate for compensation and protection orders for the victims under these forums, it has yet move so far from colonial legacy of criminal proceedings and yet to ingrate the principles of restorative justice in the mainstream criminal proceedings. Barrister Quazi Maruful Alam notes that, *The Children Act 2013 and Village Courts Act 2006 provide a legal framework of restorative justice such as community-based correction or fine to the accused. In addition, NGO-supervised mediation practice is popular in many districts of Bangladesh. Nonetheless we yet to have criminal justice system much accommodative to restorative justice in dealing with victims with utmost care and dignity.*

Apart from that, very recently GIZ Bangladesh started a catalytic role in the area of restorative justice in Bangladesh (GIZ, 2014). The project though began in a limited scope decided to introduce restorative justice in specific cases like those concerning small scale physical assaults, theft, dowry, damage to crops and wealth, fraudulence, financial dispute and gambling (The Daily Star, August 20, 2015). However from a broader perspective restorative justice is even now not attuned in the formal judicial system that could effectively address victims' extremities by offering an alternative conflict resolution system.

Lack of Victim Sensitive Interaction in Criminal Justice System

The criminal justice system of Bangladesh continues to be overridden with myriads of challenges that often result in secondary victimization for the victims. Victims are most often found to be not satisfied with the indifferent role of police and prosecution during the criminal justice proceedings. In addition to the inadequate provision of victim's legal rights, there is also an absence of empathetic understanding or interaction. There are numerous instances where victims have not only been neglected in terms of their needs and demands, but also, they have been treated with disregard and insensitivity. For instance, victims are often questioned by the police overlooking their vulnerable or traumatized mental states. Most law

enforcement officials or other criminal justice officials lack awareness and knowledge regarding mental health well-being of the victims that results into unsympathetic interaction with the victims. One of the victim's guardians acknowledges, *I became tearful when I received the news of my daughter who was raped. After being insisted by the relatives, I decided to file a criminal case. I seek assistance of the local police station to report for my girl, ironically, I was questioned why I allowed her to work in night shift and at first they were bit reluctant to take the case. However later they took the case with the intervention of local representatives.*

This also often emerges as the reason why public form an antipathetic image of the criminal justice officials preventing them from reporting their cases or interacting with the criminal justice system. Furthermore, the social and cultural stigma surrounding 'ideal victims' discourage women from reporting the cases, especially those of sexual violence cases.

Deficiency of Legal Counsel and Pro-Activeness

The absence of formidable victim legal support entails far-reaching problems in the form lack of awareness, counsel and guidance. During the investigation proceedings, victims are mostly reduced to a passive role where there is no scope of intervention unless they are called and summoned by the officers in investigation. The liberty provided to investigating officers is certainly crucial to ensure the objective flow of proceedings but the complete disenfranchisement of victims from this due process often leaves them in a state of confusion and uncertainty. The delay and lengthy criminal justice proceeding is a pervasive phenomenon in context of Bangladesh; thus, victims dwell in a constant fear and insecurity regarding the end result of their cases. The criminal justice officials also do not communicate or explain the delays in proceedings in a proactive manner. Eventually, victims have to seek these updates and justifications on their own, which again most often is not welcomed warmly. Moreover, there is no prevailing policy that allows the investigation report to be corroborated with the victim before producing to the court. Given the victim's exclusion from the process, by the time the investigation report is forwarded to the prosecution from criminal justice proceedings, there is nothing substantial that can be done even if the victims are not satisfied with the resultant justice. Ranjan a victim of human trafficking asserts *when I became a victim of trafficking, I was not*

aware of the right route to pursue in terms of seeking justice. I came from rural uneducated backgrounds and ended up being exploited even by third parties during the criminal justice proceedings because of that the case of human trafficking is much more impenetrable in terms of identifying perpetrators. This is one of the major reasons why out of court-settlements or negotiations have become so common in Bangladesh, especially in complicated criminal cases such as trafficking, smuggling, sexual violence and custodial torture/death cases.

Excessive Adjournments

The pervading and long delays within the court proceedings in Bangladesh is owed to a number of structural and administrative inadequacies. One of the most significant factors affecting these delays is the excessive adjournment, especially in the common law judicial systems. The repetitive adjournments cause challenges in terms of scheduling and management of the court proceedings. The multiple adjournments may take place due to a number of reasons like lawyers seeking additional time in reviewing case files, scheduling conflicts, absence of staffs in parties, witnesses or lawyers. The impact of these adjournments eventually results in the delay of justice which is as the aphorism goes as good as being denied. These delays not only undermine victims' rights, but also erode the court image and public confidence leading to the loss of credibility of justice systems. The legal uncertainty resulting from excessive adjournment have in several cases resulted such discontentment and unrest that there have also been instances of public protests and riot.

Latif, a victim of money laundering urged that *I filed a case of money laundering in Jamalpur court eight years back and the court has not framed the charge yet. Many times, the hearings are rescheduled. These reschedules causes us huge hassle as we are required to attend courts multiple times despite of residing far away from the court. This causes me to expend money and resources in commuting and loss of productive work or farming time. What even makes the resolving of these issues a lot more difficult is the unavailability of credible and adequate data supported by empirical evidence on court performance.*

Bribery and Corruption

Corruption is rampant within the criminal justice system in Bangladesh as has been documented in

numerous researches and findings. This study has similarly found that issues of bribery and other forms of corruption are ubiquitous within the criminal justice systems that result in the infringement of victims' rights and other challenges. There not only exists collusion and malpractices both within the police and prosecution, but other external parties coming from powerful socio-economic/political backgrounds can easily exercise influence in the criminal justice proceedings and eventual delivery of justice. This culture of impunity and lack of accountability not only erodes the efficacy of the criminal justice system, but also deprives the victims from receiving due justice. Not to mention, the harassment and frustration that victims go through due to these socio-political interventions cause secondary victimization as well. At the same time, these prevailing practices discourage from reaching out to law enforcement officials with their grievances when being victimized by those belonging from powerful socio-economic/political backgrounds. As regards bribery, complainants or victims often even have to pay the police officials to ensure proper investigation of their respective cases. For instance, in the first case against police on basis of custodial death of Ishtiaque Hossain Jonny in 2014, victim's brother says, *I had to struggle to file the case at first as this was completely a new start to complain formally against the law enforcement staffs. I was offered before the initial filing of the case 8 lakhs taka and after I didn't accept their offer, I was throughout the criminal case faces many known and unknown threats over phone and in person.* Similarly, victims also lack protection from the accused by the criminal justice which is also seen in the ground. *Razib, a victim of police torture claims that When I was beaten by the police and was demanded ransom, I was many times insisted on not to file a case against the police, however with the help of human rights defenders I report and hopefully will get justice.*

Additionally, under Section 436 of the Criminal Procedure Code, a person committed a bailable offence while he is in arrest without a warrant and at any stage of the criminal proceedings has the right to be released on bail. However, this bail procedure is subjected to abuse within the pre-trial stages as there is no comprehensive guideline that is provided in considering bail. Moreover, often individuals belonging from powerful backgrounds exert their influence in getting bails unreasonable which detrimentally affects the justice process and victims' rights.

Victim Blaming

Victim blaming as a socio-cultural norm has become widely pervasive across all sectors within Bangladesh, and the criminal justice system is no exception. Victim blaming is witnessed in a number of different crimes but amongst this, cases of sexual violence usually stand out the most. Especially women victims are blamed for the choice of their attire or presence in a particular area in a particular time for their own victimization. It would not be far-fetched to say that victim blaming has been institutionalized in the legal framework of Bangladesh as Section 155 of the Evidence Act 1872 allows that a victim's character and background can be scrutinized and questioned to undermine her credibility as an 'ideal victim' during trial of rape complainants. These forms of unacceptable behavior often come from law enforcement officials or prosecutors as well as they analyze the role of the victim in their own victimization. On another level, law enforcement officials often fail to protect the privacy of the victims as evidence is leaked resulting in the defamation of those involved and eventual victim blaming. In regard to a rape case of Anuska in Dhaka, the victim's mother claimed that *in case of rape of her daughter, people on social media were prone to say that it was the girl's fault, who visited the perpetrators house and got raped there.*

Lack of Sensitivity to Award Compensation in favor of Victims:

According to section 545 of the Code of Criminal Procedure, when a monetary fine is imposed as the sole or an additional punishment, the court may, at its discretion, direct all or part be paid to the victim. The Acid Offences Act 2002 and the Tribunal for the Suppression of Violence against Women and Children 2003 also have provisions for compensations to the victims. The court may direct the sale of the immovable or movable or both types of immovables or both types of property to the District Collector and order the money to be deposited with the tribunal and the tribunal may order for the payment of the said amount to the concerned victim. In this case judges' discretionary power is rarely used or if compensation sanctioned, the compensation remains poor. In addition, the process of collecting fine from the perpetration is very rigorous and time consuming that in most cases victims' rehabilitation process used to be hampered. If there is an acquittal or if the offender cannot be apprehended, there is no opportunity for victim compensation (Bari, 2016). Afsana Abedin, Senior Judicial Magistrate states

that in a criminal trial we focus initially whether the accused is guilty or not, the compensation for the victims is considered upon the capacity of the accused and the gravity of the guilt he has committed, we used to order for redressal of physical health or injury that a victim experienced and may be concerned of compensation when the investigation on an accused is proved, however we still don't take compensation as a sole alternative of punitive sentencing as there have been no legal reforms and judicial precedent. Thus, in many cases victim compensation is still a missing point of administration of criminal justice system of Bangladesh.

No Voice of Victim in Declaration of Sentencing

A Victim Impact Statement is pronounced to the judge or magistrate in a criminal trial by the victim before they sentence an offender. It aims for a better understanding of individual impact of crime that has had on the victim/s during trial including the suitable punishment which should be given to the offender. However, victim impact evidence is not yet acceptable during sentencing hearing in Bangladesh. They are not heard or testified in a case irrespective of about the gravity of the crime about the harm of the loss. Hazera, victim of domestic violence claimed that *throughout the criminal trial, I was never be asked how the violence impacted my life and day to day activities, rather the defense lawyer and their witness exercising implicit bias has the tendency to ask and reconcile the issues for the sake of my children.*

A WAY FORWARD

Holistic and Integrated Approaches to Ensure Victims' Participation

As it is evident in the views of the respondents interviewed in the study, victims encounter corruption, delay and malpractices from reporting to trial of a criminal case. To control the abuse of power, holistic and multi-disciplinary approaches appears to be particularly important including at the recording and prosecution stages of the criminal justice process such as communication and information sharing by the police and prosecution and pro-activity of the courts. To develop a holistic approach, efforts should be made from the beginning to ensure that stakeholders are committed to the collaboration to ensure victim's participation. In order to expediate the justice system, each partner's role needs to be clearly defined and the activities are to be rigorously monitored.

Developing Victim Impact Statement in the Criminal Justice

As stated earlier that impact statement could be a statement in a written or oral form made voluntarily that mentions the causes and probable affects and harms on the victim as a result. Such harm may include physical, financial and emotional suffering. This would help the courts to know the consequences of a crime upon the victim and declare the sentencings. In Bangladesh, a comprehensive guideline should be developed on victim impact statement to expedite justice for the victims.

Promoting Restorative Justice Values in the Criminal Justice System

Broadly speaking, restorative justice is a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future (Marshall, 1996). In this context, restorative justice values could be promoted to address victims' harms and needs caused by a crime by a victim and offender dialogue. Restorative justice can occur throughout the criminal justice process, from pre-arrest to post-sentence (Marder, 2019). Judges may have the discretion to award compensation to victims following restorative justice participation. It is also evident that victims of crime who participate in restorative justice efforts have greater levels of satisfaction with the justice process than those who participate in the traditional justice process (Latimer, Dowden and Muise, 2006). This, again would be recommended to introduce restorative justice values with utmost attention in different stages of the criminal justice system of Bangladesh.

CONCLUSION

This paper presented a critical appraisal of the victim's participation and its challenges in the practical administration of justice of Bangladesh. Once a crime happened against a victim, victims might often experience different forms of other sufferings from reporting to trial stage of a criminal case. Victims are also often harassed by the accused or their families both within their community or while attending the court. Like the corruption prevailing in law enforcement agency, there's widespread instances of malpractice within the courts whereas prosecutors are often extremely inefficient at their tasks resulting in poor delivery of service. This inefficiency is also observed in the delay in completing trial even though legally it is

required to be completed within 180 days in the Magistrate court and 360 days in the Sessions court. There also exists a lack of coordination between the prosecution and police which results in deficiency within both the investigation and the prosecution.

The research also has several constraints. Given that our main focus was to understand the protecting mechanism of victims and existing challenges in Bangladesh, we concluded with relatively limited scope of research and number of respondents in this study. In one hand, the work has relied on limited number of respondents to understand victims' participation in the criminal justice system of Bangladesh; and on the other hand, the paper also does not highlight the victims' satisfaction on current informal system of restorative practice that could be another area of work in case of traditional criminal justice system of Bangladesh. Future studies could include a wider scope of cognitions such as with wide number of participants from diverse background should be done and victims perception on the criminal justice system would be tested simultaneously.

From the above discussion, it can be also seen that although there are few laws and provisions protecting victims' procedural rights in Bangladesh, these provisions often are not implemented throughout different stages of administration of criminal justice. However, due to stereotypical criminal justice practices and court processes and lack of separate laws, consequently it affects the victim services though in limited extents in Bangladesh. There is therefore a need for an effective and responsive victim support system in the criminal justice system in Bangladesh. In addressing the pressing issue of victims' recognition and participation, the government and related agencies need to take prompt and expedient initiatives to provide professional and procedural support to the victims with in mind that criminal justice should ensure equal opportunities of the victim's participation.

CONSENT TO PARTICIPATE

The respondents gave informed consent before they entered the research and are interviewed. The study also uses pseudonyms to protect victims' identity in criminal proceedings.

DECLARATION OF CONFLICTING INTERESTS

The author declared no potential conflicts of interest with respect to the research and publication of this article.

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REFERENCES

- Akter, Mahmuda, and Aktaruzzaman Shakil. 2020. "Effectiveness of Victim Support Services: A Study on Victim Support Center in Dhaka." *International Journal of Science, Technology and Society* 8(3): 34-42.
<https://doi.org/10.11648/j.jsts.20200803.12>
- Alam, M. Shah. 2016. *Bangladeshe Ainer Sangsker o Ain Commission (Legal Reforms in Bangladesh and the Law Commission)*. 1st ed. Dhaka, Bangladesh: New Warsi Book Corporation.
- Bari, Hussain Mohammad Fazlul. "Plights of the Victims of Crimes." *The Daily Star*, May 6. Retrieved June 14, 2022 (<https://www.thedailystar.net/plights-of-the-victims-of-crimes-22877>)
- Bari, Hussain Mohammad Fazlul. 2016. "An Appraisal of Victim Protection in Bangladesh." *Journal of the Asiatic Society of Bangladesh (Hum.)* 61(2):183-205.
- Bessler, John D. 1994. "The Public Interest and the Unconstitutionality of Private Prosecutors." *Arkansas Law Review* 47(3):511-602.
<https://doi.org/10.2139/ssrn.1753201>
- Dammer, Harry R., and Jay S. Albanese. 2013. *Comparative Criminal Justice Systems*. 5th edition. Belmont, CA, USA: Cengage Learning.
- Doak, Jonathan. 2008. *Victims' Rights, Human Rights and Criminal Justice*. 1st ed. Oxford, United Kingdom: Hart Publishing.
- Faruk, Mohammad O. and Sanjeev P. Sahni. 2021. "Status of Crime Victims in Bangladesh." *Journal of Victimology and Victim Justice*.
<https://doi.org/10.1177/25166069211057213>
- GIZ. 2014. "Improvement of the Real Situation of Overcrowding in Prisons (IRSOP) Project." *Addiction Management & Integrated Care*. Retrieved June 14, 2022 (<https://www.amic.org.bd/improvement-of-the-real-situation-of-overcrowding-in-prisons-irsop-project/>).
- Kirchengast, Tyrone. 2006. *The Victim in Criminal Law and Justice*. New York: Palgrave Macmillan.
<https://doi.org/10.1057/9780230625778>
- Legislative and Parliamentary Affairs Division. 1898. *The Code of Criminal Procedure, 1898. Sec. 154. Information in Cognizable Cases*. Retrieved June 15, 2022 (<http://bdlaws.minlaw.gov.bd/act-75/section-20845.html>)
- Legislative and Parliamentary Affairs Division. 1898. *The Code of Criminal Procedure, 1898. Sec. 248. Withdrawal of complaint*. Retrieved June 15, 2022 (<http://bdlaws.minlaw.gov.bd/act-75/section-21271.html>)
- Legislative and Parliamentary Affairs Division. 1898. *The Code of Criminal Procedure, 1898. Sec. 493. Public Prosecutor may plead in all Court in cases under his charge Pleaders privately instructed to be under his direction*. Retrieved June 15, 2022 (<http://bdlaws.minlaw.gov.bd/act-75/section-21985.html>)
- Legislative and Parliamentary Affairs Division. 1898. *The Code of Criminal Procedure, 1898. Sec. 545. Power of Court to pay expenses or compensation out of fine*. Retrieved June 15, 2022 (<http://bdlaws.minlaw.gov.bd/act-75/section-22125.html>)
- Legislative and Parliamentary Affairs Division. 1872. *The Evidence Act, 1872. Sec. 151. Indecent and scandalous questions*.

- Retrieved June 15, 2022 (<http://bdlaws.minlaw.gov.bd/act-24/section-5267.html>)
- Legislative and Parliamentary Affairs Division. 1872. *The Evidence Act, 1872. Sec. 152. Questions intended to insult or annoy*. Retrieved June 15, 2022 (<http://bdlaws.minlaw.gov.bd/act-24/section-5268.html>)
- Legislative and Parliamentary Affairs Division. 1860. *The Penal Code, 1860. Sec. 503. Criminal intimidation*. Retrieved June 15, 2022 (<http://bdlaws.minlaw.gov.bd/act-11/section-3564.html>)
- Legislative and Parliamentary Affairs Division. 1860. *The Penal Code, 1860. Sec. 506. Punishment for criminal intimidation*. Retrieved June 15, 2022 (<http://bdlaws.minlaw.gov.bd/act-11/section-3568.html>)
- Mahajan, V. D. 2006. "Administration of Justice." Pp. 130-131 in *Jurisprudence and Legal Theory*. 5th ed. Lucknow: Eastern Book Company.
- Marder, Ian D. 2019. "Developing Restorative Justice in Law, Policy and Practice: Learning from around the World." *Penal Reform International*. Retrieved June 14, 2022 (<https://www.penalreform.org/blog/developing-restorative-justice-in-law-policy-and-practice/>).
- Marshall, Tony F. 1996. "The Evolution of Restorative Justice in Britain." *European Journal on Criminal Policy and Research* 4(4):21–43. <https://doi.org/10.1007/BF02736712>
- Mia, Md. Abdur Rahim. 2011. "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(1&2):149–51 Retrieved June 14, 2022 (<https://www.biliabd.org/wp-content/uploads/2021/08/Md.-Abdur-Rahim-Mia.pdf>)
- Morgan, Anne M. 1987. "Victim Rights: Criminal Law: Remembering the 'Forgotten Person' in the Criminal Justice System." *Marquette Law Review* 70(3):572–97.
- Ney, Tara. 2012. "Contesting Policy That Undermines Restorative Justice for Victims of Crime." *Contemporary Justice Review* 15(3):297–308. <https://doi.org/10.1080/10282580.2012.707426>
- O'Hara, Erin Ann. 2005. "Victim Participation in the Criminal Process." *Journal of Law and Policy* 13(1):229–47.
- Schafer, Stephen. 1968. *The Victim and His Criminal: A Study in Functional Responsibility*. New York: Random House.
- Stylianou, Amanda M., and Elizabeth Ebright. 2018. "Providing Coordinated, Immediate, Trauma-Focused, and Interdisciplinary Responses to Children Exposed to Severe Intimate Partner Violence: Assessing Feasibility of a Collaborative Model." *Journal of Interpersonal Violence* 36(5–6):NP2773–NP2799. <https://doi.org/10.1177/0886260518769359>
- The Daily Star. 2015. "Govt High-Ups for Restorative Justice to Curb Crime." *The Daily Star*, August 20. Retrieved June 15, 2022 (<https://www.thedailystar.net/city/govt-high-ups-restorative-justice-curb-crime-129598>)
- Ullah, Sujayet. 2006. "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." Pp. 130–36 in *Resource Material No.70*. Fuchu, Tokyo, Japan: The United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI).
- Wemmers, Jo-Anne. 2009. "Where Do They Belong? Giving Victims a Place in the Criminal Justice Process." *Criminal Law Forum* 20(4):395. <https://doi.org/10.1007/s10609-009-9107-z>

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