

**Manusher Jonno Foundation**

**Terms of Reference**

**Study on victim and witness protection to develop a draft law**

**Introduction**

Manusher Jonno Foundation (MJF) is an intermediary organization providing funding and capacity building support to civil society organizations and networks to promote human rights and governance initiatives in Bangladesh. Security and Rights of Women and Girls (SRWG), Tackling Marginalisation and discrimination, Decent and safe work, youth and social cohesion are the major programmatic areas of MJF to promote rights of these people.

Uphold the rights of marginalized, women and girls, workers and protect them from rights violation, violence in their family, communities and workplaces is one of the major concerns of MJF. The organization with its partner organizations (local and national NGOs) has been working with legal enforcing agencies ie police, medical hospital, court, local government and with various government institutions to ensure remedies and justice of these people.

MJF programme also has been working to develop economic empowerment of women and marginalized through skills training, tackling inequality, discrimination and marginalization, improving working conditions, changing policies and laws that discriminate against them, influence negative norms, behaviour and practices towards women at home and outsides.

**Why the study is relevant?**

MJF in its previous project supported to strengthen services at government safe home. During implementation it was observed that due to lack of protection of victim and witness in contact with law suffer a lot. There are divisional safe homes for women victim and witness under Social services Department and MOWCA which is not sufficient in compare to lots of women victim and witness. It is evident from the recommendations of different fact findings study on Violence against women that victim and witness protection and specific Act in this regard is imperative to ensure access to Justice of women victim as well as other victimized people/indigent litigant. STATE OF THE MARGINALISED IN BANGLADESH show alarmingly, 33.8 percent respondents faced violence, harassment and torture by the majority people. Further, 14.3 percent people from marginalized communities were threatened and tortured by their own community people. Other actors who commit violence against marginalized groups include politically influential persons, local government representatives, religious leaders and local goons. Constitution Art 31 states that: Every person has a fundamental right to enjoy the protection of the law. Sec500 of penal code imposes penalty for defaming any person. Sec504 of penal Code: penalizes intentional insult with intention to provoke breach of the peach. At present there is no Victim and Witness protection Act. Not only for women but for any types of victim, shelter support/protection is required. STATE OF THE MARGINALISED IN BANGLADESH show close relatives commit violence to grab land and other properties of the marginalized people. Reviewing cases under women and children anti repression Act it is also observed that due to threat and insecurity victim and witness cannot appear at the court, even the genuine witness sometimes tell lies due to various reasons like political pressure, perpetrators’ threat ,social issues etc. trial do not proceed, perpetrators get acquittal. To do policy Police officers, public prosecutors are not sensitized towards victim’s rights particularly to women victim’s rights.[[1]](#endnote-1) There is a directive of High Court to the Law ministry and Law commission to enact victim and witness protection Act. Due to transfer of government officials sometimes government witness are not available. Due to lack of protection and security, political and private witness do not appear at the court which hamper fair justice for victim and victims and they do not get Justice timely. Considering all these MJF would like to do policy advocacy for enactment of victim and witness protection Act.

One of the greatest challenges for the marginalised people in Bangladesh is to ensure security for themselves and their families. A marginalised person who is secure in his locality is much more likely to remain happy and achieve desirable success and be respected by others. The person who is insecure may find difficulties in almost every step of their life. In Bangladesh, most of the marginalised people are insecure, meaning they are powerless and their everyday life is controlled by the powerful.

The study found Dalit people are most insecure (74 percent) when it comes to living alongside higher caste Hindus and majority Muslims. The situation of the religious minorities is similar, with 60.7 percent of them saying they are somewhat insecure. In contrast, persons with disabilities are the most secure community, with 84.4 percent saying they do not feel insecure to live alongside the majority people. Further, 78.7 percent people from traditional fisher-folk community and 68.3 percent people from CHT Adivasi people reported the same.

Women victims are openly harassed during trial. For example in rape cases victim has to prove good moral character and has to face irrelevant scrutiny of past sexual history or behavior.. According to Evidence Act 155(4), when a man is prosecuted for rape.it may be shown that prosecutrix /petitioner was of generally immoral character. The admissibility provision of such character evidence is absolutely degrading for a victim of rape and she goes to a double trauma through the humiliation during trial. To address this situation Bangladesh High Court banned two finger test on rape victim in April, 2018 saying that the test has no scientific and legal merit. This is a progressive judgment to save women victim from harassment.

Considering above situation MJF would like to conduct a study on victim and witness protection situation in Bangladesh and to contribute to ensure security andfair justice for victim and witness.

**Objective of the study:**

* To conduct Situation analysis of victim and witness protection in Bangladesh and finding will contribute to drafting Victim and Witness Protection Act

**Scope of work:**

* Review of relevant laws where cases were dismissed and pending due to absence of victim and witness, lack of victim and witness protection and identify the loopholes and gaps
* Interview with victim and witness of different types of cases
* Interview with political witness, government witness and private witness
* To review compliance of High court order banning two finger test on rape victim

**Outcome-** Consultant team will deliver a report on situation of victim and witness protection in Bangladesh and its impact on their life.

**Work period:** July-September, 2019

1. [↑](#endnote-ref-1)