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**Victim of Crime and Witness Protection Act, 2020**

<b>Long Title</b>	Whereas it is expedient to consolidate and define the law for the setting out of rights and entitlements of victims of crimes and witnesses and the protection and promotion of such rights and entitlements; to give effect to appropriate international norms, standards and best practices relating to the protection of victims of crime and witnesses and the amendment thereof ;
	<b>PART - I</b>
<b>Short Title, Extent and Commencement</b>	<p>1. a) This Act may be called the "Victim and Witness Protection Act, 2020."</p> <p>b) It extends to the whole of Bangladesh and applies to all judicial proceedings in or before any Court having criminal jurisdiction and Commission, but not to Courts-martial and not to affidavits presented to any court or officer, not to proceedings before an arbitrator.</p> <p>c) It shall come into force on the first day of ...[month], 2020.</p>
<b>Interpretation</b>	2. In this Act, unless the context otherwise requires:
<b>(a) "authority"</b>	means a body as the Government may appoint from time to time for performing the functions under this Act;
<b>(b) "child"</b>	means a person below the age of eighteen years;
<b>(c) "court"</b>	means and includes the Appellate and High Court Divisions, and any court of sessions or court of magistrate where a crime under the schedule to this Act is pending for inquiry or trial or appeal or revision;
<b>(d) "code"</b>	means the Code of Criminal Procedure, 1898 (V of 1898);
<b>(e) "Commission"</b>	means National Human Rights Commission of Bangladesh (NHRCB), Anti-Corruption Commission

	(ACC) and any other commission before which victims of crimes and human rights violations and witnesses may appear.
<b>(f) Fund</b>	means the Victim Relief Fund established pursuant to law.
<b>(g) “intimidation”</b>	<p>means any manner of pressure, threat of retribution or to life or bodily injury, victimization, coercion, tampering, actual or threatened destruction of property, undue influence or harassment of any kind that can be directly or indirectly or potentially used by any person upon any victim or witness either with a view to influencing his/her statement before any investigative agency or his/her testimony in a trial or in an appeal or revision and which may subvert, manipulate, weaken, mislead or misdirect the course of justice or with a view to preventing a witness or victim from receiving or reaching to any investigative proceedings or from going to any court or tribunal to testify in the trial of the concerned offence or to prosecute the criminal proceedings or an appeal or revision therefrom;</p> <p><i>Provided that</i>, when assessing whether a victim or a witness is intimidated, the service provider must take account of:</p> <ul style="list-style-type: none"> <li>• any behaviour towards the victim or the witness on the part of the accused, members of the family or associates of the accused, and any other person who is likely to be an accused or witness in a potential court case;</li> <li>• the nature and alleged circumstance of the offence to which a potential court case relates. Victims of a sexual offence or human trafficking will automatically be considered to be intimidated;</li> <li>• the victim’s age and, if relevant, the victim’s social and</li> </ul>

	cultural background, religious beliefs or political opinions, ethnic origin, domestic and employment circumstances.
<b>(h) “investigative proceedings”</b>	means taking any step to lodge a First Information Report or General Diary or a proceedings relating to any investigation conducted by any judicial enquiry or by an investigating officer or by any investigative agency of the Government in respect of the commission of an offence under the schedule to this Act;
<b>(i) “judicial proceedings”</b>	means any criminal proceeding before any court or tribunal in respect of any offence under the schedule to this Act;
<b>(j) “office”</b>	means the office for victim and witness protection, established by section 19 of this Act, and includes any branch office thereof;
<b>(k) “protected person”</b>	means any person who has been given protection under this Act;
<b>(l) “place of safety”</b>	means a place or a location including a Government run home, a private home, or an institution run by a non-Government organization recognised by the Government, having a woman and child-friendly environment, for the purpose among others of keeping victim or witness in a secured condition;
<b>(m) “prescribed”</b>	means prescribed by rules made under this Act;
<b>(n) “related person”</b>	means any member of the family or household of a victim or witness or any other person in a close relationship to, or association with, such victim or witness;
<b>(o) ‘Service Provider’</b>	includes Ministries, Departments and Directorates of Government that shall provide services under this Act. This Act requires the following Ministries, Departments and Directorates to provide services to victims and

	<p>witnesses:</p> <p>[list to be incorporated]</p>
<b>(p) “tribunal”</b>	<p>means any special tribunal established under the Special Powers Act, 1974 and other special laws in force;</p>
<b>(q) “victim”</b>	<p>for the purposes of this Act, means any person or persons who, individually or collectively have suffered physical, emotional, financial, social or psychological injury as a result of commission of an offence under the schedule to this Act and includes the immediate dependents or any intimidated member of the family of the direct victim and also a person who has suffered harm in intervening to assist the victim or a victim in distress or to prevent victimization of the victim;</p>
<b>(r) “victim/witness protection”</b>	<p>means rights, services and entitlements required for the protection of a victim or witness from intimidation, harassment or from further victimization by the accused or his associates or any person or body of persons, whether named in the First Information Report or not and includes relocation, accommodation, change of identity, as well as counseling and financial support of a victim or witness.</p>
<b>(s) “witness”</b>	<p>means any person who—</p> <p>(a) has provided information or lodged a complaint with any law enforcement officer and based upon such information or complaint, an investigation or inquiry could or has commenced or is likely to commence, in connection with the alleged commission of an offence or the infringement of a fundamental right or the violation of a human right;</p> <p>(b) in the course of an investigation or inquiry conducted by a law enforcement authority into the alleged</p>

commission of an offence or infringement of a fundamental right or the violation of a human right, has provided information or made a statement containing an account of matters in respect to which such person had been questioned;

(c) has provided an affidavit or submitted a statement in support of a complaint made or any legal action instituted by a victim of crime;

(d) has provided information or any communication to a Commission;

(e) has reasonable grounds to believe that he shall be summoned by a Court or a Commission to make a statement or testify in any judicial or quasi-judicial proceedings against a person, based on information provided or a statement made to a law enforcement authority or a Commission by such person;

(f) has received summons from a court or a Commission to make a statement, testify or produce any document, report or object in any judicial or quasi-judicial proceeding before such Court or Commission; or

(g) being a public officer, has investigated into the alleged commission of an offence or an alleged infringement of a fundamental right or the violation of a human right,

and includes a victim of crime, a child witness, the parent or guardian of a child witness, a family member or dependent of such witness or any other person of significant importance to such person, an expert witness and a person who has been summoned to testify before a Court or a Commission on behalf of a person suspected or accused of the alleged commission of an offence or

	the infringement of a fundamental right or the violation of a human right;
<b>(t) “written communication”</b>	includes a letter transmitted in any medium whatsoever, such as by ordinary or registered post, by facsimile and electronic mail;
<b>(u) “Witness Protection Application”</b>	means an application moved by the witness in the prescribed form before a competent authority for seeking witness protection order. It can be moved by the witness, his family members, and his duly engaged counsel.
<b>(v) “Witness Protection Fund”</b>	means the fund created for bearing the expenses incurred during the implementation of witness protection order passed by the competent authority under this Act.
<b>(x) “Witness Protection Cell”</b>	means a dedicated Cell of Police assigned with the duty to implement the witness protection order.
	<b>PART – II</b>
<b>Objective of the Act</b>	<p>3. The objects of this Act shall be to-</p> <p>(a) set out, uphold and enforce the rights and entitlements of victims of crime and witnesses and to provide for a mechanism to promote, protect, enforce and exercise such rights and entitlements;</p> <p>(b) provide assistance and protection to victims of crime and witnesses;</p> <p>(c) enable victims of crime to obtain compensation from persons convicted of having committed offences against them;</p> <p>(d) provide for obtaining redress by victims of crime, including compensation, reparation and rehabilitation of such victims;</p> <p>(e) set out duties and responsibilities of the State, judicial officers and public officers towards the promotion and protection of the rights and entitlements of victims of</p>

	<p>crime and witnesses;</p> <p>(f) stipulate offences that may be committed against victims of crime and witnesses and the penal sanctions that may be imposed on persons who commit such offences; and</p> <p>(g) provide for the adoption and implementation of best practices relating to the protection of victims of crime and witnesses.</p>
	<p style="text-align: center;"><b>PART-III</b></p> <p style="text-align: center;"><b>RIGHTS AND ENTITLEMENTS OF VICTIMS OF CRIME AND WITNESSES</b></p>
<p><b>Rights of Victims</b></p>	<p>4. A victim of crime shall have the right: —</p> <p>(a) to be treated with equality, fairness and with respect to the dignity and privacy of such victim;</p> <p>(b) where the victim is a child victim, to be treated in a manner which ensures the best interests of such child;</p> <p>(c) in accordance with procedures as may be prescribed, to receive prompt, appropriate and fair redress, including reparation, for and in consideration of any harm, damage or loss suffered as a result of being a victim of a crime;</p> <p>(d) to be appropriately protected from any possible harm, including threats, intimidations, reprisals or retaliations;</p> <p>(e) to be medically treated for any mental or physical injury, harm, impairment or disability suffered as a victim of a crime;</p> <p>(f) upon a request made by such victim, to be informed—</p> <p>(i) by the Authority or the Division, of the legal remedies available for the redress of any harm which he has suffered including civil remedies available for obtaining damages and relevant periods of prescription applicable</p>



thereto;

(ii) without prejudice to any on-going investigations being carried out by the officer-in-charge of the relevant police station or other authority conducting the investigation, of the progress of the investigation being conducted into the information or complaint presented by the victim of crime, to such police station or other authority conducting the investigation;

(iii) by the officer-in-charge of the relevant police station or other authority conducting an investigation, the Prosecutor of the Case or the concerned Court Inspector, as the case may be, of the dates fixed for hearing and the progress and the disposal of judicial proceedings relating to the offence informed or complained of by the victim of crime, including the non-summary inquiry, trial, appeal and application in revision and by the Authority of the rights and entitlements of the victim of crime pertaining to such proceedings ;

(iv) by the officer-in-charge of the relevant police station or other authority conducting an investigation, the relevant Prosecutor, the Court Inspector or the Superintendent of Prisons, as the case may be, of the dates fixed for the—

(a) release on bail;

(b) discharge of the suspect;

(c) institution of criminal proceedings against the accused;

(d) the conviction, sentence or acquittal of the suspect or the accused; and

(e) the release from prison of the convict, who has committed or is alleged to have committed an offence against the victim of crime and the reasons therefore; and

(v) by the Authority of the medical, social services and any other assistance that is or may be available for the treatment or amelioration of any harm caused to such victim of crime.

(g) to present, either orally or in writing, an information pertaining to the commission of an offence and to have such information recorded by any police officer in any police station or other unit or division of the Police Department and to have such information impartially and comprehensively investigated by the relevant investigating authority;

(h) without prejudice to any on-going investigation, to be represented by an Advocate during an investigation, including criminal and forensic investigations and magisterial inquiries into the alleged offence committed against such victim and make necessary representations to the appropriate competent authorities who are conducting such investigations;

(i) without prejudice to any on-going or concluded investigation, to obtain certified copies of Cause of Death forms, Post Mortem Reports, Medico-Legal Reports, Reports of the Registrar of Finger Prints, Reports of the Government Analyst and any other report of an expert and reports filed in the Magistrate's Court by the Police, as required by the Code of Criminal Procedure:

Provided however, where an application is made for the purpose of obtaining certified copies of reports referred to in this paragraph, the Magistrate to whom such application is made shall inquire from the police, whether the issue of such Reports would prejudice the on-going investigations, to which those Reports relate and where

the release of any one or more of the Reports is likely to prejudice the on-going investigation, the Magistrate shall refuse the issue of such Report or Reports;

(j) to present written communications or make representations through legal counsel to the relevant Prosecutor, before, during and after the investigation into the offence alleged to have been committed against such victim, and before and during the conduct of judicial proceedings, including at the non-summary inquiry, trial and appeal;

(k) to present written communications or make representations through legal counsel to an investigator, who is conducting an investigation into the offence committed against such victim of crime, and to be entitled to receive a response in regard to such communications or representations made;

(l) to be present at all judicial or quasi-judicial proceedings relating to an offence, including at the non-summary inquiry, trial, appeals and any application in revision, unless the court, Commission or other tribunal determines, for reasons to be recorded that such victims evidence would be materially affected if he hears other evidence at such proceedings or the due discharge of justice could be secured only by the exclusion of such victim from being present during the hearing of certain parts of such proceedings;

(m) to receive any assistance and information required to attend and participate at judicial or quasi-judicial proceedings pertaining to the offence committed against him;

(n) without prejudice to the prosecution, to be represented

	<p>by legal counsel at the several stages of the criminal proceedings relating to the offence, including at the non-summary inquiry, trial, appeal and application in revision, and where a request is made, to be provided where available with legal assistance for such purposes;</p> <p>(o) following the conviction of the offender and prior to the determination of the sentence, either personally or through legal counsel, to submit to court the manner in which the offence concerned had impacted on his life, including his body, state of mind, employment, profession or occupation, income, quality of life, property and any other aspects concerning his life;</p> <p>(p) in the event of an appeal or application in revision being presented by a person convicted of having committed an offence, either personally or through legal counsel, to submit to court that adjudicates upon such appeal or application in revision, the manner in which the offence concerned had impacted on his life, including his body, state of mind, employment, profession or occupation, income, quality of life and property and any other aspects concerning his life; and</p> <p>(q) in the event of any person in authority considering the grant of a pardon or remission of sentence imposed on any person convicted of having committed an offence, to receive notice thereof and submit through the Authority to the person granting such pardon or remission, the manner in which the offence committed had impacted on his life including his body, state of mind, employment, profession or occupation, income, quality of life, property and any other aspects concerning his life.</p>
<b>Entitlements of Victim</b>	5. (1) A victim of crimes is entitled to be treated with

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human dignity by the concerned offices, e.g., Judge, Prosecution, Police Station, Investigation Officer, etc. irrespective of their religion, race, caste, sex or place of birth.

(2) A victim of crime shall be entitled to receive a sum of money from the Authority, in consideration of the expenses incurred as a result of the offence committed and his participation in any judicial or quasi-judicial proceedings before a court or Commission, pertaining to the alleged commission of an offence or an alleged infringement of a fundamental right or a violation of a human right.

(3) A victim of crime shall be entitled to claim and obtain from the State any required medical treatment, including appropriate medical services, medicine and other medical facilities, in respect of physical or mental injury, harm, impairment or disability suffered as a result of being a victim of crime and for necessary rehabilitation and counseling services.

(4) Where due to absence or lack of necessary resources the State is unable to provide the services claimed by a victim of crime under subsection (2), such victim shall be entitled to apply to the Authority for financial assistance for the purpose of obtaining the required medical treatment for any physical or mental harm, injury or impairment suffered as a result of being a victim of crime and for any necessary rehabilitation and counseling services.

(5) A victim of ethnic community will be entitled to get an interpreter during the filing of FIR, filing of a Complaint Petition before a Magistrate or Court

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	concerned, at all stages of investigation and legal proceedings, including trial.
<b>Entitlements of Witnesses</b>	<p>6. (1) A witness shall be entitled to receive from investigational, quasi-judicial and judicial authorities fair and respectful treatment irrespective of their religion, race, caste, sex or place of birth, with due regard to the dignity and privacy of such witness.</p> <p>(2) A witness shall not be harassed or intimidated, coerced or violated during or thereafter, due to or as a consequence of-</p> <p>(a) providing information relating to the commission of an offence or to the infringement of any fundamental right or the violation of any human right;</p> <p>(b) volunteering to make a statement during an investigation into any offence or an investigation or inquiry into the infringement of any fundamental right or the violation of any human right; or</p> <p>(c) providing testimony in a court or before a Commission relating to the alleged commission of an offence or an alleged infringement of a fundamental right or a violation of a human right.</p> <p>(3) A witness shall be entitled to protection against any real or possible harm, threat, intimidation, reprisal or retaliation resulting from such witness having provided information or lodged a complaint or made a statement to any law enforcement authority or for having provided any testimony in any Court or before a Commission or for instituting legal proceedings, pertaining to the commission of an offence or for the infringement of a fundamental right or for a violation of a human right, by any person.</p>

	<p>(4) A witness of ethnic community will be entitled to get an interpreter at all stages of investigation and legal proceedings, including trial.</p>
<p><b>Special Provisions for Protection of Victims during rescue operation</b></p>	<p>7. Whenever any case of the commission of an offence of rape, kidnapping or abduction or trafficking of any woman or child is reported to a police station, the officer-in-charge of the concerned police station or any other officer not below the rank of sub-inspector, shall record the details of the incident as reported and then shall rush to the place of occurrence to rescue the victim/victims as quickly as possible. The victim of such crimes shall be provided with the following assistance and protections during rescue operations-</p> <p>(a) After the rescue of the victim in case of a woman, her identity shall be kept confidential and shall not be disclosed to the public or media by any police officer or constable or any person associated with or connected to the rescue operation, the breach of which shall attract the provisions of section .....</p> <p>(b) In identifying offenders immediately after rescue the identity of the victim and the complainant shall be kept confidential and their faces shall be concealed or a black screen shall be set up during the identification parade, if and when necessary, the breach of which shall attract the provisions of section ....</p> <p>(c) It shall be the duty of the police officer to mention the relevant section of the Penal Code and other Special Laws pertaining to the circumstances of the crime to be specifically included in the first information report or general diary if the victim gives concrete statements attracting the relevant provisions of the said laws. The</p>

	<p>registered non-Government organizations and representative of the local Government may be called for, if available, without wasting time during police raid on any brothel house or any other place. Every police station may maintain a list of female social workers who may be of help in rescuing the victim.</p> <p>(d) The authority shall notify that it shall be mandatory for each police officer to initiate and personally supervise the rescue operation immediately after receiving information of such an occurrence.</p>
<p><b>Protection of victims after rescue operation</b></p>	<p>8. The police authority shall provide the following protections to the victims after the rescue operation and during the post-rescue investigative and judicial proceedings:</p> <p>(a) The victim shall be separated from the accused after his/her rescue. A social worker or support person, preferably a female, in case of a female victim, shall be required to be present when the victim girl or woman is being interviewed by a police officer or officers after the rescue.</p> <p>(b) The statement of the victim shall be taken by a police officer not below the rank of sub-inspector.</p> <p>(c) The victim shall be treated during the making of a statement and/or interview with respect and dignity by the police officer keeping in view that the victim is not an accused person. The office shall at its cost arrange to give the victim counseling by qualified counselor, if necessary, immediately after rescue.</p> <p>(d) The victim shall immediately be taken to a place of safety and the office shall get him/her examined by a doctor immediately after the rescue.</p>



(e) Any one or more members of the office shall visit, supervise and assist the victim in the place of safety. Access to the victims by other persons shall be under the strict supervision of the office. A social welfare worker recognised by the authority for purposes of this Act shall accompany the victim whenever he/ she wants to leave the place of safety temporarily.

(f) The victim who apparently appears to be a minor shall be kept at a special facility for juveniles in need of care and protection and shall be produced before the nearest Magistrate within twenty-four hours. Efforts shall be made to procure the entry in the Register of Births and Deaths maintained under the জন্ম-মৃত্যু নিবন্ধন আইন, 2006 or under the city corporation or a school-leaving certificate as evidence of age. In the absence of such entry or certificate, the opinion of a medico-legal expert recognised by the authority for purposes of this Act, shall be taken to determine the age of the victim.

(g) The detailed evidentiary statement of the victim in the place of safety shall be recorded by the investigating officer in the presence of his/her next friend or a lawyer of her choice, if any, or the superintendent of the place of safety or a protection officer or an approved social worker which shall form part of the case record for use in the court proceeding against the accused. Every effort shall be made to arrest all the accused within as short a time as possible. After the report of the commission of a crime under the schedule to this Act, the investigation of the crime shall be completed and charge sheet submitted within 60 days. A victim's help may be taken to trace the criminal.

<p><b>Victim Protection during the process of age verification</b></p>	<p>9. For the purpose of age verification and for determining sexual abuse, if any, the police officer shall, after rescue of the victim, produce the victim before a medico-legal expert recognised by the authority for purposes of this Act, for-</p> <ul style="list-style-type: none"> <li>(i) determination of his/her age, if no other evidence exists;</li> <li>(ii) detection of any injury or sign of violence or resistance as a result of sexual abuse or rape;</li> <li>(iii) if the victim is a girl or woman a female social worker recognised by the authority for purposes of this Act or a female member of the victim's family or a female lawyer of the victim's choice shall remain present in the room where the victim is medically examined. In case of any complaint of a foul play in the medical examination, a second opinion may be sought for the benefit of the victim.</li> </ul>
<p><b>Duties of the victims and witnesses</b></p>	<p>10. For the purposes of this Act, the duties of the victims and witnesses shall be as follows:</p> <ul style="list-style-type: none"> <li>(a) To make or give inform or notice as to the offence on time to the competent body or authority pursuant to the prevailing law,</li> <li>(b) To assist the investigating or prosecuting authority in the course of investigation and prosecution of the offence,</li> <li>(c) To refrain from failing to appear before the investigating authority or court in order to save the person involved in the offence, or to refrain from making statement, deposition or submitting any evidence for that purpose even upon being in appearance,</li> <li>(d) To provide his or her own real name, surname, address, telephone number, email address and provide</li> </ul>

	information of the change, if any, made therein, as soon as possible.
<b>Not to be deemed victim</b>	<p>11.(1) Notwithstanding anything contained elsewhere in this Act, where a person has sustained damage or died in the following circumstance, the person who has so sustained damage or died or his or her family member shall not be deemed to be a victim for the purposes of this Act:</p> <p>(a) While doing any act in the course of saving the body, life, property or chastity of his or her own or anyone else under the private defense pursuant to the prevailing law,</p> <p>(b) While doing any act by a security employee who has been deputed or deployed by the order of the competent authority in the course of performing his or her duties pursuant to the prevailing law,</p> <p>(c) While doing any act by the investigating authority having authority to investigate pursuant to the prevailing law, in the course of making investigation, subject to his or her jurisdiction,</p> <p>(d) Any act done in a situation where the criminal liability need be borne pursuant to the prevailing law,</p> <p>Provided that even if the criminal liability of the perpetrator need not be borne as a result of the perpetrator's age, mental unsoundness, diplomatic immunity or immunity enjoyable on the basis of position, it shall be deemed, for the purposes of this Act, that such a person has committed the offence, and the concerned person shall be deemed to be a victim due to the offence.</p> <p>(2) Notwithstanding anything contained in sub-section (1), nothing contained in this Act shall prevent the Government from providing relief to a person who has</p>

	sustained damage or died due to the circumstance set forth in that sub-section.
	<b>PART – IV</b> <b>SPECIAL PROTECTION FOR CERTAIN VICTIMS</b>
<b>Application for protection</b>	<p>12.(1) Any victim or witness to a crime under the schedule to this Act who has reason to believe that his or her safety or the safety of any member of his or her family is or may be threatened before, during or after the investigative or judicial proceedings by any person or by the accused or his or their associates, whether known or unknown, by reason of his or her being a victim or a witness, may report or cause the sending of a report of such belief to the investigating officer of the concerned proceeding or to the officer-in-charge of the police station where the criminal case has been or is likely to be instituted or to the public prosecutor or to any member of the office.</p> <p>(2) Any person to whom a report is made under subsection (1) shall assist the applicant in making an application for protection and shall forthwith submit the application to the Chief Metropolitan Magistrate or Chief Judicial Magistrate and Office, as narrated in Chapter V, for its consideration and necessary order.</p>
<b>Order for Protection</b>	<p>13. The Chief Metropolitan Magistrate or Chief Judicial Magistrate on receiving the application under section 12 or on his own initiative shall consider the nature and circumstances of the case and make an order for sending the victim or witness to a place of safety.</p> <p>Provided that the members of the office, , as narrated in</p>

	<p>Chapter V, or the majority of the members thereof are satisfied that:</p> <p>(a) the alleged offence in which the victim or witness has made or may be required to make a statement in an investigative proceeding or has given evidence or may be required to give evidence in any court or tribunal trying the offender is an offence under the schedule to this Act;</p> <p>(b) his/her statement or testimony, whether or not already given or taken, is necessary for substantial establishment of or corroboration for the material points of the case concerned;</p> <p>(c) he/she or any member of his/her family is subjected to intimidation or there is a likelihood that he/she will be;</p>
<p><b>Rights and Benefits of the protected person</b></p>	<p>14. The protected person shall have the following rights and benefits:</p> <p>(a) to have a place of safety with a secured housing facility until he/she has made the statement in any investigative proceeding or testified or until the threat, intimidation or harassment disappears, whichever occurs later. When the circumstances warrant, the victim or witness shall be entitled to relocation and/or change of personal identity at the expense of the office. In case of similar necessity this right may be extended to any related person.</p> <p>(b) the office shall, whenever practicable, assist the protected person in obtaining a means of livelihood. The protected person relocated pursuant to clause (a) shall be entitled to a financial assistance from the office for his/her support and that of his dependent family in such amount and for such duration as the office shall determine.</p>

	<p>(c) to be provided with reasonable travelling expenses and subsistence allowance by the office, in such amount as the office may determine for his/her attendance in and return from the court or tribunal for giving his/her testimony as well as in attending the interviews with prosecutors or investigating officers. Support person or persons shall always accompany the female person during her travelling to and return from court or tribunal or to prosecutor or investigating officer;</p> <p>(d) to be provided with free medical treatment, hospitalization and medicines for any illness or injury suffered by him/her during his/her stay in the place of safety or because of his/her witness-duty, in any private or public hospital or clinic at the expense of the office with full security protection;</p> <p>(e) the rights and benefits as mentioned above shall be provided to the protected person with a view to ensuring their appearance before investigative bodies and in court or tribunal enabling them to make a statement or to give evidence without fear in the investigation and trial of offences under the schedule to this Act.</p>
<p><b>Termination of victim/witness protection</b></p>	<p>15. The office may, by an order in writing, terminate the protection of a protected person, if the office by majority is of the opinion that-</p> <p>(a) the safety of the protected person is no longer threatened;</p> <p>(b) a satisfactory alternative arrangement has been made for the protected person;</p> <p>(c) the circumstances that gave rise to the need for protection and assistance to the protected person cease to exist;</p>

	<p>(d) the protected person refuses or fails to make a statement or to give evidence in the investigation or judicial proceeding for which he/she has been given protection;</p> <p>(e) when a protected person requests in writing that the protection provided to him/her be terminated.</p>
<p><b>State witness</b></p>	<p>16. Any person who has participated in the commission of a crime and desires to be a witness for the state, can apply and, if qualified under the provisions of the code and of the Evidence Act, 1872, he/she shall be given by the office the relevant protections under this Act whenever the following circumstances are present:</p> <p>(a) the offences in which his/her testimony will be used is an offence under the schedule to this Act;</p> <p>(b) there is absolute necessity for his/her testimony;</p> <p>(c) there is no other direct evidence available for the proper prosecution of the offence committed;</p> <p>(d) he/she has not at any time been convicted of any crime involving moral turpitude.</p>
<p><b>Rehabilitation of victims</b></p>	<p>17.(1) The authority shall ensure proper rehabilitation of the rescued men/women and children-victims of trafficking and commercial sexual exploitation in the society commensurate with the dignity and self-respect of a human being.</p> <p>(2) Apart from making necessary arrangement for lodging the victim of rape, kidnapping, abduction and trafficking in a place of safety immediately after the rescue the office and the authority shall make arrangement for supporting the victim financially and in other ways until he/she is</p>

	<p>rehabilitated by providing him/her with suitable employment opportunity.</p> <p>(3) The Office shall formulate special schemes like employment guarantee schemes, agricultural subsidy and medical support to provide assistance to the families of trafficked child victims. The authority shall provide the child victims with necessary financial assistance for their education up to graduation and employment.</p> <p>(4) The Office shall not send back a rescued victim to his/her family without ensuring social acceptance and family support and without being satisfied that the woman or child victim shall not be subjected to further rape, re-trafficking and further commercial sexual exploitation.</p>
<b>Speedy Hearing or Trial</b>	<p>18. In any case where a protected person has been provided with necessary protection and rights and benefits under this Act, is a necessary witness to a judicial proceeding, the investigating authority and the court or tribunal shall ensure a speedy hearing or trial of the case and shall conclude the said proceeding as quickly as possible, preferably within three months from the filing of the accepted charge sheet.</p>
	<p><b>PART – V</b></p> <p><b>OFFICE FOR THE VICTIMS AND WITNESSES</b></p>
<b>Establishment of a victim and witness protection office</b>	<p>19.(1) The Government shall establish an office in every Metropolitan City under the Ministry of Law, Justice and Parliamentary Affairs for the purpose of providing necessary security, medical, clinical and counseling assistance and secured protection for the victim of and witness to crimes involving offences under the schedule to this Act.</p> <p>(2) The office of victim and witness protection shall</p>



	<p>consist of an officer of the Ministry of Law, Justice and Parliamentary Affairs, an officer of the Department of Social Welfare, a female lawyer from a Government recognised Human Rights Lawyers' Association, the concerned investigating officer of the alleged criminal offence and the public prosecutor, to be chaired by the Chief Metropolitan Magistrate or Chief Judicial Magistrate.</p> <p>(3) The Government may, by notice in Official Gazette, establish any branch office of victim and witness protection in any district with such persons as its members and chairman as it deems fit and proper.</p>
<p><b>Register of Victim and Witness Protection under this Act</b></p>	<p>20.(1) The office shall maintain, if possible by electronic process, a register of victims and witnesses who have been provided with protection benefits under this Act.</p> <p>(2) The register shall include the following particulars in respect of each protected person;- (a) the name of the protected person and the names of his/her father and mother; (b) if the protected person has been provided with a new identity under this act, his/her new name; (c) the full temporary and permanent address containing the name of police station and postal code no, telephone nos, fax no. and email address, if any, of the protected person; (d) the date on which the protection has been terminated.</p>
	<p style="text-align: center;">PART – VI</p> <p style="text-align: center;">COMPENSATION AND COMPENSATION LEVY</p>
<p><b>Power to make order for interim compensation</b></p>	<p>21. (1) Where it is required to have treatment of the victim or provide compensation or any kind of relief amount immediately, the court may make an order for getting such a person medically treated or providing compensation or relief amount in an interim manner.</p>

	<p>(2) Where the order referred to in sub-section (1) is made, the victim shall be provided with compensation or relief amount from the Fund.</p> <p>(3) Where the accused person is convicted of the offence upon judgment by the court, the court shall order such an offender to pay the amount of compensation or relief amount provided pursuant to sub-section (2) to the Fund within thirty-five days of the date on which the judgment was made.</p> <p>(4) Where so ordered by the court pursuant to sub-section (3), such an offender shall pay to the Fund the amount of compensation or relief, and where he or she does not pay such amount within that period, it shall be recovered from any assets belonging to such an offender as government arrears, within sixty days of the date on which the judgment was made.</p>
<p><b>To get compensation recovered from offender himself or herself</b></p>	<p>22. (1) The court may, while making final settlement of the case, make an order that a reasonable amount be paid, as compensation, by the offender to the victim.</p> <p>(2) While making order for the payment of the compensation pursuant to sub-section (1), the court shall ascertain as to whether the victim has obtained the interim compensation or not pursuant to Section 20.</p> <p>(3) Where the court makes an order pursuant to sub-section (1) that compensation be paid by the offender to the victim who has already obtained interim compensation pursuant to Section 20, only the amount that remains after returning the amount of interim compensation obtained by the victim to the Fund shall be provided to the victim.</p> <p>(4) Notwithstanding anything contained elsewhere in this</p>

	<p>Section, where it appears that the victim cannot get compensation because the offender has no property or where the offence is established but the offender cannot be held to be convicted or where the case related to the offence is withdrawn pursuant to the prevailing law, the court may make an order that appropriate amount be paid as compensation to the victim from the Fund.</p> <p>(5) The amount of compensation shall be provided to the victim from the Fund within thirty-five days from the receipt of the order pursuant to sub-section (4).</p>
<p><b>Bases to be taken while determining the amount of compensation</b></p>	<p>23. While determining the amount of compensation to be provided to the victim, the court may take any or all of the following matters as the basis:</p> <p>(a) Reasonable expenses borne or to be borne by the victim for medical, psychological or psychiatric counselling,</p> <p>(b) Expenses of medical treatment borne or to be borne by the victim,</p> <p>(c) Unexpected travel expenses borne by the victim,</p> <p>Explanation: For the purpose of this clause, “unexpected travel expenses” means the reasonable expenses incurred in transport while travelling more than ten kilometres for receiving counselling or treatment service which the victim requires immediately to lessen the damage caused to the victim as a direct result of the offence because such service is not available within the distance of ten kilometres from the victim’s place of settlement or workplace or the scene of crime.</p> <p>(d) Expenses for legal practitioner borne by the victim,</p>

(e) Damage caused to the personal capacity of the victim as a direct result of the offence,

(f) Financial loss borne or to be borne by the victim,

Provided that where the victim has obtained or is obtain compensation for such financial loss from the insurance pursuant to law, compensation shall not be provided pursuant to this clause.

(g) Expenses incurred or to be incurred in repairing or maintaining the damaged personal goods or purchasing new ones,

(h) The victim's income generation capacity lost or damaged as a direct result of the offence,

(i) Negative effect caused to the physical beauty of the victim,

(j) Damage caused to physical, intellectual, sexual or reproductive capacity of the victim,

(k) In the case of the offence of rape, negative effect caused from such offence to the social, cultural or family prestige or relationship of the victim,

(l) Where the victim becomes pregnant due to rape, expenses incurable in abortion or giving birth to and nurturing the baby,

(m) Medical treatment expenses in the case of abortion caused from the offence,

(n) Reasonable expenses spent by the victim in good faith to become safe from additional offence that is likely to be committed against him or her, where the special condition

	<p>is attracted,</p> <p>(o)Mental or emotional damage borne by the victim,</p> <p>(p)Other appropriate grounds according to the nature and effect of the damage,</p> <p>(q)In the case of the victim whom special condition is applicable to, reasonable expenses incurred by the victim in good faith to save the victim of first grade from additional offence,</p> <p>Explanation: For the purposes of this Section “special condition” means the condition where the victim has sustained or has to sustain unnatural impact or effect as a direct result of the offence committed against the victim, by taking undue advantage of the physical or mental condition of, or the place of residence, workplace of, the victim or special location of the scene of crime at the time of the commission of the offence.</p> <p>(r) Guardian’s patronage lost by the minor children.</p>
<p><b>To consider group of offences as one offence</b></p>	<p>24.For the purpose of providing compensation pursuant to this Act, compensation shall be provided by considering a group of offences as one offence.</p> <p><b>Explanation:</b> For the purposes of this Section “group of offences” means two or more than two offences that are connected for the following reasons:</p> <p>(1) Having been committed by the same person or group of persons against the same person in the same incident, or having the same characteristics between these offences for any other reasons, and</p> <p>(2) Death of the victim or damage caused to the victim</p>

	<p>from the offence.</p>
<p><b>Compensation not available in more than one status</b></p>	<p>25.No person may receive the compensation referred to in this Act as the victim of first grade, victim of second grade and family victim or in more than one form or status in any other form.</p>
<p><b>Compensation not to be provided</b></p>	<p>26.Notwithstanding anything contained elsewhere in this Act, the following victims shall not be provided with compensation pursuant to this Act:</p> <p>(a)One who commits the offence in relation to which compensation is to be received, attempts to commit it, entices or conspires to commit, or assists in the commission of, or is an accomplice involved in, the offence,</p> <p>(b) One who makes claims for compensation referred to in this Act in the capacity of the victim of first grade where the offence has been committed against him or her when he or she was involved in any other offence or due to that reason,</p> <p>(c) A family victim of the person who has died when he or she was going to commit an offence against any one or due to that reason,</p> <p>(d) A person who is entitled to receive compensation pursuant to the prevailing law under the insurance provision of third party with respect to the damage caused due to a motor vehicle accident,</p> <p>Provided that nothing herein contained shall bar the provision of compensation pursuant to this Act in cases where such a person was killed or injured by using a motor vehicle with the intention of killing or injuring.</p>

(e) A victim of second grade or family victim who has information that the victim of first grade has been involved in any other offence or has reasonable reason to receive such information,

Provided that this provision shall not be applicable to a person who is a witness at the time of the commission of the offence for which compensation is to be received.

(f) A person who is victim of an offence and whose treatment has been made free on behalf of the government or whose treatment expenditure has been borne by the government and there is a possibility that the victim may get recovery,

Provided that nothing herein contained shall bar the provision of compensation in the case of a damage other than the expenses for medical counselling or medical treatment.

(g) A victim prisoner who is in detention upon being sentenced to imprisonment pursuant to the prevailing law and has suffered mental injury due to the offence committed against him or her while in detention,

Provided that nothing herein contained shall bar the provision of compensation also for the mental injury caused from being imprisoned for the sole reason of not being able to pay the fine imposed on him or her pursuant to the prevailing law.

(h) A person who has been convicted of the offence against the State under the prevailing law,

(i) A person who has been convicted of any organized crime under the prevailing law,

(j) Except for a victim who is a minor or of unsound mind, a person who has become victim of an offence committed against him or her due to provocation by him or her to commit the offence against him or her or due to the conduct of the victim,

(k) A person who does not make information or complaint in relation to the investigation of, court proceedings on, the offence, who makes a false information or complaint, who does not assist the investigating or prosecuting authority or who makes a statement, deposition or submits evidence with the objective of saving the person involved in the offence, or who, for that purpose, makes such a statement or deposition in the court that is contrary to the statement made before the investigating authority,

(l) A person who has received, or appears to receive, financial support or compensation from any other source of the Government of Nepal with respect to the offence for which he or she is entitled to obtain compensation,

(m) A person who appears to be unjust for being provided with compensation from the perspective of justice,

(n) A person who makes an application to the effect that he or she does not wish to obtain compensation,

(o) A person who is yet to pay such fine, claimed amount or any other amount as ordered by the order of the court or such revenue or other amount payable by the victim to the Government of Nepal,

(p) Where it is held that a false complaint has been made,

(q) Such a victim in cases where the perpetrator is likely to receive the benefit of compensation because of the fact that both the victim and the perpetrator are both the



	<p>members of an undivided family at the time of the commission of the offence,</p> <p>Provided that nothing herein contained shall bar the provision of compensation to the victim pursuant to this clause in the following conditions:</p> <p>(1) Where the perpetrator is not bound to bear the criminal liability pursuant to the prevailing law because of his or her age or mental unsoundness,</p> <p>(2) Where there is no legal provision entitling the victim to compensation from the offender in such an offence, or even if it exists such a provision, it does not appear that the victim will be able to obtain compensation from the perpetrator because there is no property in the name of the perpetrator or the undivided family or for any other reason but it is proved that the victim has lived apart upon separating the bread and board from the undivided family consisting of the perpetrator after the offence has been committed, or</p> <p>(3) A woman who is a victim of rape or a child born from her.</p>
<p><b>Compensation amount to get first priority</b></p>	<p>27. Notwithstanding anything contained in the prevailing law, where the offender has also to pay compensation to the victim, in addition to the fine, government claimed amount, ten percent, twenty percent fee, public claimed amount or any other amount, by a judgment of the court, the first priority shall be given to the compensation to be received by the victim pursuant to this Act from the amount recovered from the offender.</p>
<p><b>To be recovered as government arrears</b></p>	<p>28. Where the offender does not provide the victim with the amount of compensation ordered by the court to be</p>

	<p>recoverable to the victim pursuant to this Act, the court shall get it provided to the victim by recovering it from the movable and immovable property of the offender as government arrears.</p>
<b>To receive compensation by dependent child or guardian</b>	<p>29. Where the victim dies before obtaining the compensation pursuant to this Act, his or her child dependent on him or her or guardian shall be entitled to such amount of compensation.</p>
<b>To deduct the amount received earlier for compensation</b>	<p>30. While making payment of the amount of compensation to the victim pursuant to this Act, only the amount that remains after deducting the amount received by him or her earlier for interim compensation shall be provided.</p>
<b>To pay the amount of compensation to the Fund</b>	<p>31. If the victim does not appear to receive the compensation until six months from the date on which information as to his or her entitlement to compensation was given pursuant to this Act, the amount of such compensation amount shall be paid to the Fund after that period.</p> <p>No entitlement of anyone else to the amount of compensation: Notwithstanding anything contained in the prevailing law, no one else shall have entitlement to the amount obtained as compensation pursuant to Section 29 or 30 of this Act except where such amount is to be returned, deducted or recovered pursuant to this Act.</p>
<b>No entitlement of anyone else to the amount of compensation</b>	<p>32. Notwithstanding anything contained in the prevailing law, no one else shall have entitlement to the amount obtained as compensation pursuant to Section 20 or 21 of this Act except where such amount is to be returned, deducted or recovered pursuant to this Act.</p>
<b>Provisions relating to compensation levy</b>	<p>33.(1) The offender shall pay the following amount to the Fund, as the compensation levy:</p> <p>(a) Two hundred taka where punishment of imprisonment</p>

for less than one year is imposed,

(b) Four hundred taka where punishment of imprisonment for one year to two years is imposed,

(c) Six hundred taka where punishment of imprisonment for two years to three years is imposed,

(d) Eight hundred taka punishment of imprisonment for three years to four years is imposed,

(e) One thousand taka where punishment of imprisonment for four years to five years is imposed,

(f) One thousand three hundred taka where punishment of imprisonment from five years to eight years is imposed,

(g) One thousand eight hundred taka where punishment of imprisonment from eight years to twelve years is imposed,

(h) Two thousand two hundred taka where punishment of imprisonment for above twelve years but below life imprisonment is imposed,

(i) Two thousand eight hundred taka where punishment of life imprisonment is imposed.

(2) The offender who has been sentenced to a fine only but not to imprisonment shall pay the compensation levy in such an amount as to be set by four percent of the fine so imposed.

(3) Where the offender is sentenced to both punishments of imprisonment and fine, he or she shall pay the compensation levy in such an amount which becomes the higher, out of that to be set from the imprisonment and

	<p>fine pursuant to sub-section (1) or (2).</p> <p>(4) The court shall determine the compensation levy pursuant to this Section while making judgment on the offence concerned.</p> <p>(5) The compensation levy referred to in this Section shall be credited to the Fund.</p>
<p><b>Liability to pay compensation levy not to be deemed terminated</b></p>	<p>34.(1) Even if it is required to pay a fine or bear any other pecuniary liability as well for the offence in relation to which the compensation levy is to be paid pursuant to Section 33 or to pay compensation paid to the victim, the liability to pay the compensation levy referred to in Section 33 shall not be deemed to have terminated.</p> <p>(2) Even in cases where the sentence imposed on the offender is pardoned, postponed, changed or lessened or remitted or suspended pursuant to the prevailing law, the liability of the offender to pay the compensation levy referred to in Section 33 shall not be deemed to have terminated.</p>
<p><b>Power to make order to lessen, or dispense with the requirement to pay, the compensation levy</b></p>	<p>35.(1) If any offence is not able to pay the compensation levy referred to in Section 33, he or she may make an application, along with the basis, ground, reason therefor and evidence thereof, to the court concerned for an order that the compensation be lessened or the requirement to pay it be dispensed with.</p> <p>(2) While inquiring into the application made pursuant to sub-section (1), where the court thinks that there is a reasonable condition that such an offender cannot pay the compensation levy, the court may make an order that the compensation levy referred to in Section 33 be lessened or the requirement to pay it be dispensed with.</p>

	<p style="text-align: center;">PART – VII</p> <p style="text-align: center;">OFFENCES AGAINST VICTIMS OF CRIMES AND WITNESSES</p>
<p><b>Offences against victims of crime and witnesses.</b></p>	<p>36.(1) Any person who-</p> <p>(a) threatens a victim of crime or a witness with injury to his person, reputation or property or to the person or reputation or property of any other in whom such victim of crime or witness has an interest, with the intention of causing alarm to such victim of crime or witness or to cause such victim of crime or witness to refrain from lodging a complaint against such person with a law enforcement office or testifying at any judicial or quasi-judicial proceedings or to compel such victim of crime to withdraw a complaint lodged or legal action instituted against such person ; or</p> <p>(b) voluntarily causes hurt to a victim of crime or a witness, with the intention of causing such victim of crime or witness to refrain from lodging a complaint against such person with a law enforcement office, or testifying at any judicial or quasi-judicial proceedings or to compel such victim of crime to withdraw a complaint lodged or legal action instituted against such person, or in retaliation for a statement made or testimony provided by such victim of crime or witness in any court of law or before a Commission, against such person, commits an offence, and shall on conviction by a proper Court, be sentenced to a term of imprisonment not exceeding ten years and to a fine of twenty thousand taka.</p> <p>(2) Any person who—</p> <p>(a) voluntarily causes grievous hurt to a victim of crime or a witness; or</p>

(b) wrongfully restrains a victim of crime or a witness, with the intention of preventing such victim of crime or witness from lodging a complaint against such person with a law enforcement office or from testifying in any judicial or quasi-judicial proceedings against such person, or compelling such victim of crime or witness to withdraw a complaint lodged or a legal action instituted against such person, or in retaliation for a statement made or testimony provided by such victim of crime or witness in a Court of law or before a Commission against such person, commits an offence, and shall on conviction by a Proper Court be sentenced to a term of imprisonment not exceeding twelve years and to a fine of thirty thousand taka.

(3) Any person who—

(a) by force compels or by any deceitful means, abuse of office or by any other means of compulsion, induces any victim of crime or a witness to leave any place; or

(b) intends to cause or knowing that he is likely to cause wrongful loss, damage or destruction to the property of a victim of crime or a witness, cause such loss, damage or destruction to the property of that victim of crime or witness, with the intention of preventing such victim of crime or witness from lodging a complaint or making any statement against such person to a law enforcement office or testifying against such person in any judicial or quasi-judicial proceedings or in retaliation for a statement made to a law enforcement office or the testimony made against such person in any judicial or quasi-judicial proceedings by such victim of crime or witness, commits an offence, and shall on conviction by the High Court be sentenced to

a term of imprisonment not exceeding twelve years and to a fine of thirty thousand taka.

(4) A person who causes—

(a) any harassment, intimidation, coercion, violation, physical or mental suffering, loss or damage to the reputation of another person; or

(b) an adverse change being made to the conditions of employment in the place of employment of such other person, due to or as a result or consequence of such other person having provided any information or lodged a complaint or made a statement to any law enforcement office or to any Court or Commission or having provided testimony in any Court or before a Commission or instituted legal proceedings pertaining to the commission of an offence or the infringement of a fundamental right or the violation of human rights of such person, commits an offence and shall on conviction by the Proper Court be sentenced to a term of imprisonment not exceeding seven years and to a fine of fifteen thousand taka.

(5) Any person who—

(a) having received information given for the purpose of commencing or conducting an investigation into an offence;

(b) having gathered information in the course of an investigation into an offence; or

(c) having received such information referred to in paragraphs (a) and (b) from any other person, provides, issues or gives to a third person or publishes or otherwise disseminates any such information or part thereof regarding the identity of the relevant victim of crime or a possible witness or informant who provided such

information and thereby places the life of such victim of crime, witness or informant in danger, other than in good faith and in accordance with or in compliance with—

(a) any provisions or procedures established by law;

(b) an order made by a judicial officer; or

(c) a directive issued by a person duly authorized to do so by or under any law, commit an offence, and shall on conviction by the competent Court be sentenced to a term of imprisonment not exceeding seven years and to a fine of fifteen thousand taka.

(6) Any person who is alleged, suspected or accused of having committed an offence, offers, provides or gives any gratification to any other person who is—

(a) intending or preparing to institute legal proceedings against such person for having committed such offence; or

(b) likely to provide information or testimony against such person to any law enforcement office, Commission or court, with a view to preventing, discouraging or dissuading such other person from instituting legal proceedings or providing truthful information or testimony against such first mentioned person who is alleged, suspected or accused of having committed the offence, commits an offence, and shall on conviction by the competent Court be sentenced to a term of imprisonment not exceeding seven years and to a fine of fifteen thousand taka.

(7) Any person who with the intention of obtaining any protection or assistance from the Office, the police including the Division, a Court or a Commission,



	<p>provides any information knowing or having reasonable grounds to believe that such information is false, commits an offence, and shall on conviction by the competent Court be sentenced to a term of imprisonment not exceeding seven years and to a fine of fifteen thousand taka.</p> <p>(8) Any person who is in charge of or participating or assisting in providing protection to a victim of crime or to a witness or who otherwise is in possession of information relating to the protection being afforded to a victim of crime or a witness, provides, issues or gives to another person such information and thereby places the life of such victim of crime or witness in danger, other than in good faith and in accordance with or in compliance with—</p> <ul style="list-style-type: none"> <li>(i) any provisions or procedures established by law;</li> <li>(ii) an order made by a judicial officer; or</li> <li>(iii) a directive issued by a person duly authorized to do so by or under any law, commits an offence, and shall on conviction by the competent Court be sentenced to a term of imprisonment not exceeding seven years and to a fine of fifteen thousand taka.</li> </ul>
<p><b>Attempting or instigating the commission of an offence under section 36, to be an offence.</b></p>	<p>37. Any person who attempts to commit, instigates or intentionally aids any other person to commit or engages in any conspiracy for the commission of any offence referred to in section 36, shall be guilty of an offence and shall on conviction by the Proper Court be sentenced to the same punishment provided for that offence, by that section.</p>
<p><b>An offence</b></p>	<p>38. (1) (a) An offence under section 8 or 9 shall be</p>

<p><b>under section 36 and 37 to be cognizable and non-bailable.</b></p>	<p>cognizable and non-bailable and no person suspected, accused or convicted of such and offence shall be enlarged on bail, unless under exceptional circumstances by the Court of Appeal.</p> <p>(b) When enlarging a person on bail, the Court of Appeal shall have the power to impose a condition prohibiting communication with or coming into close proximity with the person in respect of whom the suspect is alleged to have committed the offence, and with another person who may be specified in the order granting such bail.</p> <p>(2) A trial against a person accused of having committed any offence under section 36 or under section 37 shall be taken up before any other business of that court and shall be held on a day to day basis and not be postponed during the course of such trial, except due to unavoidable circumstance which shall be specifically recorded.</p> <p>(3) If after an inquiry by a Court, it is found that there exists prima-facie material to conclude that a person who at the relevant point of time was on bail in respect of any offence alleged to have been committed by him, has committed an offence under section 36 or section 37, the bail granted to such person by the Court which conducted the inquiry shall be cancelled and such person shall be placed on custody till the end of the trial in respect of the offence which he had been enlarged on bail.</p>
	<p style="text-align: center;">PART – VIII</p> <p style="text-align: center;">VICTIMS OF CRIME AND WITNESSES ASSISTANCE AND PROTECTION DIVISION.</p>
<p><b>Victims of Crime and Witnesses Assistance and Protection</b></p>	<p>39. (1) The Inspector General of Police shall, in consultation with and following such guidelines as shall be issued by the office for the purpose, establish and</p>

<p><b>Division</b></p>	<p>maintain a Division to be called the ‘Victims of Crime and Witnesses Assistance and Protection Division’ (in this Act referred to as the “Division”), for the purpose of providing assistance and protection to victims of crime and witnesses.</p> <p>(2) A Senior Superintendent of Police as nominated by the Inspector General of Police shall be placed in charge of the Division.</p> <p>(3) The duties of the Division shall be to—</p> <p>(a) treat all the victims and witnesses with human dignity;</p> <p>(b) provide effective and necessary protection to victims of crime and witnesses;</p> <p>(c) provide interpreter when the victim or the witness belongs to the ethnic group; and</p> <p>(d) investigate by itself or with the assistance of any other police officer, into, complaints, allegations or information pertaining to threats, reprisals, intimidations, retaliations or any harm, harassment, coercion or violation being committed on victims of crime and witnesses and their property and any offence committed under section 36 or section 37 of this Act.</p> <p>(4) The Division shall not discriminate against any person on grounds only of religion, race, caste, sex or place of birth of a victims or a witness seeking help of Bangladesh Police.</p>
<p><b>Victims of Crime and Witnesses Assistance and Protection programme</b></p>	<p>40. (1) The Division shall draw up and implement in compliance with the guidelines issued by the office for that purpose, a ‘Victims of Crime and Witnesses Assistance and Protection Programme’ which shall provide for taking effective measures necessary to assist and protect victims of crime and witnesses, from potential</p>

or existing threats, harm, reprisals, retaliations and intimidations.

(2) It shall be the duty of the Division to take all such steps as may be necessary to create awareness among the public about the Victims of Crime and witnesses Assistance and Protection Programme drawn up by it under subsection(1), including what action may be taken by a victim of crime or a witness in the event of facing any threat, harm, reprisal, retaliation, intimidation and the manner in which victims of crime or witnesses may apply for and obtain assistance and protection under such Programme.

(3) The Division may undertake the admission of a victim of crime or witness into its Victims of Crime and Witnesses Assistance and Protection Programme, on: —

- (a) a request made by a victim of crime or a witness;
- (b) a recommendation made by the office;
- (c) a report submitted by any law enforcement office or a public officer; or
- (d) a notification received from a court or a Commission.

(4) The provision of assistance and protection to a victim of crime or witness shall be effected by the Division after the conduct of a threat assessment and with the consent of the victim of crime or witness concerned.

(5) Prior to the implementation of the Victims of Crime and Witnesses Assistance and Protection Programme, the Division may require the victim of crime or witness concerned, to enter into a memorandum of understanding with the Division.

## PART – IX

### TESTIMONY THROUGH AUDIO-VISUAL LINKAGE

**Recording of evidence or statement through contemporaneous audiovisual linkage.**

41. (1) Notwithstanding anything to the contrary in any other law a Court conducting an identification parade, a non-summary inquiry or any other inquiry or a trial, or a Commission conducting an investigation or inquiry or any law enforcement office conducting an investigation, may on its own motion or on application of the concerned party, if it be in the best interest of justice and is found necessary: —

(a) as a measure of protection to be afforded to a victim of crime or witness; or

(b) on grounds of expediency, Record any evidence or a statement of such victim of crime or witness, by securing such testimony or statement without his personal attendance before such Court, Commission or law enforcement office through technical means by which contemporaneous or near contemporaneous audio-visual linkage between the Court, the Commission or the law enforcement office, and any other location within Bangladesh, from where such person testifies or makes the statement, could be established.

(2) the Court Concerned shall, prior to the reception and recording of the testimony or statement in terms of subsection (1), satisfy itself that the audio-visual linkage concerned is technically accurate and reliable and a judicial officer or a public officer designated by the Court concerned is present at such remote location, from where the victim of crime or witness seeks to testify or make the statement.

(3) Prior to commencing the reception and recording of the testimony or statement of the victim of crime or witness from the remote location designated under sub-

	<p>section (2) the Court concerned shall, on the recommendation of the Registrar, Supreme Court of Bangladesh and subject to the provisions of section 42, obtain from the office financial and other resources necessary for the establishment and the functioning of the relevant audiovisual linkage.</p> <p>(4) For the purposes of this section “Court” means a Court before which any criminal proceedings are being conducted.</p>
<p><b>Office not required to provide assistance under section 41 in certain circumstances.</b></p>	<p>42.(1) (a) Where the Court concerned recommends, that: -</p> <p>(i) it is not in the national interest including national security, to obtain the testimony or statement of the victim of crime or witness concerned from the remote location;</p> <p>(ii) it would not be feasible to secure the testimony or the statement of the relevant victim of crime or witness from the remote location, identified under subsection (1) of section 41, the Court concerned shall convey his opinion to the Court, Commission or the law enforcement office concerned.</p> <p>(b) Where the Court concerned is of the opinion that it would be in the interest of justice to secure such testimony or statement from any other appropriate alternate remote location, it may order the Commission or the law enforcement office of such alternate location.</p> <p>(2) (a) Where the Court concerned has expressed an opinion that the recording of evidence or the securing of a statement of any victim of crime or witness from a particular remote location is inappropriate, the Court shall not proceed to receive and record the testimony or statement of the relevant victim of crime or witness through contemporaneous audiovisual linkage from such</p>

	<p>remote location, and consequently the office shall not be required to provide any necessary assistance and financial or other resources to the Court, the Commission or the law enforcement office under subsection (3) of section 41.</p> <p>(b) where the Court concerned decides to change the remote location to the location recommended under subsection (1), such Court may proceed to obtain the assistance of the office under subsection (3) of section 41.</p>
<p><b>Procedure in recording testimony or statement.</b></p>	<p>43. (1) A Court or a Commission intending to record the testimony of a victim of crime or witness under the provisions of section 41, shall initially cause the statement to be recorded and serve such statement on the Prosecutor concerned, the victim of crime or witness and on any person whose legal rights may be affected by such testimony or on their legal representatives and issue not less than thirty days notice, to all such parties concerned, of the scheduled date of recording of the testimony of the victim of crime or witness concerned.</p> <p>(2) The judicial officer or the person designated by a Court or Commission under sub-section (2) of section 41, to be present at the remote location concerned from which the victim of crime or witness proposes to testify or make the statement, shall be required to make his observations, where necessary by interviewing the victim of crime or witness concerned and any other relevant person and submit a report to the Court or the Commission containing such matters as may be prescribed.</p> <p>(3) The Court or the Commission shall upon considering the contents of the report submitted under sub-section (2), and any other relevant material before such court or Commission, reach its decision as to whether it would be</p>

	<p>in the best interests of justice to receive the evidence or statement concerned given through such contemporaneous audio-visual linkage, and on the admissibility and use of such evidence or statement recorded.</p>
<p><b>Receiving or recording testimony through audiovisual linkage to be according to this part.</b></p>	<p>44. No Court, Commission or law enforcement office shall receive or record the testimony or statement of any victim of crime or witness through contemporaneous audiovisual linkage, save and except in accordance with requirements laid down for the same by the provisions of this part of this Act.</p>
	<p style="text-align: center;">PART – X GENERAL</p>
<p><b>Interference in the discharge of duties etc.</b></p>	<p>45. Any person who without lawful office interferes or obstructs or attempts to interfere or obstruct any Court, Commission, office, Board, Division or any public or judicial officer, in the exercise, discharge or performance of any power, function or duty, under this Act, shall be guilty of an offence under this Act and shall on conviction by the Proper Court be liable to a term of imprisonment not exceeding seven years and to a fine not exceeding twenty thousand taka.</p>
<p><b>Secrecy</b></p>	<p>46.(1) Unless it becomes necessary for the purposes of giving effect to the provisions of this Act, no person shall in any judicial or quasi-judicial proceedings, be compelled to divulge whether a victim of crime or a witness is receiving or has received assistance or protection under this Act.</p> <p>(2) No person shall otherwise than for the purpose of giving effect to the provisions of this Act or in compliance with the provisions of any other law, divulge to any other person whether a victim of crime or a witness</p>



	is receiving or has received assistance or protection under this Act..
<b>Assessment of credibility of a testimony</b>	47. In assessing the credibility of a testimony given by a victim of crime or witness in any Court or Commission, the fact that a victim of crime or a witness is receiving or has received any assistance or protection under this Act, shall not be relevant.
<b>Provisions of this Act to prevail over other laws.</b>	48.The provisions of this Act shall have effect notwithstanding anything to the contrary in any other written law and accordingly, in the event of any conflict or inconsistency between the provisions of this Act and such other written law, the provisions of this Act shall prevail.
<b>Appointment of public officers to the staff of the office.</b>	49.(1) At the request of the Office, any officer in the public service may, with the consent of that officer, the Secretary of the Ministry by or under which that officer is employed, and the Secretary to the Ministry of the Ministering charge of the subject of Public Administration, be temporarily appointed to the staff of the Office for such period as may be determined by the Office or with like consent be permanently appointed to the staff of the Office.  (2)Where the Office employs any person who has entered into a contract with the government by which he has agreed to serve the Government for a specified period, any period of service to the Office by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.
<b>Officials of the Office deemed to be public officers.</b>	50. Members of the Board, the Director-General and all other officers and employees of the Office, consultants and advisors appointed by the Office, shall be deemed to

	<p>be public officers within the meaning and for the purposes of the Penal Code and of the Code of Criminal Procedure Act respectively.</p>
<p><b>Action against bodies of persons.</b></p>	<p>51. Where an offence under this Act is committed by a body of persons, then: —</p> <p>(a) if that body of persons is a body corporate, every director, manager, chief executive officer and secretary of that body corporate;</p> <p>(b) if that body of persons is a firm, every partner of that firm and its chief executive officer;</p> <p>(c) if that body of persons is an unincorporated body, every individual who is a member of such body and its chief executive officer; and</p> <p>(d) if that body of persons is a local Office or any other Office appointed by or under any law relating to a local Office to act on behalf of such local Office, the Chairman of such local Office shall be guilty of an offence:</p> <p>Provided however, any director, manager, chief executive officer and secretary of anybody corporate or every partner and the chief executive officer of any firm or every member and the chief executive officer of an unincorporated body or the Chairman of a local Office, as the case maybe, shall not be guilty of an offence under this section, if he proves to the satisfaction of the Court that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.</p>
<p><b>Regulations</b></p>	<p>52. (1) The Minister on the recommendation of the Office, may make regulations under this Act in respect of all matters that are prescribed and on such matters as may become necessary to be provided for in order to give</p>

	<p>effect to the provisions of this Act.</p> <p>(2) Every regulation made under subsection (1) shall be published in the Gazette and shall come into force on the date of such publication or on such later date as may be specified in such regulation.</p> <p>(3) All regulations made under this section shall as soon as convenient after their publication in the Gazette, be brought before the Parliament for approval. Any such regulation which is not so approved shall be deemed to be rescinded as from the date of its disapproval, but without prejudice to anything done thereunder.</p> <p>(4) Notification of the date on which a regulation is deemed to be rescinded shall be published in the Gazette.</p>
<b>Bangla text to prevail in case of inconsistency</b>	53. In the event of any inconsistency between the Bangla and English text of this Act, the Bangla text shall prevail.
	<p>PART – XI</p> <p>MISCELLANEOUS</p>
<b>To provide from the Fund</b>	54. The victim shall be provided compensation in a reasonable amount from the Fund for the damage sustained as a result of any offence committed by a perpetrator who does not have to bear the criminal liability due to his or her age, mental unsoundness, diplomatic immunity and any other reason.
<b>To claim for compensation</b>	55. While making prosecution in any offence, the victim of first grade, victim of second grade and family victim shall have to make an explicit claim for compensation to be obtained by them.