

## Consent Form

The dissertation titled “WOMEN VICTIMIZATION OF GENDER-BASED VIOLENCE: A CRIMINOLOGICAL AND VICTIMOLOGICAL PERSPECTIVE OF THE LEGAL PROTECTIONS IN BANGLADESH” prepared by Jannatul Ferdousi, ID: 2016-2-66-051, submitted to Mohammad Pizar Hossain for the fulfillment of the requirements of Course 406 (Supervised Dissertation) for LL.B. (Hons.) degree offered by the Department of Law, East West University is approved for submission.

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Signature of the Supervisor

Date:

**A RESEARCH PAPER ON**  
**WOMEN VICTIMIZATION OF GENDER-BASED VIOLENCE: A**  
**CRIMINOLOGICAL AND VICTIMOLOGICAL PERSPECTIVE OF THE**  
**LEGAL PROTECTIONS IN BANGLADESH**

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Finally, I thank my almighty Allah to give me strength to conduct this research.

## **DECLARATION**

I, Jannatul Ferdousi, declare that the thesis has been done by me and that all the works, citations, review of the literature etc. are genuine and bear no resemblance to other works or secondary research.

I, therefore, confirm that the thesis has been composed and authored solely by myself as a part of the fulfillment of the LL.B. (Hons.) degree at East West University.

Date: January 15, 2023.

### LIST OF ABBREVIATIONS

General Register	GR
Complaint Register	CR
One Step Crisis Center	OCC
Victim Support Center	VSC
District Legal Aid Office	DLAO
Ain Salish Kendra	ASK
Bangladesh Legal Aid Services Trust	BLAST
Bangladesh National Women Lawyers Association	BAWLA
Acid Survivors' Foundation	ASF
Routine Activities Theory	RAT

## **ABSTRACT**

In recent years, there has been an increase in incidents of gender-based violence in Bangladesh, raising a number of concerns. Though, the victim of these types of violence are mostly women, therefore, this research explores the characteristics of gender-based violence, including its causes, effects, and experience of victims. The research also presents special legislations for the victim of gender-based violence which offers protection scheme. In addition, the thesis has also tried to address the concepts, present scenario, legal protections, criminological and victimological framework, implications, some raised question while the study was underway. The core research methodology is qualitative in nature and method is content analysis of Acts, journals, books, and online articles. Having studied women's victimization of gender-based violence, the thesis found out that the laws need to consider the criminological and victimological perspectives to address the protections of the women victims of gender-based violence.

# TABLE OF CONTENTS

Chapter 1	
<b>Introduction</b>	
Introduction.....	8, 9
Chapter 2	
<b>Concepts and Scenario of Gender-Based Violence in Bangladesh</b>	
2.1 Concept of Gender-Based Violence.....	10, 11
2.2 Types of Gender-Based Violence and Sufferings of the Victim.....	11-14
2.3 Present Scenario of Gender-Based Violence in Bangladesh.....	14, 15
2.4 Major Causes of Gender-Based Violence in Bangladesh.....	15-17
2.5 Victims of Gender-Based Violence.....	17-19
Chapter 3	
<b>Selected Legal Protections for the Women Victims of Gender-Based Violence in Bangladesh</b>	
3.1 Legal Protections for the Women Victims in Bangladesh.....	20-25
3.2 Institutional Frameworks for the Protection of Victims in Bangladesh.....	25, 26
Chapter 4	
<b>Relevant Criminological and Victimological Frameworks</b>	
4.1 Criminological Frameworks.....	27-29
4.2 Victimological Frameworks.....	29, 30
Chapter 5	
<b>Analysis and Implications</b>	
5.1 Protection for the Victims of Rape and Sexual Violence.....	31, 32
5.2 Awareness of the Victims of Domestic Violence.....	32, 33
5.3 Restorative Justice to Improve Protection for Victims of Cyber Harassment/Bullying.....	33
5.4 Protection for the Victims of Human Trafficking.....	34
Chapter 6	
<b>Concluding Remarks</b>	
Conclusion.....	35

## Chapter 1

### INTRODUCTION

Criminology is the study of criminal behavior, which mainly focuses on the behavior of the criminal and motive behind the crime. Crime can occur everywhere in our daily life including home and workplace also. So, study of criminology is so important because it helps in understanding the nature of a particular crime and reduce it from the society. Victimology is a major and essential part of Criminology. It describes about victims who does wrongdoer in the eye of criminal law. Studying crime victims is known as victimology.<sup>1</sup> It looks at how crimes affect victims physically, how victims interact with the criminal justice system, and how victims and offenders relate to one another.<sup>2</sup> In order to comprehend the notion of victimology, one must first comprehend what the term "victim" means in common usage, which refers to someone who suffers harm, loss, or suffering as a result of any cause, including crime.<sup>3</sup> It includes research on victims of road accidents, natural disasters, war crimes, misuse of authority, corruption, etc. in addition to crime victims.<sup>4</sup>

There are some types of gender-based violence. Those are – physical violence, verbal violence, physiological violence, sexual violence, socio-economic violence, domestic violence, and sexual harassment and so on.<sup>5</sup> Now-a-days these problems are increasing, and it affects our personal and social life also. Men and women both are the victims in gender-based violence but mostly women are getting more victimized by the gender-based violence. For these types of violence, we have laws and punishment system as well, but it is alleged that victims of these violence are not getting enough legal protection in Bangladesh.

Hence, this thesis paper evaluates existing legal protections for the women victims of gender-based violence in Bangladesh through the lens of criminological and victimological frameworks.

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<sup>1</sup> 3 Modern Theories of Victimology <<https://www.gcu.edu/blog/criminal-justice-government-and-public-administration/3-modern-theories-victimology#:~:text=Victimology%20is%20the%20study%20of,relationships%20between%20victims%20and%20offenders.>> Last accessed June 18, 2022.

<sup>2</sup> Ibid.

<sup>3</sup> Mrs. Trishna Gurung, Assistant Professor in Law, IILS; ‘Victimology – a new concept in law’ <<https://www.iilsindia.com/blogs/victimology-a-new-concept-in-law/>> Last accessed June 18, 2022.

<sup>4</sup> Ibid.

<sup>5</sup> ‘Gender Matters’; Types of gender-based violence <<https://www.coe.int/en/web/gender-matters/types-of-gender-based-violence>> Last accessed June 18, 2022.



So, the research question of this paper stands – ‘To what extent criminological and victimological frameworks are useful to evaluate the legal protections for the women victims of gender-based violence in Bangladesh.’

The thesis has been conducted with assistance from the data of the primary sources, secondary sources, books, articles, newspaper writings were the main source of this paper. Information from articles and journals has been used extensively though the number of references collected from newspaper and books are limited. The approach was driven to “Qualitative Research Methodology”. The footnote and bibliography have been referred to in OSCOLA referencing system.

## Chapter 2

### CONCEPTS AND SCENARIO OF GENDER-BASED VIOLENCE IN BANGLADESH

#### 2.1 Concept of Gender-Based Violence

Gender based violence based on gender inequality which also a violation of human rights within all societies.<sup>6</sup> Gender-based violence are the kind of offences which occurs against a person because of their gender.<sup>7</sup> Both men and women faces and being a victim of this kind of offences, but most victims are women’s and girls.<sup>8</sup> Gender based violence are not a private issue. It can affect health and safety of the sufferer. It includes all types of negative and abusive behavior.<sup>9</sup> There are 4 forms of gender-based violence: physical offences, sexual offences, psychological offences and economic offences.<sup>10</sup> In accordance with the following forms of violence there are many kinds of gender-based violence in Bangladesh. Those are – rape, sexual violence, sexual slavery, forced prostitution, forced pregnancy, gender-based persecution, trafficking, physical violence, verbal violence, cyber harassment, etc.<sup>11</sup> Gender based violence are those offences

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<sup>6</sup> What is gender-based violence? <<https://eige.europa.eu/gender-based-violence/what-is-gender-based-violence>>Last accessed August 24, 2022.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Md. Abu Shahan, ‘Gender-Based Violence in Bangladesh: A critical Analysis’ <<file:///C:/Users/student/Downloads/306-Article%20Text-1102-1-10-20211130.pdf>>Last accessed August 16, 2022.

<sup>10</sup> Forms of violence<<https://eige.europa.eu/gender-based-violence/forms-of-violence>>Last accessed August 24, 2022.

<sup>11</sup>COALITION for the International Criminal Court, ‘Sexual and Gender Based Crimes’ <<https://www.coalitionfortheicc.org/sexual-and-gender-based-crimes>>Last accessed August 4, 2022.

which committed against persons, whether he will be male or female, because of their sex or socially constructed gender roles.<sup>12</sup> These types of violence are not always manifested as a form of sexual violence, those may include non-sexual attacks on women and girls, and men and boys, because of their gender.<sup>13</sup>

Gender-based violence is a serious problem of human rights system and a life threatening, health and safety issue. From the very beginning the women and girls were suffering from this problem but now-a-days the men, boys, women, and girls all are sufferings from these gender-based violence but the ratio is not equal.<sup>14</sup> Women's and girls are always suffering more than men and boys the very beginning from now.

Though women's are affected by the gender-based violence a lot than men so, they face gender inequality and discrimination which cause risk of women's health and well-being.<sup>15</sup> The main cause of the violence is the perpetrator him or herself and it is very important to keep in mind that a person who has been affected by gender-based violence is never responsible for the perpetrator's actions.<sup>16</sup>

## **2.2 Types of Gender-Based Violence and Sufferings of the Victim**

Gender-based violence is a complex issue and categorizing different types of gender-based offences can never be exact.<sup>17</sup>

### **2.2.1 Rape**

Although rape has always been more than a sex crime, this has always been the case under the law, which universally labels it as such under older statutes.<sup>18</sup> It is a crime committed via the use

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<sup>12</sup> COALITION for the International Criminal Court, 'Sexual and Gender Based Crimes' <<https://www.coalitionfortheicc.org/sexual-and-gender-based-crimes>>Last accessed August 4, 2022.

<sup>13</sup> Ibid.

<sup>14</sup> Md. Abu Shahen, 'Gender-Based Violence in Bangladesh: A critical Analysis' <<file:///C:/Users/student/Downloads/306-Article%20Text-1102-1-10-20211130.pdf>> Last accessed August 16, 2022.

<sup>15</sup> According to database of WHO, 2021, Last accessed August 20, 2022.

<sup>16</sup> What causes gender-based violence? <<https://www.coe.int/en/web/gender-matters/what-causes-gender-based-violence>>Last accessed August 24, 2022.

<sup>17</sup> Types of gender-based violence<<https://www.coe.int/en/web/gender-matters/types-of-gender-based-violence>>Last accessed August 24, 2022.

of force and dominance.<sup>19</sup> According to Merriam-Webster Dictionary, rape is defined as unlawful sexual activity, typically sexual intercourse that is performed against the victim's will, under duress, with a minor, or on a person who is unable to give informed permission due to mental illness, a mental disability, intoxication, unconsciousness, or deception.<sup>20</sup> Rape is defined in Bangladesh under section 375 of the Penal Code, 1860.<sup>21</sup> First, it's defined as when a man has sexual relations with a woman against her will; second, when he does so without her consent; third, when he does so with her consent but he coerces her into it by threatening her with physical harm; fourth, when she believes the man is her husband but he knows he is not her husband by law; and fifth, when she is under the age of fourteen (*Penal Code, 1860*).<sup>22</sup>

### ***2.2.2 Sexual Assault***

An unwelcome sexual act against or without a person's consent is referred to as sexual assault. Any sexual, physical, verbal, or visual act that coerces someone into having intercourse with another person against their will or without their consent falls under this category.<sup>23</sup> The survivor of sexual assault can extremely experience difficulties and painful emotions.<sup>24</sup> Every survivor go through that traumatic event on their own way. The effect of that trauma can be short term or may be long-lasting which affects the survivor's mental health also.<sup>25</sup> For this reason, victims face some emotional effects. Those are: trust issues, mental shock, numbness, angry reaction, loss of control, helplessness, fear, guilt, weakness, etc.<sup>26</sup>

### ***2.2.3 Domestic Violence against Women***

Domestic violence means where a man or woman is being abused physically, psychologically, sexually, or economically in her own family. However, the definition of domestic violence has

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<sup>18</sup> Freda Adler, Gerhard O.W. Muller, William S. Laufer, Criminology, Eighth Edition, Violent Crimes (Chapter 10), RAPE AND SEXUAL ASSULT, Page no. 253.

<sup>19</sup> Ibid.

<sup>20</sup> Definition of Rape<<https://www.merriam-webster.com/dictionary/rape>> Last accessed August 24, 2022.

<sup>21</sup> Sexual Violence and Rape Cases in Bangladesh from 2001-2021<<https://www.share-netbangladesh.org/sexual-violence-and-rape-cases-in-bangladesh-from-2001-2021/>>Last accessed August 24, 2022.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup>Heart Foundation, Effects of Sexual Assault and Rape<<https://www.joyfulheartfoundation.org/learn/sexual-assault-rape/effects-sexual-assault-and-rape>>Last accessed August 24, 2022.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

been defined in different ways. According to section 3 of the *Domestic Violence (Prevention and Protection) Act, 2010*, domestic violence involves physical abuse, sexual abuse or economic abuse against a woman or a child of a family by other person of that family with whom the victim is or has been in a family bond.<sup>27</sup> So, by this violence the abuser can control victim's mind and emotion by hurting his/her body. One recent database reported and published in a prominent newspaper (NEWAGE Bangladesh) that 565 incidents of domestic violence in the first 10 months of 2021, 554 in 2020, 423 in 2019, 409 in 2018, 442 in 2017, 394 in 2016 and 373 in 2015. So, the ratio of this violence increases day by day.

#### ***2.2.4 Cyber Harassment or Cyber Bullying***

Cyberbullying is hardly a new problem. It is the use of the internet or mobile technology to harass, intimidate, or cause harm to another.<sup>28</sup> Cyber bullying victims are everywhere nowadays. Bullying communications have rights on victim's phone, Facebook, Instagram, group chats, and others social media sites. It is also found in gaming communities a lot. In general, teenage boys and girls are affected by this violence and it is less visible to adults. It's attack on young person's self-esteem which gives them emotional distress because sometimes they cannot handle the situation. It also destroys one's social status. Bangladesh has a high rate of cyberbullying and 80% of the victims are girls and women in the age of 14-22.<sup>29</sup> Majority of the cybercriminals and hackers fall between the age-range of 16-17.<sup>30</sup>

There are lots of gender-based offences in Bangladesh but the following violence are occurring again and again, and these increases a lot.

#### ***2.2.5 Human Trafficking and Forced Prostitution***

Human trafficking is called trafficking in persons, form of modern-day slavery involving the illegal transport of individuals by force or deception for the purpose of labor, sexual exploitation,

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<sup>27</sup> Domestic Violence (Prevention and Protection) Act, 2010, s-3.

<sup>28</sup> Findlaw, Cyberbullying Laws <<https://www.findlaw.com/criminal/criminal-charges/cyber-bullying.html>> Last accessed August 24, 2022.

<sup>29</sup> The Daily Star, UNB Dhaka (Thu Dec 10, 2020, 11:39 AM Last update on: Thu Dec 10, 2020 11:46 AM) <<https://www.thedailystar.net/country/news/80-cyberbullying-victims-are-women-cyber-crime-division-dmp-2009017>> Last accessed August 24, 2022.

<sup>30</sup> Ibid.

or activities in which others benefit financially<sup>31</sup> and human trafficking for the purpose of sexual exploitation is called forced prostitution.<sup>32</sup> So, we can see, human trafficking and forced prostitution are interrelated. Men, women and children can be victim of human trafficking and forced prostitution but in Bangladesh, mostly women and children are facing this problem most. In Bangladesh or other countries men, women and children are being exploited and transferred one country from another country or one place to another place for different purpose like slavery, forced prostitution, and more recently organ trafficking.<sup>33</sup> A statistics of Bangladesh reported that, child sex trafficking spread day by day and around 30,000 girls are sexually exploited in Bangladesh.<sup>34</sup> In the same statistics it provides that 20,000 children are both growing up in and exploited in commercial sex in Bangladeshi brothels.<sup>35</sup> Several women and girls reported traffickers preyed on them and sold them to brothels, after the women fled abusive child marriages.<sup>36</sup> Other women reported they had grown up in brothels because their mothers were engaged in commercial sex and brothel owners forced them into commercial sex when they were children.<sup>37</sup> In some registered brothels, owners force children to take steroids to appear older.<sup>38</sup> In other countries like Bangladesh, men, women, children are equally faces this problem and they feel helpless after that. So, this problem is increasing in worldwide day by day.

### **2.3 Present Scenario of Gender-Based Violence in Bangladesh**

In Bangladesh, gender-based violence happens based on area. Gender based violence occurs in a different way in village area and city area. In Bangladesh, it made a remarkable progress in lives of women and girls in the past 20 years but at the same time, 82 percent married women are suffering from gender-based violence and offences because they could not speak up for their in-

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<sup>31</sup> Alese C. Wooditch, Human Trafficking <<https://www.britannica.com/topic/human-trafficking>> Last accessed November 16, 2022.

<sup>32</sup> Forced Prostitution <<https://mission-freedom.de/en/forced-prostitution/>> Last accessed November 16, 2022.

<sup>33</sup> STOP SLAVERY IN DISASTERS

<[https://www.freedomid.org/?pk\\_cid=14369597491&pk\\_source=google&pk\\_medium=cpc&pk\\_content=540771685814&pk\\_kwd=human%20trafficking&cn-reloaded=1](https://www.freedomid.org/?pk_cid=14369597491&pk_source=google&pk_medium=cpc&pk_content=540771685814&pk_kwd=human%20trafficking&cn-reloaded=1)> Last accessed November 16, 2022.

<sup>34</sup> U.S. DEPARTMENT of STATE, 2022 Trafficking in Persons Report: Bangladesh,

<<https://www.state.gov/reports/2022-trafficking-in-persons-report/bangladesh/#:~:text=Experts%20estimate%20that%2020%2C000%20children,women%20fled%20abusive%20child%20marriages.>> Last accessed November 16, 2022.

<sup>35</sup> Ibid

<sup>36</sup> Ibid

<sup>37</sup> Ibid

<sup>38</sup> Ibid

laws' pressure.<sup>39</sup> In very remote area, women's and girls are count as a product who have no opinion and choice for herself. Their guardian thinks that women or girls don't need to be educated. Thus, child marriage or force marriage increasing day by day. In case of men or boys, the thought is same in remote area. People in remote area or villagers think that boys should be a farmer and they should look after their family and get married as early as possible. But we can see that there is a massive change nowadays.

In remote area or villages, women's and girls are not even getting proper treatment and counselling for gender-based violence. In case of boys and men, people think that boys or men cannot be a victim of gender-based violence because they are masculine, stronger than women, but this thinking is wrong in the present perspective. Men are also facing sexual violence, trafficking, verbal violence, domestic violence etc. Most of them could not speak up about their sufferings and there is no counselling system for them also.

A study on Dhaka City proved that a massive number of men and women both faces violence, discrimination, harassment incredibly in city life.<sup>40</sup> It also observed that Dhaka holds 7<sup>th</sup> position as the worst megacity for the women and also holds 3<sup>rd</sup> position as the most dangerous city in the world for the gender-based violation like early or forced marriage, sexual harassment, domestic violence, verbal violence etc.<sup>41</sup> Women and girls are do not feel safe to move here in the road and also does not feel safe to use public transport for bad comments or physical or sexual abuse.<sup>42</sup> Men have also fear from harassment and verbal violence in their workplace.

## **2.4 Major Causes of Gender-Based Violence in Bangladesh**

Gender-based violence has its roots in the prejudiced cultural attitudes and beliefs that, especially for women and girls, maintain powerlessness and inequality.<sup>43</sup> A culture of violence and prejudice based on gender is also often influenced by and reinforced by a number of other variables, including poverty, a lack of educational options and employment prospects, as well as

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<sup>39</sup> Md. Abu Shahan, 'Gender-Based Violence in Bangladesh: A critical Analysis' <file:///C:/Users/student/Downloads/306-Article%20Text-1102-1-10-20211130.pdf> Last accessed August 16, 2022.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> Causes and Effects of Gender-Based Violence, <[http://hrlibrary.umn.edu/svaw/advocacy/modelsessions/causes\\_effects.PDF](http://hrlibrary.umn.edu/svaw/advocacy/modelsessions/causes_effects.PDF)> Last accessed August 26, 2022.

criminality and abuse being tolerated.<sup>44</sup> As the rule of law is undermined and families and societies are ripped apart during times of violence and displacement, these concerns are typically exacerbated.<sup>45</sup> Gender-based violence frequently becomes more prevalent and more brutal as a result. In its deadliest forms, gender-based violence has turned into a weapon of war that is deliberately used to terrorize, uproot, and destroy communities or ethnic groups.<sup>46</sup>

Understanding the origins and contributing elements of gender-based violence is essential for effective prevention and response, as they frequently operate as barriers as well:

**2.4.1 Physical Factors:** The absence of physical security due to the breakdown of law and order, the presence of armed forces or other groups, the failure of law enforcement, justice institutions, and family, social, or communal structures.<sup>47</sup> When leaving their communities in search of employment, food, water, or firewood, women and girls are particularly vulnerable.<sup>48</sup> Gender-based violence exposure, such as forced prostitution or survival sex, can be made worse by poverty, a lack of access to education and employment prospects, and inadequate housing, food, water, and fuel supplies.<sup>49</sup>

**2.4.2 Political, Social, and Cultural Factors:** Women and girls are marginalized and their rights are violated by discriminatory social, cultural, and religious laws, conventions, and practices.<sup>50</sup> Women and girls are frequently exposed to risk due to the breakdown of family, social, and communal structures, which also affects their ability to cope and their access to avenues for protection and recourse.<sup>51</sup> Lack of trust or confidence in social or public institutions, such as the legal system and law enforcement, which deters victims and survivors from seeking justice.<sup>52</sup>

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<sup>44</sup> Ibid.

<sup>45</sup> Three causes of gender - based violence, Concern Worldwide <<https://www.concern.net/news/causes-of-gender-based-violence>>Last accessed August 26, 2022.

<sup>46</sup>Ibid.

<sup>47</sup> Z. Ngonga, “Factors contributing to physical Gender Based Violence reported at Ndola Central Hospital, Ndola, Zambia: A case control study”, *Medical Journal of Zambia*, Vol. 43 (3): pp 145 - 151 (2016). Last accessed August 26, 2022.

<sup>48</sup> Ibid.

<sup>49</sup> Three causes of gender - based violence, Concern Worldwide <<https://www.concern.net/news/causes-of-gender-based-violence>>Last accessed August 26, 2022.

<sup>50</sup>“What causes gender-based violence?”, COUNCIL OF EUROPE <<https://www.coe.int/en/web/gender-matters/what-causes-gender-based-violence>>Last accessed August 26, 2022.

<sup>51</sup> Ibid.

<sup>52</sup>The Facts about Gender-Based Violence, Canadian Women’s Foundation <<https://canadianwomen.org/the-facts/gender-based-violence/>> Last accessed August 26, 2022.

**2.4.3 Judicial Obstacles:** Lack of access to justice institutions and processes leads to an environment where abuse and violence are tolerated.<sup>53</sup> Inadequate and expensive legal counsel and representation.<sup>54</sup> Inadequate systems for protecting victims, survivors, and witnesses.<sup>55</sup> Inadequate legal systems, particularly those based on national, traditional, customary, and religious law, which oppress women and girls, fail to uphold their rights, or subject them to additional suffering and abuse.<sup>56</sup> National law, for instance, might not uphold a particular right, fail to make specific behaviors illegal, or have a limited interpretation of them.<sup>57</sup> In some circumstances, national law also criminalizes the perpetrator or actions that are purportedly predominantly committed against women.<sup>58</sup> The victim or survivor may occasionally experience harassment, intimidation, and/or harsh punishment.

**2.4.4 Individual Obstacles:** Personal obstacles include the risk of stigma, social marginalization, and loneliness. exposure to additional violence from the offender, the neighborhood, or the law enforcement, including arrest, incarceration, mistreatment, and punishment.<sup>59</sup> lack of knowledge on human rights, as well as how and where to seek redress.<sup>60</sup>

**2.4.5 Obstacles to Humanitarian Programming:** Due to a lack of knowledge or comprehension regarding the scope or characteristics of gender-based violence, evaluations, strategy formulation, planning, and programming fail to prioritize or address gender-based violence.<sup>61</sup> Programs, services, and facilities are not designed with gender equality in mind.<sup>62</sup> This includes

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<sup>53</sup>Gender-based violence in emergencies, UNICEF <<https://www.unicef.org/protection/gender-based-violence-in-emergencies>>Last accessed August 26, 2022.

<sup>54</sup> Ibid.

<sup>55</sup>Ijeoma Obinna-Onwuka, “Gender-Based Violence (GBV): Causes, Types, Effects and Solutions”, Women Information Network<<http://cengos.org/gender-based-violence-causes-types-effects-and-solutions/>>Last accessed August 26, 2022.

<sup>56</sup> Ibid.

<sup>57</sup>“What causes gender-based violence?”, HealthWiki<[https://en.hesperian.org/hhg/Health\\_Actions\\_for\\_Women:What\\_causes\\_gender-based\\_violence%3F](https://en.hesperian.org/hhg/Health_Actions_for_Women:What_causes_gender-based_violence%3F)>Last accessed August 26, 2022.

<sup>58</sup> Ibid.

<sup>59</sup> “10 Causes of Gender Inequality”, Human Rights Career <<https://www.humanrightscareers.com/issues/causes-gender-inequality/>>Last accessed August 26, 2022.

<sup>60</sup>Ibid.

<sup>61</sup>“What causes gender-based violence?”, COUNCIL OF EUROPE <<https://www.coe.int/en/web/gender-matters/what-causes-gender-based-violence>>Last accessed August 26, 2022.

<sup>62</sup>Ijeoma Obinna-Onwuka, “Gender-Based Violence (GBV): Causes, Types, Effects and Solutions”, Women Information Network<<http://cengos.org/gender-based-violence-causes-types-effects-and-solutions/>>Last accessed August 26, 2022.



ineffective registration procedures and the distribution of food and non-food products.<sup>63</sup> Humanitarian, human rights, and peacekeeping personnel are sexually exploited and abused.<sup>64</sup> Other difficulties include insufficient connections with other help and protection programs, a lack of anonymity, unclear methods for reporting and referring cases, and gender-based violence committees that are weak, isolated, and lacking in resources as well as community support.<sup>65</sup>

## **2.5 Victims of Gender-based Violence**

Women and men of various ages and social backgrounds are impacted by gender-based violence. Although males and boys are typically the targets, women and girls are the main victims and survivors. However, they could experience many types of violence. Men and boys may be more likely to be forcibly enlisted into the armed forces or other groups, while women and girls may be more frequently exposed to rape and other types of sexual violence.<sup>66</sup>

The people most at risk for gender-based violence are those who have been cut off from their family or community, who lack access to shelter, education, and employment possibilities.<sup>67</sup> This includes children who are unaccompanied or separated from their parents, female and child heads of household, children in foster care or other types of care arrangements, people with disabilities, people who are detained, girls who work, mothers who are girls, and children born to rape victims or survivors.<sup>68</sup> People who have experienced such violence are known as "victims/survivors."<sup>69</sup>

Gender-based abuse survivors experience terrible short- and long-term effects on their bodily and emotional health.<sup>70</sup> Girls and women may sustain severe physical injuries, become pregnant

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<sup>63</sup> Ibid.

<sup>64</sup> Laura Anderson and Elizabeth Rowley, "Perspective: the root of what causes gender-based violence", PATH <<https://www.path.org/articles/perspective-the-root-of-what-causes-gender-based-violence/>> Last accessed August 26, 2022.

<sup>65</sup> Ibid.

<sup>66</sup> Gender - Based Violence, UNCHR <<https://www.unhcr.org/gender-based-violence.html>> Last accessed August 25, 2022.

<sup>67</sup> Gender-Based Violence (Violence Against Women and Girls), THE WORLD BANK (September 25, 2019) <<https://www.worldbank.org/en/topic/socialsustainability/brief/violence-against-women-and-girls>> Last accessed August 25, 2022.

<sup>68</sup> Ibid.

<sup>69</sup> Ibid.

<sup>70</sup> Gender-based violence in emergencies, UNICEF <<https://www.unicef.org/protection/gender-based-violence-in-emergencies>> Last accessed August 26, 2022.

unintentionally, or become exposed to HIV or other STIs.<sup>71</sup> Suicidal thoughts and feelings are also frequent, as are depression, anxiety, post-traumatic stress disorder, and difficulty with daily duties.<sup>72</sup>

In addition, because of social standards, many survivors experience victimization or are shunned by their family and communities.<sup>73</sup> This greatly increases their likelihood of experiencing poverty, loneliness, and additional violence. Some victims are coerced into marrying their abusers. Others risk punishment for sharing their stories or asking for help, even at the hands of family members.<sup>74</sup> When it's at its worst, gender-based violence, such as "honor killings," can be fatal.<sup>75</sup>

### Chapter 3

#### SELECTED LEGAL PROTECTIONS FOR THE WOMEN VICTIMS OF GENDER-BASED VIOLENCE IN BANGLADESH

There are some common laws for all citizen in Bangladesh in Constitution of Bangladesh. Articles 28 (1) through 28 (4) of Bangladesh's 1972 Constitution safeguard women's rights and prohibit sex discrimination: (1) No citizen shall be treated differently by the State because of his or her religion, race, caste, sex, or place of birth. (2) Women enjoy equal rights with males in all state and public areas.<sup>76</sup> Article 27 provides that – in Bangladesh, all citizens are equal before law and they are entitled to get equal protection of law<sup>77</sup> and article 26 (1) provides that – laws which are inconsistency with this provision is unlawful.<sup>78</sup> It is a common and primary law which gives protection to every citizen in Bangladesh either he/she will the victim of gender-based violence or not. By creating protections for women, the constitution recognizes their unequal

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<sup>71</sup> Ibid.

<sup>72</sup> Pan American Health Organization, Women, Health and Development Program, Fact Sheet: Social Responses to Gender-Based Violence <<http://www.paho.org/English/HDP/HDW/socialresponsesgbv.pdf>> Last accessed August 26, 2022.

<sup>73</sup> Ibid.

<sup>74</sup> Gender-based violence in health emergencies, Health Cluster <<https://healthcluster.who.int/our-work/thematic-collaborations/gender-based-violence-in-health-emergencies>> Last accessed August 26, 2022.

<sup>75</sup> Ibid.

<sup>76</sup> People's Republic of Constitution, art 28(1),(4).

<sup>77</sup> Ibid, Art 27

<sup>78</sup> Ibid, Art 26 (1)

status. But now-a-days people does not treat equally men and women and thus gender-based violence occurs in our country and the victims are specially women and children.

### **3.1 Legal Protections for the Women Victims in Bangladesh**

Bangladesh follows the tradition of common law.<sup>79</sup> The British colonial rulers sanctioned the legal system in the Indian sub-continent according to the basis of Mughal principles of Islamic laws, Hindu Laws and common law perspective of justice, equity and fairness.<sup>80</sup> Penal Code, 1860, Code of Criminal Procedure, 1898, Evidence Act, 1872 along with some special laws are the basic foundation of legal regime which is dealing with the substantive offences and criminal procedure that are followed in our criminal justice system.<sup>81</sup> A victim has the right to set the law in motion by lodging FIR. In essence, the victim of crimes still retains no right to be present, informed and heard, to have a voice in criminal litigation except to be a lone prosecution witness when being summoned by the Court.<sup>82</sup>

#### **3.1.1 Victim Protection under Code of Criminal Procedure (CrPC), 1898:**

In accordance with the Code of Criminal Procedure, 1898, it offers a huge number of rights to the victim of crime which may be summarized below:

**Lodging a lawsuit:** According to section 154 of the CrPC, 1898, a victim can lodge an information relating to the commissioner of a cognizable offence in a written form or orally to an officer in charge of a police station.<sup>83</sup> This is known as filing an ejarah or GR (general register) case.<sup>84</sup> Likewise, a victim can file a complaint to the magistrate including the facts which constitute of an offence.<sup>85</sup> The magistrate can take cognizance of such offence accordingly after

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<sup>79</sup> *Op. cit.*, note 2, p.122.

<sup>80</sup> H.M.F Bari, An Appraisal of Victim Protection in Bangladesh, (Asiatic Society of Bangladesh, 2016), p.2.

<sup>81</sup> Hussain M.F. Bari, “An Appraisal of Sentencing in Bangladesh: Between Conviction and Punishment”, Bangladesh Journal of Law, Volume 14, 2014, p. 90. Also see Shaheed Malik, “Perceiving Crimes and Criminals: Law Making in the early 19<sup>th</sup> century Bengal”, Bangladesh Journal of Law, Volume 6, 2002, p.59.

<sup>82</sup> H.M.F Bari, An Appraisal of Victim Protection in Bangladesh, (Asiatic Society of Bangladesh, 2016), p.190.

<sup>83</sup> Code of Criminal Procedure, 1898, s. 154.

<sup>84</sup> H.M.F Bari, An Appraisal of Victim Protection in Bangladesh, (Asiatic Society of Bangladesh, 2016), p.190.

<sup>85</sup> Code of Criminal Procedure, 1898, s. 4(h).

observing all legal formalities.<sup>86</sup> The Magistrate can take cognizance of an offence of a complaint on the basis of oath of the complainant and present witnesses of the victim.<sup>87</sup>

**Rights and duties during investigation:** A police officer can investigate or orally examine any person who are supposed to be acquainted with facts and circumstances of the case.<sup>88</sup> After observing all legal formalities a Magistrate will record the confession of victims in the purpose of investigation.<sup>89</sup>

**Victim as prosecution-witness in the police case:** In a complainant case (CR case) the complainant can directly and actively participates in the proceeding but in police or GR case he stands on a different footing as a mere prosecution witness.<sup>90</sup> There are individual responsibility of the complainant to produce his witnesses including the victim in case of CR case, however, it is the duty of a concern police officer or prosecution to ensure appearance of the witnesses including the victim in GR case.<sup>91</sup>

**Oppose the offender's move:** There is a practice that the victim may oppose release of an accused on bail or release of any property seized during investigation, or oppose the prayer of accused in criminal revision, appeal, and writs filed, but he has no status to be necessarily informed by Court, when such applications are filed by accused.<sup>92</sup>

**Victim's lawyer to function under the direction of Public Prosecutor:** The Public Prosecutor has the authority to conduct the prosecution in sessions trial.<sup>93</sup> Public Prosecutors may plead in all Courts in police cases. However, if the victim hired a private lawyer to conduct the prosecution, such private lawyer is required to follow the directions of the Public Prosecutor.<sup>94</sup>

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<sup>86</sup> Ibid

<sup>87</sup> Ibid, s. 200.

<sup>88</sup> Ibid, s. 161.

<sup>89</sup> Ibid, s. 164.

<sup>90</sup> H.M.F Bari, An Appraisal of Victim Protection in Bangladesh, (Asiatic Society of Bangladesh, 2016), p.191.

<sup>91</sup> Code of Criminal Procedure, 1898, s. 171 (2).

<sup>92</sup> H.M.F Bari, An Appraisal of Victim Protection in Bangladesh, (Asiatic Society of Bangladesh, 2016), p.191.

<sup>93</sup> Code of Criminal Procedure, 1898, s. 265A.

<sup>94</sup> Ibid, s. 493.

**No withdrawal of police case:** A victim can withdraw the complaint case at any stage of proceeding, but informant cannot withdraw a police case in the middle of the proceeding or as such.<sup>95</sup>

**Fine may go to the victim:** When a pecuniary fine is imposed as an additional punishment, the Court may give it to the victim wholly or partly by following Court's discretion.<sup>96</sup>

**Right of appeal:** There are two important rights of victim after pronouncement of judgement – he may file a criminal appeal against the judgement, and he can receive compensation in appropriate cases.<sup>97</sup>

**Protective framework under Evidence Act and Penal Code:** The Evidence Act, 1872 clearly provides for court room protection of the witnesses by way of prohibiting indecent, scandalous, and insulting question put to the witnesses by way of cross examination.<sup>98</sup> On the other hand, the Penal Code, 1860 provides for punishment for committing criminal act to any person which is applicable for witness and the victim as well.<sup>99</sup>

### **3.1.2 Protection Under Special Laws in Bangladesh**

From the very beginning till now special legislative reforms for the concern of the wellbeing of the victim especially related to violence against women. So, there are some special laws which gives protection to the victims of gender-based violence in our country.

**Nari O Sishu Nirjatan Daman Ain, 2000:** This act is a special legislation for the victim protection in Bangladesh. This law made for give protection only women and children victims of crime including rape, sexual harassment, abduction etc. There are various provision laid down in this Act which gives protection to the women and children in section 15, 16, 32 and 33 (trial procedure).<sup>100</sup> There are another provision in section 20 (6) which provides for trial in camera for the protection of privacy of rape victim and witnesses to the offences.<sup>101</sup> Section 20 (4) of this Act provided that the Court must take into consideration the interest of the victim while deciding

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<sup>95</sup> H.M.F Bari, An Appraisal of Victim Protection in Bangladesh, (Asiatic Society of Bangladesh, 2016), p.191.

<sup>96</sup> Ibid.

<sup>97</sup> Ibid.

<sup>98</sup> Evidence Act, 1872, s. 151, s. 152.

<sup>99</sup> Penal Code, 1860, s. 503, s. 506.

<sup>100</sup> Nari O Sishu Nirjatan Daman Ain, 2000, s. 15, s. 16, s. 32 and s. 33.

<sup>101</sup> Ibid, s. 20(6).

the issue of custody of a victim.<sup>102</sup> Section 22 makes provision for recording of the statements of the victim by judicial magistrate.<sup>103</sup>

**Acid Control Act, 2002 and Acid Offence Control Act, 2002:** Government of Bangladesh passes two Acts in 2002. Acid control Act protects the victims of acid-crime which include medical treatment, rehabilitation, legal aid to the victims, compensation, examination of witness, chemical test, medical test of the victim.<sup>104</sup> On the contrary, Acid Offence Control Act gives protection of victims of crime. Section 9 of this Act provides that, victim is entitled to compensation from the convict and Court have to ensure that the amount of money should be from the property of the victim and in case of death of the victim, those amount goes to her surviving heirs.<sup>105</sup>

**Prevention and Suppression of Human Trafficking Act, 2012:** This Act provides for comprehensive victim and witness protection.<sup>106</sup> The unique feature of the Act is that court may take evidence of the victim by himself or on commission directly or through electronic way like threat to witness is made punishable under this Act.<sup>107</sup>

**Domestic Violence Act, 2010:** This Act also gives adequate protection for the victim of domestic violence. According to section 10, Court may pass an order directing the opposite party.<sup>108</sup> Section 15 states that a victim shall have the right to stay in the joint house.<sup>109</sup> Under section 13 it provides that, Court may pass a protection for the victim in appropriate cases.<sup>110</sup> In accordance with section 16, in case of domestic violence, the court may award compensation order directing the opposite party to pay to same to the aggrieved person.<sup>111</sup> In order to section 23, with the consent of the parties or in the opinion of the Court the trial proceeding may be held

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<sup>102</sup> Ibid, s. 20(4).

<sup>103</sup> Ibid, s. 20.

<sup>104</sup> H.M.F Bari, An Appraisal of Victim Protection in Bangladesh, (Asiatic Society of Bangladesh, 2016), p.192.

<sup>105</sup> Acid Offence Control Act, 2002, s. 9.

<sup>106</sup> H.M.F Bari, An Appraisal of Victim Protection in Bangladesh, (Asiatic Society of Bangladesh, 2016), p.193.

<sup>107</sup> Ibid.

<sup>108</sup> Domestic Violence Act, 2010, s. 10.

<sup>109</sup> Ibid, s. 15.

<sup>110</sup> Ibid, s. 13.

<sup>111</sup> Ibid, s. 16.

in camera.<sup>112</sup> In order to section 6, enforcement officer is bound to take proper steps for arranging legal aid for the victim who is entitle under Legal Aid Act.<sup>113</sup>

**Children Act, 2013:** In 2013, Bangladesh enacted the Children Act in view of Convention on the Rights of the Child, 1989.<sup>114</sup> According to this Act, Children Court is given a host power to pass necessary orders for the better protection of the child victim.<sup>115</sup> The Children Court may direct the convict (should be adult) to pay compensation to the child victim of crime in appropriate case and if the convict is child then the Court may direct his parent or guardian to pay compensation to the child victim.<sup>116</sup>

**Torture and Custodial Death (Prevention) Act, 2013:** Convention against torture, death and torture in custody is made punishable under Torture and Custodial Death (Prevention) Act, 2013.<sup>117</sup> Viewing the torture as serious infringement of fundamental human rights, the Act creates two core offences: firstly, torture by a law enforcement officer, punishable with at least 5 years imprisonment and a Taka 25,000 fine, and secondly, custodial death due to torture, punishable with life imprisonment and a Taka 100,000 fine.<sup>118</sup> The Act also provides for easy avenues of complaint and investigation. If a person brought before a Court complains of torture, the Court will immediately record the statement of the person, send a copy to the police and direct that a case be registered.<sup>119</sup> The police must then complete the investigation within 3 months.<sup>120</sup> The law further provides that victims or their families may apply to the Court for protection measures and if a person is convicted, monetary compensation is available to the victims or their families.<sup>121</sup>

### **3.2 Institutional Frameworks for the Protection of Victims in Bangladesh**

There are lots of institution in Bangladesh which works for victim support and providing protection of the victims of crime. Those are – OCC, VSC, DLAO, ASK, BLAST, BNWLA,

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<sup>112</sup> Ibid, s. 23.

<sup>113</sup> Ibid, s. 6.

<sup>114</sup> H.M.F Bari, An Appraisal of Victim Protection in Bangladesh, (Asiatic Society of Bangladesh, 2016), p.194.

<sup>115</sup> Children Act, 2013.

<sup>116</sup> Ibid.

<sup>117</sup> H.M.F Bari, An Appraisal of Victim Protection in Bangladesh, (Asiatic Society of Bangladesh, 2016), p.194.

<sup>118</sup> Torture and Custodial Death (Prevention) Act, 2013.

<sup>119</sup> Ibid.

<sup>120</sup> Ibid.

<sup>121</sup> Ibid.

ASF etc.<sup>122</sup> OCC (One Stop Crisis Center) and VSC (Victim Support Center) are providing support for the protection of the victim who commits crime. These two institutions provide medical, legal and social services to the victims for their better life. The role of DLAO (District Legal Aid Office) is also praiseworthy in our country because, it also provides legal aid services to the victim of crime. Almost in everywhere in Bangladesh government tried to establish this institution or helping center to help the victim and they also provide useful legal services as well. There are many more NGOs in Bangladesh who are actively working as safeguard of victim of serious crimes likewise Ain Salish Kendra (ASK), Bangladesh Legal Aid Services Trust (BLAST), Bangladesh National Women Lawyers' Association (BNWLA), and Acid Survivors' Foundation (ASF) who are the popular NGO's working for the victim protection with free of cost or a very low cost of amount.

According to this discussion it can be said that Bangladesh has a lots of laws and regulation to give protection and support to the victims of gender-based violence. Though women's and children's are mostly affected by gender-based violence, thus they face fear of being labeled in a negative manner in front of everyone. According to Criminology theory, here, this case, labeling theory will be applied. If a woman being raped by someone, she will have a fear or shyness for file rape case. In case of domestic violence, physical violence, sexual violence etc. the same thing happened and most of the victims could not fight for it because they be afraid for being labeled. Thus, most of the gender-based violence related cases are not filed. The next chapter have explanatory discussion about relevant criminology and victimology framework regarding the victim of gender-based violence.

## **Chapter 4**

### **RELEVANT CRIMINOLOGICAL AND VICTIMOLOGICAL FRAMEWORKS**

#### **4.1 Criminological Frameworks**

Gender-based violence appears to be a widespread occurrence in all nations and locations, according to evidence from the body of literature now in existence.

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<sup>122</sup> H.M.F Bari, An Appraisal of Victim Protection in Bangladesh, (Asiatic Society of Bangladesh, 2016), p.195.



In 1957, Sykes and Matza developed the theory of neutralization, which posited that when people adopt harmful social norms and participate in criminal subcultures, they begin to view their own criminal behavior as normal.<sup>123</sup> Sykes and Matza outline five neutralization strategies that may also be connected to gender-based offence.<sup>124</sup> There is a patriarchal subculture that supports violence against women, and in many cases this subculture is being allowed, encouraged, or perceived as acceptable.<sup>125</sup>

According to Johnson, Nevala, and Ollus, the cultural and legal norms that accept or enable such offence to become firmly ingrained in almost all civilizations around the world, making gender-based violence a persistent problem.<sup>126</sup> Because women are less powerful economically, there are fewer laws in place to protect them from abuse. Further, Johnson, Ollus, and Nevala contend that although many countries have legal codes that penalize offence against women, cultural and societal attitudes that support gender inequality prevent women from entering the system of criminal justice.<sup>127</sup>

Three components that converge in time and place make up the Routine Activities Theory (RAT), which Felson and Cohen proposed in 1979.<sup>128</sup> It uses this theory to describe different sorts of crime victimizations. Routine Activities Theory states that for a direct victimization to occur in the absence of a capable guardian, a motivated perpetrator and an appropriate target must coincide in time and space.<sup>129</sup> Theft, larceny, and burglary are the crimes that are frequently considered as being related to RAT ideas.<sup>130</sup>

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<sup>123</sup> Sykes, Gresham, and David Matza. "Techniques of Neutralization: A Theory of Delinquency." *American Sociological Review*, vol. 22, no. 6, 1957, pp. 664–70. JSTOR, <<https://doi.org/10.2307/2089195>> Last accessed August 19, 2022.

<sup>124</sup> Ibid.

<sup>125</sup> N V PARANJAPE, *CRIME AND PUNISHMENT TRENDS AND REFLECTIONS*, Chapter : 9, Page – 822.

<sup>126</sup> Johnson, H. & Ollus, N. & Nevala, Sami. (2008). "Violence against women: An international perspective." ResearchGate, <[https://www.researchgate.net/publication/287317298\\_Violence\\_against\\_women\\_An\\_international\\_perspective](https://www.researchgate.net/publication/287317298_Violence_against_women_An_international_perspective)> Last accessed August 19, 2022.

<sup>127</sup> Ibid.

<sup>128</sup> "Routine Activities Theory: Definition Of The Routine Activity Approach To Crime", *Criminology Web*, <<https://criminologyweb.com/routine-activities-theory-definition-of-the-routine-activity-approach-to-crime/>> Last accessed August 20, 2022.

<sup>129</sup> Ibid.

<sup>130</sup> Ibid.

When studying crime and its victims, criminologists and victimologists rarely take into account the gender dimension. Natarajan, on the other hand, evaluated the issue of "eve teasing" of young women on the way to college and linked it to RAT in order to develop solutions for its prevention.<sup>131</sup> Natarajan suggested that "opportunity structure" policies could reduce incidents of eve-teasing on campus commutes.<sup>132</sup> Natarajan stresses that when women lack responsible male guardians, they may be more likely to engage in sexually motivated crime since they will have more opportunity to interact with men.<sup>133</sup>

Using the Routine Activities Theory framework, Savard, Kelley, and Merolla aimed to examine the connection between gendered environments and criminal victimization.<sup>134</sup> They contended that some people's daily routines in sexism- and racism-inflected places put them at greater risk of victimization.<sup>135</sup>

In 1998, Lori Heise used an ecological framework she had established to examine the numerous risk factors that lead to gendered violence.<sup>136</sup> Heise argued that there is no single cause of gender-based violence but rather a complex web of interrelated causes.<sup>137</sup> According to ecological theory, even though a society's patriarchal setup offers a partial explanation for violence against women, it still begs the question of why only a small percentage of men in such a community actually commit such acts, given that everyone in such a society experiences the effects of gender inequality and patriarchy.<sup>138</sup> Heise (1998) applies an ecological paradigm to the

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<sup>131</sup> Clarke, Ronald & Cody, Ronald & Natarajan, Mangai. (2017). "Subway Slugs: Routine Activity, Rational Choice and their Variants", ResearchGate, <[https://www.researchgate.net/publication/329675537\\_Subway\\_Slugs\\_Routine\\_Activity\\_Rational\\_Choice\\_and\\_their\\_Variants/citation/download](https://www.researchgate.net/publication/329675537_Subway_Slugs_Routine_Activity_Rational_Choice_and_their_Variants/citation/download)> Last accessed August 20, 2022.

<sup>132</sup> Ibid.

<sup>133</sup> Ibid.

<sup>134</sup> "Routine Activities Theory: Definition Of The Routine Activity Approach To Crime", Criminology Web, <<https://criminologyweb.com/routine-activities-theory-definition-of-the-routine-activity-approach-to-crime/>> Last accessed August 20, 2022.

<sup>135</sup> Ibid.

<sup>136</sup> Heise, Lori. (1998). "Violence Against Women: An Integrated, Ecological Framework. Violence against women", ResearchGate, <[https://www.researchgate.net/publication/11127184\\_Violence\\_Against\\_Women\\_An\\_Integrated\\_Ecological\\_Framework](https://www.researchgate.net/publication/11127184_Violence_Against_Women_An_Integrated_Ecological_Framework)> Last accessed in August 20, 2022.

<sup>137</sup> Ibid.

<sup>138</sup> ROMMEL K. MANWONG, Fundamentals of CRIMINOLOGY (4<sup>th</sup> edition), Chapter : 9, Page- 645.

problem of gendered violence, viewing it as the result of complex interactions between individuals, communities, and institutions.<sup>139</sup>

According to the Rational Choice Theory proposed by Cornish and Clarke, criminals make their judgments based on an objective evaluation of the costs and rewards of their potential actions.<sup>140</sup> Victimologists also use rational choice theory to explain why some victims of sexual assault choose to remain silent while others choose to come forward.<sup>141</sup>

## 4.2 Victimological Frameworks

Several victimologists have examined gendered violence through the lens of the "legitimate victim" notion, which holds that women are socialized into playing the victim in a male-dominated culture.<sup>142</sup> Who counts as a valid victim is heavily influenced by factors such as social inferiority, such as a person's gender.<sup>143</sup> These social validations of victimhood can lead both the victim and bystanders to accept victimization as normal.<sup>144</sup>

The victimological explanations are in line with feminist perspectives on gender-based violence. According to radical/liberal feminist theory, rape is more of a social control or act of power than an act of sexual enjoyment.<sup>145</sup> Sanday studied 95 tribal groups and discovered that rape was more common in the society that stressed respect for women than in the societies that were linked with men control and female subjugation.<sup>146</sup> In contrast to the older feminists' beliefs regarding gender-based violence, Catherine MacKinnon asserted that offence and sex should be understood as more mutually conclusive than exclusive in 1989.<sup>147</sup> According to Mackinnon, committing

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<sup>139</sup> Ibid.

<sup>140</sup> Mary A. Zey, "Rational Choice and Organization Theory", ScienceDirect, <<https://www.sciencedirect.com/topics/social-sciences/rational-choice-theory>> Last accessed August 20, 2022.

<sup>141</sup> Ibid.

<sup>142</sup> Ibid.

<sup>143</sup> SMITH & HOGAN, Criminal Law (12<sup>th</sup> Edition), Chapter : 16, Page – 562.

<sup>144</sup> Ibid.

<sup>145</sup> Kayla Armstead, "History and Theories of Radical Feminism", Study.com, <<https://study.com/learn/lesson/radical-feminism-theory-examples.html>> Last accessed August 22, 2022.

<sup>146</sup> Peggy Reeves Sanday, "The Socio-Cultural Context of Rape: A Cross-Cultural Study", Journal of Social Issues 37(4):5-27, ResearchGate, <[https://www.researchgate.net/publication/232454315\\_The\\_Socio-Cultural\\_Context\\_of\\_Rape\\_A\\_Cross-Cultural\\_Study](https://www.researchgate.net/publication/232454315_The_Socio-Cultural_Context_of_Rape_A_Cross-Cultural_Study)> Last accessed August 22, 2022.

<sup>147</sup> Ibid.

acts of aggression against those in positions of less authority gives the offender a sense of sexual fulfillment.<sup>148</sup>

## Chapter 5

### ANALYSIS AND IMPLICATIONS

Criminological theories focus on explaining the causes of crime.<sup>149</sup> They explain why some people commit a crime, identify risk factors for committing a crime, and can focus on how and why certain laws are created and enforced.<sup>150</sup> In the previous discussion, it can be said that there are lots of criminology and victimology study which supports and gives praiseworthy protection to the victim of the gender-based violence. There are some relatable criminology and victimology theories in accordance with the protection of the victims of gender-based violence. Those are:

#### 5.1 Protection for the Victims of Rape and Sexual Violence

The *Naari O Sishu Nirjatan Daman Ain 2000* is a special legislative step which offers some victim protections in Bangladesh. For example, it protects women victim from rape, sexual harassment, etc. It also protects women in court room by the provision of trial in camera.<sup>151</sup> This law also has a provision of recording the statements of the victim by the Judicial Magistrate in section 22.<sup>152</sup> This is a big issue nowadays. In general, rape victim or sexual assault victim does not feel comfortable in front of the male Judicial Magistrate. For this reason, Supreme Court's Registrar General, Md. Zakir Hossain, issued the circular in 2019 as per instruction from Chief Justice Syed Mahmud Hossain which was 'female magistrates will record the statements of those victims for the sake of fair investigation and justice in the cases filed over rape and sexual

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<sup>148</sup> Rob White, Lauren Eisler, Fiona Haines, *Crime & Criminology An Introduction to Theory* (Third Canadian Edition), Chapter : 5, Page – 630.

<sup>149</sup> LibreTexts, Chapter 5: Criminological Theory, <[https://biz.libretexts.org/Bookshelves/Law/Book%3A\\_Introduction\\_to\\_the\\_American\\_Criminal\\_Justice\\_System\\_\(Burke\\_et\\_al.\)/05%3A\\_Criminological\\_Theory#:~:text=Criminological%20theories%20focus%20on%20explaining,laws%20are%20created%20and%20enforced.](https://biz.libretexts.org/Bookshelves/Law/Book%3A_Introduction_to_the_American_Criminal_Justice_System_(Burke_et_al.)/05%3A_Criminological_Theory#:~:text=Criminological%20theories%20focus%20on%20explaining,laws%20are%20created%20and%20enforced.)> Last Accessed December 17, 2022.

<sup>150</sup> Ibid.

<sup>151</sup> Section 20 (6) of *Naari O Sishu Nirjatan Daman Ain, 2000*.

<sup>152</sup> Section 22 of *Naari O Sishu Nirjatan Daman Ain, 2000*.

harassment'.<sup>153</sup> So, according to criminology and victimology perspective this is a psychological matter which believe that it is the person's thoughts and feelings which relates to Psychological Theory of criminology.

In case of rape, rape victims are very helpless in every country now-a-days. Mainly women's and girls are being victim of this crime. In 1876, Cesare Lombroso, tried to establish by 'Biological and Psychological Positivism Theory' that the criminal has different body type in the eye of criminology.<sup>154</sup> He also claimed that, among 1/3 offenders are born criminal.<sup>155</sup> But now-a-days the criminologist does not follow this theory anymore because it has no validity anymore. It all about in criminal's mind and intention to do the crime in case of rape. But 'Labelling Theory' can be applied here because most of the rape victim do not file case for being labeled in the eye of society. So, the rape victim should be aware of the protection of law.

In case of sexual assault, the victim of sexual assault faces various emotional effects like mental shock, helplessness, fear, guilt etc. Criminology explained this crime to 'Psychological Theory'. Because the summary of this theory is the person's thoughts and feelings are dictating their actions.<sup>156</sup> So, it appears that the criminal has previous intention to harm the victim by applying his force. So, the victim can seek protection under the law.

## **5.2 Awareness of the Victims of Domestic Violence**

Domestic violence has become a common incident in Bangladesh. Almost 50% to 70% women in Bangladesh is a victim of domestic violence by male.<sup>157</sup> Thus, we have a legislation to prevent domestic violence and give protection to the victim. This legislation provides legal aid for the

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<sup>153</sup> The Daily Star, Rape Victims: Only female magistrates to record statements  
<<https://www.thedailystar.net/frontpage/news/rape-victims-only-female-magistrates-record-statements-1730731>>  
Last Accessed December 22, 2022.

<sup>154</sup> Sheikh Hafizur Rahman Karzon, Theoretical and Applied Criminology, First Edition, Chapter 2: Schools of Criminology, P-37.

<sup>155</sup> Libretexts, 5.7: Biological and Psychological Positivism,  
<[https://biz.libretexts.org/Bookshelves/Law/Book%3A\\_Introduction\\_to\\_the\\_American\\_Criminal\\_Justice\\_System\\_\(Burke\\_et\\_al.\)/05%3A\\_Criminological\\_Theory/5.07%3A\\_Biological\\_and\\_Psychological\\_Positivism](https://biz.libretexts.org/Bookshelves/Law/Book%3A_Introduction_to_the_American_Criminal_Justice_System_(Burke_et_al.)/05%3A_Criminological_Theory/5.07%3A_Biological_and_Psychological_Positivism)> Last  
Accessed December 17, 2022.

<sup>156</sup> Psychological Theories < <https://study.com/academy/lesson/psychological-theories-of-crime-assumptions-weaknesses.html#:~:text=Psychological%20theories%20of%20crime%20say,feelings%20that%20dictate%20their%20actions.>> Last Accessed December 17, 2022.

<sup>157</sup> The Daily Star, Rape Victims: Only female magistrates to record statements  
<<https://www.thedailystar.net/frontpage/news/rape-victims-only-female-magistrates-record-statements-1730731>>  
Last Accessed December 22, 2022.

victim<sup>158</sup>, provides compensation<sup>159</sup>, ensures in camera proceedings<sup>160</sup> and many more protection for the victim. The victim of Domestic Violence is being abused physically, psychologically, sexually, or economically. The criminal of this crime has a *mala fide* intention to harm the victim. According to the thoughts of Criminology, this crime goes under Rational Choice Theory because the action of the offender chooses by himself. Though mostly the women are the victims of this crime, so, they must be aware of it and claim protection for this crime.

### **5.3 Restorative Justice to Improve Protection for Victims of Cyber Harassment/Bullying**

Restorative Justice is the new development in the fields of Criminology and Victimology. This justice system repairs those injuries which is caused by the crime. Restorative justice system, therefore, enable the victim, the offender and affected members of the community to be directly involved in responding to the crime.<sup>161</sup> They become central to the criminal justice process, with governmental and legal professionals serving as facilitators of a system that aims at offender accountability, reparation to the victim and full participation by the victim, offender and community.<sup>162</sup> The restorative process of involving all parties – often in face-to-face meetings – is a powerful way of addressing not only the material and physical injuries caused by crime, but the social, psychological and relational injuries as well.<sup>163</sup>

In case of cyber harassment or cyber bullying, we can see that cyber bullying victims are everywhere now-a-days. It destroys one's social status. For this reason, this crime is under 'Social Bond Theory' under criminology. This theory has 4 basic elements – attachment, involvement, commitment and believe.<sup>164</sup> If any of these element hampers by any crime then it could be categorized as crime under social bond theory. So, cyber bullying follows the social bond theory. So, the people must be conscious about their social life. In this case, restorative justice as an evolving field of criminology can make the offenders of cyber harassment or cyber

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<sup>158</sup> Section 6 of the Domestic Violence Act, 2010.

<sup>159</sup> Section 16 of the Domestic Violence Act, 2010.

<sup>160</sup> Ibid, Section 23.

<sup>161</sup> CENTRE FOR JUSTICE & RECONCILIATION AT PRISON FELLOWSHIP INTERNATIONAL, MAY 2005, what is Restorative Justice? <<https://www.d.umn.edu/~jmaahs/Correctional%20Assessment/rj%20brief.pdf>> Last Accessed December 20, 2022.

<sup>162</sup> Ibid.

<sup>163</sup> Ibid.

<sup>164</sup> The Social Bond Theory <<https://www.123helpme.com/essay/The-Social-Bond-Theory-226668>> Last Accessed December 17, 2022.

bullying realize that what they have done against a man or a woman in cyberspace is wrong. As restorative justice system involves community in its process, it can help community to identify the offenders and so the offenders might feel ashamed of so that they cannot commit the crime the again. This is how victims of cyber bullying or harassment can get social and legal protection.

#### **5.4 Protection for the Victims of Human Trafficking**

We have the Prevention of Human Trafficking Act, 2012, but human trafficking victims are increasing day by day. This Act should ensure speedy trial and safe custody of the victims. In case of human trafficking, the victim himself or herself get victim of this crime or forcefully for the poverty. Human trafficking and forced prostitution have become modern slavery now-a-days. Women and children get victim of this crime often. This crime follows ‘Strain Theory’ of criminology because the victim himself or herself get victim of this crime or forcefully for the poverty. In this case, the protection for the victims through national and international legal frameworks can be developed as well as poverty needs to be decreased. In other words, according to the criminology aspect, especially the Strain Theory and social control theory, employment sectors in Bangladesh should be developed.

### **Chapter 6**

#### **CONCLUDING REMARKS**

The thesis explores the selective context of women victims’ sufferings in gender-based violence in Bangladesh which, after a thorough research, turned out to be true. For preventing the high rate of gender-based violence there are lots of laws which has enacted by the government of Bangladesh, but the thesis has found out that such laws did not sufficiently consider the criminological and victimological frameworks. It is, however, obvious that the criminological and victimological frameworks are getting developed day by day, but our laws that have been made before some decades do not have the up-to-date consideration of the same.

Although for helping the female victims of gender-based violence Bangladesh has enacted some protections, but more resources and social awareness are needed and from the thesis an important message is found that the problem of gender-based violence is not a small problem which occurs

in several spheres of society, rather it is a global problem all over the world. Along with the government, general people should also be aware of its existence and take responsibility for reducing crime. As the thesis shows that the main reason behind such violence is patriarchal society, and perpetrators learn such violence from family first. Therefore, the first step should come from home. From childhood parents should teach their child to respect men and women equally and stop their children from engaging in any kind of gender-based violence.

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