



Protecting the Witness

The importance of protecting people who put themselves at risk by assisting law enforcement agencies as witnesses is widely recognised worldwide. Evidence provided by victims of crime, innocent bystanders to a crime and people who have information about a criminal activity are crucial to the conviction of a criminal. In a telephone interview with the Daily Star, **Mahfuzur Rahman**, Assistant Inspector General (Confidential), Police Headquarters talks to Amitava Kar about the importance of a well-established Witness Protection Programme.

The Daily Star: Do we have a witness protection programme?
Mahfuzur Rahman: I think it is under progress. In February 2015 at the Police Staff College, we had a training programme organised by the US Embassy based on the Rabat Memorandum on Good Practices for Effective Counterterrorism Practice in the Criminal Justice Sector. One of the good practices discussed in Rabat, Morocco was witness protection. But it was only for terrorism related cases. The training programme organised at the Police Staff College was attended by prosecutors, members of the police force and lawyers from Bangladesh and several other countries.
 DS: What was the outcome of the

training programme?
MR: At the training sessions good practices from different countries were highlighted. We had participants from Maldives, Nepal, Pakistan, the United States and Bangladesh. We found out that many countries in the Indian Sub-continent such as Nepal, Pakistan and Maldives do not have a witness protection programme. There were no participants from India.
 DS: Was there any follow-up on the training programme?
MR: There will be another conference in Nepal from the 25th of this month where representatives from the Police, Judiciary and Prosecution will attend.
 DS: What are the main challenges we face to establish a Witness Protection Programme?
MR: The main challenge is that it

involves costs. Even in the US they do not protect all witnesses. The police have to have adequate resources to protect witnesses who are sometimes threatened or intimidated by criminals. It is difficult to protect all witnesses. But we have laws. If a witness feels threatened, he or she has every right to lodge a complaint at a police station. They can file a General Diary and we will take proper actions. One can get some redress under the existing laws. But the witness's right to be protected must be ensured by law. It will make the job of the police easier. Then we will be able to allocate more resources, raise manpower and so on. We face a serious manpower problem. We have a force of about 158,000. Our population is 160 million meaning that we

have one police person for every 1300 people. Nepal has a police strength of 1 for every 700 people. The number of police persons must be increased, more amenities should be given to them and we should invest more on capacity building.
 DS: What are your recommendations?
MR: As far as I know, there are several inter-ministerial meetings. The Ministry of Law takes the initiative and gives their opinion. The Ministry of Home Affairs is also involved. The Police is under the Ministry of Home Affairs so we also have participation. Then it is placed in the cabinet. Then it goes to the standing committee. Ultimately it goes to the parliament.

Their Lips are Sealed

MD SHAHINAWAZ KHAN CHANDAN

Every Thursday evening, the TSC area of Dhaka University becomes a crowded public place where visitors from all around the city gather to chat and hang around. On February 26, the rush for Ekushey book fair added a festive flavour to the evening in the university campus. At around 8:30 pm, Avijit, the founder of secular blog Mukta Mona was brutally hacked to death while he was visiting the book fair. The four-layered security system in and outside the book fair could not save Avijit from the machete-wielding assailants.

The grievous photographs of that evening's incident shows how Avijit's wife Raifda Ahmed Bonya, also seriously wounded, was seeking help from the indifferent passersby and the police stationed there. But nobody budged except for taking photographs of the crime spot and the victims. Only one man – Jibon Ahmed, a photographer, had the courage to help the couple to get to a hospital. The other photographers left the scene after taking a few snaps. The question why despite the fact that there were so many bystanders yet nobody tried to stop the killers no less important than how this incident could take place in front of the police.

A witness of the incident says anonymously, "I was going to visit the book fair. It just happened within a minute. At that time police was there. So I thought why I should get myself into this trouble where even the police was doing nothing." What that trouble could be is explained by another person who was present at that time. He says, "If I went to save him, I might be produced before the court as a witness. But if I do that who will give me security and what is the guarantee that I or my family mem-

bers will not be harmed by the same quarter that killed that man?"
 In fact these people are so afraid that they have requested us not to reveal their names in any case as they do not want to associate themselves with this incident. The cause of their apprehension is very much practical. What measure has been taken by the government to safeguard the witnesses without whose testimony, revealing the truth behind many mysterious cases would be impossible? The short answer is, 'nothing'. There are no



specific laws in Bangladesh to protect the witnesses or the victims. Criminal law expert and a senior lawyer of the Supreme Court, advocate Khandaker Mahbub Hossain says, "As far I know there are no witness protection laws in Bangladesh. Due to this lack of legal capacity, witness intimidation is very common in our country. If a person wants to negate government or any powerful quarter in a case by his statement as a witness, there is nobody to

protect that individual from being tortured or harassed. The court or the justice can pass directives to give security to any particular witness if it feels necessary. Even in practice that security is still inadequate. However, there must be an elaborate law by which any person who wants to give witness can claim to be protected by the government from being intimidated or tortured."
 The extreme vulnerability of witnesses became evident during the trial of the war crimes committed during the libera-

tion war of 1971. The investigative agency of the International Crimes Tribunal (Bangladesh) has sent several letters to the Ministry of Home Affairs seeking assistance to enhance security for around 400 witnesses of the tribunal. These letters have also stated that these witnesses have become reluctant to testify as they feel threatened and vulnerable.
 Mostofa Hawladar a prosecution witness who appeared in the case against

Delwar Hossain Sayeedi, a leader of Bangladesh Jamaat-e-Islami died on December 10, 2013 after being attacked in his home. Human Rights Watch (HRW) published a report demanding an investigation on December 23, 2013. The report stated that the victim had been receiving death threats from unknown callers. The local police were assigned to protect Hawladar but local police officers told his family to feed the guards regularly, possibly hinting that otherwise they wouldn't be as vigilant. Hawladar's son told HRW, "My father was a poor man, some days he could not even earn 100 taka [US\$1.28]. So he [spoke to] police guarding the house and told them to give protection only when he is out." Hawladar was hacked in his home when he was asleep.

Another witness of the tribunal from the defence side, Shukho Ranjan Bali who the defence lawyers claim to have been abducted from the gate of the war crimes court house is still passing his days at Dum Dum prison in India. Bali who was originally a prosecution witness in the case against Sayeedi had agreed to testify for the defence. But he could not testify before the court and disappeared mysteriously on November 5, 2012, the day he was supposed to appear before the court.

Several months after his disappearance, he was found in India and arrested by the Indian Border Security force for crossing the border illegally. While in an Indian prison, Bali has sought political asylum in India in fear of harassment by Bangladesh law enforcing agencies if he is sent back to Bangladesh. (The Daily Prothom Alo, August 12, 2013). Bali's appeal for political asylum is awaiting Indian Supreme Court's approval.
 During the recent political turmoil that started from January 5, many incidents of intimidating witnesses occurred

all over the country. Even the jurists and lawyers of the war crimes tribunal are not safe from intimidation. Attacks have been reported on the residences of Justice Surendra Kumar Sinha and Justice Fazle Kabir who were the on the panel of judges that sentenced Jamaat leader Abdul Kader Molla to life imprisonment, a verdict that caused a mass upheaval of Ganajagoron Mancha. Advocate Tajul Islam, a top member of the defence team was allegedly picked up by the law enforcers from his chamber in Dhaka on March 05, 2015. However, the law enforcers said, "They have no such information." (The Daily Star, March 05, 2015).

It is very unfortunate that despite such occurrences we have seen no noticeable steps from the government to take preventive measures although a report was submitted by the Law Commission back in February 2011 recommending legislation on witness and victim protection. Not only the International Crimes Tribunal (Bangladesh) but there are thousands of criminal cases where witnesses are intimidated and thus cannot testify before the court. As a result many cases remain unsolved for decades.

The murder of the journalist couple Sagar Sarowar and Meherun Runi, labour leader Aminul Islam, BNP leader Chowdhury Alam, disappearance of Ilias Ali and many more incidents like these still remain unsolved. Lack of witnesses in these cases is a major cause of delayed and denied justice. If witness and victim protection can be ensured by the law, there is hope that many pending cases will gain speed towards justice. But it is also a fact that law alone cannot be enough unless and until it is enforced justly.

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