

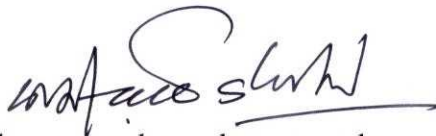
AN APPRAISAL ON EFFECTIVENESS OF LAWS RELATING
TO VIOLENCE AGAINST WOMEN: WITH SPECIAL
REFERENCE TO KUSHTIA DISTRICT

A Dissertation

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Acknowledgement(s)

This note of acknowledgement deserves to be started with compliments and thanks to the interviewees from whom I collected data, the govt. officials, the pleaders The NGO workers, the people's representatives, the local elites and the judges who contributed immensely to this study.

My heart felt gratitude to my academic adviser Kazi Rakibuddin Ahmad without whose guidance and suggestions this paper would not have been possible.

My sincere and heart felt gratitude to my teachers, especially to Dr. Akbar Ali Khan, Director, Center for Governance Studies, BRAC University who helped me much with conceptual ideas, information and developed my knowledge by providing books articles and journals.

I thank district administration Kushtia and District Judge Court administration for extending help in gathering information.

I am also owed to the local people of the places of occurrence, who helped me cordially by giving correct information about the incidences.

Md. Helal Uddin

ABSTRACT

AN APPRAISAL ON EFFECTIVENESS OF LAWS RELATING TO VIOLENCE AGAINST WOMEN: WITH SPECIAL REFERENCE TO KUSHTIA DISTRICT

This dissertation explores the effectiveness of the stringent law “Nari-O-Shishu Nirjaton Daman Ain 2000” in terms of implication on perpetrators, perception of victims and complainants and application. This study explores also the nexus between power positions of offenders versus purposely uses of the Law. It has been experienced that about 83% of the accused belong to muscle/power politics group on the other hand victims or complainants have misapplied the law nearly 25% and 50% of victims or complainants have exaggerated their allegations lodged in the Tribunal. In terms of magnitude of disposal, it was found in monthly average disposal rate, 92% was acquittal and only 8% was conviction. The paradoxical aspect of the results was, despite above outcomes about 59% of the victims/complainants were satisfied or somewhat satisfied. The study also reveals sensitive issues i.e. the reality with the process and justice machinery. Finally this study argues for an effective ‘Alternative Dispute Resolution Committee’ headed by Chairman/Member/Female Member of the ‘Union Parishad’ for each union in Bangladesh to address particularly those cases related with violence against women ‘Human Rights’ violation issues to lessen the excessive and ever increasing burden of pending cases, to ensure quick justice and to have easily satisfaction from a victim’s perspective and ultimately to reduce recidivism mainly.

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List of Acronyms

ADR -	Alternative Dispute Resolution
BLAST-	Bangladesh Legal Aid & Service Trust
BRAC-	Bangladesh Rural Advancement Committee
CEDAW-	Convention on the Elimination of all forms of Discrimination against Women
Cr.P.C-	Criminal Procedure Code
CS-	Charge Sheet
DW-	Defense Witness
FR-	Final Report
FR as MF-	Final Report as Mistake of Facts
FIR-	First Information Report
GR-	General Register
HQ-	Head Quarter
HR-	Human Rights
ICDDR,B-	International Center for Diarrhea Diseases & Research in Bangladesh
IO-	Investigating Officer
NGO-	Non Government Organization
NOSND Ain-	“Nari-O-Shishu Nirjaton Daman Ain”
OC-	Officer-in-Charge
PC-	Penal Code
PO-	Place of Occurrence
PP-	Public prosecutor
PS-	Police Station
PW-	Prosecution Witness
U/S-	Under Section

Introduction:

1.1 Background

Violence against women is a global epidemic. It is one of the most pervasiveness of human rights violation. The global dimension of violence is alarming.

The Noble Laureate Amartya Sen has drawn much attention on inequality by saying "Missing women" that was published in the British Medical Journal in 1992. He has successfully pointed out that if symmetrical care is given, then obviously the proportion of female to male will be about more than 5% higher. Empirically it has been found that in Europe, North America, The United Kingdom, France and The United States, the ratio of women to men exceeds 105. On the other hand, especially in Asia and North Africa where the female male ratio is as low as 0.95 (Egypt), 0.94 (in Bangladesh, China, West Asia), 0.93 (in India) and 0.90 (in Pakistan). After analysis it was found that the difference was due to female male inequality across the world. Mr. Sen has calculated that if there was no female male inequality and the influence of social factor in Asia and North Africa, the ratio would have been as to that of Europe and North America at present. In this process, Mr. Sen has worked out 100 million women have been "Missing" from these Countries.

Why is this variation?

Sen and others have said that the age specific (child bearing age) mortality rate for females consistently exceeds that for male, female disadvantages in survival infancy and childhood, neglect of female health and nutrition, neglected in terms of health care, hospitalization and feeding and recently the anti-female bias in sex selective abortion etc. are the causes of that variation. I think disadvantages and neglect in the social life is a prime cause of the high mortality rate for women. Actually the equality, security, dignity, self-worth and the right to enjoy fundamental freedoms of women are directly and indirectly denied. Often this tantamounts to violence against women. The United Nations Declaration on the elimination of violence against women (1993) defines violence against women as "Any act of gender based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such

acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.” This definition refers to the gender based roots of violence, recognizing that “Violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men”. (Alom Sayed Samsul 2004 violence against women: Bangladesh context, BPATC, Savar, Dhaka, Bangladesh).

1.2. Matter of serious concern

Lack of ‘rule of law’ and law enforcing agencies, lack of safely end weak judiciary cumulative increased violence against women is the most crucial barrier in the development process and women’s advancement in Bangladesh.

Available evidence for the second half of nineties suggests a fourfold increase in the number of acid attack, five-fold increase in the number of rapes, two-fold increase in the number of dowry related oppressions and about two-fold increase in the level of domestic violence (Bangladesh: national strategy for economic growth, poverty reduction and social development ERD. M/F 2003 P/100-107)

With the deterioration of rule of law, discriminative action, law and order situation, the violence against women has been a great concern of Bangladesh, whereas the constitution of Bangladesh ensures the equality of all citizens before law, every citizen has entitlement to equal protection of law, there shall be no discrimination against any citizen on grounds of sex, women shall have equal rights with men in all spheres of the state and of the public life. (Article 27, 28). Bangladesh also has committed itself to the elimination of discrimination against women and did ratification of UNCEDAW (United Nations Convention on Elimination of all sorts of Discriminations against women) and its subsequent endorsement to the CEDAW Protocol in 1998 that obligates to endorse its provision in domestic legislation and implement them through policy initiatives. Bangladesh has also adopted the International Declaration on Violence against Women. The Government of Bangladesh also became a signatory to Beijing Declaration and endorses its Platform for Action (P.F.A) in 1995 to eradicate discrimination and violence against women. Accordingly a national policy for the advancement of women was

formulated and declared on March 1997 and the Ministry of Women & Children Affairs was established to implement, co-ordinate and monitor the women's development.

As a matter of internalization of the international protocol for reducing violence against women government felt necessity to curb cruelty to women through enacting a new law "The Cruelty to Women (Deterrent Punishment Ordinance 1982)". Due to some impediments in application the ordinance was amended in 1988. But it was astonishing that the offence against women and children was increasing, at the same times, the nature of offence against women and children also changed. For example, acid attack on women was a new type of violence. The murder of women and torture due to incapacity of giving dowry was accelerated; minor girls were also being murdered following outrage or rape. These incidences were published in the newspapers as a matter of routine phenomenon. The government of Bangladesh introduced more tough law in order to control effectively the offence against women and children by amending excessive strictness in the previous ordinance of 1983. This was known as Nari-O Shishu Nirzaton (Bishesh Bidhan) Ain, 1995. That was running good and left a big impact in the society. But some groups started misusing the strictness imposed on the matter of bail in that law. The misapplication had a trend of being pervasive.

1.3 Why was Nari-O-Shishu Nirzaton Damon Ain introduced?

Bangladesh government passed this law not only in response to international demand to stop violence against women but also to have an independent, discrimination-free and oppression less environment for the women in the country. Among other concerted efforts, introduction of a tough law like 'Nari-O-Shishu Nirzaton Damon Ain, 2000 was a big challenge. In fact to some extent constitutional right or human right of the perpetrators is suspended for sometime even before the matter is decided or until prima-facie is made out. The same offence as has been detailed in other laws was incorporated in this tough law with huge punishment and the law was made as a special law having supremacy over other laws in the same area. There has been ~~much~~ debate on it as to the question whether this was a jungle law or black law whether the innocent people were

much

forced harassment by misuse of the law. However, there has been no repercussion or any annoyance as to the question of the application of the law from the women organization. There has been a remarkable change, both positive and negative in the society. It is said that despite of much controversies, it has contributed greatly towards changes in villages against women. Actually there has been no such empirical study on this matter that one can say accurately about the change. My enquiry is to know what the actual contribution in respect of effectiveness is. What is the balance of good and bad impact in terms of misapplication of the law? What could be done to have a better result?"

1.4 Why did I undertake this topic?

Violence affects the lives of millions of women worldwide in all socio-economic and educational classes. It cuts across cultural and religious barrier, impeding the right of women to participate fully in society. Violence against women forms the core of gender-based inequalities. It leaves far reaching bad consequences for women's development and well-being. Domestic violence impacts on women's health and mind. The consequences on body and mind restrict their overall development. Physical and psychological sufferings severely restrict their capacity and desire to participate in social and economic life. The cost of violence related damage to significant numbers of young females in a slower pace of development at personal, family and national levels.

Over a period of five years till December, 2000, a cell under Women affairs Directorate named "Cell to prevent Repression on Women" registered 13,448 complaints filed by oppressed women in Bangladesh following family suspects, demands for dowry, physical abuse, second marriage or divorce. In the year 2000, some 772 women were killed in 1,109-recorded incidents of repression throughout Bangladesh. Of them 100 were killed for dowry, stated a report of the Bangladesh Legal Aid and Services Trust (BLAST) reviewing the human rights situation across the country. During the period, the Bureau of Human Rights of Bangladesh (BHRB) recorded 1,120 incidents of suicide, most being the repressed women (Mannan A.A.... Violence against women: Marital violence Rural Bangladesh in CPD - UNFPA paper 20)

A recent study (Moshtaque, 1998 in CPD - UNFPA Paper-20) shows the nature of growth of violence against women in proportion to population growth. On the basis of

police record of 15 metropolis thanas of Dhaka city, they argued that violence against women has increased ten times from 1988 to 1997. In 1988, 0.52 incidents were reported per 100.000 women. In 1990, it was 0.66, in 1995, 3.96 and in 1997, it sharply rose to 9.55. During 1998, the number rose further to 2103. Of the various form of violence against women, incidence of rape figured the highest followed by domestic violence (CPD-UNFPA PAGE-20 pp-4)

Now, it is a matter of deep concern that particularly violence against women in Bangladesh is worsening. In recent years the government of Bangladesh has taken significant steps towards improving laws relating to violence against women. The government has amended and promulgated several Acts and Ordinances in this regard to safeguard the legal rights of women and to improve their social status. Besides the Penal Code : ‘The Dowry Prohibition Act, 1980’, ‘The Women Oppression (Defendant Punishment) ordinance, 1983’, Nari-O-Shishu Nirzaton Daman Ain, 2000, ‘The prevention of Acid offence Act, 2003’ ‘The Acid Control Act, 2002’, The prevention of Women and Children Oppression (Amendment) Act, 2003’ among others, all sustain provisions of punishing those who dare commit any sort of crime against women. Among all these laws, ‘The Nari-O-Shishu Nirzaton Damon Ain, 2000’ is predominating where as ‘The prevention of Women and children Oppression (Amendment) act, 2003 is to strengthen the Act, 2000 and to give more functional abilities. Actually this law has comprised almost all sorts of major violence against women and children. This is special type of stringent law. There have been much discussion, writings, analysis and exploration on the nature of violence against women, causes of violence against women, comparison between the Retributive versus Restorative Justice in South Asia, Social mobilization, strategies of Gender Discrimination, Rights and Challenges for Women and Women’s Advancement and Removing Gender Gap’. But the protagonist role of the robust Act how far it has been able to curve the trend of recidivism particularly the how far the women have benefited. These are not known. There should have been a survey to actually measure the strengths and weakness of this law, so that including government and other organization could take up new steps and change ineffective procedures to successfully address the giant problem. Normally what happen, when we encounter big

social problem, civil society, NGO, Political Organization and intellectual groups by to focus on the ensuing issue, after that we do not continue to monitor the activities so far taken for combating the situation. As a result mission does not achieve the target. This is all most a common phenomenon happened every time. This is true that the scope to do that is very narrow due to lack of financial support, lack of sources of dependable data, non cooperation and other logistic support; however efforts should continue to conduct such evolutionary measures to appraise the law. I think, with all constraints if it is possible to appreciate the impact of this stringent law on the whole, it will be helpful for others to come forward to address the whole issue from various point of views.

1.5 Objectives:

In the previously discussed studies try to reveal deep-rooted causes, nature of violence and historical and social perspective analysis in micro level. But as matter of preventive and curative measures to reduce trends of violence, what so far have been taken, the stringent law like Nari-O-Shishu Nirzaton Damon Ain is one of the tough and action oriented step. Of course, the violence against women is multidimensional. The majority of the violence takes place within the family and mainly by intimates or spouses or by laws, many of the oppressed/victims are reluctant to even disclose the matter to even her own man i.e. parents and friends due to religious, cultural pressures and in most cases the victims know no better remedy will come except bad names, she might be in “from the frying pan to the fire” position. All these sorts of violence never come within the notice of any municipal laws. However a great deal of violence other than this domestic cum repugnant type among the rest amount of total events, a good number of cases are this way or that way come within the discourse of traditional or NGO operated shalish and to formal legal court. There has been no empirical study on the matter of how much is about the number of all sorts of violence against women take place on and average in our country in every year. Although to launch such a study or survey is unrealistic because maximum number of cases will remain untold, undiscovered by the victims themselves because of the above discussed reasons. From day to day news particularly from crime report, editorials, journals and police report, it has been commonly conceived that the 10% of the total number of (violence to women) cases are reported by different media and 10% of the reported 10% is dealt with by informal and

formal legal forum. One should not accept this data but again the reality will not be very far away from this picture. But this is true that violence of big nature like murder, acid burning, rape gang rape, kidnapping, grievous hurt and abduction - this sort of cases do not remain unnoticed, today due to huge N.G.O operation and the free exercise of media workers and different types of social organizations working for women - the cases somehow come to notice of authority. Actually the crime against women of heinous nature reacts mores the society and sometimes a violence case of “Yeasmin murder in the custody of police” shaken the national govt. & transnational bodies. So long our societal values, cultures and optimum development do not come to acceptable norm; violence of all types will not come down to a tolerable position. So, what is important in the present perspective is to create a panic in the mind of perpetrators and to the would be group who desires to exploit women in future, so that there shall be a great impact on this issue that will reduce the major type of violence against women. With this view, the government of Bangladesh decided to introduce a stringent law like “Nari-O-Shishu Nirzaton Damon Ain” to strictly repress, reduce and control the oppressive crimes against women. There have been a couple of enactments in the provisions of the law to make it more effective. But no study has been made to empirically see what effect has been on the whole.

This study is a micro-level study aimed at exploring people understands the impact of the law. The main objectives of the study is to gather all relevant information regarding extent and intensity of violence against women and as well as that of the law.

1.6 Research Questions:

The following are the questions for research.

- * Does the law benefit the victims or the complainants?
- * Could it actually serve the purpose in introducing such a stringent law? If yes, then how much?
- * How it created other problem than to actually address the principal objectives?
- * Is there any measure and misapplication of such tough law against the innocent people? If yes, then how much?
- * Is there any false use of the law? If yes, then how much?

- * Are the victims or aggrieved persons are compatibly satisfied with the application of law? If yes, then how much?
- * What are the procedural impediments to have access to the law?
- * How can it be eliminated?
- * What are the other problems to get verdicts from court of justice?
- * What could be done to eliminate those barriers?
- * What others essentials can be enacted to redress the victims or aggrieved persons.
- * What other forums should compensate the backlog of cases and raise participation of women in term of their distributive power to redress the low and right.

2. Literature review:

Bangladesh is not very uncommon in nature of violence against women compared to other parts of the world. Of course there is some special type of violence in Bangladesh unlike other areas. Studies on the scale and nature of violence against women in Bangladesh have been carried out. There are M.A. Manan's (2003) study of Marital Violence in Rural Bangladesh, Ferdous Jahan's study of Gender Violence, and Power ; Retributive Versus Restorative Justice in South Asia, the study of the BRAC-/ICDDR-B Joint research Project Matlab Bangladesh - this paper explores the nexus between micro-credit based development programmes and domestic violence. Maximum studies have explored the macro level of the issues e.g. the gender discrimination and violence against women, comparison in retributive versus restorative justice in respect of violence against women etc.

Ferdous Jahan (2005) has explored in her studies the advantages and disadvantages of retributive and restorative justice system in South Asia and more specifically as to procedural distributive and compliance satisfaction of the victim of domestic violence. It is a big area; one may find lot of issues that has to be considered in respect of community, society and national level where the culture and practice, religion, rule of law and the vast area of governance are involved. However she has rather suggested that as restorative justice is in maximum cases more effective, so the traditional Salish system could be turned as effective restorative justice by intervening legal coverage. She has also added that women's involvement and women's leadership is

necessary to make this proposed system effective. I think these are more of normative and suggestive. It will take time and long process to have change. Mr. Mannan in his thesis has focused on the almost same field i.e. the nature of domestic violence particularly in the conjugal home, why these sorts of marital violence take place in our country? Dowry has been highlighted as to core issue of marital violence and finally depicted on the consequences of domestic violence. In his recommendations, he emphasized on women education, government support to the victim, awareness building, rehabilitation of helpless victim etc. He, in one point of his suggestion, argued to incorporate stringent punishment for offenders in Dowry Prohibition Act. I think these are of subjective nature; no empirical data is available as to know why Dowry Prohibition Act has not been effective. Only by enhancing the dimension of punishment for the offender, the situation will not develop, we have to see whether it actually brings any result and how it will reduce the tendency of domestic violence, and it needs detail study. I think, for making a policy or a stringent law and other measures, huge information is must to know the impact of the present situation and then to decide for the future basing on the empirical studies. For all these, information in micro level is very much important.

In BRAC-/CDDR-B Joint Project, BRAC has been successfully drawn an inference that the women in micro-credit development project have been able to reduce domestic violence on them by their inmates. This is a purpose-oriented study addressing a special group.

In another study done by Abbas Bhuiyan, Tamanna Sharmin and S.M.A. Hanifi and supported by ICCDDR-B, on 'Nature of Domestic Violence' has concluded by pointing finger to intervention based on creating fear. The fantasy is this, who, how, on whom, this fear will have to be created nothing has been spelled out here.

As discussed above, few studies have indicated the importance of justice system in the country to curve the domestic violence. Other than these there have not been any systematic studies addressing the issue as to how things should proceed where to give importance first, i.e. prioritization in taking steps, what are the loopholes of the present measures. In macro level, rather theoretically the issues have been discussed and depicted more analytically. But it is not known, what has to be done and where that is possible to

achieve. The key role player must be government and the government program shall be assisted advised and supported by all other organizations, institutions and interested groups and stakeholders. Government takes up different program, make law to curb violence after that it is not known why the program fail.

Sufficient information are not available to understand that what are the necessary possible changes are to be made to get the effectiveness of the law. The reason is that there have been no such empirical studies and non-availability of primary data or evidence. Today we have come to a juncture where many of us feel that the women should be protected from violence, state should reduce recidivism against women, and there shall be women empowerment to have equal opportunity and equal right as the constitution demands. This study thus aims to contribute to the government and other authorities to have a picture in micro-level information related to the stringent law.

3 Methodologies;

3.1 Description of the Method

To measure or quantify the effectiveness of the law is really a difficult task, as it includes a number of stakeholders of multidimensional social position and personalities. In an event of violence, there involves not only the accessed/perpetrators and victims but it extends to family members, neighbors, relatives. Then the matter is taken up by the concerned village/town dwellers, peoples representatives, NGO workers, media, police hospital and Court. When a formal case starts, it involves ~~right from downward to upward,~~ the middleman, (sometimes they are called Dalals, ^{or} the commission agent of illegal nature), Muhuri or Lawyer's assistant, Lawyer, fourth-class employees, Peshkar (who maintains the case record and document), legal aid agencies (in case of financial support to the victim or complainant) public prosecutor, witnesses, experts and judges. ^{Besides the} These sections of people ^{if not} are directly involved and ~~besides these~~ there are other groups/individuals who are also indirectly involved with the case. There are some unseen parties acting behind the game, particularly these types of people actually act in favour of the accused. In fact, this is grey area; one cannot easily address this opaque area. For often the power behind the screen remains out of reach of the complainant/victim and procedural/formal authorities. The second and critical obstacle is to collect information

from courts, Govt. offices/ Ministry and Organizations not only because of the absence of 'right to information act' or the inaccessibility due to official secrecy act but the reality is during survey, it has been found that the records of the important information are not being maintained properly and chronologically in the office and courts. There is huge lack of information and discontinuity of the related information in the records. This is another area to be addressed. One can do dissertation on this aspect.

The third impediments were the perception, attitude and mentality of the person involved in violence case. Especially the parties (complainant and accused) at very onset, suspect, about the interviewer. To make them understand that this discourse is not harmful and it will never go against their interest if they participate in the interview, ^{which} is 'hard nut to crack'. The police officers, the public prosecutors and the judges are very busy with their day-to-day work and maintain a distant proximity with any person who has no official business with them. ^{If the} May be, the matter is sensitive and of personal nature ^{that is why} it is ^{hard to collect} the accurate information is hard to collect. In the survey it was found that more than 30% of the interviewee (complainant/victim) did not want to participate in interview and many members belong to government also showed reluctance to response ^{to} the interview.

In a qualitative research, interviewing is the most increasingly recognized tool to illustrate the effectiveness of the system. As there are a number of different types of personalities involved in the matter, therefore structured and semi-structured interview, a combined approach can reveal much about the perceptions, choices and facts. When the perspective of the law and its application are in consideration and in-depth discussion, it helps exploring the insights of the matter. To quantify effectiveness of the law, it is necessary to compare the offences of a particular type with other related information regarding crime and judicial, quasi-judicial activities and informal mediation activities and other actors. Data regarding crimes, judicial, quasi-judicial and non-formal mediation activities were necessary ^{to develop} Both qualitative and quantitative framework ^{of the study.} has been used. The argument is that such a study is important and necessary to contribute to decision-making process and for the improvement of the effectiveness of the act.

3.2. Study Design;

This study is a combination of quantitative as well as qualitative research. I selected Kushtia district (Sadar Upazilla) for field survey. Why did I select Kushtia district, the reason have been given in ^{Section 3.7.} the next paragraph. Interview and data collection were carried out in two phases. Phase-I involved conducting interviews of the victims or complainants of the disposed of cases filed under “Nari-O-Shishu Nirzaton Damon Ain”. ^{interviews were conducted.} In the form of structured and semi-structured approach. During survey I felt that the victims were hesitating to share their experience of torture with me, may be, because of opposite gender and also of my Islamic outlook (gesture and posture). So, I engaged a lady doctor from the same locality for the purpose of interviewing the ^{female} victims (women) and women complainants. I thought of this strategic approach that when the victims will come across with a lady doctor they will feel free in sharing their bitter experience of the violence happened over them. The result was excellent. ^{gather} To know the present experience/knowledge I have also examined some complainants, whose cases are still in trial position. In most of the cases I took a local person with me who introduced me with the interviewee, so that unfamiliarity gap is reduced, that actually helped me greatly, and otherwise data collection could not have been possible because the whole gamut is sensitive. It was interesting to note that in the old cases where the matter was concluded a few years back, the complainants or victims in many occasions delivered the actual fact vis-à-vis the case contents. Why ~~they~~ ^{they} did they take a partially manipulated fact in the time of filing complaints or FIR (First Information report) to the local P.S. (Police Station), they voluntarily disclosed the intention behind doing so. And in some cases the complainant or the victim did not do so. In both the cases, I verified the matter with the local people who actually knew the fact what actually happened. Particularly these persons were the neighbours of the victim/complainant or he/she was involved in primary mediation process. It was indeed very important to actually address the underpinning the sprit of the act. The data collection/case studies ran through the months of July and August, 2006

In the structured and semi-structured interviewing process covered the following aspects.

(Appendix-A)

3.3. Individual in-depth Interview:

In an attempt to take in-depth individual interviews,
After that, I talked to NGO workers who are directly involved in dealing with matters of violence against women both of civil and criminal nature. *I also discussed with* News editors/reporters, police officers, pleaders and public prosecutors, chairman/member of Union Parishad and Municipality, local elites and judges, with whom I discussed sometimes in an informal way and sometimes using semi-structured questionnaire approach.

The following aspects were covered in the discussion and semi-structured *interviews.* approaches.

* (Appendix-B, Appendix-C and Appendix-D)

I took the addresses and other particulars of victims, complainants and accused from the case diary of the court (The tribunal for the trial of cases under “Nari-O-Shishu Damon Ain”) to conduct interviews. I contacted the MUKTI, PALOK and BLAST (Kst) the non-government organization involved in delivering legal assistance and doing arbitration to deserving women in Kushtia district. Data were coded and analyzed.

3.4 Case Study:

The case provides deeper understanding of the causes related to long pendency of the trial, what roles are played by the learned public prosecutor, pleader of defense, witnesses and prosecutor. The study tries to collect the *facts* factual given by the victim/complainants and the experience of other agents involved in this field with corresponding to that of realities. *It attempts* and also to see whether things have been reflected in case records in accordance with the law.

Case study
~~This~~ is highly sensitive and confidential in nature. In the prevailing practice and procedure of the legal system, no authority is supposed to analyze matter in this way unless he is appellate authority to the court under review; I mean higher court is supposed to inspect court below. This is a kind of examination of the record and activities unlike other case study. For avoiding dispute and risks, anonymity has been maintained. The case studies cover the following issues:

- * Role of the agents involved.
- * Nature *of the* and disposals.
- * Nature and attitude of the victims/complainants and perpetrators.
- * Effectiveness of the system.

* Goodness and badness of the law.

3.5: Data limitation:

A violence case is broad phenomenon entangling various types of agents of different characteristics and role. The intensity is spread over the social structure associated with centrifugal tendency. A psycho-sociological attitude of victim and complainants played hindrances in survey process. A large number of victims and complainants did not want to participate in interview and categorically they refused me from ^{providing} collecting data. Secondly, as I selected to survey only disposed of cases and a few from 'on-going' cases, ^h Random sampling was not effective, therefore, I had to adopt the method of detecting interviews known as the "snowball sampling" method, widely used in social science approach. I approached ^{to} as many as 35 victims/complainants among which 25 responded positively. My sample size was confined to that number of cases. Again there was possibility of under-reporting and manipulating information by interviewee, ~~so to neutralize that and to get correct information~~, I met other related members of that locality to ^{and} have cross checking of the fact, given by the victims/complainants.

Regarding the views of news editors, public prosecutor, pleaders, police officers, NGO workers and judges about the constraints and application of the law are more or less same.

During my personal experience in doing magistracy for about 8 years in different capacity (Magistrate of 3rd, 2nd & 1st class and Additional District Magistrate) the ideas I earned, that recognizes the views told by those members (Govt. and Non-Govt.) ^{are} ~~are~~ acceptable. Despite this limitation the data do permit analysis of the effectiveness of application of the act.

3.6. Demographic, Cultural and Social Data:

Comparison of Kushtia District with other parts of Bangladesh.

In this study, I appraise the effectiveness of a stringent law - "Nari-O-Shishu Nirzaton Daman Ain, 2000 in terms of its ^{and} utility benefit to complainant/Victim, ^{its} Contribution to reduce recidivism, ^{The study investigates} whether the ultimate result ^{of the current law} is worse than its utility and how it works through the prevailing system.

I have randomly selected eight districts from different parts of Bangladesh. These eight districts are Thakurgaon of Northern part, Natore of North-West part, Satkhira of South-West part, Barguna of Southern part, Jamalpur of North-West part, Moulvibazar of Eastern part, Brahmanbaria of North-east part and Kushtia district of Western part of Bangladesh. Data from all the districts of Bangladesh would have increased the volume of works. All the data have been collected from the publication of Bangladesh Bureau of Statistics in 2006 and Police Head quarter Bangladesh in 2003

Table 1.1 Demographic data of 8 districts (randomly selected)

District wise household and population size, 2001 (Enumeration)

Sl. No.	Name of district	Households (.000)	Population			Size of H/H	Sex Ratio M/F
			Male (.000)	Female (.000)	Total (.000)		
1	Thakurgaon	256	626	588	1214	4.7	106
2	Natore	337	777	740	1517	4.5	105
3	Satkhira	390	936	909	1845	4.7	103
4	Barguna	180	435	410	845	4.7	106
5	Jamalpur	481	1078	1028	2106	4.4	105
6	Moulvibazar	292	818	791	1609	5.5	103
7	Brahmanbaria	424	1194	1184	2378	5.6	101
8	Kushtia	375	895	842	1737	4.6	106

Source: BBS, 2006

Table 1.2 Cultural Data:

Literacy rate of population of 7 years and above age (unadjusted) in Census, 2001

Sl. No.	Name of District	Literacy Rate		
		Male	Female	Total
1	Thakurgaon	47.2	35.0	42.2
2	Natore	44.7	36.0	40.9
3	Satkhira	51.2	38.0	45.0
4	Barguna	55.9	51.1	53.6
5	Jamalpur	35.0	27.0	31.0
6	Moulavibazar	44.7	37.8	41.6
7	Brahmanbaria	40.0	33.3	36.6
8	Kushtia	43.0	36.7	39.9

Source: BBS, 2006

Table 1.3 Social Data:
Statistics of cases relating to cruelty to women.
Period: January, 2003 to December, 2003

Sl. No.	Name of District	Violence due to dowry	Acid Throwing	Abduction	Rape	Rape with murder	Violence of other form
1	Thakurgaon	87	3	47	66	1	287
2	Natore	164	7	73	77	0	192
3	Satkhira	22	2	40	45	0	154
4	Barguna	24	0	7	15	0	24
5	Jamalpur	127	5	0	147	0	255
6	Moulavibazar	27	0	28	41	1	33
7	Brahmanbaria	67	4	26	39	0	94
8	Kushtia	27	1	19	33	0	39

Source: Police Headquarter Bangladesh.

3.7: Selection of Study Area:

I have selected Kushtia district for my study because of many reasons. ^{Firstly,} the special tribunal (An special court created by the government of Bangladesh in all the districts except hill districts only to try cases lodged under the Act) has been working smoothly since inception of the Act of 1995. There are a number of NGOs, Women organizations and BLAST (Bangladesh Legal Aid and Service trust) are working in this area to redress victim of violence. ^{Secondly,} On the other hand, this district exhibits matching demographic, social and cultural characteristics with other districts of Bangladesh. ^{As a homogenous country,} Bangladesh is a small and ^{solidly with} of almost uniethenic and unicultural country having a slightest variation in southern and eastern part. ^{Where of the fact that} Because a few number of aboriginal ^{groups} castes live in these area. ^{relatively matter} occupying small area of the country. In terms of the population size and cultural uniformity of the rest part of Bangladesh, ^{the selection of Kushtia district} it does not hamper the survey objectives. [With respect to their (aboriginal) cultural activities and values the government introduced a separate set of rules and regulation in conformity with their life style. Obviously a separate/special study may be done to appraise their position.]

Now, from the above inserted data (demographic cultural and social) in tables No. 1.1, 1.2 and 1.3 if we simply make averages of the variables, we may have representative figures, that will help in selecting the study area.

From table 1.1 Calculating demographic variables we get, house-hold average is 341

, Population average is 1,656, size of the household average is 4.8 and average sex ratio is 104. Compared to these, Kushtia district has 375 Nos. of household, total population is 1,737, size of household is 4.6 and sex ratio is 106, which is more or less closer to the mean value of the demographic population size of these districts.

Secondly, from table 1.2, we get respectively the average literacy rate of the eight district is 36.32 and the average female literacy rate is 37.63. Compared to these, Kushtia district literacy rate is 39.9 and female literacy rate is 36.7, which ^{has} ~~is~~ approximately resemblance with mean figures.

Thirdly, table 1.3 shows the Nos. of criminal cases relating to violence against women, ^{in 2003.} The table contains violence due to dowry, acid throwing, ~~Abduction~~, Rape, Rape with murder and violence of other form etc. ^{within one year} of the year 2003. Here we see the Nos. of the incidences varies ^{from} district to district. There is no co-relation between the numbers of crimes. However, the table indicates the districts having tendency to high rate of incidences and low rate of incidences. Kushtia is comparatively less prone violence ^{district,} ~~cases~~, but it cannot be taken as guaranteed because this figure may increase in any year.

The above picture gives a comparative position in respect of demographic, cultural and social perspective. Average demographic and cultural data have more or less identicalities or close proximity with mean value to those of Kushtia districts. However, in terms of number of crimes recorded in 2003 ^{there is} ~~has~~ no acceptable correlation among them, ^{rather} it depends on the situational impact. For no specific reason the number of crime may vary ^{from} year to year. I have examined even monthly crime figures of Kushtia district and other districts. The changes in figure take place throughout the ~~12~~ months of the year and found no acceptable reason is ~~available~~ in terms of number of the criminal incidences happen neither inter-district nor intra-district relation. ^{level.} Despite ^{the fact,} ~~this, the aspect to be taken~~ into consideration is that, there is however a remarkable trend in the intensity of the occurrence of criminal offence i.e. districts having high propensity of criminal incidence, medium and low level of crime occurrence. In this perspective Kushtia falls within the range of medium category district.

From the above primary analysis it can easily be said that in respect of demographic, cultural and social aspects Kushtia possess more or less the representative characteristic in the country.

4. Presentation and Analysis of Data

4.1 Violence against Women: Bangladesh Context;

Violence against women is a very common scenario in Bangladesh. This takes place irrespective of age, religion, ethnic and socio-economic groups. The occurrences of physical and psychological violence against women including murder, gang rape, sexual assault, sexual harassment, acid attacks, trafficking, kidnapping and abduction have led women to seek redress from the legal system (ASK, 2000:1 in violence against women : Bangladesh Context by Alam Syed Samsul). Killing of wife by husband accounts for 50% of all murders in Bangladesh (Rao & Lathe 1998:276). Bangladesh is the second worst country in the world in respect of violence against women (Mitra, 2000). It is reported that 47% women are abused by their male partners, 60% wives of urban areas are battered by their husbands. In (1997-2000), 48% of adolescent girls are compelled to get forced marriage without their consent. In 2000, 81 women were killed in the notorious dowry murders and 85% adolescent girls of 10-15 years of age married and become mother in each year (Rahman, 2002).

Actually the incidents of murder take place much greater than the aforesaid statistics. Particularly in most of the violence against women caused by their spouses and close relatives are not reported and even the women do not like to punish their torturing husbands. On the other hand, due to poverty and socially backwardness many incidents do not come to the light. No such empirical studies have been made to actually highlight the phenomenon.

During survey it was found that the maximum number of cases filed under “Nari-O-Shisha Nirzatan Daman Ain” were an event of kidnapping of victims and forced marriage following love affairs, and teen aged love have been increased much in early 90's compared to that of previous time. The discrimination and disparity against women has been existed from time immemorial. Besides this in early 90s due to the bloom of satellite channels the cultural values demolished by the globalization effect. The love

affairs particularly in teen aged boys and girls rose tremendously. As a result, kidnapping for refusal of love, acid throwing for non-acceptance of love, lifting (abduction) girl from parent's house, forced consent in love, love of multi-dimension, love in unequal parties, familial conflict due to love etc. started taking place, and consequently violence against women added with new dimension and increased frequency.

One of the remarkable phenomenon of the nineties is the increased participation of the female workers in Ready Made Garments Industries, Construction services, Micro-credit income generating program, Informal-sector, Non-firm activities in the work place and outside the work place directly and indirectly ^{contributed} violence against women ^{and it} had actually escalated.

Table: 2.1: VIOLENCE AGAINST WOMEN:
BANGLADESH CONTEXT
From 2002 to 2005-08-06

Sl. No	TYPE OF VIOLENCE	2002	2003	2004 up to March	2005	Remark
1	DUE TO DOWRY	3,927	4425	1392	3,130	
2	CORROSIVE SUBSTANCE	173	135	164	177	
3	KIDNAPPING	1662	1833	636	2,069	Data up to March Of 2004 was collected, rest month's data could not have been possible to collect. To assume the yearly figure for 2004 the displayed data have been shown increased by 4 times.
4	RAPE	2558	2898	1028	2797	
5	RAPE WITH MURDER	21	20	8	22	
6	TRAFFICKING	75	92	8	138	
7	WOMEN MURDER	223	84	28	84	
8	VIOLENCE OF OTHER TYPE	3051	3120	948	2,998	
TOTAL		11,690	12,607	4212	11,415	

Source : Ministry of Women, Children Affair 2006

4.2: Analysis of laws relating to violence against women:

In a statement to the Forth World Conference on Women in Beijing in September 1995, the United Nation Secretary General, Boutros Boutros Ghali, said that violence against women is a ^{growing} universal problem that must be universally condemned. But he said that problem continues to grow.

In the platform for Action, the core document of the Beijing Conference, Governments declared, "Violence against Women constitutes a violation of basic human rights and is

an obstacle to the objectives of equality, development and peace." ^{The document} ~~In the platform of~~
^{identified} action adopted at Beijing Conference, violence against women and the human rights of
^{as the two} women are 2 of the 12 ^{that are core issues} critical areas of concern identified as the main obstacle to the
advancement of women. ^{Attending Head of the} Government agreed to adopt and implement national legislation
to end violence against women and to work actively to ratify all international agreements
that relate to violence against women. They agreed that there should be shelters, legal aid
and other services for girls and women at risk, and counseling and rehabilitation for
oppressed.

① The declaration provides a definition on gender-based abuse, ^{as defines} calling it "any act of
~~gender-based violence~~ ^{as any act} that results in, or is likely to result in, physical, sexual or
psychological harm or suffering to women, including threats of such acts. ^{as gender violence} Coercion or
arbitrary deprivation of liberty, whether occurring in public or in private life, ^{also termed appear}
Kinds of violence against women in national and international perspective ^{as part of it.} can be
categorized in ~~the following ways:~~ ^{by the UN Dept. of Pub. Information as follows:}

- (1) Domestic violence (is leading cause of violence.)
- (2) Traditional practices.
- (3) Female genital mutilation.
- (4) Son preference.
- (5) Dowry-related violence and early marriage.
- (6) Violence in the community rape.
- (7) Sexual assault within marriage.
- (8) Sexual harassment.
- (9) Prostitution and trafficking.
- (10) Violence against ~~women~~ ^{female} migrant workers.
- (11) Pornography.
- (12) Custodial violence against women.
- (13) Violence against women in situations of armed conflict.
- (14) Dating violence (social relationship of a domestic nature).
- (15) Violence against Refugee and Displaced Women.

(Collected from reports published by the United Nation Department of public
Information DPI/1772/HR-February, 1996)

The scale and social dimensions of crimes against women in Bangladesh is

- (1) Battering of women mostly dowry related.
- (2) Murder.
- (3) Acid throwing.
- (4) Abduction.
- (5) Rape, and
- (6) Forced prostitution etc.

* Under Article 27, 28(1) & 28(4)
The constitution of Bangladesh guarantees gender equity in the public sphere [Article 27, 28(1)] and upholds the policy of affirmative action or as a means of addressing the effects of discrimination [Article 28(4)]. Bangladesh government ratifies all international agreement to internalize the decision into Municipal Law. Particularly the platform for Action in Beijing Conference says all kind of violence against women has to be stopped. Bangladesh as participating member and as signatories agreed and declared to implement all decision to stop violence.

Violence relating to dowry has been a big social disease. To check and prevent this disease the government of Bangladesh has had already ^{in BD} ~~a tough~~ ^{adopted} action "the Dowry Prohibition Act, 1980." ^{Despite the presence of the act,} The demand for dowry and pressure for further dowry plays key role of marital violence. ^{in BD.} In a survey made by M. A. Mannan (2003) shows that violence for dowry is 68.7% in Kushtia district. This is penal act, mandates penalty for giving or taking dowry, for demanding dowry to the extent of five years imprisonment not less than one year with fine of any amount.

In 1983, the government of Bangladesh felt to stop the increasing tendency of cruelty to women by introducing a deterrent punishment law. It was named as the "Cruelty to women (Deterrent punishment) Ordinance 1983." ^{in an attempt to further} After a few years, to strengthen it, ^{the Govt.} there brought few amendments in that Ordinance in 1988. ^{law,} There are also articles in the Penal Code (1860) relating to rape. The cruelty to women ordinance outlaws the kidnapping and abduction of women and acid throwing attack on women, but mandates death penalty or life imprisonment for causing death of a rape victim. The same provision applies to a husband and any member of his family under the Dowry Prohibition Act, for

the murder or attempted to murder of women for dowry. Section 376 of the penal code mandates two years imprisonment only, a fine or both for the rape of women by her husband and seven years, a fine or both in case of perpetrated by others. The offences punishable under this ordinance were included in schedule offences as detailed in the Special power Act of 1974. For that reason all offences under this ordinance would be tried by Special Tribunal. ^{permits the adoption of the laws for punishable offences} Still the trend of violence against women was rising and especially ^{violence} against adolescent and minor girls took place frequently. Murder after gang rape cases used to be common news in the dailies. The perpetrators like beast of perverted characteristic created another type of shameful offence. They started throwing acid on the face of the girl/women who did not agree to their ill proposal.

The previous ordinance was repealed and instead of that the government enacted another special law named as "The Nari-O-Shishu Nirzaton (Special provision) Ain, 1995" ^{that} incorporating offences related to acid throwing. It continued operating till 2000. This ^{law is} really a very much stringent in nature, ^{and} however it had an impact over the perpetrators. The rising trend of the occurrence was halted. ^{Nevertheless,} it could not quantify about how much was the dimension of achievement as no such survey was done to measure. But it was noticed from the ^{actual dailies that there was} less number of reporting violence ^{in the dailies}. Actually the act of 1995 was a tough law with stringent punishment. The highest punishment was death penalty and minimum was five years imprisonment. The area of capital punishment was for rape, hurt by corrosive substance, trafficking of women and children, dowry violence, murder related to dowry and kidnapping/abduction. Abettor will have equal punishment. Opportunity of having bail for the accused ^{person whose} named in F.I.R./Complaint was very ^{difficult} constraint, ^{layman} Before 90 days or till submission of the C.S. (charge sheet/Police report under section 173 Cr.P.C 1898) there was no scope of hearing for bail matters. The same liabilities were applicable to the co-accused or whose names were entangled in complaint on doubt only. In case of teen aged love affairs capital punishment and minimum punishment was not justified rather was inhuman. Because in teen aged love, the intention behind taking away the victim is with a view to marry her, but in the trial if it is proved that at the time of taking away, the victim/girl in love with the accused ^{lover} is under 16, the accused has to endure the serious punishment. For often it was found that the parents and other relatives of ^{victim} husband/accused were entangled with mal intention to

put them in jail out of hatred or illegal gain. The act was seriously misapplied by victim/complainant as a deadly weapon against social enemy/rival. Particularly the judges of the tribunal found some difficulties in perfectly implementing the provision and also the accused were finding some loopholes of the law and were taking benefits. So, considering all aspects good and bad, the government introduced an effective and compatible in terms of human rights and as well as it can redress victim's loss or her family partially, it has construed beneficial legislation as it is to some extent egalitarian measures in incorporated on behalf of the state. ?

Now let us discuss its pros and cons as it is a special law, so it is governed by the principle, known as '*Generalia specialibus non-derogant*' which means 'general words do not derogate from the special: In case of conflict between general statute and special statute, the special will prevail. If any legal remedy is available under both general law and special law, the remedy prescribed in the special law must be sought in exclusion of the one available in under the general law [44 DLR (AD) (1992) 206]

The remarkable feature is capital punishments and major punishments have been incorporated here. Offences or crimes against women and children included here are -

- (1) The cause of death or attempt to cause of death by combustible erosive or poisonous substance.
- (2) Women trafficking.
- (3) Children trafficking.
- (4) Kidnapping and abduction.
- (5) Punishment for ransom.
- (6) Rape and death caused by rape.
- (7) Causing death for dowry
- (8) Provoking suicide of women
- (9) Sexual harassment.
- (10) Maiming or Mutilation of the children for begging.

Where there is cited major punishment there is a citation of minimum punishment also. Therefore the judge's hands are tied in case of showing lenience to accused. The minimum punishments are 3 years, or 5 years, or 10 years as the case may be. This is one

of the principal causes why the accused are bend down to make a compromise with complainant/victim. Egalitarian or beneficial legislation aspect is huge amount of fine has been incorporated with imprisonment in the punishment of accused and victim will get the realized fine. Time limit for investigation and time limit for trial both have been incorporated for quick disposal but this provision are being violated by govt. agents. We will see in data analysis.

New provisions for In-absentia trial, presence of witness, deposition of chemical examiner, blood examiner, and procedure for trial and the scope of bail hearing on human right point of view have been incorporated to make the law more effective in terms of operation. In terms of procedure for trial the course has been expedited in this way that the trial shall continue on every working day consecutively and complete within 180 days from the date of receipt of the case record. The important aspect is taking cognizance of allegation. It is profusely said that to lodge an F.I.R in P.S. (Police Station), an appellant has to fulfill undue demand. If petitioner fails to lodge an F.I.R in P.S. the door is open for him/her to lodge a complaint before the tribunal after making an affidavit that he/she has failed to make any police officer or any authorized officer to take the petition. This is a milestone innovated to make easy access to justice.

In terms of accountability the provisions strictly emphasize on completion of trial in due time. The public prosecutor and Police officer shall have to submit a report stating why within the specified period, investigation has not been completed. The Judges, Police Officer and public prosecutors all have to report to the Supreme Court and the government regarding non-performance of mandates in the law. There has been special provision for expediting medical test and reporting to the tribunal and failure of which shall be dealt with seriously. The beneficial aspect of the law is regarding to keeping victim women or children in safe custody. If tribunal thinks fit these persons (victim/children) may be sent to a place under the authority of the government outside the prison. The law has been made more beneficial and suitable empowering women's right to the judicial process by making some amendments in 2003. For example, in the matter of keeping any victim women or children in safe custody the consent of the women or child will be considered. Medical test of victim has to complete immediately and a copy of medical test report has to be handed over to victim.

4.3 Data analysis:

Table 3.1 Economic status of victim/complainant.

Chosen System	Economic status of the victim/complainant			
	Extreme Poverty	Marginal Poverty	Lower/Middle class	Middle and Upper class
Legal				
Shalish	6	4	11	4
Total percentage	25%	17%	42%	17%

Table 3.1: Presents the economic status of victim/complainants. I actually wanted to see, whether there is any relation of major violence with economic status of victim in terms of capability to prevent that occurrence. There are of course, different economic definitions of poverty. Here I have used only the measurement of per capita income. Those who earn one dollar or less a day they are categorized as extreme poverty. Two dollar a day fall in the group of marginal poverty, lower middle class means, whose income is just above the poverty line and middle class and upper class families have means to survive moderately and or in a more befitting way and who can provide surplus income. In the study, it is observed that 25% of the cases victim/complainants belong to extreme poverty class, 42% belong to lower middle class and 17% to marginally poor and 17% to middle and upper middle class. As per demographic statistics, nearly 50% of the total population belongs to extreme poverty and marginally poor class. In this ratio, proportionately 50% of the cases should have been confined to the extreme and marginal group, but the survey says 42% of the major violence took place in these two groups, where as 42% of the major violence cases took place in lower middle class. However, this is not very inconsistent with economic status of the total population of the country. I think, there might be realistic reasons, why is lower middle-class attacked disproportionately. The extreme poor and marginal poor, may be, do not have time and money to have access to formal justice because if any day, they do not go for daily work, they may have to go without food, may be that is the reason that refrains from going to formal justice system. On the other hand, lower middle class and middle class are more or less educated, culturally active and aware of the advantages and disadvantages of the system, may be that could be the reason, why they seek redress from formal legal system. The higher class of course does not like the legal binding, they find different alternatives.

Types of crime take place as major violence.

This is very important to know what types of crime take place comparatively more than other types of violence as described in the Act.

Table 3.2 Types of violence/crime:

Chosen system	Murder for Dowry	Simple/ Grievous hurt for dowry	Provoking Suicide	Rape	Rape with Murder	Sexual Harassment	Ransom	Trafficking	Abduction/ kidnapping
1	2	3	4	5	6	7	8	9	10
TRIBUNAL		4		6			12		13
SHALISH									
Total		4		6			2		13
Percentage		17%		25%			8%		50%

Acid corrosive substance	Rape of children	Maiming mutilation for begging
11	12	13

If we studied to identify the natures of all types of violence against women, then domestic violence would have the maximum number in context to our country. It is more than 80% percent but it varies from one area to another and 86.4% of this 80% is dowry related as worked by Ferdous Jahan in her study 2005. She also found out that 96.6% or in almost all of the cases there were dowry demand. Here in my study it dealt with only crimes of serious nature as far as the law is concerned. Table 3.2 shows that about 50% of the total cases were kidnapping or abduction of the victim, 25% the second highest figure was the crime of rape, 17% due to dowry related and 8% for Ransom. But, of course if the sample size of population (victim) could be increased, then trafficking, sexual harassment and rape with murder, provocation, suicide and acid throwing crime, this type of crime would be found in the table. However from this survey, we can engage our measures to check and try to reduce kidnapping and rape case, maximum numbers of the kidnapping cases were due to love affair and most of the pairs were teenaged boys and girls. The other alarming area is rape and rape with murder of women. With the increase of women work force in the development process, the women are now more remaining in their working place than any other time in the past. At the same time congenial atmosphere in working place for the women has not developed and due to poor rule of law and law and order situation are causes of increased number of rape case. The crime

of corrosive substance attack has been being dealt with in a separate tough law since 2002 (The prevention of Acid Crime 2002). I have also explored to know what reason for those types of crimes was. Table 3.3 shows that 42% of the kidnapping cases were due to teenaged love, 25% of the cases were due to only sexually harassment of the women. 17% was due to dowry related and 8% for actually love affair and 80% was for other reasons.

Table 3.3 Stated Reason for violence.

Chosen System	Stated Reasons for violence					
	Dowry	Love	Teen aged love	Sexual Mal-intention	Enmity	Others
Tribunal	4	2	11	6		2
Shalish						
Total	4	2	11	6		2
Percentage	17%	8%	42%	25%		8%

When I asked the victims and complainants about their perceived reasons for violence in most of the cases complainant replied teenaged love (42%) as the prime matter. The second most stated reason was the mal-intention to fulfill sexual hunger of the perpetrators, the perpetrators in most cases give false hope to marry, and the victims are entrapped in that cage. About 25% of the total observation was due to this hypocrisy. 17% victim identified the reason of violence was due to dowry related.

Table 3.4: When did the victim/complainant seek help of tribunal?

Chosen System	When did the victim/Complainant seek help of Tribunal		
	Just after occurrence	After Shalish	After other measures (NGO help)
Tribunal	8	17	
Total	8	17	
Percentage	33%	67%	

The primary objective of this study is to measure the effectiveness of the law “Nari-O-Shishu Nirzaton Daman Ain, 2000” one of the parameter to measure the effectiveness is to see how much is it compatible in terms of access for the litigant person who seek

help from the law. The most important finding is that most victims waited for the results of local Shalish just after onset of violence to seek formal court's help. The finding reflects the distinct social context of our country. It is the demand of the cognizable offence that the state shall take care of the matter on behalf of the victim. The retributive justice system implies that if any crime against an individual takes place it is deemed, as if the crime has been taken place against the state. The state takes measures to stop recidivism and redress the loss primarily through law enforcing agencies and other institution and organizations. Police takes the majority role to enforce laws of the country. But the reality is this that the victims do not find comfortable to go to police. Why people cannot depend on police that requires another dissertation to explore the causes down from historical background. In this study, I have seen that the most cases the victims/complainant sought help from local shalish. But local shalish - this system has not developed as an institution in our society, although it has been running from the civilization started. In India it is working well. Now a days NGO guided shalish in a very few area are working better. They are trying to introduce a kind of A.D.R. model mediation system. In many areas the existence of local shalish is absent and in most areas it is very weaker system. Still the study says that nearly 67% of the victims after the onset of offence went to local shalish and rest 33% went directly to the tribunal. However this 67% ultimately sought help from formal measures, after having got no satisfactory return from the informal mediation. If we analyze this data exclusively as to the question of measuring effectiveness, the matter stands as if 33% has been achieved. Actually only coming to the tribunal and lodging complaints do not give the whole meaning of effectiveness, rather, whether petitioner feels a sense of justification from the system. Whether the law addresses their grievances, whether criminals are punished, whether people have justice irrespective of she / he may be complainant or accused. One interesting thing, I explored that every petitioner was aware of the system i.e. the strictness of the law.

Table 3.5: Why did the victim/complainant choose the tribunal?**Reason for choosing Tribunal**

For the Punishment of accused	Local shalish Failed	Victim found shalish unjustified	Enemy was powerful than shalish	Absence of shalish system	Accused did not listen to shalish	Complainant/victim did not like shalish
	8	8	2			7
Percentage	33	33%	8%			26%

I asked the victims/complainants, why they chose this tribunal. 33% of the victims answered that the local shalish failed to mediate the problem, another group (33%) commented that what local shalish decided, it was not justified in the eye of them. 26% of the victims/ complainants perceived local shalish ineffective. I found some exceptional phenomenon that was the accused was so dangerous, It means member of the local Shalish Committee do not dare to put him in such a process. This is another area that the violent criminals should be treated with tough measures, for reason that the society cannot tackle these criminals. I think, those who (26%) have said that the local shalish is ineffective; they perceive this contention because of that reason. In fine, if it is analyzed on the whole, we get, this way or other shalish could not address any of the case. But it is because of the toughness of the law that accused have been compelled to make an arrangement to have compromise with the victim/complainant. This is another area of the achievement of introducing the stringent law to curve criminals.

Measuring victims/complainant's satisfaction :

In the previous question in respect of choosing the tribunal as resort of justice, most of them said that they were aware of the tribunal from different sources, they have also said that in the matter of serious type of violence (rape/murder/acid throwing) the local shalish can not address the problem, rather the tribunal ensures punishment of the accused and compensation to the victims. In terms of access to the tribunal, they did not face any hard obstacle except in only two cases where police demanded money from the complainants during investigation.

Regarding participation in the justice process, the victims said that they were able to speak during their legal proceeding.

Table 4.1 could victim speak detail before the Tribunal?

Chosen system	Could you speak in details before the Tribunal/shalish		
	Yes and % of yes	No and % of No	Don't know
Tribunal	100%		
Shalish			

Table 4.2 Importance of victims deposition by the tribunal/shalish :

Chosen System Tribunal/Shalish	Were you (victim) given importance			
	Yes	No	Don't know	% of victims felt importance
Tribunal	100%			
Local shalish				

To get information in terms of victim's participation in justice process, I asked to know, could the victim feel that she was given importance in the court, whether her complaints were heard with proper attention. Those whose cases reached at the stage of deposition of the witnesses, all of them said, yes. The way the judge and other court officers behaved was good, said maximum victims except two.

Table 4.3satisfaction of victim/complainant in the Justice process.

Chosen System Tribunal/Shalish	Are you (victim/Complainant) satisfied with the justice process?					
	Not satisfied	Somewhat satisfied	Satisfied	Very satisfied	Extremely satisfied	Don't know
Tribunal	8	11	4			2
Local shalish						
Total	8	11	4			2
Percentage	33%	42%	17%			8%

I asked victims/complainants to measure their satisfaction level in respect of their participation in the justice process. Justice process includes many things from filing, a complaint to get the verdict implemented. A victim has to go through many transactions and interactions that leave an aggregate feelings and experiences in her mind; in the same

process she perceives her position with the justice process. I used six point scales ranging from “not satisfied” “to “extremely satisfied” and the sixth point was “don’t know” position. 33% of the victim/complainants said that they were not satisfied with the total process of justice. 42% of the victims/complainants said that they were somewhat satisfied and only 17% of the total victims expressed their perceptions to be “satisfied”. None of them said “very satisfied” or “extremely satisfied.” A few did not express clearly, their position (8%) was in “don’t know” level.

Table 4.4 what was obtained from the court’s verdict?

Chosen system	What did Victim/Complainant obtain out of the court’s process Or from local shalish process?					
	Only Divorce	Reconciliation	Divorce & Compensation	Punishment only	Punish. Compensation	Compensation only
Tribunal	7	8		5		5
Percentage	27%	33%		20%		20%

The final question that I asked the victims/complainant to measure the outcome of the justice process. It actually aimed at, what the victim got out of the tribunal verdict. It is the ultimate return of the violence and other war activities after the occurrence. I don’t know how a victim can have complacency from the loss she suffered and the infliction she has to carry in her next life in exchange of punishing the perpetrators. The crude reality I found in the survey was, 33% of the victims/complainants reconciled the matter with the accused (may be she might have got some compensation from the accused), 27% of the cases ended in divorce, 20% of them received a partial satisfaction that was the imprisonment of the accused and 20% of them received only compensation. Reconciliation and only compensation, both returns are of more or less same nature. In these process the trial was not ended in the fullest hearings rather in the mid level of trial process, both the parties agreed between themselves to reconcile and come to a compromised position, as a result the court could not proceed with the spirit of the complaints, and as well as the spirit of punishing the criminals.

Measuring the effectiveness of the system:

So far we have discussed the aspects relating to the effectiveness of the act in terms of personal perspectives of the victims/complainants. In terms of the system, if we

have to measure the effectiveness it needs to see whether the system is in a position to deliver service to the customers (litigant persons) as the situation demands. The question of quantitative and qualitative service (rendering justice) comes. The government of Bangladesh has established in every district a separate tribunal with man power, with a view to address the crises -the violence against women and children. A Judge equivalent to the rank of District Judge has been made as the presiding officer of the tribunal.

Table 5.1 Rate of disposal compared to receipt (Monthly)

A monthly picture

Sl. No.	Month	Pending brought forward	Received	Total	Disposal	Percentage
1	Jan/2003	337	28	365	5	17%
2	Feb/03	360	12	372	-	0%
3	March/03	372	15	387	1	7%
4	April/03	386	4	390	-	0%
5	May/03	390	26	416	-	0%
6	June/03	416	11	427	-	0%
7	July/03	427	15	442	5	33%
8	August/03	437	33	470	9	27%
9	Sept/03	461	23	484	10	43%
10	Oct/03	474	25	499	2	8%
11	Nov/03	497	16	513	-	0%
12	Dec/03	513	2	515	1	50%
Total		513	210	515	33	16%

Source: Kushtia Special Tribunal, 2003

Table: 5.2 Rate of Disposal Compared to Receipt (Yearly)
(Form 2001 to 2005)

Sl. No	Year	Pending	Received	Disposal	Percentage	Remarks
1	2001	226	103	112	108%	April/01 not available
2	2002	240	156	60	38%	December/02 not available
3	2003	337	210	33	16%	
4	2004	514	182	140	76%	
5	2005	521	119	115	97%	Data up to Sept/05
Total		525	770	460	67%	

Source: Kushtia Special Tribunal, 2006

Here I have considered disposal includes those cases ended in full trial, compounded and otherwise disposed of. Table 5.1 shows the lowest disposal rate was only 16%. On the other hand, in year 2001, Table 5.2 shows that highest rate of disposal was 108%. However, the average of five years data (2001-2005) indicates an acceptable rate of disposal (67%). Still in the end of the year (2005) the figure of pending cases was $(521+119-15) = 525$. It means, a huge number of cases are remaining unattended or not being addressed properly.

In terms of time and cost required to attend before the court, it is observed that on average a complainant or victim has to at least appear before the court 5 times for her case. In fact, she/he has to come to the tribunal more than 5 days. We see the average rate of prosecution witness is 7. It is difficult to assume what much could be the cost to make witness appeared before the court and execute other expenses for at least 5 days. The provisions are there that all witnesses in G.R. (general register) cases will have traveling cost and the cost for lunch, but this is found mostly in paper not in practice. So what happens, the complainant has to bear these expenses actually silently (Table 5.3)

Table 5.3 Average Number of days required for hearing only and average No. of witnesses examined per case, 2001.

Sl. No.	Month	Disposed cases in full trial	No. of days required for hearing only	Average days required	No. of P.Ws examd.	No. of D.Ws examd.	Average witness per case	Remarks
1	Jan/01	4	22	6	33	-	8	
2	Feb/01	6	23	4	38	2	7	
3	Mar/01	2	7	4	9	-	4	
4	April/01	-	-	-	-	-	-	Not available
5	May/01	4	17	4	32	2	9	
6	June/01	4	15	4	31	-	8	
7	July/01	2	16	8	20	-	10	
8	Aug/01	6	29	5	27	-	8	
9	Sep/01	7	31	4	42	-	6	
10	Oct/01	7	28	4	39	-	6	
11	Nov/01	10	31	3	45	-	5	
12	Dec/01	-	-	-	-	-	-	No disposal
Total	10 Months	52	219	36	336	4	71	
%				5	-	-	7	

Source: Nari-O-Shishu Nirzaton Damon Ain Tribunal-Kushtia

I have collected data on the matter of disposal position both quantitative and qualitative aspects from the tribunal to measure the effectiveness of the law in terms of implementation. Table 5.4 and 5.5 show the monthly and yearly disposal rate in terms of both acquittal and conviction (in percentage).

Table: 5.4 monthly average rate of percentage of Acquittal & Conviction, 2001

Sl. No.	Month	No. of cases in full trial	No. of days required for hearing	No. of witness	Result		% of acquittal	% of conviction
					Acquittal	Conviction		
1	Jan/01	4	22	33	4	-	100%	-
2	Feb/01	6	23	40	6	-	100%	-
3	Mar/01	2	7	9	2	-	100%	-
4	Apri/01	-	-	-	-	-	-	-
5	May/01	4	17	40	3	1	75%	25%
6	June/0	4	15	31	3	1	75%	25%
7	July/01	2	16	20	2	-	100%	-
8	Augu/01	6	29	47	6	-	100%	-
9	Sep/01	7	31	42	6	1	86%	14%
10	Octo/01	7	28	39	6	1	86%	14%
11	Nove/01	10	31	45	10	-	100%	-
12	Dec/01	-	-	-	-	-	-	-
Total	10 month	52	219	340	48	4	-	-
Mean value						-	92%	8%

Source: Spl. Tribunal Kushtia.

Table: 5.5 Yearly disposal rate (%) from 2001 to 2003

Sl. No.	Year	Total No. of cases in full trial	Result		% of acquittal	% of conviction	Remarks
			Acquit tal	Conviction			
1	2001	52	48	4	92%	8%	April/01 not available
2	2002	47	39	8	83%	17%	Dec/01 not available
3	2003	21	19	2	90%	10%	Feb, April, May Jun, Oct, Nov, Dec- Nil disposal
Average		40	35	5	88%	12%	

Source: Spl. Tribunal Kushtia, 2006

Note: No. of cases with capital punishment is 6 out of 14 and % is 43.

From table 5.2 we have seen that out of five years (2001-2005) the highest number of disposal (108%) was made in year 2001. So, it is better to start analyzing from the better.

In 2001 in fact, in month of April 2001 and December 2001 there had not been any trial of cases. So average calculation was done on the basis of 10 month's outcome. One thing should be made clear that only disposal in full-length trial cases have been reviewed. There are more disposals of other type. Those are termed or 'otherwise disposal' - this sort of disposal have not been taken for analyzing the capacity of the court. In that year (2001) there was 52 numbers of full-length trial cases required 219 days for hearing, after examining 340 witnesses in total 52 cases, among which 48 were acquittal and only 4 were conviction. In terms of percentage 92% acquittal and only 8% convictions (Table 5.4). The conviction and acquittal rate has consistency with that of other criminal cases in our country. From Table 5.5. We can see the average disposal rate of 3 years (2001-2003) performance. In fact the information of 2004 and 2005 are not available. However, in the yearly average rate of conviction and acquittal is 12% and 88% respectively. Out of eagerness I have examined the registers to know how much and what percentage were there for capital punishment out of total conviction cases. In 3 years average figure, there was 14 conviction cases and only 6 out of 14 were for capital punishment (death by hanging or life term imprisonment), so the percentage of capital punishment was 43%. I have discussed earlier what is the reason of getting acquittal rate much higher than conviction. What maximum happens, once the complaint comes into cognizance of the tribunal, the accused face the pressure of being arrested, in that case he/she has to abscond himself/herself or go for quickly arranging compromise with the victim or complainant. It takes time, sometimes it goes up to the mid and stage of hearing of the case, however in this process maximum cases end during hearing. As a result there occurs huge acquittal instead of conviction. But here it has to be mentioned that these acquittals amount to a kind of punishment of the accused persons. This is goodness (effectiveness) and badness of the stringent law. The question is matter of degree of the goodness/badness. The matter is also debatable, but nevertheless, it has brought enough space of making freedom of the women. I think, to the present context, we should think about maximum benefit for maximum groups (See table 5.6).

Table 5.6 Nature of disposal of the cases in Tribunal

Compromise before deposition	Compromise after or mid time deposition of witness	Acquittal	Conviction	Otherwise
No. & %	No. & %	No. & %	No. & %	No. & %
8	2	11	2	2
33%	8%	43%	8%	8%

Now, we can observe whether any development/change has taken place in the quality of disposal (see table 5.7)

Table: 5.7 Status of conviction & acquittal percentage of cases in full trial, 2005.

Sl. No.	Month	No. of cases disposed in full trial	Result		Percentage	
			Acquittal	Conviction	Acquittal	Conviction
1	January/05	2	2	-	100%	-
2	Feb/05	4	3	1	75%	25%
3	Mar/05	6	6	-	100%	-
4	Apr/05	3	3	-	100%	-
5	May/05	2	2	-	100%	-
6	June/05	5	5	-	100%	-
7	July/05	3	3	-	100%	-
8	Augu/05	2	1	1	50%	50%
9	Sept/05	9	9	-	100%	-
10	Octo/05	3	2	1	50%	50%
11	Nov/05	-	5	-	100%	-
12	Dec/05	-	-	-	-	-
Total		44	41	3	89%	11%

Source: Judicial Munshikhana D.C's Office, Kushtia, 2006

The table shows total disposal of year in 44. Acquittal percentage is 89 compared to conviction is 11%, I think no remarkable change has taken place.

Measuring the balance of misuse of the tough law:

Table: 6.1 Measuring the Intensity of Nature of Application of the Stringent Law (2000)

Chosen system	Actual application	False application	Exaggerated application	Remarks (out of 30 cases)
Tribunal	3	3	6	Only twelve was found acceptable
Shalish	-	-	-	
Total	3	3	6	
Percentage	25	25	50	

This is the critical part of the survey, because nobody wants to say bad about oneself. To measure effectiveness of the law, I should also look into the depth of the application in terms of use versus misuse of the law, and also to see the background that underpins the balance of proper use and misuse of the law. To get into this, I obtained the names and addresses of the victims and accessed from the case register of the tribunal. Snowballing approach gave me some acceptable result not very good quantity of data. Selective method like the snowball approach may be subjective, which may lead to inappropriate selection bias in some cases. To avoid this I used different sources of collecting dependable information. For example, I engaged my wife who is a govt. doctor in Kushtia, working for several years and she was born and brought up there in Kushtia. She approached to the victims (women) and developed a kind of relationship. The victim felt himself or herself secured because here interviewer was not from police/administration. Many of the victims spoke the actual fact and whether they took shelter of doing exaggeration or misapplication etc.

The second source was, I verified the matter as told by the victim/complainant by taking up the matter with third persons who was not related with the case connection and who was neighbour of the victim or lived in close proximity of the P.O. (place of occurrence). I made several attempts to approach before the accused, but most of them did not cooperate me rather they misunderstood me to be a member of legal departments or my research activities were not comfortable to them. Some of the accused showed anger by saying "the matter is finished by the court, why have you come again; you can go to court, not to me." Finally I had to give up this approach to the accused, because the moment they hear something about the case, they react seriously. However, I got 12 cases to survey; these 12 cases were done and checked by other sources. I found 25% of the total allegation was false and 25% was perfect. The rest 50% was in gray area. I mean the victim/complainants have taken shelter of narrating something exaggerated in the complaints. The question is the degree of exaggeration. I think, the prevailing law and practice in common law system of our country will determine that portion. I think, making things exaggerated is our habit, may be a part of culture. The court officers, law enforcing agencies and the judges are also aware of this culture of emotionalism. So the

filtration process and checking parameters are there in Cr.P.C. (Criminal Procedure Code, 1898) and P.R.B. (Police Regulation of Bengal, 1860) as to procedure how to deal with the complaints.

There was another interesting area to know about what type of people/perpetrators were normally engaged in the violence/crimes (against women) as against what type of people/victim/complainants). See table 6.2

Table: 6.2 the comparative power position of victim/complainant and perpetrator.

Case (Anonymity)	Victim/complainant						Perpetrator/opposite					
	Financial		Social		Muscle		Financial		Social		Muscle	
	More	Less	More	Less	More	Less	More	Less	More	Less	More	Less
1	✓	-	-	✓	✓	-	-	✓	-	✓	✓	-
2	✓	-	✓	-	-	✓	✓	-	✓	-	✓	-
3	-	✓	-	✓	-	✓	✓	-	✓	-	✓	-
4	✓	-	-	✓	-	✓	-	✓	-	✓	✓	-
5	-	✓	-	✓	-	✓	-	✓	-	✓	✓	-
6	-	✓	-	✓	-	✓	-	✓	-	✓	✓	-
7	✓	-	✓	-	-	✓	✓	-	✓	-	✓	-
8	✓	-	✓	-	✓	-	✓	-	-	✓	✓	-
9	-	✓	-	✓	-	✓	✓	-	✓	-	-	✓
10	-	✓	-	✓	-	✓	-	✓	✓	-	-	✓
11	-	✓	-	✓	-	✓	✓	-	✓	-	✓	-
12	-	✓	-	✓	-	✓	✓	-	-	✓	✓	-
Total	5	7	3	9	2	10	7	5	6	6	10	2
Percentage	42% , 58%		25% 75%		17% ,83%		58%, 42%		50%, 50%		83% , 17%	

I analyzed the perpetrator's financial, social and muscle power position and compared also to that of victim's/complainant's position. What the chart influences most that is more than 83% of the accused group belong to 'muscle power' group. 'Muscle power', I used here for them who do power politics to get favour from political master and law enforcing agencies and for often belong to muscle/cadre group. 'Social power' indicates 'political position' in party, post in government service', 'Big business shot' etc. Financial power indicates monetary position, irrespective of black or white money. This is a very interesting area to do more study, which will help policy makers to know the actual analytical and societal position not the mere demographic data. In this study it was revealed that in terms of financial, social and muscle power position the perpetrators are on the above positions of the victims/complainants. The wise saying of Universal truth -

The mightier oppresses the weak” once again proved here. Now we can analyze why is a stringent law like N.O.S.N.D. Ain, 2000 necessary for this country and why the weaker class, it means, the victims/complainants (50%) have taken a shelter of narrating exaggeration in their complaints.

Procedural barriers to access and problems to get verdict from court how to eliminate them, what measures can address backlog? How misuse and false use can be stopped? How to raise participation women in terms of their distributive power?

All these research questions have not been discussed explicitly. Rest of the questions has been analytically discussed above. Besides asking victims/complainants I discussed with other important stakeholders also over the matter of the expressed issues in a very informal way with open-ended questionnaires. (The questionnaires are given in appendix b, c & d) Judges, Public Prosecutor, Pleader, N.G.O. workers, Police Officers, People’s Representatives, Elite personnel, News editor have suggested accurately with vision. Those are given in the form of recommendation after I have scrutinized and compared with the views came out from the survey.

4.4 Case Analysis of Kushtia District

Case-1:

Story:

Most. Jahera Khatun at about 14.00 on 18-05-2001 went to one Mr. Afsar’s house to receive due wage of her son who worked in that house. On the way back to home, when she reached up to ‘Bat-Tala’ suddenly accused Haider Ali (35) restrained her on the midway and forcefully took her to a jungle a bit away from the road. The accused held Jahera tightly by one hand and put another over her mouth. The blouse and Shari was torn, when the accused was trying to rape her, however she could manage to escape from the attack of the accused. Then she reported to husband, who went to Police Station to lodge a complaint but failed. Then they came back to Magistrate’s Court and lodged a complaint with the help of a lawyer.

Judicial process:

Police Station received the complaint from Cognizance Magistrate’s Court recorded as FIR on 01.08.2001. After investigation, submitted charge sheet (C.S.)

comprising Haider Ali as accused to the Cognizance Magistrate's Court and the tribunal received the case record (C.S. & other relevant documents) on 05.01.2002 from Magistrate Court, the accused was in jail. After that on 23.01.2002 the accused was enlarged on bail. From next date 05.03.2002 to 10.06.2002 consumed actually with no substantial action. On 11.06.2002 charge U/S 9(4) (B) was framed against and red out *real* before the accused, the accused pleaded not guilty. From next date 17.08.2002 to 06.10.2004 needed, only 5 witnesses were examined. Among these 5 witnesses 2 were made hostile (spoke against the prosecution) even the complainant was recalled long after her deposition. From date 09.11.2004 to 10.10.2005 expended for only examining the accused. Next date 16.11.2005 on date for judgment, the accused was declared acquittal.

Disposal Period:

1. 6 months and 17 days required for taking the allegation into cognizance including investigation.
2. 5 months and 6 days consumed only to frame charge against accused.
3. 2 years 3 months and 15 days required examining only 5 witnesses.
4. 1 year and 4 days required examining the accused U/S 342 Cr.P.C.
5. From day of occurrence to declaration of judgment, it took about four and a half year.

Case-II;

Story: Victim Shewli (16) was going to Arat (a place where she worked as a labourer as daily wage basis) on 09.12.2004 at about 14:15 hours. One Rahman called and told her that he had important talk with her. Rahman was talking and pretending as lover of her and walking along with the victim-Shewli. When they reached to a sugar cane field, suddenly two other accused Nazrul and Ratan came and these accused forcefully took her into the sugar cane field and they raped her consecutively. The victim disclosed the matter to her parent. Her father immediately went to P.S. and lodged complaint against those three accused on the same day at about 17.30 hours.

Judicial process: The tribunal received case record from Magistrate's Court on 31.01.2004, the accused were in jail. On 26.07.2004 formal charges against accused were

framed U/S 9(3) of the Act and read out before the accused. They pleaded not guilty. From 26.07.2004 to 06.07.2005 took for examination of 4 prosecution witnesses. On the next date 08.08.2005 examination of accused was done U/S 342 Cr.P.C. On the day the accused further pleaded not guilty. From 08.08.2005 to 27.02.2006 needed for argument hearing and judgment was declared on 14.03.2006 as acquittal.

Disposal Period: (1) Time required taking into cognizance; it needed 1 month and 22 days. (2) 5 months and 25 days required to frame formal charge against the accused. (3) 11 months and 10 days required to examine only 4 P.Ws. (4) 7 months and 11 days consumed to examine the accused and for argument. (5) Judgment declared on 14.03.06. So to complete to the trial, it needed 2 years 3 months and 5 days. (6) In this case, the complainant and the victim in their chief did not say anything against accused rather denied alleged complaint categorically, may be they did compromise.

Case-III

Story:

One Mr. Marfat father of No. 1 victim (girl) and maternal uncle of No.2 victim (girl) lodged an F.I.R complaining that accused (1) Barek and accused (2) Shahana collusively were taking away the victims after the victims had been allured when they were coming back from school on 20.08.01 at about 14:00 hours. The local people at first suspected the accused as they were stranger and they were going with two school going girls. Local people caught them hold and handed over to police. F.I.R was recorded on the same day at 17:00 hours.

Judicial Process:

C.S was submitted to the Cognizance Magistrate's court after investigation, on 21.12.01 the Magistrate sent the case record to the Judge of the tribunal u/s 6(1) of the Act. The allegation was taken into cognizance on 11.02.02. The accused were in jail. Formal charge was framed against the accused on 08.04.02, the accuseds pleaded not guilty. Only 9 P.Ws were examined by the court and closed taking deposition of P.Ws on 15.05.05. On 15.06.05 the accused were examined u/s 342 Cr.P.C, they again pleaded not guilty and wanted justice. Argument heard on 02.10.05. On the next date (23.10.05)

judgement was declared convicting both the accuseds for lifetime imprisonment as they were found guilty u/s 6(1) and 7 of the act.

Disposal Period: (1) In this case the accuseds were caught and handed over to police; the accused were from other district. Still to complete investigation police took 5 months and 21 days. (2) To frame formal charge, court took 1 month 27 days time. (3) To examine 9 P.Ws the court needed 3years 1 month and 7 days. (4) 1 month required examining the accused. (5) To declare judgment it consumed 4years 2 months and 3 days since the day of occurrence.

Case IV

Story:

One Rashida Khatun the complainant and the mother of victim girl Hosna Khatun (9) filed a complaint before the cognizance magistrate on 22.11.01 alleging against 3 accused who were originally hailed from the same village of the complainant, but lived in Dhaka that the accuseds took her young girl as house aid to their residence in Dhaka one year before but on 26.01.01 the accuseds sold her daughter to some where else.

Judicial Process:

Police recorded the complaint after having received the same from Magistrate's court on 08.02.02 as F.I.R, investigated the alligation and submitted Final report as mistake of fact on 27.08.02. The tribunal did not accept the police report u/s 173 Cr.P.C. But on hearing the complainant the allegation was taken into cognizance after 2 years on 04.08.04. These two years passed only to hear the complainant. The accuseds were absconding, so there had been paper publication to ensure the appearance of the absconding accused. The trial continued as *Trial in Absentia*. Formal charge was framed in absence of the accused u/s 6 and 6/30 of the Act on 06.07.05. At this moment all accused appeared and prayed for bail before the tribunal and was enlarged on bail. On 04.05.06 the complainant and 1 other witness were examined. The complainant admitted before the court in favour of the accuseds in this way that she did not know the actual fact when she alleged. So P.Ws were closed, the accused were examined on the same day, on 14.05.06. The accused were declared acquittal from the charges.

Disposal Period: (1) From the date of occurrence it needed 5 years 3 months and 18 days or (2) from the date of allegation it needed 4 years 6 months and 22 days to mature the case for judgment.

Analysis:

In this study, I have analysed 4 disposed of case records of the tribunal (case studies). For the secrecy of the documents, I have used anonymity, so that neither any authority nor any person might be affected or questionable. However, to measure the effectiveness of the application of the law, it is necessary to see the actual cases of procedural and institutional impediments that delay justice or bad output. This law has been made tough and stringent to give readily benefit and justice to victim and at the same time to impose deterrent punishment to perpetrator so that it deters and creates threat to other man of bad characteristics with a view to reduce recidivism.

Now let us see, the various aspects of a case.

In terms of time; case-I (2001), 6 months and 17 days were taken to investigate & to take into cognizance of the allegation, 5 months were taken to frame formal charges against accused, 2 years 3 months and 15 days required to examine only 5 witnesses, 1 year and 4 days required to examine the accused and finally 4.5 years consumed to make a judgment. Time limit for investigation starts from the date of F.I.R to submission of Police report u/s 173 Cr.P.C. The Act permits only $60+30=90$ days to complete investigation (section 18 of the act). Where as in this case it needed 5 months for investigation, which is 167% excess. As per case record no action was taken against I.O besides the act permits to take action in case of failure to submit police report by stipulated time. Time limit for trial starts from the day of framing charge to the day of declaration of judgment. The act says more limitedly that it will start from the day of receiving case records to the declaration of the judgment and this will be not more than 180 days. Where as in this case, it required, 3 years 10 months and 11 days, which was 775% above the admissibility. I think this abruptly violation against the law.

In case-II(2004), we find time required for investigation not in excess to stipulated time, but time for trial was 425% above the admissible time frame. In case-III(2001), investigation needed 285% above & trial needed 725% excessive. In case-IV (2002), investigation consumed 7 months in place of 1.5 month, which is 467% excessive and in

case of trial, it is 358% excessive the stipulated time. I have asked informally police officers, pleaders, peshkars and judges as to know why the things are not running accordingly or as per time limit. The foremost cause was identified as the volume of workload in comparison with manpower engaged for the assignment

Secondly, they said that the inadequacy of logistic supports, budget deficiency (expenditure does not meet the govt. admissible budget/allotment) and lack of training of the employees, judges, police officers even pleaders dealing with the matters.

I have scrutinized the case records; I have not found any good reasons as to why excessive time was allowed to parties (particularly prosecution), for example, 7 dates were allowed for hearing u/s 241 Cr.P.C (charge hearing), 23 dates allowed to examine P.Ws and astonishing was that 11 dates were allowed examine the accused (in one case). If trial has to be completed within 180 days, in that case judge shall maintain the provisions of the law as to the question allowing time/dates strictly. For each steps of trial, viz. 1 or 2 dates shall complete charge hearing, 4-6 dates for deposition of witnesses, only 1 date for examination of accused, 1 date for argument hearing, 1 date for judgment., otherwise the spirit of justice shall fail. *Just*

4.5 Reaction of the Victims/Complainants:

In this dissertation, I concentrated on measuring the effectiveness of the stringent law "the Nari-O-Shishu Nirzaton Damon Ain, 2000". Actually the dimensions of effectiveness depend on many aspects. One of main aspect is compatibilities of the stakeholders i.e. state, people, society, and the persons who are related directly and indirectly in exercising the law and mainly on the satisfaction/reaction of the litigant persons both complainants/victims and opposite parties. Here, I have specially focused on the reaction of victims and complainants. The law actually deals with only major issues of violence against women. In case of occurrence of violence of minor nature and of civil nature with the victim, the perception as well as reaction out of those sorts of event are dealt with in a different perspective. The victims and complainants seek rather non-formal and social system to redress the loss and in fact, in these spheres, victim desires non-confrontational remedies. But there are exceptional cases also, where the victims have comparatively better capabilities, they may not like the softer remedies. But when the violence is of serious nature, i.e. which falls within the purview of this law, the victim

or complainant has actually nothing to do except to find a retributive way of justice. Say, in case of rape, gang rape, rape with murder, murder, kidnapping, attack by corrosive substance, grievous hurt or murder due to dowry, whatever might be the case, the victim or the complainant has nothing left with except to immediately go to proper authority like hospital/clinic, Police or legal authority. In my study, I have observed one interesting matter, where the victims/complainants had not very genuine ground as per the provision of law they actually at the onset sought help of local shalish willingly or unwillingly, but those who had genuine grievance they directly went to legal authority without delay.

In fact, she/he should not wait for otherwise disposal at that time; the philosophy of the law also does not want this. There are also other phenomenon, for often, where major crimes take place, it is seen in the maximum cases that the perpetrators are more powerful than the victim and complainants, they maintain a link with muscle power or political power (see table 6.2), Therefore local shalish in many cases can not curve the perpetrators. On the other hand, it was found that while the victims or complainants those who are more powerful than opposite party financially socially or in muscle power they have misused the law (See Table 5.1). Therefore, the reactions what the victims or complainants have shared are mingle in nature. For example, in one of my surveyed cases, the actual cause behind the case was - the husband of the victim decided to divorce her due to some other reason, the parent of the victim tried to meet the gap between their daughter and son in law, but all attempts failed, then they decided to sue against the son in law under this act. Ultimately the husband was bound to come to a settlement with the parents of victim. The husband cum accused gave a handsome amount of compensation and then he could divorce his wife/victim and the case was then withdrawn from the court. The male was bound to do this, because he was a government servant, if he was arrested due to allegation lodged against him by his father-in-law, simply he would be placed under suspension and it would be matter of prestigious issue. Here the victim was may be ethically right but legally unjust. However, in the analysis of the data, I have seen that 25% of the cases are based on false story, and 50% of the cases are based on partly true and exaggerated facts. Only 25% cases are based on genuine in nature. Those who (victim/complainants) have magnified their cases, their reaction is, if they did not exaggerate the fact they would not get the allegation as cognizable under the provision of

the act, and they would not get immediate benefit from the accused. The statistics show that about 33% of the cases ended in compromise before deposition of the witness starts (Table 5.6) and 8% cases are ended in the same way when deposition starts. In the study, it was found that 25% cases were false and 50% was exaggerated, may be partly true but the satisfaction level of the victim was 17% and partial satisfaction was 42%, all together about 60% victim/complainants were more or less happy. 8% of the victims did not react as to whether they were happy or unhappy. However this is paradox of the system or we can say, this is one way of defining the effectiveness of the law. Those who have not succeeded the case, of course they reacted unhappy showed dissatisfaction. A number of the victims and complainants admitted that the law had been misused and the maximum of the petitioners admitted that they benefited.

When I enquired about the hazards in respect of time money and social hazards they admitted positively. After they were made clear about the ADR system, everyone supported this system and suggested that besides ADR, tough law is essential. Oppressed and distressed victim of violence should be taken care off and rehabilitated by the state. Two victims said that the formal retributive system of justice couldn't redress the loss. Four victims said that police did not cooperate in the case. Two of them said the police wanted money from them.

5. Recommendations:

- * In respect of barriers to access to the justice, Judges, Pleaders, Police officers and NGO workers almost every member have opined that in fact there is no such barrier to have access to justice, the victim/complainants also did not raise any objection in terms of access to justice. The provisions to take cognizance in the law are well designed and effective. Only legal aid support should be enhanced, so that poor can reach.

- * To get verdict from court expeditiously: It includes many aspects of the total system. Police officer emphasizes on the assurance of independent investigation, because it ensures a good results combative against the crime. I.Os are often under pressure of political and departmental bosses and under threat of service problem as a result, the 'Police report' produced from the investigation becomes a seriously

defective one with lack of essential ingredients. I.O. loses the spirit to investigate the matter.

Secondly, the permanent impediments for investigation are lack of logistic support. So to have independent prosecution, if it requires strong political will not to interfere in investigation, it will take time, better the government can give media easy access to the information so that they can take necessary steps to stop political tadbir, and let police officers investigate independently. Under any circumstances, the logistic supports must be made adequate, to perform investigation.

Thirdly, the matter is based on ethical issues. The public prosecutor should take care of witness and orient them fit to depose before court. He must not send back the witness produced before him by police. The judges play prime role for expeditious and judicious outcome. Both judge and P.Ps should be ethically accountable. The hands of the judge are very long to ensure justice if he is committed. The judges need security for him as well as for his family members)

Fourthly, in terms of speedy trial, the provisions are there to continue hearing consecutively, so that in two or three sitting (days) including expert witness, total hearing could be completed, and within 4 or 5 days altogether should be required to declare judgment/verdict. But, these provisions are not followed in many cases. This is very much possible (See Table 5.2). The court/tribunal should be regularly inspected by the honorable High Court Judges, the activities of the I.O. i.e. investigation should be inspected by superior Police officer and send a report to the tribunal, so that time limit for investigation and time limit for trial could be maintained. Government should take steps and strengthen measures.

Fifthly, regarding backlog-it is a national judiciary problem. The heaps are increasing every day. Taking crash programme may reduce the pain provisionally but to cure the disease, the system should be changed (this is the 'Bye-products' of common law system, see Table 5.2 – pendency is ever increasing).

The most working and traditional local govt. tier - the Union Parishad can play as protagonist.

ADR Committee system has to be introduced with limited legal power and allocating budget for the ADR Committee member's honorarium and their office expenses, ADR Committee shall have legal relation with the tribunal and law enforcing agencies. In the study it has been noticed that the victim or complainant sought help of local shalish and in one stage of interview some of them have commented that local shalish could not solve the problem. Now, it is evident that if ADR Committee (sophistication of local shalish) were active much major offence including domestic violence would have been mitigated in bulk proportion. In each Union there shall also be a Human Rights Committee to look into H.R. violation events.

Sixthly, the NGOs working for mitigation of domestic violence case and cases of civil nature and the pleaders dealing with these type of cases have commented on it and I have also gone through the various cases where Hon'ble High court have opined in different cases regarding the ingredients of rape from all these it, it is felt by different corners, that the definition and ingredient, of rape and attempt to rape should be redefined so that the criminals may not get the benefit of loopholes of the cases as described by the victim. The women organizations also carry this view to articulate.

We have seen the most of the victims are comparatively inferior to the perpetrator in terms of economic, social and muscle power position (See table 6.2). For often, the victims cannot produce sufficient proof/evidence because the perpetrators are capable to remove all 'alamats' (the sign/proof/documents). In this circumstances the victim shall loose, this is very usual phenomenon. _Particularly regarding cases of violence against women there can be different procedure of justice (may be civil law system) or changes in burden of proving prosecution case) For both the issues ('rape' and 'procedure') seminar/symposium could be arranged experts 'opinion could be invited and having taken into consideration procedures and practice practices in other countries may bring success in this field.

Seventhly, ethical education - Teen aged love affairs result into kidnapping, rape and aggravating social values (See table 3.2). False and misapplication of the law has been a kind of rampant use (See table 6.1) In the other sphere of life moral degradation,

deterioration of norm and values and decaying of social and mutual trust have been pervasive. Development process is at stake. Immediately in educational curriculum and syllabus, lesson on ethics, ethics as a subject, applied ethics and human rights shall be included.

Eighthly, throughout the country, there are huge number of legal aid organization and women organization working to reduce domestic violence, violations of human rights, providing legal supports counseling victims/complainants and mediation process complimentary parallel to the government organization like the cell for prevention of oppression against women under the Directorate of Women Affairs. If we have a glimpse (see table 6.3) how many cases have been disposed of only by six cells in six division in a year, then it could be anticipated about the number of cases being dealt with by those huge organizations.

Table: 6.3 Statement of total No. of allegation and disposed cases in the “cell for prevention of women oppression” Under Directorate of Women Affairs in six Divisions in Bangladesh.

Financial Year	DOWRY		HURT		2 nd MARRAIGE		DIVORCE		TOTAL	
	Petition.	Disposal	petition	Disposal	Petition	Disposal	Petition	Disposal	Petition	Disposal
2001-02	617	490	324	292	296	196	194	182	1431	1160
2002-03	465	490	202	237	191	216	116	140	974	1083
2003-04	467	425	243	223	156	151	114	116	980	915
2004-05	438	469	201	200	139	129	49	45	827	843
2005-06	492	536	245	238	139	136	71	72	947	982
Total	2479	2410	1215	1190	921	828	544	555	5159	4984

Source: Directorate of Women Affairs, 37/3, Eskaton Garden Road, Dhaka-2006

Ninthly I have had discussion with U P chairmen and members, who are used to doing shalishes

to mediate crises between parties. They opined that when both parties are less capable in terms of wealth & power to go to formal court, mediation through shalish is possible, otherwise, if either party is strong or parties are capable enough, they do not bother shalish. They have also suggested that most of the genuinely happened events are brought before shalish and most ingenuine cases normally go to formal court.

So I think it be essential, as reality demands to empower the ‘Authority’ & ‘Capacity’ of local shalish body i.e. ADR headed by UP Chairman/Member,

Tenthly, regarding corriengendum to section 13(b) of the Act.

Section 13(b) says that disputed child shall be entitled to get acknowledgement of legitimacy by his father or mother or of both of them, Coordinator, BLAST Kushtia Office said that they faced one problem but they could satisfy the victim when she agreed to the solution of dispute settled by BLAST against the person who outraged her but at the same time she demanded declaration of paternity of her would be child, on matter if she was not recognized as the wife of the perpetrator. On the other hand the second party was agreeable to compensate full amount of fine as was fixed by BLAST but not to recognize the paternity of the would be child in the womb of the victim. I think, this is fundamental right of every child to have identity of paternity/maternity in the world. So, in such a position, an in this section could be made, so that judge shall make an order to concerned authority to arrange a medical test for determining the legitimacy paternity/maternity of the would be or questionable child by doing RNA/DNA test.

6. Conclusions

The present research has highlighted the prevalence of major violence against women, the role of stringent law (“Nari-O-Shishu Nirzaton Daman Ain, 2000”) to combat the situation and to measure the effectiveness of the law. Our study has revealed new areas that can appraise the gamut. The ultimate target is to stop or at least reduce violence against women on the whole.

From our finding a dissimilar picture to the proportion of economic status of the population, it appears, about half of the total violence took place in the lower middle class women are the victims of the major violence where as the extreme poverty and marginal poverty group are in the 2nd and the 3rd places, 4th & last place contained middle and upper class. This is I think an interesting area for the social scientist to make a study to find out the reasons. In the survey, it was found that about half of the total crime was kidnapping. But this offence took place due to consequence of teen- aged love. The teen-aged girls are taken away from their houses and kept in some unknown place for some days and after that a complaint is lodged in local P.S. Then the kidnappers in most cases are compelled to surrender, meanwhile the victim girl loses her future and the family of the victim heavily suffer from both mentally & financially at the cost of prestige, Here only introducing stringent law can not check the epidemic situation. Integrated approaches have to be taken from family level to national level. However,

Police Headquarter Reports show that the number rape cases are much higher than abduction of women. I have checked five years report on women and children oppression cases (2002-2006 Partly) from Police H.Q. Number of rape cases and kidnapping cases raised in 2003 by 13% compared to that of 2002 but in the subsequent years 2004, 2005 and 2006 number incidence was decreasing tremendously. It is a good sign of the development of law order situation. But still the figure is more than 2000 each every year; I think this is not at all compatible toward freedom and empowerment of women. In terms of domestic violence due to dowry it is still disgusting; however, major violence due to dowry is less. I think, the stringent law (Nari-O-Shishu Nirzation Daman Ain, 2000) has a role to spread out an impact over the perpetrators. Violence against women is related with socio- political and socio cultural realities. So, one approach cannot meet the need. In our study we have found that still the victim in majority cases, immediately after the occurrence tried to find a Social solution but when local people (Local Shalish) could not address the problem in a fruitful manner, the victim had to go to formal court of justice. This indicates, victim wants immediate result and less hazardous solution. To all of the victim I made them understand about Alternative Dispute Resolution Committee-system they all agreed and said that to be desirable. On the other hand, we have noticed (Table 5.2).In every month the pending list of the cases are increasing and even performing 108% disposal of cases in the year 2001 still at the end of the year, 240 cases were pending before Kushtia Tribunal. This phenomenon is of course everywhere in the Judicial Arena. Despites of many reasons, it is the by-product of 'common law system' in the Judiciary. Traditional shalish in our country, could not develop as institution. As a result we shoulder up millions of pending case every year from the formal court to village court. This study has explored that if there was effective dispute resolution system, i.e. effective shalish (mediation) institution, maximum of the social problem were mitigated locally. In this paper I have recommended to introduce ADR committee in each Union Parishad (of local government) giving a certain amount of legal authority and financial supports.

Study shows a paradoxical picture, when I wanted to measure the effectiveness of the law in terms of victim/ complainant's satisfactions against the acquittal position of the perpetrators in those cases lodged by the victim/complainant verdict by the tribunal. It

shows 43% acquittal and only 8% conviction. If, I add compromise positions (before and during deposition of witnesses $(33\%+8\%)=41\%$ (see Table 4.3 and 4.4) with acquittal position (43%) it become 84% of the total accused who are either discharged or not found guilty. On the other hand, I find among the victims/Complainants only 17% is 'satisfied' and 42% is 'some what satisfied', it becomes $(17\% +42\%)=59\%$ of the victims are of more or less satisfied and only 33% of victims are 'not satisfied.' Now comparing these two summations we get 59% of the victims are more or less satisfied as against 84% acquittal of the accuseds either not guilty or innocent. This does not compensate mathematically. But this is true because, the toughness of the law has bent down 41% of the perpetrators to get compromise with the victims; this is the achievement of the law.

This is very usual phenomenon whenever and wherever there has been introduced stringent law there has been certain amount of misuse of the law. Bangladesh is not exceptional. The question is how much has been misused and why? The study shows 25% of the total cases were lodged on false information and 50% of the total cases have exaggerated information but again 59% of the victims are more or less satisfied. So this is apparently a big gap between the lines; the study shows paradoxical information

Table 6.2 shows that, the 83% of the perpetrators belong to superior power positions against only 17% of the same are from victim's group. The study also shows that the perpetrators economically socially and in 'muscle power position' are above the victims that would be one of the reasons as to why petitioners take the shelter of making exaggeration in writing complaints. In the recommendation I have pointed out that the investigating officer shall enjoy freedom in the investigation of allegation, no interference of any kind from any corners and only close supervision should be there to monitor his activities, so through neutral investigation, police report shall reduce the harassment of the innocent people. The court should also keeps judicial observation and use discretionary power given in the law to ensure that no innocent people should be a victim of unjustified & illegal harassment due to misuse of the law with a view to maintaining equal human rights. At present a good number of social development organizations, civil society, Women organizations, and Legal aid assistance group are working to get rid of this violence.

The end

Appendix-A:

VICTIM/COMPLAINANT INTERVIEW QUESTIONNAIRE

Type of Court:

1. Personal Information:

- i) Name
- ii) Address
- iii) Age
- iv) Education
- v) Source of income
- vi) Number of family members
- vii) Family type (nuclear or joint family)
- viii) Marital status: Married/Unmarried

2. Get the Story:

- i) How did the marriage take place?
- ii) Was there any Kabinnama in the marriage?
- iii) How much was the Kabin (denmohor)?
- iv) How much of Kabin was paid on the wedding day?
- v) How old was she at that time?
- vi) How old was the husband?
- vii) Economic background of both the parents.
- viii) Was there prior marriage for either husband or wife?
- ix) How much dowry was decided?
- x) How much dowry was paid during marriage?
- xi) How much was promised to pay later?
- xii) When did dowry dispute begin?
- xiii) What kind of abuse/violence took place and by whom?
- xiv) After how long or how many incidents the victim looked for help?

The sequence of seeking help i.e first parents, then other extended family members, community members and marriage mediators etc.

3. Seeking help from the system (traditional mediation, NGO-sponsored mediation, people's representative or formal court)

- i) How did you get to know about this system?
- ii) Why did you choose the particular system?
- iii) Why did not you choose the system?
- iv) What happened when you reported your abuse to the system?

Get the story in details

- iv) Are you a member of NGO Shomitti?
- vii) Did the NGO help you in this matter?
- viii) How did they help you?

4. Measuring procedural power:

- i) Could you talk in the court/conference?
- ii) Could you say what you wanted to say?
- iii) Were you given importance or were you told that you should not talk that much?
- iv) Could you say what you wanted from your husband or from the accused?
- v) Could you express how you wanted the problem to be resolved?
- vi) How did you want the problem to be resolved?
- vii) Are you satisfied with your participation in the justice process?

e) Extremely satisfied.

- viii) How many witnesses were present in your case?
- ix) How many of them give deposition in your favour?
- x) How many were male witness and female witness?
- xi) How many of P.W/D.W gave false evidence?

5. Measuring distributional power:

- i) What did you get out of the court verdict/conference resolution?

- ii) Is this what you wanted?
- iii) Are you satisfied with what you got?
- a) Not satisfied, (b) Somewhat satisfied, (c) Satisfied. (d) Very satisfied. (e) Extremely satisfied.
- iv) What could be done to get the verdict/resolution implemented?
- c) What means should take in future?

6. Measuring Compliance Power

- i) Did your husband/accused/or his family listened to the resolution?
- ii) Did they follow?
- iii) If not, then why not?
- iv) Did you go back to your husband? If yes, why?
- v) If not, why not?
- vi) Did your husband want to take you back?
- vii) Do apprehend any more violence on you?
- viii) Do you apprehend that your daughter may be the victim of revenge?
- ix) Did any more incidents/violence take place?
If so, please tell me about each incident and what was the specific reason?
- x) Are you satisfied with your situation now or not? Clarify.
- a) Not satisfied, (b) Somewhat satisfied, (c) Satisfied, (d) Very satisfied, (e) Extremely satisfied.
- viii) Now what you want to do? (If you get help)

Appendix-B:

POLICE OFFICER

i) What are the impediments in recording an F.I.R. under “Nari-O-Shishu Nirzaton Domon Ain?”

ii) What are the impediments in doing medical test of the victim immediately after the occurrence?

iii) What are the problems in completing investigation within 15 days or 0 days or in shortest possible time?

iv) What are problems to prove a prosecution case?

v) What measures could be taken to prove prosecution case?

In respect of witness

”	”	Documents.
”	”	M/C.
”	”	P.O.
”	”	Judges
”	”	Others

vi) What are the problems to arrest the accused?

vii) What you want people’s representative NGO activities and village head man to do?

viii) What is your suggestion to overcome these problems?

ix) Do you find A.D.R. is effective? Why?

x) What is your comment in respect of misusing this Ain?

a) Very much, (b) Very, (c) Normal, (d) Less, (e) Least.

xi) What are your recommendations to stop misuse?

Appendix-C

OPEN ENDED QUESTIONNAIRE

PUBLIC PROSECUTOR/PLEADER

1. How does a Nari-O-Shishu case normally start?
2. What are the impediments in filing this case?
3. Do you have any recommendation to make filling easier?
4. What are the obstacles in the trial?
5. What are the recommendations so that, a victim can has quick remedy?
6. How police can expedite victim's medical test and procure report quickly?
7. What could be done to have genuine witness?
8. Do you think any A.D.R. effective?
9. What is your comment in respect of misusing this Ain?
(a) Very much, (b) Very, (c) Normal, (d) Less. (e) Least.
10. What are your recommendations to stop misuse?

Appendix-D

PEOPLE'S REPRESENTATIVE/LOCAL ALITIES

1. How do you want to deal with the case of violence against women?
2. What should victim do at first?
3. When the matter is dealt with by police - what are the problem you see with police activity?
4. What you actually want police to do?
5. What is your opinion to solicit the problem?
6. a) How can you help the victim in the time of local shalish?
b) In the time of police investigation?
c) In the time of trial.
7. Do you think A.D.R is effective compared to prevailing legal system?

Bibliography

Not Mph behind

Jahan, Ferdous (2005) *Gender, Violence and Power: Retributive Versus Restorative In South Asia* University of Pennsylvania. Pennsylvania University Press

Sen, Amartya (1999) *Development as Freedom*: (New York: Alfred A. Knopf, 1999), pp. 104-107

Rahman, Muhammad Mahbubur (2005) *Nari-O-Shishu Nirjaton Daman Ain (Act No. VIII of 2000)* Advocate Bangladesh Supreme Court, Dhaka. New Warshi Book Corporation Dhaka 2005

Moniruzzaman, AKM.(2006) *Nari-O-Shishu Nirjaton Daman Ain (Act No. VIII of 2000)* Advocate Bangladesh Supreme Court, Dhaka. Shams Publication, Dhaka

Ali, S and Bangladesh National Women Lawyer's Association (2002), *Violence against Women in Bangladesh, 2001, Dhaka*, Bangladesh National Women Lawyer's Association

Jahan, R and Women for Women (Organization: Bangladesh) (1994) *Hidden Danger; Women and Family Violence in Bangladesh*, Dhaka, Women for Women, 1994, 165p

Bangladesh: (2003) *A National Strategy for Economic Growth, Poverty Reduction and Social Development*, External Resource Division, Ministry of Finance, Dhaka
Bangladesh

Ahmed, Sayed Masud (2005) "Intimate Partner Violence against Women: Experience from a Women- focused Development Programme in Matlab, Bangladesh" Journal of Health population and Nutrition, ICDDR,B: CENTRE FOR HEALTH AND POPULATION RESEARCH, Vol,23, No.1 March 2005, pp, 95-101

World Health Organization, *Violence against Women*
(<http://www.who.int/mediacentre/factsheets/en/>, viewed on 4/25/2006

World Bank: World development report 1993: Investing in health. New York: Oxford University Press, 1993. 329p

(<http://www.bioline.org.br/request?hn05011> viewed on 4/25/2006)

Bangladesh Rural Advancement committee. Annual report 2000. Dhaka: Bangladesh Rural Advancement Committee, 2001 63p

Rachel Marcus (1993) *Violence against Women in Bangladesh Pakistan, Egypt, Sudan, Senegal and Yemen*. Report No. 10 Report prepared for Special programme WID, Netherlands, Ministry of Foreign Affairs (DGIS). BRIDGE (development-gender), Institute of Development Studies, University of Sussex, Brighton BN1 9RE, UK.

Bhuiya, Abbas Tamanna Sharmin and S.M.A. Hanifi (2003) *Nature of Domestic Violence against Women In a Rural Area of Bangladesh: Implication for Preventive Interventions*, ICDDR,B: Centre for Health and Population Research, ISSN 1606-0997 March 2003.

World Bank (1993): *World Development Report, 1993: Investing in Health*, Oxford University Press, New York.

United Nation, 1996, *The Beijing Declaration and Platform for Action*, New York: UN Department of Public Information.

ICDDR-B: CENTRE FOR HEALTH AND POPULATION RESEARCH *The Journal of Health, population and Nutrition*, vol, 23 No.1 March, 2005, pp 55-101