ADR IN CRIMINAL CASES AND DECRIMINALISATION OF VIOLENCE: A GENDER PERSPECTIVE

Dr. Jamila A. Chowdhury[1]

I. INTRODUCTION

Despite having a high judge-population ratio and modern court infrastructure, developed countries, like USA, UK, Australia or Japan are also diligent user of ADR. Since law mentions about rights objectively, without considering any context, sometimes legal principles may not be able to enhance clients' interest. ADR, on the other hand, promotes interest based approaches to dispute resolution. Thus, ADR is evolving as an 'alternative' to the formal justice system. However, inclusion of different ADR mechanisms do not replace the court system rather strengthens and '*further legitimates the formal judicial system*'[2].Following other developed and developing countries Bangladesh has also adopted ADR in its justice system in a vigorous way, though the essence of ADR and its practice was present in the history of Bangladesh from time-immemorial[3]

---

[1] PhD in Dispute Resolution, University of Sydney, Australia, Associate Professor and Student Advisor, Department of Law, University of Dhaka, Bangladesh

[2] Mohammed Shah Alam, A Possible way out of Backlog in our Judiciary, The Daily Star, April 16, 2000.

[3] Mustafa Kamal, Introducing ADR in Bangladesh – Practical Model, Presented at the seminar on ALTERNATIVE DISPUTE RESOLUTION: IN QUEST OF A NEW DIMENTION IN CIVIL JUSTICE SYSTEM IN BANGLADESH, Dhaka, Bangladesh, Oct. 2002, see also, KAMAL SIDDQUI, LOCAL GOVERNMENT IN BANGLADESH, (University Press Ltd. 2005)

In Bangladesh, access for the poor and disadvantaged to formal justice and legal entitlements in the courts is limited by a huge case backlog, delays in the disposal of cases and high litigation costs[i]. There are 104 Supreme Court Justices and 1500 other judges to dispense justice to a population of nearly 170 million people in Bangladesh[4]. In 2015, only in the High Court Division 37,753 cases were disposed of from 4,31,978 cases. In the same year, in the Appellate Division of the Supreme Court of Bangladesh 9,992 cases were disposed of from 23,353 cases According to Lord Woolf's '*General Principle to Access to Justice'*, 'Justice is fair when it is just in its outcome and dealt with reasonable speed'[5].

Hence, to minimise unnecessary delay and consequent backlog of cases in the formal justice process, and to avoid high expense of litigation, policy makers emphasised on promoting flexible and consensual dispute resolution through ADR conducted either in-court or out-of-court settings.

---

[4] Alam Supra note2; see also, Asian Development Bank (ABD), Asian Development Outlook-2002- Bangladesh (2002), http://www.adb.org/documents/books/ado/2002/ban.asp; Kamal, Supra Note 3; begum Asma Siddiqua, The family Courts of Bangladesh : An Appraisal of the Rajshahi Sader Family Court and the Gender Issues (Bangladesh Freedom Foundation 2005); See more, Jamila A. Chowghury, Women's access to Justice in Bangladesh through ADR in Family Disputes (Cambridgr Scholars Publishing 2005); Nusrat Ameen, Dispensing justice to the poor: The village court, arbitration council vis-à-vis Ngo, 16(2) The Dhaka U.S. Part F 103 (2005)

[5] *Id.*

II. ADR In Criminal Cases

Besides their successful practice of ADR in civil cases, many countries have already adopted a practice of ADR to settle small claim- criminal cases. Application of a process of negotiation between victim and offender in settling offences is sometimes termed as 'plea bargaining'.

ADR in criminal cases often refer to plea bargaining throughout different jurisdictions of the world. A plea bargain (also plea agreement, plea deal, copping a plea, or plea in mitigation) is any agreement in a criminal case between the prosecutor and defendant whereby the defendant agrees to plead guilty to a particular charge in return for some concession from the prosecutor. This may mean that the defendant will plead guilty to a less serious charge, or to one of several charges, in return for the dismissal of other charges; or it may mean that the defendant will plead guilty to the original criminal charge in return for a more lenient sentence. As observed by Scheb and Scheb[6]

Very often the guilty plea is the result of a bargain struck between the defence and the prosecution. In a plea bargain the accused agrees to plead guilty in exchange for a reduction in the number or severity of changes or a promise by the prosecutor not to seek the maximum penalty allowed by law. Often bargains are quite specific in terms of punishment to be imposed, conditions of probation, restitution to the victim, and so forth.

---

[6]JOHN M. SCHEB, AND JOHN M SCHEB II, CRIMINAL LAW & PROCEDURE (2011).

That is to say, it is a process of negotiation where an offender admits his/her offence and negotiates for lower criminal charges. The prosecution may agree to reduce the amount of charges as well. There are two different types of plea bargaining that may be practiced in criminal cases. These are: (a) sentence bargaining and (b) charge bargaining. While in a charge bargaining, a defendant may plea his/her guilt and negotiate to reduce the number of criminal charges that a prosecution may bring against him/her, in case of sentence bargaining, a defendant may plea for specific charges brought against him/her and negotiate for lower sentence against those charges[7].

III. Plea bargaining around the globe:

Plea bargaining in the United States is very common; the vast majority of criminal cases in the United States are settled by plea bargain rather than by a trial. They have also been increasing in frequency—they rose from 84% of federal cases in 1984 to 94% by 2001[5]. The constitutionality of plea bargaining was established by *Brady v. United States* in 1970. Again,*Santobello v. New York*added that when plea bargains are broken, legal remedies exist[8]. Further, in countries such as England and Wales, Victoria, Australia, 'Plea Bargaining' is allowed only to the extent that the prosecutors and defense can agree that the defendant will plead to some charges and the prosecutor shall drop the remainder (ADR under Criminal Legislation 2015).In Canada, it

---

[7]HamidaA. Begum, *Combating Domestic Violence through Changing Knowledge and Attitude of Males: An Experimental Study in Three Villages of Bangladesh,*12 EMPOWERMENT 53(2005).

[8]Peter Westen and David Westin, *A Constitutional Law of Remedies for Broken Plea Bargains*, 66 (3)CALIFORNIA LAW REVIEW 471 (1978).

appears that about 90% of criminal cases are resolved through the acceptance of guilty pleas: many of these pleas are the direct outcome of successful plea negotiations between Crown and defense counsel. Where a plea bargain has been implemented, the Crown and the accused effectively determine the nature of the charge(s) that will be laid.

Similarly, this concept of plea Bargaining was also enumerated in some developing countries. It was introduced in India by the *Criminal Law (Amendment) Act, 2005* by the Parliament in 2005, which amended the Code of Criminal Procedure and introduced a new chapter XXIA in the Code containing sections 265A to 265L which came into effect from July 5, 2006. It was due to the inspiration that has been gained from America which made Indians to experiment the concept of plea bargaining in the country.Plea bargaining as a legal provision was introduced in Pakistan by the *National Accountability Ordinance, 1999*, an anti-corruption law. In case the request for plea bargain is accepted by the court, the accused stands convicted. He is disqualified to take part in elections, hold any public office, obtain a loan from any bank and is dismissed from service if he is a government official.

IV. Is plea bargaining applicable in the current context of Bangladesh?

Though plea bargaining has a benefit to settle many small criminal offences without going to court, sometimes plea bargaining is criticized

for the 'decriminalization of offences' in a society[9].Further, indiscriminate use of plea bargaining without proper screening of cases, or because of the mere reluctance of judges to apply 'habitual offender provision' through trial, habitual offenders may avail the benefit of plea bargaining and continue their misdeed in the society without receiving appropriate punishment for their offences. Therefore, it is often suggested that plea bargaining shall not be used for habitual offenders and those who commit crime against women. Further, plea bargaining has also the following limitations:

- Plea bargaining programs do not set precedent, define legal norms, or establish board community or national standards, nor do they promote a consistent application of legal rules.
- Plea bargaining programs cannot correct systemic in justice, instead of that sometimes it discriminates & violates of human rights.
- Plea bargaining settlements do not have any educational, punitive, or deterrent effect on the population.
- Plea bargaining programs do not work well in the context of extreme power imbalance between parties or gendered power disparity[10] between the parties.

---

[9]See SCHEB and SCHEB II,*supra* note 8; see also,LARRY .J. SIEGEL,ESSENTIALS OF CRIMINAL JUSTICE (2011).

[10]Linda V. Nyquist, and Janet T. Spence,*Effects of dispositional dominance and sex role expectations on leadership behaviors*, 50(1) JOURNAL OF PERSONALITY AND SOCIAL PSYCHOLOGY 87 (1986).

V. Is compounding an alternative for Bangladesh?

Besides Plea bargaining, compounding of criminal cases is permitted in many common law countries like Bangladesh. Compoundable offences are those offences where, the complainant (one who has filed the case, i.e. the victim), enter into a compromise, and agrees to have the charges dropped against the accused. However, such a compromise should be 'Bonafide' and not for any consideration to which the complainant is not entitled to. Application for compounding the offence shall be made before the same court before which the trial is proceeding. Once an offence has been compounded it shall have the same effect, as if, the accused has been acquitted of the charges.

An offence is compoundable if it is one of the types of offences listed under the sixth column of Schedule A read with section 199 of the *Code of Criminal Procedure 1898*. These offences are compoundable by the complainant.

The composition of an offence is lawful if the offence is of private nature and for which damage may be recovered in a civil action. However, the composition of an offence is not legal if the offence is one of the public concerns. The policy of the legislature adopted in Cr.P.C is that in case of certain minor cases where the interest of the public not vitally affected, the complainant should be permitted to come to compromise with the party against whom he complains[11]. But

---

[11]ABDUL HALIM,TEXT BOOK ON CODE OF CRIMINAL PROCEDURE236 (2012).

due to the social condition prevailing in the country, compounding of offences are not at all encouraged[12].

VI. Compounding in criminal cases involving violence:

Section 345(1) of the *Code of Criminal Procedure 1898* provides a list of offences which can be compounded by the aggrieved party without the permission of a court. Most of the offences included in the first list are minor offences punishable with maximum of one-year imprisonment and/or fine.Instances of such compoundable offences involving violence include voluntary causing hurt (s.323), assault or criminal force with intent to dishonor a person (s.355); wrongfully restraining or confining

Moreover, under section 345(2) of the *Code of Criminal procedure 1898*, there are some offences whichmay be compounded by the aggrieved party only with the permission of a court. The second set of compoundable offences includes more grievous offences. Punishment for these offences varies from two to seven years along with fine. Instances of such offences involving violence include:Voluntarily causing hurt by dangerous weapons or means (s.324); Voluntarily causing grievous hurt (s.325); wrongful confinement of a person for three days or more. All these offences are present in contemporary incidence of family violence. Therefore, the issue

---

[12]MOHAMMAD HAMIDULHAQUE,TRIAL OF CIVIL SUITS AND CRIMINAL CASES309 (2010).

of domestic violence must be taken care of while considering popularizing mediation on criminal cases.

VII. ADR in family violence: should cases involving family violence come under the purview of compounding?

ADR has existed since time immemorial in different form e.g. in the Muslim period (1206-1857) the sultans of Delhi maintained a *panchayet* system,ADR in British period under Permanent Settlement and Zamindari System, ADR in undivided Pakistan under SAT Act-1950,Muslim Family Laws Ordinance -1961.But these laws donot deal with domestic violence. The recent enacted laws are insert this alternative process to reduce trial harassment and provide 'restorative justice' instead of 'retribution justice'.

Under section 29 of the Domestic Violence (Prevention and Protection) Act, 2010, the provision of compound ability was introduced. As a result, perpetrator husbands are allowed to negotiate with their battered wives and settle the issue of domestic violence by themselves. Without the involvement of any unbiased third party to monitor and control the process, will victims of violence be able to 'freely' negotiate with their perpetrators for a fair outcome? For example, imagine what will happen if compounding allows perpetrator husbands, who frequently violent on wives, to negotiate with their battered wives?

Further, though the provision just mentions the word 'compoundable' not all well trained mediators know that we cannot mediate extreme violence, whether it is in physical form or mental form. Do we accept the idea that domestic violence is "escalation of conflicts"? Not all of

us choose to use violence to address conflict; much violence occurs with no stimulus. The use of EXTREME violence is always separate from the issue of alternative resolution.

For example, women in Australia sometimes keep silent because if they expose the violence that they have encountered in their marital life, there is a possibility that they will be screened out from mediation and have to go through time consuming and costly trial processes[13]. It is also relevant that women may be too poor to bear the expenses for litigation, and so they may prefer to resolve their disputes quickly and at minimum cost through mediation[14]. For example, abused women who want to resolve their dispute quickly through mediation may not have any other option but to conceal past violence, as according to the Family Law Act 1975 (Cth.) family disputes involving violence are referred back to formal trial (*Family Law Rules* O 25A, r5).

Unlike Australia, however, family cases with violence in Bangladesh are not screened out either from in-court or from out-of-court mediation. Therefore, women's intention to avail themselves of low-cost mediation services from different in-court and out-of-court settings does not restrain them from expressing past violence in mediation.

---

[13]Hilary Astor,*Violence and family mediation policy,* 8 AUSTRALIAN JOURNAL OF FAMILY LAW 3(1994b).

[14]*Id.* See also Hilary Astor,*Swimming Against the Tide: Keeping Violent Men Out of Mediation*, In WOMEN, MALE VIOLENCE AND THE LAW(Julie Stubbs, ed. 1994a).

VIII. Why gender is a concern for compounding of criminal cases in Bangladesh?

Gender has a strong impact on the capacity of parties to negotiate.It is observed that women who usually get a lower return from the society also demonstrate lower reward expectation when they attend mediation. Consequently, women tend to acquire only a lower distributive share in mediated outcome[15].Generally, women are most likely to negotiate for what they think they can get and not for what they think they should get[16]. 'Since not everybody has [equal] ability [to negotiate] it is seen as a danger of [mediation] that the capacity to articulate oneself restricts the application of this method to specific social classes'[17].So, the '*traditional sex role ideology*'[18]in a society leads women usually to expect the minimal returns and so they end up with a lower share of the negotiated outcome. When a woman formulates her expectation, she generally compares what another woman might earn in a similar situation, not what another man might earn in a like situation. Since men usually earn more than women for the performance of identical tasks, the expectation of a woman is usually lower than the expectation

---

[15]Penelope E.Bryan, *Killing us softly: Divorce mediation and the politics of power*, 40(2) BUFFALO LAW REVIEW 441 (1992); see also, JAMILA A. CHOWDHURY, GENDER POWER AND MEDIATION: EVALUATIVE MEDIATION TO CHALLENGE THE POWER OF SOCIAL DISCOURSES (2012).

[16]*Id.*

[17]HEIKESTINTZING, MEDIATION - A NECESSARY ELEMENT IN FAMILY DISPUTE RESOLUTION? A COMPARATIVE STUDY OF THE AUSTRALIAN MODEL OF ALTERNATIVE DISPUTE RESOLUTION FOR FAMILY DISPUTES AND THE SITUATION IN GERMAN LAW(1994).

[18]Albert Alschuler,*The Prosecutor's Role in Plea Bargaining*, 36 UNIVERSITY OF CHICAGO LAW REVIEW 50 (1994).

of a man in a similar situation[19]. Besides lower reward expectation, society has an influence in formulating the *'lower self-esteem'* of women which may hinder their confidence in negotiation[20].

Because of this gender role socialization, women generally have lower social status, 'lower reward expectation'[21]and 'lower self-esteem'[22], which all work together to make women less efficient as negotiators[23]. These factors result from gender role socialization which attributes men as a creator of their own fate, while explaining the success of women as an outcome of their good luck rather than of their own action. Such kind of social belief degrades women's self esteem and makes them less confident in negotiation. This ultimately creates gender role ideology in the society[24].

Gender role negatively affects women's capacity to negotiate even women who have higher incomes and better occupational status than their male counterpart in negotiation[25]. Research data show that in small mixed-sex groups, women with higher status and power may fail to use their competitive or superior bargaining capacity against males. Results from such studies are relevant to mediation because mediation

---

[19]Bryan, *supra* note 17.

[20]BEGUM, *supra* note 9.

[21]Schuler, *supra* note 20.

[22]*Id.*

[23]Bryan, *supra* note 17; see also, Rachael M. Field,*Mediation and the art of power (im) balancing*,12 QUEENSLAND UNIVERSITY TECHNOLOGY LAW JOURNAL264 (1996); see more, DianeNeumann, *How Mediation Can Effectively Address the Male-female Power Imbalance in Divorce*,9 MEDIATION QUARTERLY 227 (1992).

[24]Bryan, *supra* note 17.

[25]Nyquist and Spence,*supra* note 12.

also forms small groups where, with the presence of an unbiased mediator, parties negotiate with each other to settle for an outcome. Women who, due to their higher status, have the potential to exert dominance are deterred from doing so in mixed-sex decision-making groups[26]. To test the impact of gender and power on capacity to negotiate, Nyquist and Spence's study[27] tied one high-dominant person with another low-dominant person and let them work on a gender neutral task.Gender role negatively affects women's capacity to negotiate even women who have higher incomes and better occupational status than their male counterpart in negotiation.

Research data show that in small mixed-sex groups, women with higher status and power may fail to use their competitive or superior bargaining capacity against males

In same sex groups, in 73 per cent of cases the person with higher dominance took up the leadership. But for mixed-sex groups, the result varied considerably depending on the sex identity of the dominant person in the groups. For mixed sex groups in which the dominant person was a male, in 93 per cent cases the high-dominant person assumed the leadership. But in the cases of mixed-sex groups where the dominant person was a female, in only 35 per cent cases did the dominant female assume leadership. The result from the mixed sex group with dominant women indicates that, for as much as 65 per cent of women, gender role expectation dominates their other means of exerting power.

---

[26]Bryan, *supra*note 17.

[27]Nyquist and Spence, *supra* note 12.

Therefore, when women with more income, education, and occupational status are compared with their male counterparts, they may fail to attain a better outcome through negotiation. Bryan[28]has given some explanation of why women with higher status fail to be the leader in mixed sex groups. She explained this situation by using the notion of traditional sex-role ideology. According to Watson[29], gender differences in negotiation may exist, but it is not because of the innate personality factors of women, rather it is due to the context of the lives within which they have to negotiate i.e. their work, family, class, culture, etc. The possibility of women's reduced negotiation capability in family mediation would be more obvious in a society such as that of Bangladesh in which women not only have lower income, education and occupational status, but the dominant social discourses also discourage their equal participation with men.

IX. Mediating violent relationship: why cases involving family violence may not be dealt under ADR?

Feminist scholars from different Western societies generally oppose the use of mediation in cases involving violence. It is argued that a history of family violence causes a strong power disparity between a perpetrator husband and his victimised wife that hinders wives from negotiating effectively in mediation[30].

---

[28]Bryan, *supra* note 17.

[29]CarolWatson, *Gender versus power as a predictor of negotiation behaviour and outcomes*, 10(2) NEGOTIATION JOURNAL117 (1994).

[30]HILARY ASTOR and CHRISTINE M. CHINKIN, DISPUTE RESOLUTION IN AUSTRALIA (2nded,2002); see also, Andrec G. Gagnon,*Ending Mandatory Divorce Mediation for Battered Women*,15 HARVARD WOMEN'S LAW JOURNAL 272 (1992).

IX. I .Family violence and 'silence' of women in mediation

Many feminist scholars from different Western societies generally oppose or have shown concerns about the use of mediation to resolve family disputes in cases involving violence. The concern of feminist scholars is about the effect of the violence on the negotiation capacity of women during mediation[31].It is argued that a history of family violence causes a strong power disparity between a perpetrator husband and his victimised wife that hinders wives from negotiating effectively in mediation. In the case of persistent family violence, the impact of such disparity may be so prevalent over target women that victim women remain silent in mediation and effective mediation becomes impossible[32].

IX. II. Family violence and 'control' on women in mediation

It is argued that a history of family violence may exacerbate this socially created power disparity andcauses an even stronger power disparity between a perpetrator husband and his victimised wife that hinders wives from negotiating effectively in mediation. In the case of persistent family violence, the impact of power disparity may be so prevalent over target women that effective mediation may not be possible[33]. As argued by many scholars, the objective of a perpetrator husband is to establish control over the activities and comments of his

---

[31]ASTOR and CHINKIN, *supra* note 32; see more, Field.*supra* note 25.

[32]Gagnon, *supra* note 32; see more,ASTOR and CHINKIN,*supra* note 32; see more, Field,*supra* note 25.

[33]Gagnon, *supra* note 32, See also, ASTOR and CHINKIN, *supra* note 32.

target, either by physical assault or by threats of violence[34]. If a husband becomes successful in establishing such control, the wife may try to placate him by restraining herself from doing or saying anything that might provoke her husband into inflicting further violence. Control established by a husband over his wife has special significance on the effectiveness of mediation because in mediation, women have to negotiate with their husbands, but a victim woman marked by control may not dare to negotiate with her perpetrator husband[35].

Therefore, it is claimed that family violence, in most of the cases, may restrict a target woman for negotiating effectively during mediation. It is also argued that when perpetrators successfully establish control over their targets, it is almost impossible for the targets to escape such control and, therefore, to successfully negotiate with their perpetrators during mediation[36]. The problem escalates when persistent assaults on targets lead them to follow some *'self-censorship'* of actions that could otherwise antagonize the perpetrators to initiate another assault. By habitually modifying their behaviors to placate the perpetrators, victims are unlikely to make any challenge to the proposals made by the perpetrators during mediation, even when the husband is not explicitly

---

[34]Michael P. Johnson,*Patriarchal Terrorism and Common Couple Violence: Two Forms of Violence against Women*,57 JOURNAL OF MARRIAGE AND THE FAMILY283 (1995).

[35]ASTOR and CHINKIN, *supra* note 32.

[36]Barbara J. Hart,*Gentle Jeopardy: The Further Endangerment of Battered Women and Children in Custody Mediation*, 7 MEDIATION QUARTERLY, 317(1990); see also, ASTOR and CHINKIN, *supra* note 32.

trying to intimidate his wife[37]. Though it might not always be the case, if such a condition arises, it would be difficult for a mediator to ensure fair outcomes through mediation because the victim women seem to be voluntarily sacrificing their rights in mediation.

IX. III. Family violence and 'fear' of women in mediation

It is a fact that control established by perpetrator husbands over their wives hinders the effective negotiation capacity of women in mediation. Nonetheless, using any such dichotomous distinction of family violence based on the existence, or non-existence, of control, involves difficulties and *'too easily enables disagreement'* regarding the motive of perpetrators on inflicting violence[38]. Such disagreement overshadows the more important aspect of whether a victim woman, despite the existence or non-existence of such control, is capable enough to attend mediation[39].Scholars, whoadvocate an exclusion of violent disputes from mediation because of the control element, sometimes they overlook the fact that a victim woman may be too fearful to be able to attend mediation even when there is no actual control in their relationship. '*It may be preferable, therefore, to focus*

---

[37]Harry M. Fisher, *Judicial Mediation: How it works through pre-trial conference,* 10(4) THE UNIVERSITY OF CHICAGO LAW REVIEW 453(1993); see also, FelicityKaganas and Christine Piper, *Domestic Violence and Divorce Mediation*,16 JOURNAL OF SOCIAL WELFARE AND FAMILY LAW,265 (1994); see more Astor (1994a), *supra* note 16.

[38] Belinda Fehlberg And Juliet Behrens, Australian Family Law: The Contemporary Context,(2008).

[39]*Id.*

on the victim's subjective experience of the conduct, and ask whether it creates harm (including fear)'[40].

X. Conclusion

Under the existing law, offences inserted only under s, 345(2) are compoundable by the aggrieved person but only with the permission of a court – no such permission is required for offences under s.345(1) of the CrPC. Therefore, the clause to take permission from court acts as a 'safety clause' against any possibility of forced compounding. Nevertheless, promotion of compounding in criminal cases may lead to decriminalization of crimes. Decriminalization means crimes will not appear in our criminal justice system but still persist in our society with all its evils. Further, it will open up the opportunity to settle criminal cases through village *shalish*. However, if we let criminal cases to be settled through village *shalish* which is already inundated with partisan decisions and local politics, there is a little hope that quick disposal of criminal cases through compounding can ensure minimal justice to the poor and disadvantaged groups of the society. Though people may come to formal courts even after attending village *shalish*, social pressure followed by unscrupulous *shalish* decisions may aggravate the vulnerability of aggrieved persons and restrain them to come to formal courts even when *shalish* decisions are not fair to them.

More importantly, it is pertinent to mention that under the current settings, many of these compoundable criminal offences are dealt with village courts and municipal dispute settlement boards. These quasi-

[40] *Id.*

formal institutions are composed of local government bodies like ward commissioners, union *parishad* chairmen, and union *parishad* members. Each of the parties can choose two representatives in a five-member panel; parties can also challenge the impartiality of the chairman of such quasi-formal institutions, and appeal to an Assistant Judge with appropriate jurisdiction, in case they are not satisfied with the decisions of village courts or dispute settlement boards. Therefore, to reduce criminal case load on formal courts, we may encourage these quasi-formal courts, rather than compounding by parties out of court.Therefore, compounding of criminal offences without an involvement of any judicial body may decriminalize crime and violence in our society. While we do not have sufficient institutional framework for civil ADR (e.g. proper skills of mediators as to on art/theory of mediation, lack of rules and practice standards for mediation etc.) in Bangladesh, we may not venture new liberal form of criminal ADR at this stage, as it is comparatively more sensitive in nature.

---

[i]Alam, *supra* note 1; see also, ASIAN DEVELOPMENT BANK (ADB),ASIAN DEVELOPMENT OUTLOOK-2002-BANGLADESH (2002),http://www.adb.org/documents/books/ado/2002/ban.asp; KAMAL,*supra* note 2; BEGUM ASMA SIDDIQUA,THE FAMILY COURTS OF BANGLADESH: AN APPRAISAL OF RAJSHAHI SADAR FAMILY COURT AND THE GENDER ISSUES(Bangladesh Freedom Foundation 2005);See more, JAMILA A. CHOWDHURY,WOMEN'S ACCESS TO JUSTICE IN BANGLADESH THROUGH ADR IN FAMILY DISPUTES(Cambridge Scholars Publishing 2005); NusratAmeen,*Dispensing justice to the poor: The village court, arbitration council vis-a-vis NGO*, 16(2) THE DHAKA U.S. PART F 103 (2005).