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**EXTERNAL EVALUATION OF HUMAN
TRAFFICKING PROSECUTION PROJECT IN
BANGLADESH
BASELINE STUDY**

EXECUTIVE SUMMARY

Introduction

Human trafficking is a major concern all around the world. Bangladesh is combatting this abominable crime since its independence, although it is still a major obstacle for Bangladesh on the road to being a developed country.

Justice and Care UK is one of the leading organizations around the world who are working persistently to eradicate Human trafficking entirely. With continuation of their humanitarian service, Justice and Care Bangladesh was established in 2017. Since the commencement of their journey, JCBD aims to help rescue victims of slavery and human trafficking, to empower them to rebuild their lives, and to prevent further trafficking. The organization works in collaboration with the local government, law enforcement agencies, and prosecution bodies to put an end to this abhorrent crime. Human Trafficking Prosecution Project is a noteworthy initiative by JCBD to expedite the prosecution procedure and prevent human trafficking. Ensuring witness attendance, assisting local law enforcement in investigation, raising awareness among vulnerable people of in risk communities, collaborating with authority are the key support areas of this project.

A baseline was commenced as a part of a longitudinal evaluation. Broadly, the objective of the evaluation was to explore the achievement extent of the expected outcomes, such as the extent of the dynamism of the prosecution process after the intervention, the level of awareness of victims aided by JCBD, and the impact of the interventions. This baseline study endeavored to identify the current status of the prosecution of human trafficking case, furthermore to retrospectively look into the situation before the commencement of activities initiated by JCBD and assess how the situation has changed since then.

Method

A mixed-method approach was used to conduct the baseline study. Both qualitative and quantitative data were collected to extract information about the actual scenario. A total number of 128 participants from Dhaka, Jashore, and Khulna were reached, and 22 Key Informants Interviews were conducted with tribunal judges, special public prosecutors, panel lawyers, legal case facilitators, representatives from Criminal Investigation Department (CID), and district legal aid committee. Survey data participants were divided into two groups: those from intervention areas and control areas. From the intervention areas, the respondents consisted of the victims/ complainants whose cases are being aided by JCBD, and control group participants included ones that did not receive assistance from JCBD regarding their trafficking cases.

One of the major limitations of the study was to carry out in-person or phone interview with the respondents from control areas. The failure to reach the participants was mostly due to no contact details and no networking to support the team reach the participants. Only 10 out of 42 interviews could be held with the respondents from control areas, despite multiple efforts. Because of the failure to reach the respondents, case dockets of the sampled respondents were reviewed for the additional

number of cases. The implication of changing the modality resulted in questions pertaining to perception and experience being omitted from the survey.

The findings

Low conviction of human trafficking cases is attributable to lack of access to evidence, limited jurisdiction of anti-human trafficking tribunals, and compounding.

1. ***Lack of access to evidence:*** It is evident that most of the human trafficking cases occur outside the borders of Bangladesh. The baseline survey results show that 87.2% of the cases occurred outside of Bangladesh. It is a challenge to gather any kind of evidences in such scenario. Many cases are rejected and accused are discharged at ground because of lack of access to evidence. The evidences generated or collected by investigating officers are either adequate for the courts to take cognizance of the offense. Moreover, the incorporation of foreign evidence is very low. As explained by the police and public prosecutors, lack of coordination from the embassies of destination country, and lack of cooperation from the immigrants made it difficult for them to incorporate foreign evidence. They explained that the embassies of the concerning state are not pro-active and often times unwilling to cooperative and coordinate, which hampers the process of evidence collection.
2. ***Limited jurisdiction for anti-human trafficking tribunals:*** According to the judges and other stakeholders the jurisdiction of anti-human trafficking tribunals is limited in trying only human trafficking related offense. Other than human trafficking offense, no other offense should be tried by anti-human trafficking tribunals such as rape, murders etc. Besides, whenever the jurisdiction of these case criteria is identified from other related offenses in tribunals, there is no provision of further advice regarding to whom the case should be referred upon rejection of the anti-human trafficking tribunals. Again, a transformative change in system and legislation is required to overcome this barrier. Advocacy efforts from all levels of influence is required to bring in system level change and change in legislation.
3. ***Case compounding:*** Compounding the cases off the court is another factor that leads to low conviction rate of human trafficking cases. Most of the victims belong to poor economic background. The belief in the justice system is already deterred by the delayed prosecution and low conviction rate. This compels some victims to resort to compounding the case, as they feel that they will receive some kind of monetary benefit from compounding than fighting in the court. The survey results corroborate the findings as there were about 8% of the cases that were not willing to pursue the case as that had already settled the cases informally. Moreover, 34% of the cases in the survey reported to have received a non-hostile proposal from the accused for informal settlement. Poor economic status, lack of victim protection and limited livelihood or income generation options for the victims and survivors are the core reasons for these informal settlements outside the court. The situation can be improved if livelihood or economic rehabilitation options are provisioned by the government with support from different non-governmental bodies.

Poor economic background of the complainants, victims, and witness is one factor that demotivates the complainants from pursuing their cases in prosecution. The demotivation is further compounded when the procedure is sluggish, and conviction rate low. Losing confidence in the legal system and moral discouragement are the main consequences of low conviction among the victims and complainants. The victims do not report the cases in future because the anticipatory result is not positive, moreover, the same discouragement and lack of confidence has a domino effect, leading other complainants to under-report the cases.

It appears from the baseline survey that cases have been in the prosecution for several years. In intervention areas, 50% (43) of the respondents reported that their cases have been pending for 4-7 years, while 23.26% (20) said that their cases are pending for 8 years or more. The proportion is similar in the control areas, where 42.86% (18) reported their cases to be pending for 4-7 years and 26.91% (11) reported their cases to be pending for 8 years or more. The baseline identified a number of reasons leading to the delayed prosecution process. The section below briefly discusses on the major reasons behind delayed prosecution

Miscategorized cases: The cases of human trafficking are falsely reported as the identification of the cases become difficult given the comprehensive yet vague definition on the law. Argued by all the tribunal judges from intervention and control areas, lack of clarity and sound understanding among the investigating officers intensifies the problem of identification of cases. Many such cases are being filed by the investigating officers but disposed of by the judge for not being a human trafficking case. There are two elements of crime: act and intention. Though it may seem that the act is there when a case is filed, but there is no intention, hence a lot of cases are being miscategorized.

Lack of witness attendance: One of the major reasons for delayed prosecution is the witnesses not showing up at the court. As explained by all the stakeholders, the reason for not attending the court attributes to poor economic status, fear of retribution and societal pressure, compounding, and lack of information about the court dates. The survey results show that 23.3% of the total 86 cases (or 20 out of 56 cases in the trial proceedings itself) from intervention areas are stuck in examination of prosecution witness.

Lack of access to evidence: Many cases are being rejected, and accused are being discharged at ground because of lack of access to evidence. The transboundary nature of the human trafficking cases exacerbates the prosecution process due to lack of access to evidence. Moreover, there is no effective coordination channel for the investigation procedure for transboundary investigation. 87.21% (75) of the cases from intervention areas; and 83.34% (35) cases from control areas were trafficking outside the country, while survey results further showed that in about 7% of the cases (6.98% (6) in intervention areas and 7.14% (3) in control areas) there has been a use of foreign evidence.

Overburdening of the work of tribunals: Anti-human trafficking tribunals are established and operating in seven divisions of Bangladesh. These tribunals are not coherent with the needs of people. There are areas where the cases of human trafficking is high, but only one tribunal is established and functioning. In such areas, Prevention of Violence against Women and Children tribunals mandated to take human trafficking cases. Prevention of Violence against Women and Children tribunals are already overburdened by their work, and taking additional human trafficking cases is overwhelming to them. Many human trafficking cases are stuck in these tribunals because of the massive backlog in operations.

Barriers related to investigation: Human trafficking cases can be filed either directly in police stations or in the tribunals. The review of 2021 highlighted that in a number of cases, the tribunal judges were treating matter of pre-trial investigation as an “inquiry”, instead of “investigation”. There is lack of clarity among the tribunal judges and other criminal law stakeholders regarding the ‘inquiry’ and ‘investigation’.

Relationship between public prosecutors and complainants: Low cooperation and disengaged relationship between public prosecutors and complainants is one of the barriers for effective prosecution. Survey result shows that 41.89% (37) of the respondents from intervention areas as opposed to 70% (29) from control areas have not been in contact with their public prosecutor at all.

Lack of communication between investigating officer and public prosecutor: Although the legislation mandates the investigating officer to communicate with the public prosecutor before presents the cases, public prosecutor from both Dhaka and Jashore tribunal explained that there is barely any coordination with the investigating officer.

Contribution of JCBD's work in effective prosecution

JCBD major findings from the review showed that procedural misapplication was identified in regards to the pre-trial investigation of the human trafficking cases. The tribunal judges are ordering agencies other than the local police stations to conduct the inquiry, despite there being clear provisions directing the investigation to be carried out by a police officer not below the rank of sub-inspector from the concerned local police station. Similarly, in less than 5% of cases has the Investigating Officer incorporated any kind of foreign evidence. And almost half of the of complainants were not interested in pursuing their respective cases in prosecution, in part due to the sluggishness of the procedure. Review of case dockets further showed that 96% of cases in the Examination of Plaintiff Witness stage involve witnesses who have failed to appear before the tribunal to give their testimonies and there was a very poor engagement of public prosecutors with victims and complainants. Furthermore, 90% of complainants have been found to have difficulty understanding the court proceedings; and more than 75% of complainants are found to be financially incapable of pursuing prosecution and attending court dates.

Following the formal publication of its research and recommendations at a meeting with the Ministry of Home Affairs, Ministry of Law, CID, PBI and other key stakeholders in March 2021, Justice and Care began its programming. It provided direct support to a cohort of human trafficking cases awaiting prosecution. JCBD stood out as the pioneering organization working in the sector of prosecution by working to increase witness attendance through witness outreach program and working collaboratively with the investing officers. Witness attendance program is one of the major initiatives supported by JCBD. The case facilitators are appointed by JCBD who facilitates witnesses in every step. The case facilitators take note of the hearing and inform the witness and victims, when necessary. JCBD further supported prosecutors, judges, and district legal aid committees by offering them capacity building. It further provided training to police and supported law enforcement leads with investigations. The work of JCBD is exemplary also in rescuing victims from transboundary trafficking. The number of cases where trafficking destination is within the border of Bangladesh is vastly outnumbered by cases where the destination is outside of borders. In order to motivate the CIDs and other stakeholders in the rescue mission, JCBD team has provided necessary assistance (including financial support, transportation and food) in helping the CIDs and other concerned stakeholders in rescue mission. JCBD also works to increase the engagement of public prosecutors to ensure full cooperation and communication from their side with the complainants and victims. JCBD is developing victim identification guidelines on behalf of Government of Bangladesh, however the accommodating solution could be organizing training and capacity building to the concerned stakeholders, mostly focusing on training the investigating officers on conceptual clarity.

The baseline study attempted to compare the current status in the tribunals with results from 2020 to see if the work of JCBD is showing any indicative results. Based on the data acquired in the baseline, the proportion of witness attending the court to record evidence has shown a positive result. Comparing the data from January to December 2020 till the current date shows that in the tribunals the rate of witness attendance has gone up. The stakeholders in the interviews stressed that JCBD is also trying to increase number of witnesses by providing them detail information about the case, support and legal assistance, and their support has shown some remarkable results.

Additionally, the review of 2021 showed that more than 40% of the complainants were not interested in pursuing their cases in prosecution due to sluggishness of the procedure. In the baseline, the motivation

of the complainants seems to have slightly increased as 72.09% of complainants from intervention areas and 71.43% from control areas are willing to pursue their cases. This could possibly be because of the direct support of the project to the victims and the witness attendance project that has built trust among the victims/complainants. The motivation seems to have increased among the complainants since the operations of Anti-Human trafficking tribunals started. The complainants/victims feel that the delay in prosecution due to sluggishness in procedure will somewhat improve.

Another remarkable area where JCBD's project can be credited to have made a significant progress is in terms of ensuring contact of the SPP with the victim/complainant. As opposed to the situation back in 2020, where 0-1% of the victims had contact with SPP, the situation changed drastically as shown in the table below. In case of Khulna, as much as 64.9% of victims are reported to have contact with SPP. Further analysis shows that there still need improvement in case of Dhaka and control areas.

Furthermore, the project has also shown slight improvement in terms of reducing the number of inquiries' that are incorrectly ordered. From January to December 2020, there were as many as 37 in one of the tribunals in Jessore, and 24 in another tribunal in Jessore, which went down to 10 and 7, respectively as of January to April 2022. Though there is a scope for improvement in sensitizing criminal law stakeholders about the provision of inquiry and investigation, as there seems to be varied understanding between the two.

The number of cases disposed is analyzed, it seem to be still a problem. The cases disposed in Dhaka has tremendously gone up signaling the prevalence of miscategorized cases. One area where JCBD has supported but need further reinforcement and strengthening is ensuring the engagement of SPPs with the investing officers. The review 2021 result identified, mistakes of the IOs in the primary case filling may result into harsh punishment in some cases. Hence, JCBD has initiated a communication channel among the IOs, PPs and panel lawyers to minimize such issues.

Despite some remarkable progresses, there is a scope of improvement to make the prosecution process more efficient. The scope of support of JCBD can be expanded in offering possible solutions in accommodating the barriers. The role of JCBD is highly appreciated by the criminal justice stakeholders. The primary task of buying in support and trust from these stakeholders is already achieved by JCBD through its commendable work in witness attendance and rescue operations. In the coming days, the scope can be expanded by facilitating the cases right from the start after rescuing the victim. JCBD can facilitate victims/ survivors to file their case, and offer economic and psychosocial rehabilitation. Moreover, JCBD may increase their engagement area in the HT prosecution from the inception to the completion process. For example, the support may include from providing guidance while someone comes for filing cases, filing the reports, until the prosecution process ends. Furthermore, the work concerning witness attendance can be continued to increase witness attendance in court. Given the networks and expertise of JBCB, it can support and work closely with CID to carry out transborder investigations and collect foreign evidence.

It can work towards bringing transformative change in the legislation and at the system by advocating for the change in definition of human trafficking in PHSTA, 2012. Moreover, JCBD can advocate and attempt to influence in establishment of more numbers of anti-human trafficking tribunals.

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CHAPTER ONE: INTRODUCTION

1.1 Background

Human trafficking can be considered as an equal despicable crime as human slavery. Every human is born free and no human being should be treated as some kind of product to be transported. Unfortunately, a large number of individuals are still being trafficked every day in inhumane ways around the world. Bangladesh, as a developing country, is also battling with this heinous offense. This can be considered as a major drawback in the process of development of this progressive nation.

Human trafficking is counted as a punishable crime in Bangladesh. According to The Prevention and Suppression of Human Trafficking Act, 2012¹

“Human trafficking” means the selling or buying, recruiting or receiving, deporting or transferring, sending or confining or harboring either inside or outside of the territory of Bangladesh of any person for the purpose of sexual exploitation or oppression by means of -
threat or use of force; or
deception, or abuse of his or her socio-economic or environmental or other types of vulnerability; or
giving or receiving money or benefit to procure the consent of a person having control over him or her.

Being situated in the middle of South Asia-Gulf Region trafficking route, Bangladesh has 20 key sites² in 16 districts in south/southwest region near the Indian border for human trafficking.³ It is a matter of grave concern that most of the traffic victims are girls and women, and often end up in the brothels of India. The brutal situation in these brothels leads them to be physically and mentally abused, traumatized, paranoid, and depressed.⁴ A large number of men are being trafficked too. Bangladesh has roughly 592,000 victims of human trafficking, and the ratio of trafficked human beings is 3.7 victims per 1000 populations.⁵

Although Bangladesh is one of the fastest-growing nations in Asia, unemployment is still a major challenge for the country. This also works as a motivator for people from regional areas to move

¹ Bangladesh Gazette, 2012, The Prevention and Suppression of Human Trafficking Act 2012, Act No.3 <<https://www.refworld.org/pdfid/543f75664.pdf>

² Asian development bank, Combating Trafficking of Women and Children in South Asia (2003)

³ Violence against Women in Bangladesh, Bangladesh Women Lawyers Association (Dhaka: 2002)

⁴ S Sharmin and Rahman A m a, 'Challenges In Combating Trafficking In Human Beings In South Asia: Need For A Right-Based Approach' [2017] 59(3) Journal of the Indian Law Institute <<https://www.jstor.org/stable/26826607>> accessed 27 January 2022

⁵ Asia and the Pacific | Global Slavery Index. (2022). Retrieved 7 March 2022, from <https://www.globallslaveryindex.org/2018/findings/regional-analysis/asia-and-the-pacific/>

overseas and find a decent job there. Poverty and gender disparity also fuel their motivation. Moreover, the current global pandemic has left a lot of individuals jobless and they are struggling to earn their daily wage. As a result, more and more people are being interested in overseas jobs for better earning opportunities without having any knowledge about the real scenario. However, most of these people do not have any idea about finding a job abroad and they often fall into the trap of the brokers, who are mostly the grassroots level agents of human trafficking.

To put an end to this heinous crime, Government of Bangladesh has taken several steps and established many legislations. The government has launched a number of initiatives to safeguard women and children, including the National Plan of Action for Children (2004-09), the National Plan of Action against Trafficking in Women and Children (2008-09), and the National Plan of Action to Combat Human Trafficking (2018-2020) (Tier 1 & Tier 2). The Prevention and Suppression of Human Trafficking Act (PSHT) of 2012 and the Human Trafficking Deterrence and Suppression Ordinance of 2011 were both enacted to increase protection and prosecution.

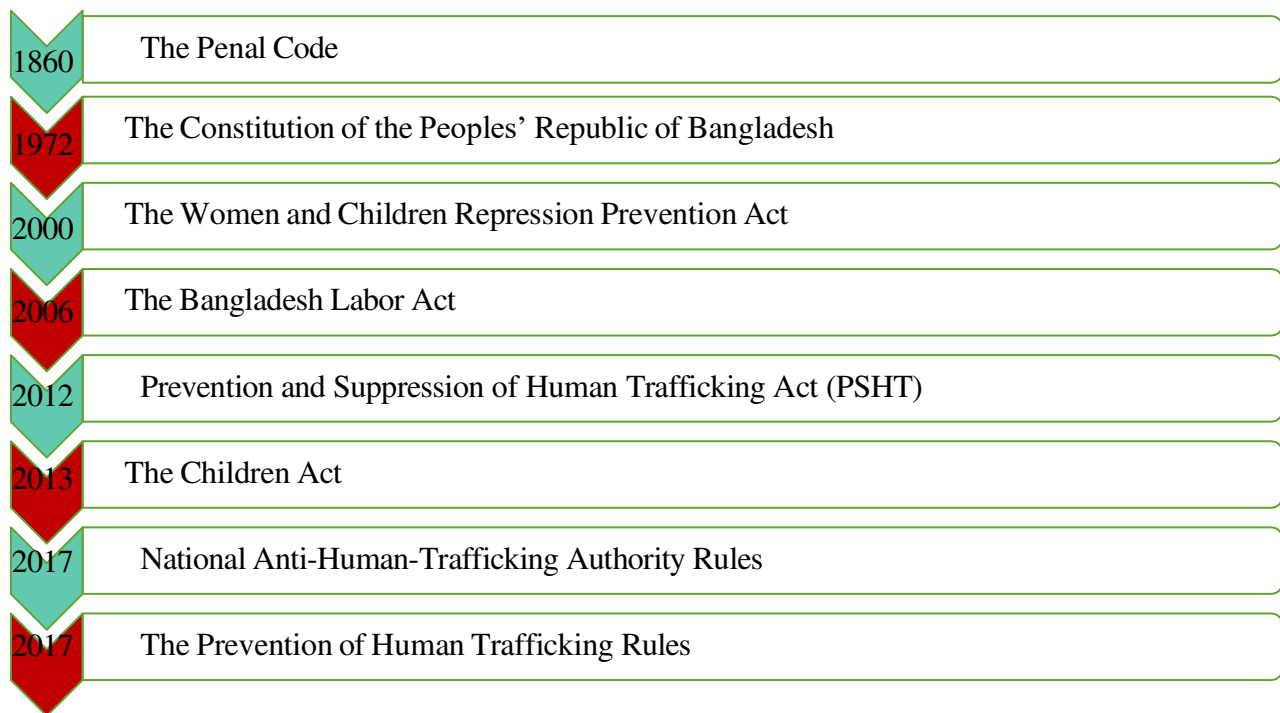


Figure 1: Anti Human Trafficking law in Bangladesh

At the practical outset, the Government of Bangladesh has finally set up seven special tribunals in April 2020; with the aim to expedite trials in human trafficking under the Prevention and Suppression of Human Trafficking Act, 2012 (PSHTA, 2012). However, the slow steps of Bangladesh cannot be denied as it took the government nearly eight years to set up special tribunals as mandated by the law to exclusively deal with trafficking cases, which led to more trafficking cases erupting in the country. While some perpetrators were arrested and brought to Court, the lower rate of conviction plagued the country. A BRAC presentation shows that between 2012 and 2021, as many as 24,500 people were prosecuted in

5,738 trafficking cases across the country. But up until March this year, the courts could dispose of less than 5% of the cases and the rate of conviction was only 0.6%.⁶

Although Government of Bangladesh has enacted the aforementioned laws, there are still some loopholes that act as a barrier for the human trafficking victims to receive justice. Most of the victims are from rural areas of the region, and the court and legal procedures take place in the urban area. Besides, complainants often have minimal or zero knowledge about what to do due to their legal illiteracy. Sluggishness is another hurdle on the way to justice. Tribunal judges are already burdened with their regular duties, so they tend to give the trafficking cases least importance. Inadequate victim protection measures is another reason for the delay of prosecution.

Despite the drawbacks, Bangladesh has made some noteworthy progress in human trafficking prosecution system. The country has been promoted to Tier 1 from Tier 2 Watch List based on the TVPA minimum standards (Trafficking Victims Protection Act) in 2020 (TIP Report, June 2020) which is a great achievement (USDOS TIP Report 2020). Albeit, delayed prosecution and low conviction rate is still a challenge to bring an end to human trafficking. A lot of complainants discontinued their case due to this reason.⁷

1.2 Understanding the process of trial proceedings

Types of Criminal Case and Stages of Criminal Trial in Bangladesh:

In Bangladesh the Code of Criminal Procedure, 1898 is considered as the fundamental procedure of the criminal case. Apart from the case institute in the Supreme Court or different Tribunals, the criminal case is of 4 categories those are:

Criminal Case

- 1) Complaint Register Case or (CR Case)
- 2) General Register Case or (GR Case)
- 3) Non-FIR Case or (Non-GR Case)
- 4) Unnatural Death Case or (UD Case)

1) Complaint Register Case (CR Case):

When a case is initiated on the basis of a Complainant, it is called Complaint Case and such a case is registered in the Complaint Register and for this reason, such a case is also known as Complaint Register Case (CR Case). The Judicial Magistrate takes cognizance⁸ in a CR Case Under Section 190 of the Code of Criminal Procedure, 1898.

⁶Reaz Ahmed , 'Traffickers get off the hook as Bangladesh suffers from poor conviction rate' (*Dhaka Tribune* , 29 July 2021) <<https://www.dhakatribune.com/bangladesh/2021/07/29/traffickers-get-off-the-hook-as-bangladesh-suffers-from-poor-conviction-rate>> accessed 27 January 2022

⁷ A Review and Analysis of the Human Trafficking Cases Pending Trial in Bangladesh, Justice and Care Bangladesh, February 2021

⁸ The power, authority, and ability of a judge to determine a particular legal matter. A judge's decision to take note of or deal with a cause.

2) General Register Case or (GR Case)

When a case is lodged on basis of information of cognizable offense to the police station Under Section 154 of the Code of Criminal Procedure, 1898 it is called General Register Case or (GR Case) or FIR Case. This is also called a police case as it is to file in the police station through FIR (First Information Report) or EJA HAR and such a case is registered in a General Register of the police station.

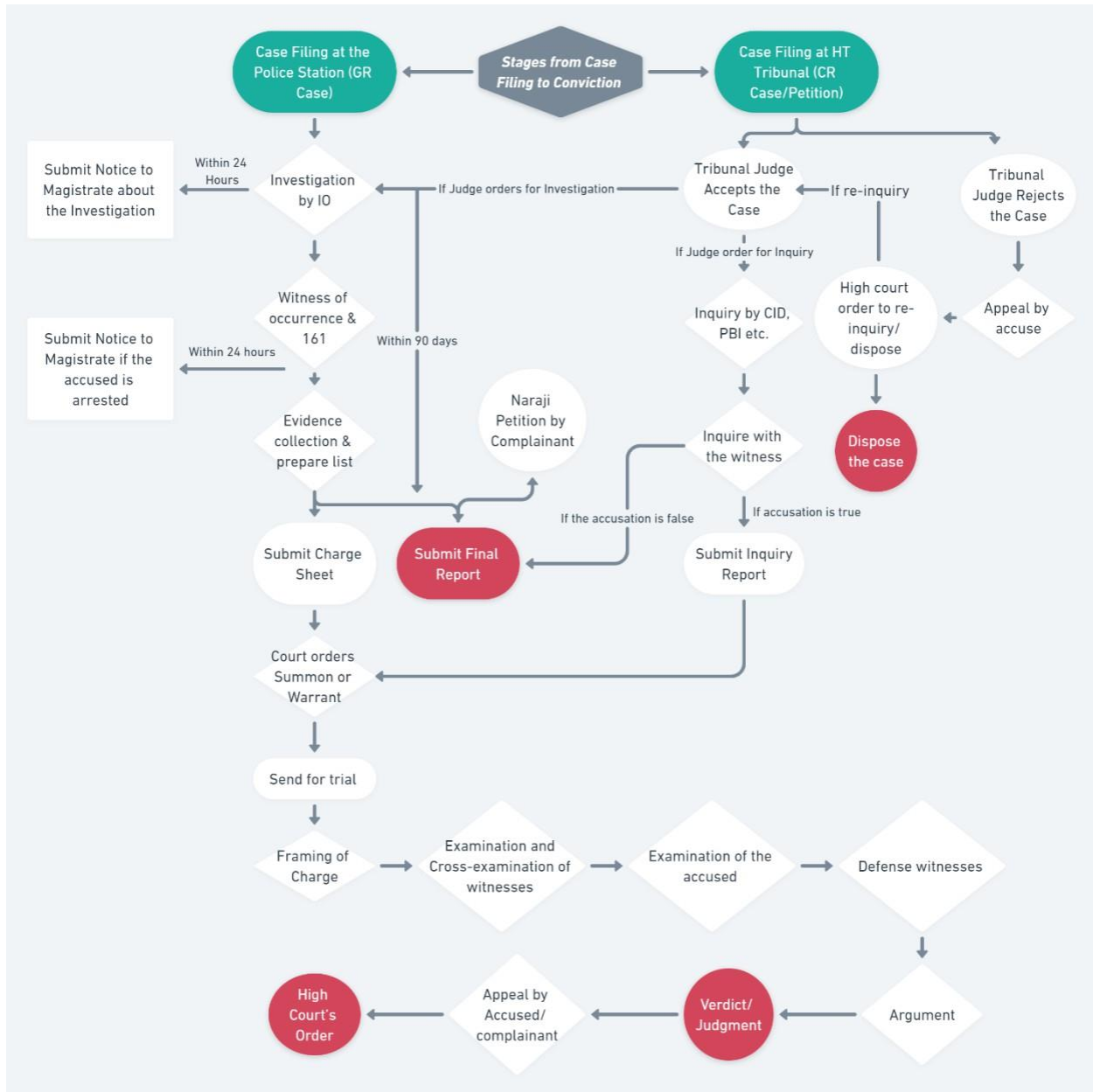
3) Non-FIR Case or (Non-GR Case)

A case is lodged on basis of information of non-cognizable offense to the police station Under Section 155 of the Code of Criminal Procedure, 1898 it is called Non-FIR Case or (Non-GR Case) or Non-FIR Case. This is also called a police case as it is to file in the police station through GD (General Diary)/Information and such a case is recorded in a Non-General Register of the police station. After that, the Officer in charge of the police station shall forward the information to the competent Judicial Magistrate for further necessary action.

4) Unnatural Death Case or (UD Case)

When first information is received by the Officer-in-charge of a Police Station or such other officer empowered by the government about the commission of the suicide or someone has been killed by another or by an animal or by an accident or has died under circumstances raising a reasonable suspicion that someone has committed an offense, that police officer will record the information in the B.P. Form No 48 & also proceed the Unnatural Death Case (UD Case) under section 174 of the Code of Criminal Procedure, 1898 and rule 299 of the Police Regulation of Bengal, 1943. After that, the Officer in Charge of the Police Station shall forward the information to the nearest Executive Magistrate for further necessary legal action. The first information of a UD Case is not an FIR.

A glimpse of stages of different criminal cases



Picture 1: Stages of HT Cases

1) Case Filing - Legal framework for HT case filing is based on the 2012 Prevention and Suppression of Human Trafficking Act (PSHTA) law and CrPC (The Code of Criminal Procedure, 1898). Complaints regarding HT can be filed at two places according to the abovementioned laws; i) at the police station and this is called GR case and ii) at the AHT tribunal and this is called a CR Case/Petition.

1.1) General Register Case or (GR Case)

If the case is filed at the police station, as cognizable offence, the IO of that police station can immediately start investigation without the permission of Magistrate. However, the IO must send a notice within 24 hours to the magistrate informing that he/she has started the investigation. The investigation process includes the following tasks:

- Witness of occurrence where IOs visit the place of offence and talk with the witnesses as per the Section 101 and 102 of CrPC
- Collection of all the evidence (Local & Foreign evidence) and prepare a list
- Submit the charge sheet or final Report
 - **Investigation of Inquiry Report (If any)** - If during the investigation, IOs find any proof of occurrence, they file charge sheet to the magistrate. Under section 173 CrPC, the police officer makes a charge sheet which is also known as challan or completion report. The procedure in court for conducting a trial of an offence begins after the inquiry or investigation report.
 - **Final Report** – if the filed complaints is proved wrong during the investigation, IOs submit a Final Report to the Magistrate. Complainants can file a Naraji petition at this stage if they want to

IO's are allocated with 90 days to submit investigation report/ final report. If the accused is arrested within these 90 days, IOs must submit a notice within 24 hours to the Magistrate informing that the accused is arrested by the police. If the IOs fail to submit the charge sheet or final Report within the first 90 days, they can extend the deadline for additional 30 days through applications.

The investigating officer forwards the charge sheet through the public prosecutor to the magistrate who has jurisdiction for conducting the trial.

1.2) Complaint Register Case (CR Case) – If the case is filed at the AHT tribunal, the tribunal Judge can either accept or reject the charge after hearing the arguments of complainant and prosecutor.

- **If Tribunal Judge Accepts the Case** – Judge order for inquiry or investigation for further information. If ordered investigation, the process mentioned under the case filed in police station will be followed. If order inquiry, CID/PBI or other authority conduct informal and short inquiries as well as talk with the witnesses. Upon the proof of accusation during the inquiry, the relevant authority files their report to the Judge. If the accusation is found false during the inquiry, same process of Final Report is followed and complainants can submit Naraji petition.
- **If Tribunal Judge rejects the case** – The complainant can appeal to the High Court and High court may either order to re-inquiry or dismiss the case. If the High Court orders for re-inquiry, the same process as previous is followed.

According to section 204, if in the opinion of the court taking cognizance of an offence, there are sufficient grounds for proceedings in the inquiry/investigation report, then if the case appears a summon case, summon shall be issued for the attendance of accused, and if the case appears a warrant case, a warrant may be issued for causing the accused to be brought before the court.

2) Send for trial - Section 241-A of Chapter 20 of the CrPC provides that the court must provide all statements and documents to the accused free of charge at least seven days before the start of the trial, and thus the procedure of the case begins.

- Taking cognizance by the court of the session (If necessary) -
- Charge Hearing -

3) Framing of Charge - When the accused appears or is taken before the magistrate, a formal charge relating to the offense of which he is accused must be made, according to sections 242 and 243 CrPC. And he'll be asked if he wants to plead guilty or not. If he pleads guilty, his admission must be written down in his own words. If the accused replies, "I do not plead guilty, I demand a trial," the court is obligated to follow the law by questioning both prosecution and defense witnesses.

3.1) Examination and Cross-examination of witnesses - On the application of the complainant or accused, the magistrate may issue a summons to any witness, instructing him to appear or present any documents or materials.

- First and foremost, it is the responsibility of the complainant to call his witnesses for the purpose of recording evidence under section 164 CrPC in order to prove his charges against the accused.
- Second, the magistrate is required to question all of the accused's witnesses in his argument.

The following are the rights of any side at the time of recording every witness's statement:

- To examine- in- chief the witness in chief, "the party who calls it"
- "Every witness of the opposing party" is to be cross-examined.
- "The party who called it if necessary" to re-examine the witness

3.2) Examination of the accused - At this point in the trial, the court allows the accused to record his statement in order to prove his innocence.

According to section 340 subsection 2 of the Criminal Procedure Code, any person accused of an offence before a criminal court may record his statement on oath in disproof of the charges or allegations leveled against him if he does not plead guilty, and the accused shall then be cross-examined by the prosecution.

3.3) Defense witnesses (If necessary) – Read the second part of the **Examination and Cross-examination of witnesses**.

3.4) Argument - The accused should have the right to be represented by a pleader at all times, and during this stage of the trial, the accused's pleader and the public prosecutor may present their positions on the legal and factual issues in the case.

3.5) Judgement - According to section 245 CrPC, if the magistrate deems the accused not guilty after hearing the evidence referred to in section (244), as well as any further evidence, and after examining the accused, the magistrate shall record an order of his release.

If the magistrate finds the accused guilty of an offense after hearing the evidence referred to in section (244), as well as any other evidence, and after examining the accused, he shall impose a sentence on him.

1.3 Introduction to Justice and Care, Bangladesh and its Involvement in HT Prosecution

Justice and Care help rescue victims of slavery and human trafficking. It is a UK-based NGO that works with law enforcement to rescue victims of slavery, bring criminal networks to justice and spark system change.

Justice and Care is a specialist international NGO dedicated to ending human trafficking, with a vision to see “every captive free; every perpetrator brought to justice.” Justice and Care Bangladesh was established in 2017 to provide care and support during and after repatriation for Bangladeshi victims of cross-border trafficking for the purpose of commercial sexual exploitation (CSE/CSEC). Since then the work has been expanded to directly address inter-related issues affecting trafficking prevalence, and now spans prevention work, targeting the most vulnerable families and individuals; repatriation work and intensive aftercare provision to survivors of human trafficking; a country-level prosecution analysis and acceleration project; building the operational capacity of frontline professionals, such as the police and border forces to identify victims and remove them from harm; and systemic change including shaping government anti-trafficking policy and practice.

1.4.1 JCBD’s prosecution initiative

Justice and Care’s prosecution initiative began with research into the problems fettering the prosecution of trafficking cases in Bangladesh, before devising a set of recommendations for the Government to address the problems and now designing and delivering a programme of work to support the outworking of those recommendations.

Phase 1: Research

Justice and Care Bangladesh identified that the low rates of prosecution and conviction of trafficking cases in the country is facilitating a low-risk, high-reward business model for the criminal networks engaged in human trafficking, where traffickers operate with impunity and little or no fear of successful prosecution. Justice and Care approached the Ministry of Home Affairs in 2019 to discuss how to address the low prosecution and conviction rates, and spurred on by the recommendations of the US TIP report that same year, the Government of Bangladesh requested Justice and Care Bangladesh to conduct research into the backlog of trafficking cases in the court system and to report back as to the reasons for the delays and failures in the prosecution process, and with recommendations for addressing these challenges. Justice and Care appointed a former judge as a legal advisor and during 2020 conducted in-depth research into the backlog of 4,500+ human trafficking cases in the court system through analysis of a sample of 354 case dockets alongside interviews with 159 complainants and victims/witnesses.

Phase 2: Recommendations

Following the research, Justice and Care Bangladesh (JCBD) devised and published in March 2021 a set of recommendations for the government to directly address the specific bottlenecks identified in the research. These included:

- Training tribunal judges to treat Human Trafficking cases as investigations, rather than inquiries, and closer adherence to Sec. 19 of The Prevention and Suppression of Human Trafficking Act, 2012 (PSHTA), which states that cases can only be investigated by the police officer not below the rank of Sub Inspector (SI) of the concerned police station.
- Training Investigation Officers (IO) and Special Public Prosecutors of the need to follow International Legal Instruments/ Mutual Legal Assistance Treaties, and of the importance of foreign evidence in cross border/ transnational human trafficking cases. To this end, Implementation Guidelines for the bilateral Mutual Legal Assistance Treaty (MLAT) should be developed and adopted to enable investigating officers to access foreign evidence in the destination countries.
- Functioning separate Tribunals in each district have certainly lessened some workload and expedited the prosecution of human trafficking cases - however the territorial jurisdiction of these tribunals needs to be expanded for further expediting the prosecution of these cases and the development of access to justice. Broader territorial jurisdiction should also be given to Specialised Tribunals to expedite the prosecution of these cases and expand access to justice. In districts where Anti-human trafficking tribunals have not yet been established, Prevention of Violence against Women and Children Tribunals are performing additionally as Anti-human trafficking tribunals and trying human trafficking cases. The appointment of dedicated Prosecutors to deal with the human trafficking cases in such tribunals may result in the reduction of workload.
- An effective protocol for identifying victims and crimes should be introduced to lessen the number of cases erroneously filed under wrong provisions of law.
- Witnesses who are not able to attend the court dates due to financial barriers should be provided with appropriate legal aid so that they can fulfil their obligation of appearing before the court.
- The provisions given in the sections 37 & 38 of the PSHTA regarding the matter of witness protection need to be properly implemented in order to protect the complainants, the victims and the witnesses from any harassment from the accused parties or their accomplices.
- Responsible authorities need to be aware of the counter litigation that the accused often use as a means of putting pressure on the victims – ref. section 37 (1) of PSHTA, 2012.
- Better implementation of Sec. 10 of the Prevention and Suppression of Human Trafficking Rules 2017 is needed in order to improve the coordination between the Prosecutors and the Investigating Officers. This may result in both bodies becoming well aware of what is necessary and available for the successful prosecution of a particular human trafficking case.
- Bail matters in human trafficking cases need to be considered more sensibly, bearing in mind the possibility that the accused may influence the complainants/ victims while they are out on bail.

Phase 3: Programming

JCBD designed a programme of work to directly address the issues uncovered in its report and to support the government in outworking the recommendations from the report. This work is focused on one tribunal in Dhaka, one in Khulna and two in Jashore and comprise of:

- **Direct support to a cohort of human trafficking cases awaiting prosecution** - this involves Justice and Care's legal associates reviewing the case and engaging directly with the Special Public Prosecutor to explain the case, introduce them to victim/witness and providing administrative support to the prosecutor to facilitate and expedite the court processes; and in parallel, work with the victim/witness to explain the court process, safeguard and support them during court attendance and to ensure their wider needs are met through Justice and Care's aftercare programme. Initially this support was to be facilitated through panel lawyers but JCBD adapted their approach to directly engage special public prosecutors through a stipend for work done on the caseload of human trafficking cases, and through the administrative assistance of JCBD's court officers.
- **Witness attendance programme** - Justice and Care hires and trains legal associates to approach the complainants and witnesses listed in the case dockets of the tribunals on behalf of the prosecutor. These associates explain the court proceedings and the witnesses' obligation to attend court, and provide practical help with attendance in the form of information and logistics as well as funding for travel where needed.
- **Capacity building support to prosecutors, judges and district legal aid committees** - this takes the form of workshops and individual meetings, and is not generic training but is specifically highlighting and addressing key erroneous practices including the ordering of inquiries and investigations in contravention of section 19 of the law and the requirement for prosecutors to engage with investigating officers as per section 10 of the law.
- **Training to police, support with investigations and engagement with law enforcement leads** - this includes training to police and Border Guards Bangladesh in victim identification, support to missing person and human trafficking investigations as requested by police, CID, PBI and RAB (often involving Justice and Care coordinating between Bangladesh law enforcement and Indian partners and law enforcement), and successfully working with policing leads to ensure that all investigating officers are instructed to meet with the Special Public Prosecutor prior to the submission of charge sheets.
- **Advocacy followed by outworking on behalf of government on key national tools** - following their recommendations to government of the need for National Victim Identification Guidelines and for National Implementation Guidelines in respect of the Mutual Legal Assistance Treaty, Justice and Care have been formally requested by the Government of Bangladesh to draft both sets of guidelines on their behalf. These guidelines are being developed in consultation with law enforcement and once endorsed and disseminated should have a transformative impact on victim identification and cross-border investigations on a national scale.

Justice and Care’s programming in response to their research findings is summarised below in **Table 1**:

Table 1: Summarized findings on JCBD's programmes

Finding:	JCBD’s targeted solution:
Judges ordering enquiries not proper investigations (23% cases)	Advocating and capacity building with tribunal judges to understand the relevant rule
Most (73.4%) cases stuck because witnesses not attending court - due to lack of understanding or prohibitive costs	New witness attendance / outreach programme in 4 tribunals
Lack use of foreign evidence leading to acquittals (absent in 92.4% cases)	Advocated for Mutual Legal Assistance Treaty implementation guidelines and now formally drafting those guidelines on the government’s behalf
Lack of engagement of Public Prosecutor with victims (no contact in 70% cases)	Supporting Public Prosecutors directly to engage with victims and expedite trafficking cases
Lack of interaction between Investigating Officer and Public Prosecutor so poor charge sheets submitted	Supporting Public Prosecutors in engaging with Investigating Officers and secured Chief of Police to order all Investigation Officers to engage with PP
Communication and coordination between law enforcement across national borders is extremely slow and challenging	Providing support to cross-border investigations by connecting the Bangladeshi law enforcement with a network of partners and law enforcement contacts in India.

Justice and Care is working closely with Ministry of Home Affairs of Bangladesh in finding ways to expedite the prosecution process of the human trafficking cases pending trials. The prosecution project has been commencing for over 12 months now.

CHAPTER TWO: METHODOLOGY

2.1 Objectives of the evaluation

A baseline is commenced as a part of a longitudinal evaluation. The overall purpose of the evaluation and the intended users are:

- Justice and Care Bangladesh - to assess the extent to which the programmes outcomes are being achieved; identify iterations of improvement to programmes design and generate key learnings to inform plans for scaling
- Justice and Care UK - to facilitate board level monitoring of impact, facilitate cross-organizational learning between Justice and Care entities and partners; and to inform communication to donors
- UBSOF - monitoring of grantee progress and performance
- Government of Bangladesh and wider stakeholders - to act as a reference tool informing practice and strategies at a statutory level

The objective of the baseline study was to identify the current status of the prosecution of human trafficking case, furthermore to retrospectively look into the situation before the commencement of activities initiated.

2.2 Key research questions



Key question 1: To what extent has the Justice and Care Prosecution Programme facilitated the successful prosecution of human trafficking cases directly supported through the programme?



Key question 2: To what extent has the Justice and Care Prosecution Programme contributed to systemic-level improvements in the prosecution of human trafficking cases in Bangladesh?

2.3 Research design

Based on the aim of analyzing the present condition of the prosecution project, the research was conducted using a mixed-method study. A concurrent nested design was developed for the evaluation. The research was conducted using longitudinal quasi-experimental design. Both qualitative and quantitative data were collected for the study. Samples of the quantitative study were divided into two groups. These are:

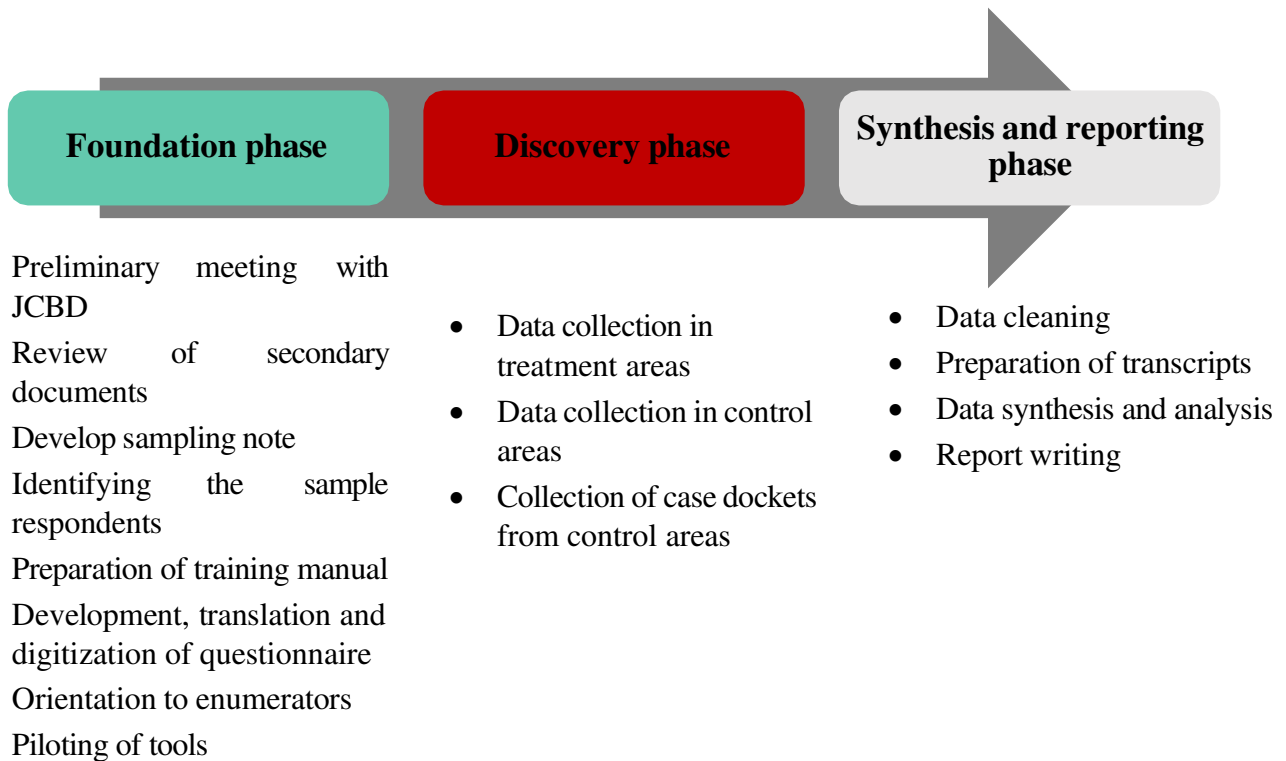
1. **Treatment group:** These are cases from anti-human trafficking tribunals [Dhaka (1), Khulna (1), Jashore (2)] that are supported by the prosecution project.
2. **Control group:** These are cases from both anti-human trafficking tribunals (3) and Prevention of Violence against Women and Children tribunals (Nari O Sishu Nirjaton tribunals) (2) that are not supported by the prosecution project. The data were collected

from two different tribunals in order to cover the highest human trafficking areas such as Khulna (1), Jashore (2), Chittagong (2) and Cox's Bazar (1).

In terms of quantitative data analysis showing comparisons with treatment and control data, direct comparison was made with only AHT tribunals from case dockets, and not Prevention of Violence against Women and Children tribunals. This way the quasi-experimental design is not affected, and valid comparison of data is made.

The evaluation procedure was implemented in three steps

1. Foundation phase,
2. Discovery phase, and
3. Synthesis and Reporting phase.





area. Four enumerators were appointed to collect quantitative data. The data collection period was from February 18 to March 9, 2022.

2.4 Data collection methods

The baseline study is consisted of two key components:

1. Retrospective baseline: The situation of prosecution procedure at the beginning of the project compared to the situation now;
2. Current standing: The situation of prosecution procedure at the present day attributable to the work of JCBD

2.4.1 Quantitative data collection

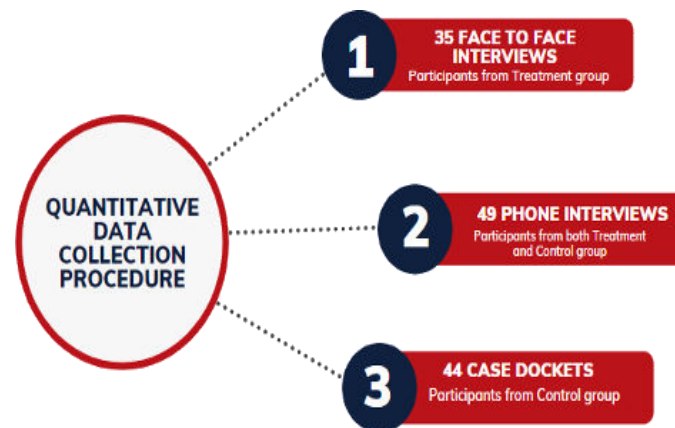
Quantitative data regarding the effectiveness of prosecution projects were collected from both treatment and control groups. A questionnaire survey in a form of structured interview was conducted for both treatment (intervention) groups and control groups to gather necessary information about the effectiveness of the project and to compare the outcome between the two groups. The research team used a stratified random sampling technique to determine the sample size from the study area. The study area included three different locations – Dhaka, Jashore, and Khulna. One of the locations is in the center of the country while the rest of the locations are situated in the border

Sample size: Sample size was determined based on population of treatment and control groups. The proposed sample size of the treatment group was 84. However, a total of 86 surveys were conducted.⁹ The sample of the respondents were selected from the 200 cases currently being supported by JCBD. Quantitative data were collected using the Kobo toolbox. The survey were conducted in the following ways:

Face-to-face interview | Phone interview | Data collection from case dockets

⁹ The reason of conducting 2 more was that some participants were unwilling to participate in the survey, so the enumerators moved to another participant. But later on, the participants showed interest to participate in the survey by calling the enumerators. Hence, 2 additional surveys were conducted.

Enumerators visited the above-mentioned study areas and collected 12 samples from Dhaka, 50 samples from Khulna and 24 samples from Jashore. The sample sizes were distributed proportionately as per the population of complainants reached by the project. Since few participants were not willing to participate in any in-person meeting due to their fear of hassle, past trauma and trust issues, enumerators had to conduct their survey over the phone. Participants of control areas were also hard to reach due to lack of contact information, hence, 32 case dockets were used to understand the current situation of control areas.



Picture 2: Data collection methods

To maintain the highest quality of data collection, all the appointed enumerators were lawyers who have in-depth knowledge regarding the prosecution process of Bangladesh.

Limitation: One of the major limitations of the study was to carry out in-person or phone interviews with the respondents from control areas. The failure to reach the participants was mostly due to no contact details and no networking to support the team. Only 10 out of 42 interviews could be held with the respondents from control areas, despite multiple efforts. Because of the failure to reach the respondents, case dockets of the sampled respondents were reviewed for the additional number of cases. The implication of changing the modality resulted in questions pertaining to perception and experience being omitted from the survey; all the other parameters have been extracted from the case dockets.

Challenges: While collecting quantitative data, the following challenges emerged:

- The technical and legal jargons used in the questionnaire was sometimes hard for the respondent to understand;
- Enumerators found it risky to meet respondents in-person since the study topic is sensitive and perpetrator(traffickers) are violently powerful and their secret network is strong;
- Some participants could not be reached in any way since their case was settled and their dockets were destroyed;
- Locations were scattered so it was impossible to conduct more than 3 surveys a day, therefore extra days were used than planned in data collection;
- Some of the participants were hard to reach and unwilling to cooperate due to their fear of hassle;
- Most of the respondents are not acquainted enough about their case stages and current status;
- Most of the respondents were not aware about JCBD enough.

Mitigation procedure: Enumerators adopted the following procedure to overcome the challenges they faced

- To make the questions more understandable, enumerators paraphrased and repeated the questions to the enumerators.
- Enumerators adopted local language to make the questions more understandable for the participants.
- To avoid a risky situation, the enumerators quickly left the location of data collection without disclosing their identity for longer period of time.
- Unwilling participants were convinced to give data over phone interviews.

Recommendations from enumerators:

- A collaboration with local police stations is necessary, in case of safety concerns.
- The language of the questionnaires should avoid all legal jargons and be translated in a simple manner that can be understood by the complainants/victims.
- The panel lawyer should keep the records of all cases before the court authority destroys them.
- Proper authorization letter and ID card should be provided.

2.4.2 Qualitative data collection

Qualitative data were collected through Key Informants Interviews (KIIs). In total, 22 KIIs were carried out. The participants of the KIIs were representatives from Criminal investigation department (CID), Tribunal judges, Special public prosecutors, Panel lawyers, Legal Case Facilitators, District legal aid committee. The KIIs were conducted by an experienced and reputed legal expert, assisted by a legal assistant. An open-ended questionnaire was prepared and used in the KIIs.

Table 2: Number of stakeholders interviewed

Participants of KIIs	Sample size
Criminal investigation department (CID)	2 from Dhaka
Tribunal judges	2 from treatment areas (Khulna and Dhaka); 3 from control areas (Cox’s Bazar and Chittagong)
Special public prosecutors	3 from treatment areas (Khulna, Dhaka, Jashore); 3 control areas (Cox’s Bazar and Chittagong)
Panel lawyers	3 from treatment areas
Legal Case Facilitators	3 from treatment areas (Khulna, Dhaka Jashore)
District legal aid committee	2 (Khulna and Jashore)
Total	21

Challenges faced: While conducting the KIIs, the following challenges emerged:

- It was hard to reach the tribunal judges since they are already burdened with their workload and taking appointments with them took longer than expected.
- Judges were reluctant to talk about some issues since those were sensitive and they did not want to present their personal view on the matter.
- No recording or taking photographs were allowed with the interview participants.

Mitigation Strategy:

- JCBD supported the research team with the contact details of the stakeholders. In future, if initial contact and introduction is ensured between the stakeholders and research team, the research team will find it easier to take off the interviews.
- To reach the interviewees, personal networks of the legal experts were used.
- Instead of recording, answers were noted down in writing.

CHAPTER THREE: UNDERSTANDING THE CURRENT PROSECUTION PROCESS AND CHALLENGES

In the baseline Progress Inc. administered semi-structured-survey with 86 complainants from the intervention areas and 10 interviews with the ones from control areas. Additional 32 case dockets from control areas were reviewed to make comparison with the intervention areas. The case characteristics of the victims are as follows:

3.1 Case characteristics

A total of 86 cases from intervention areas (Dhaka, Khulna, Jashore) and 42 control areas were reached for the survey. Of the total respondents from intervention areas 66 (76.74%) were only complainants, 17 (19.76%) were both victims and complainants themselves, only 3 (3.48) were the victims only.

In most of the cases, the victim was being trafficked by known person other than family members (58.14% (50) in intervention areas and 66.67% (28) in control areas). 26.74% (23) cases were being trafficking by unknown person in intervention areas and 19.05% (8) in control areas. Remaining percentage for both areas are being trafficked by either their family members or relatives. It appears from the baseline survey that cases have been in the prosecution for several years. In intervention areas, 50% (43) of the respondents reported that their cases have been pending for 4-7 years, while 23.26% (20) said that their cases are pending for 8 years or more. The proportion is similar in the control areas, where 42.86% (18) reported their cases to be pending for 4-7 years and 26.91% (11) reported their cases to be pending for 8 years or more.

The current status of baseline shows that most of the cases are in investigation phase, where the charge sheet is either being prepared or submitted. More than one third of the cases have not reached the judgement phase. Almost one fourth of the cases from intervention areas are stuck in the examination of Plaintiff Witness Stage.

Table 3: Number of cases in different stages under investigation and trial

Number of cases in different stages under investigation and trial	Intervention areas		Control areas	
	Count	%	Count	%
Under investigation	7	9%	3	30%
Charge sheet has been submitted	23	31%	0	0%
W/A Issue & Newspaper Announcements	0	0%	0	0%
Charge Framing	6	8%	2	20%
Examination of Prosecution Witness	11	15%	2	20%
342-examination	7	9%	0	0%
Argument	3	4%	1	10%
Judgment	3	4%	0	0%
Don't know	14	19%	2	20%

After the investigation has concluded, the investigating officer is required by law to provide either a Charge sheet/Investigation Report or a Final report so that the trial can begin. In the baseline, when respondents from intervention areas were asked about the submission of the charge sheet, 19% (14) from intervention areas did not know about the status. 9% (7) said their case is still under investigation. While only 20% (2) of the respondents from control areas, among the 10 we have interviewed, reported that they did not know about the status of their charge sheet, and 30% (3) of them reported that their case was under investigation .

In addition to the survey with the complainants, the baseline data/ information was also collected through key informant interviews. As mentioned under the methodology section, different stakeholders were reached to understand the overall status of the prosecution process and the challenges in efficient prosecution. Findings from the interviews shed light on the fact that low conviction and delayed prosecution are the acting as barriers to effective prosecution. There are magnitude of factors hindering the effective prosecution process. Lack of access to evidence and low witness attendance being the major ones. The section below discusses on the nature of the human trafficking and factors affecting delayed prosecution.

3.2 Nature of human trafficking: How hard is it to identify?

The offence of human trafficking is defined by the Prevention and Suppression of Human Trafficking Act (PSHTA), 2012. The definition entails a comprehensive explanation on human trafficking which makes the identification of the cases easier. However, the same comprehensiveness deems stretched and extended as expressed by the key stakeholders.

“[The definition of ‘human trafficking’ is wide and vast. The crime is specific, but the explanation seems unnecessary and redundant.]” – Tribunal Judge, Dhaka, Treatment area

The definition talks about the different **acts, means and purposes**. For example, under acts the definition talks about recruitment, transportation, harboring, receipt of persons, buying etc.; the means talks about threat, forms of coercion, abduction, deception, abuse; and the purpose talks about exploitation through prostitution, forced labor, fraudulent marriage, forced begging etc.

“Only 30% of the cases in my court is actual human trafficking case.” – Tribunal Judge, Chittagong, Control area

The stakeholders expressed that despite a comprehensive definition, the clarity of the definition is often lacked by the investigating officer and other concerned entities. This definition becomes perplexing for investing officers who are not from legal background. They only receive simple training regarding case identification, which is not adequate to understand the nuances and complexities entailed in the current definition.

[Investigating officers often confuse human trafficking case with other crimes as the nature of the crime is quite similar to many crimes of Penal Code and Prevention of Violence against Women and Children Act 2020.] Public Prosecutor, Dhaka

Increasing trend of human trafficking

The rate of human trafficking has not decreased significantly over years despite several efforts from the governmental and non-governmental entities. Often times, human trafficking is a hidden offence, where the actual culprits go unrecognized. Moreover, the criminals are using creative and innovative ways in trafficking.

[That is because the innovative mind sets of the criminals. They are operating differently every time while committing offense. Consider “TikTok Hridoy¹⁰” for example, his way of trafficking young girls was so different then cases previously handled.] CID

The major pull factor of migration is the desire to earn a good income, dreams of having better lives and fulfilling personal and family needs. Despite a multitude of factors responsible for migration, it is to be acknowledged that poverty is the root cause from which all these other reasons stem out.

3.3 Low conviction rate: a pertinent problem

The rate of conviction is very low. According to BRAC Migration Programme, from 2012 to March 2021 the human trafficking conviction rate is only 1%¹¹. As explained by the anti-human trafficking tribunal judges of JCBD intervention areas, in Khulna, in the past two years, there has been no conviction. In Dhaka there was only 8 cases that were convicted since January out of the many hundreds of cases. Similarly, in other areas including Cox’s bazar and Chittagong, there was not a single-case convicted in the past year. The tribunal judges explained that the low conviction is primarily because there is lack of primary and secondary evidences.

The baseline identified the following result from both the intervention and control tribunals. The data collected from the tribunals shows that only 8 cases in Dhaka were disposed in convicted, while none from other areas.

Table 4: No. of HT case disposed in 2020

Metric	Jan – April 2022					
	Intervention Tribunals				Control Tribunals	
	Jessore 1	Jessore 2	Dhaka	Khulna	Chittagong	Cox’s Bazar
No. HT disposed in conviction during the preceding 12 months	0	0	8	0	0	0

¹⁰ Hridoy Babu aka TikTok Hridoy is a Bangladeshi Tiktoker. In May 2021, he was arrested by the Bangalore police in the case of human trafficking and sexually assaulting a woman along with four other men and two women.

¹¹ Kamran Siddiqui, “Less than 1% human trafficking cases convicted in Bangladesh” The Business Standard, 29 July 2021. <<https://www.tbsnews.net/bangladesh/crime/less-1-human-trafficking-cases-convicted-bangladesh-280897>> Accessed 18 May 2022

Lack of access to evidence: Many cases are being rejected, and accused are being discharged at ground because of lack of access to evidence. All the elements under the definition- acts, means and purposes - have to be proved to prove a human trafficking case. In most of the cases, when a case is brought to the court, it is rejected because there are no substantial evidences with the investigating officers. The allegation cannot be proved and the matter gets summarily rejected.

In this regard, the judges explained the problem of labor related trafficking. When a person leaves Bangladesh, with the assistance of the recruiting agency, they don't have any agreement on how they will go, and where they will go. Even in case of monetary transaction, one cannot show any proof as the transaction occurs in cash. There is no documented evidence that can be traced well to convict the case. In most cases, oral evidences are present but the evidence is not adequate. Moreover, it was reported that an investigation charge sheet does not have the identification of the actual criminal. The court cannot convict anybody unless proven guilty.

“There is no agreement between two parties, no prove of transaction, no document to prove that they were being trafficked.” All Tribunal Judges

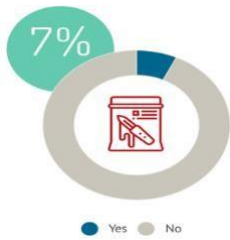
The use of foreign evidences has not been incorporated by the investigating officers till date. The CID explained that the occurrence of offence takes place outside the territorial jurisdiction. The collection of foreign evidence become very difficult and not feasible. The embassies of the concerning state are not pro-active and often times unwilling to cooperative and coordinate, which hampers the process of evidence collection.

As shown in the baseline survey, the number of cases where trafficking destination is within the border of Bangladesh is vastly outnumbered by cases where the destination is outside of borders. According to the survey result, only 11.63% (10) from intervention areas and 16.66% (7) from control areas reported that the case of trafficking occurred within the country; the rest occurred outside the country. The findings in the review of 2021 reflect similar statistics.



87.21% (75) of the cases from intervention areas; and 83.34% (35) cases from control areas were trafficking outside the country.

The coordination is also lacking from the immigrant workers who do not cooperate in entering their information to the to the concerning country embassy as per section 19 of the Boideshik Karmasangsthan O Ovibashon Ain, 2013. As a result, no evidence of their existence can be traced to be used as evidence. Moreover, the victims do not contact the embassy in any occurrence of human trafficking. The embassy runs investigation and issues certificate (embassy report) as per the Emigration Rule 2002 if any such reports are made by the victims. However, victims do not contact to the embassy and return back to country, thus no report is issued. As a result, no proper evidence can be found. Nevertheless, the stakeholders opined that it is however important to conduct transboundary investigation to collect exclusive and actual evidences against the offenders.



To corroborate this, survey results showed that in about 7% of the cases (6.98% (6) in intervention areas and 7.14% (3) in control areas), there has been a use of foreign evidence though 87.21% of the cases occurred outside the border of Bangladesh.

Limited jurisdiction in trying the case: One loophole in the legislation highlighted by the stakeholders was regarding the limited jurisdiction of anti-human trafficking tribunals in trying an offense other than that of human trafficking. Other than human trafficking offense, no other offense should be tried by anti-human trafficking tribunals such as rape, murders etc. While the Prevention of Violence against Women and Children Tribunals have the provision to try other ancillary offences when a human trafficking case is filed as there are defined offenses under Prevention of Violence against Women and Children Act and these offenses are highly connected to offenses relating to the Penal Code of Bangladesh. Because of this limited jurisdiction of tribunals, the judges from the anti-human trafficking tribunals have to reject the case leading to low rates of conviction.

“The immediate amendment adaptation is required like section 27(3) of the Prevention of Violence against Women and Children Act 2000 to try other related matters in the same tribunal of HT Tribunal which is absent in the present legislation.” – Unanimous voices of tribunal judges

Compounding: The economic background also opens a scope of victims compounding the case off the court, in exchange of money or other compensation. As expressed by the tribunal judge of Khulna and Jashore, there are cases of off-the-court compounding. While in case of Dhaka, the cases of compounding are low, according to the panel lawyer of Dhaka tribunal. Few major reasons behind this are i) the number of cases is very high in this area so information regarding compounding may not be properly collected for all these; ii) lots of cases are under section 12 and 13 where there is no victims, as the cases are mostly filed by the police. Hence, compounding cannot exist in this regard; iii) victims cannot be found from the given addresses and/or contact numbers in the case files. Compounding the offense is another factor that is leading to low conviction as the case is settled between the two parties without trial.

Is compounding a necessary evil?

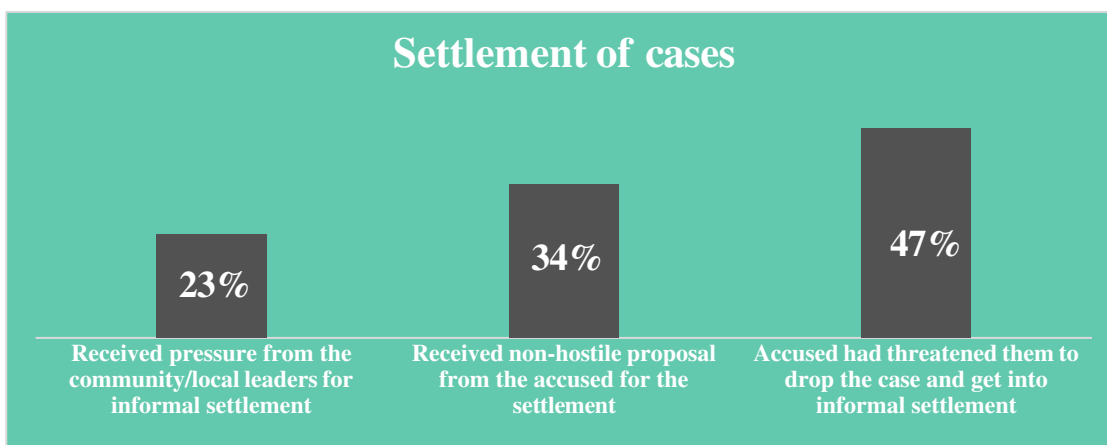
Many stakeholders opined that compounding is a necessary evil. They argued that compounding is necessary as:

- Victims hard-struck by poverty find monetary compensation more lucrative than moral justice.

[Compounding option should be legally included as most victims are more interested in compounding rather than conviction as that provides them monetary assistance.]- Tribunal Judge, Khulna

- Victim protection is not guaranteed by the government.
- There are very limited livelihood or income generation options for the victims or survivors from government's side.

Results from the survey with the complainant substantiated the assertions made by the stakeholders in their interviews. The informal settlement can be explained by the survey results that show that 23% (20) of the respondents reported that they have received pressure from the community leaders for informal settlement, while 34% (30) of the respondents said that they have received non-hostile proposal from the accused for the settlement. Interestingly, 47% (40) respondents reported that the accused had threatened them to drop the case and get into informal settlement.



3.4 Factors affecting delays in prosecution

The cases of human trafficking are often associated with the delayed prosecution opined most of the criminal justice stakeholders. Reporting of miscategorized cases, lack of witness attendance, overburdening of the work, lack of access to evidences etc. are the major reasons for the delayed prosecution.

The baseline data obtained from the tribunals found that across intervention and control tribunals, there are a lot of cases pending. In case of Dhaka, as much as 1065 human trafficking cases are pending, while in Khulna 148 cases are pending.

Table 5: No. of HT cases pending

Metric	Jan - April 22					
	Intervention Tribunals				Control Tribunals	
	Jessore 1	Jessore 2	Dhaka	Khulna	Chittagong	Cox's Bazar
No. HT cases pending (approx.)	74	70	1065	148	17	5

The findings from interviews pointed out to several common reasons delaying the prosecution process. They are presented as follows:

Reason #1 Miscategorized cases

Many cases of human trafficking are being miscategorized. The cases are filed due to fact that the human trafficking cases are hard to identify as the definition of human trafficking in the Act is complex and vague. The judges explained that more than 70% of the cases filed are miscategorized case. There are two elements of crime: act and intention. Though it may seem that the act is there when a case is filed, but there is no intention. For example, in terms of labor trafficking, when a person leaves the country with assistance from a recruiting agency, he/she leaves with legitimate document (including passport). In most of the cases, offense occurs after crossing the border. In that regard, the person involved with the recruiting agency has no intent or motive to exploit the person. However, the complainant files a case against the alleged on human trafficking when there are other issues concerned. At the same time, when sex trafficking cases are filed, the actual accused are mostly resided overseas and hence, they remain out of reach for the law enforcement authorities of Bangladesh. Thus, the victim generally can only file cases against the local agent which ultimately falls under miscategorized cases. Besides, medical examination is also required in such cases. But due to lack of medical examination reports, the accusations of sexual trafficking become null and void.

In most of the times, miscategorized cases are often filed by the complainants against the recruiting agency for foreign migration. When the victims reach the destination country, and become unsatisfied with the benefits, perks and provisions promised, they file a human trafficking case against the recruiting agency. The vulnerability of such victims is questionable as they leave the case unattended and switch to a different job when gotten an opportunity. On the other hand, in terms of sex trafficking, mostly victims cannot be identified since the cases are often filed by the law enforcement agencies. From the baseline findings, around 60% (53) of the cases from the treatment areas are filed under section 10 and/or 11, while 45% (19) cases from control areas are under these sections.

The table below shows the number of cases disposed in the last 12 months. In Dhaka, as much as 447 cases were disposed. It could possibly be because of the miscategorized cases.

Table 6: No. of cases disposed in the tribunals

Metric	Jan - April 22					
	Intervention Tribunals				Control Tribunals	
	Jessore 1	Jessore 2	Dhaka	Khulna	Chittagong	Cox's Bazar
No. HT cases disposed during the preceding 12 months	6	10	447	26	2	1
No. HT disposed in conviction during the preceding 12 months	0	0	8	0	0	0

Reason # 2 Lack of witness attendance

Witnesses fail to appear in court to provide evidence. According to UBSOF Progress Report (September 2021)¹², (63%) of cases backlogged in the court system is due to lack of witness attendance. The fear of societal stigma penetrates in as the prosecution process gets started. The witnesses and complainants try to save the victims (mostly female) from humiliation of being faced with questioning in the court about the incident that in most cases gets settled down after some point in time. Correspondingly, a lot of times, the victims compound the matter outside the court, thereby decreasing the appearance of the witness. Impact of trauma for the witness also act as a key factor for the low witness attendance leading to delayed prosecution. Lack of victim protection and witness protection are other factors mentioned as factors that delay the prosecution.

Furthermore, the reasons for low witness attendance have also to do with distance, lack of money, and unawareness of the court dates. The absence of the anti-human trafficking tribunals in these areas make it difficult for the witness to travel. The tribunal judge from Chittagong explained that sometimes the case is filed in Chittagong but they live in Gaibandha, so it becomes very difficult for witness to be present in the court. Lastly, in some cases, lack of legal literacy has led to poor witness attendance, as the witnesses lose track of court dates.

In the baseline survey, 41% respondents from intervention tribunals mentioned that at least one or all of their witnesses have attended the court hearing sessions, while 10.50% witness have not attended, 38.40% was not called yet and 9.30% do not know any update on this.¹³

The baseline also collected data from different tribunals to get an average number of witnesses attending per month under the pending cases in April 2022 in both intervention and control area. The average number of witnesses attending in Dhaka is 40 in relation to 1065 pending cases. Similarly, in case of Khulna, in 15 of cases witnesses have attended, while there are 148 pending cases. Interestingly, the number of witness attending is high in Chittagong tribunal because of the high attendance of Police witnesses as the cases are also mostly being filed by the police themselves.

Table 7: Factors affecting delay in prosecution process

Metric	Jan- April 2022					
	Intervention Tribunals				Control Tribunals	
	Jessore 1	Jessore 2	Dhaka	Khulna	Chittagong	Cox's Bazar
No. HT cases pending (approx.)	74	70	1065	148	17	5

¹² UBSOF Progress Report Bangladesh, JCBD, September 2021

¹³ The data cannot be compared with the control areas since the cases were selected from different tribunals (AHT vs Nari O Sishu Nirjaton Tribunal) and at different stages of trial proceedings.

Average no. witnesses attending to record evidence per month	0.66	1.41	40	15	91	0
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Reason # 3 Overburdening work to Prevention of Violence against Women and Children Tribunals

The findings pointed out that the anti-human trafficking tribunals are distributed inadequately across the country nor positioned coherently to cater the needs of victims. The tribunals are placed in the seven divisions – one in each division, but cases of human trafficking are high across a single division and there is a need for additional tribunals within the same division.

Due to the lack of anti-human trafficking tribunals in each district, the human trafficking cases are adjudicated by Prevention of Violence against Women and Children Tribunals as per section 21 of the PSHTA, 2012. Whereas, the Prevention of Violence against Women and Children Tribunal is already overburdened with its own cases. Interestingly the highest number of human trafficking cases are with the Prevention of Violence against Women and Children Tribunal. In this context, the judge from one of the control areas without anti-human trafficking tribunal revealed that the Prevention of Violence against Women and Children Tribunal takes up the cases of human trafficking only if they have time, as it is an additional obligation for them. This is creating a massive backlog in the operations and effectiveness of the tribunals. This can be linked with the low rate of conviction of other criminal cases of Bangladesh.

The effectiveness of prosecution is worse in areas without a special public prosecutor in anti-human trafficking tribunal. In one of the control areas, Chittagong tribunal, did not have a dedicated special public prosecutor. The duty of special public prosecutor is assigned to the public prosecutor of Prevention of Violence against Women and Children Tribunal, who apparently is overburdened by the cases relating to Prevention of Violence against Women and Children Act. The special cases that need to be dealt in Prevention of Violence against Women and Children Tribunal is high, so despite the severity the human trafficking, human trafficking cases get diluted in the process and prosecution gets delayed.

Reason # 4 Barriers related to investigation

Human trafficking cases can be filed either directly in police stations or in the tribunals. The review of 2021 highlighted that in a number of cases, the tribunal judges were treating matter of pre-trial investigation as an “inquiry”, instead of “investigation”.

In the baseline, none of the findings pointed out that the matters were being treated as “inquiries”, rather all the anti-human trafficking tribunal judges explained that the police officer not below the rank of sub-inspector from local police leads the pre-trial investigation. Whenever a case is filed in the tribunal, the judge order for investigation/ inquiry. Although all the order that comes from the tribunal Judges refer it as “investigation”, but when CID or PBI and other social welfare authorities get involved in this process then that is considered as inquiry rather than a proper investigation since lots of information are not being extracted through the same process. The inquiry reports later can be shared with the police for further investigation, however that does not happen.

The baseline data collected from all tribunals show that in Jessore one of the tribunals had as much as 10 cases where ‘inquires’ were incorrectly ordered, while the number of such cases was 7 in another tribunal in Jessore. In Dhaka there were 13 such cases. The number of incorrect inquiries is 0 in the control area because there was no request for inquiry ordered by the tribunals.

Table 8: No. of incorrect inquiries ordered by the tribunal in 2020

Metric	Intervention Tribunals				Control Tribunals	
	Jan-20				Jan – Dec 20	
	Jessore 1	Jessore 2	Dhaka	Khulna	Chittagong	Cox’s Bazar
No. ‘inquiries’ incorrectly ordered in preceding 12 months	10	7	13	3	0	0

The stakeholders opined that the cases of human trafficking are treated with seriousness in Dhaka, Jashore and Khulna Tribunals; hence majority of the cases are investigated by the police officer, not below the rank of sub-inspector. The charge sheet is thoroughly reviewed and not rejected just by looking into the case summary. Comparing the same with the control areas, the tribunal judges from Chittagong and Cox’s Bazar asserted that almost in all the cases the investigating officer is in charge (sub-inspector or higher).

To corroborate the assertions of the tribunal judges, the survey with the complainants/victims revealed that 69.80% (60) of the cases from intervention areas and 64.30% (27) from control areas were filed in police station. The remaining (30.20% in intervention and 33.30% in control) areas filed their cases with the tribunals.

69.8% of the cases were filed in Intervention area Police Station.

64.3% of the cases were filed in Control area Police Station.



30.2% cases were filed in the Tribunal.

33.3% cases were filed in the Tribunal.



Among the cases that were filed in the police station, 18.39% (18) of the respondents from intervention areas reported that their cases were forwarded to other bodies than police; of which 6.25% (1) was forwarded to Metropolitan Magistrate, 18.75% (3) to Social Welfare, 25% (4) to PBI, 50% (8) were to CID for inquiry. On the other hand, among the respondents who filed their cases in tribunal 7.5% (3) respondents reported that their cases were forwarded to other bodies than police for inquiry and 100% (3) of them mentioned it was PBI.

Reason # 5 Relationship between public prosecutors and complainants

Low cooperation and disengaged relationship between public prosecutors and complainants is one of the barriers for effective prosecution. Survey result shows 41.89% (37) of the respondents from intervention areas as opposed to 70% (29) from control areas have not been in contact with their public prosecutor at all. While 14.86% (18) from intervention are often in contact with them. Interestingly, none from control areas are in contact with public prosecutors often. The complainants from control areas reasoned that they do not communicate with the public prosecutors because they are non-cooperative and helpful; and some of them even cited that they are not aware of public prosecutor. All public prosecutors apart from Khulna Tribunal in their interviews explained that communication between the public prosecutor and victim seldom occurs even now. However, things were different before where the communication never occurred. Some victims reach out to the public prosecutors through lawyers.

The baseline identified the cooperation rate in both intervention and control tribunals up to April 2022 as provided in the table below. The highest-level cooperation is found to be in Khulna (64.9%), followed by Jessore and Dhaka. In the control areas, in Cox’s Bazar the level of contact is at 1%.

Table 9: Communication and cooperation between SPP and victims/complainants in 2022

Metric	Jan-Apr 2022					
	Intervention Tribunals				Control Tribunals	
	Jessore 1	Jessore 2	Dhaka	Khulna	Chittagong	Cox’s Bazar
% victims / complainants who have had contact with SPP	33.78%	30%	2.07%	64.9%	6%	1%

Other stakeholders opined that the relationship between the complainants, and victims with the public prosecutor is dependable on the openness of the victim and complainants. The criminal justice stakeholders argued that the hesitation in building relationship and maintaining a constant communication loop come most from witness and victims, mostly attributable to the power dynamics. The nuances missed here is the ‘power dynamics’, which deters the victims to have an open communication with the public prosecutor, unless the prosecutor themselves make an effort. Some stakeholders also pointed out that the cooperation and communication dilute after some point in time attributing to the delayed prosecution. The off-the-court compounding further obstruct the communication and the victim show reluctance to be engaged with the prosecutor as the monetary compensation is more appealing to them.

Reason # 6 Lack of communication between investigating officer and public prosecutor

Although the legislation mandates the investigating officer to communicate with the public prosecutor before presents the cases, public prosecutor from both Dhaka and Jashore tribunal explained that there is barely any coordination with the investigating officer. He also explained that some level of coordination and communication take place with the CID but not investing officer. Although SPP from Khulna tribunal opposed it, but he along with SPP from Dhaka agreed on the matter that the

investigating officers are making mistakes in terms of identifying crimes as the nature of the crime is quite similar to many crimes of Penal Code and Nari O Shishu Odhikar Ain, 2000.

The baseline data collection from the tribunals reflect on the percentage of engagement of SPP with the investigating officer, which is nil to negligible across all tribunals.

Table 10: % of SPP engagement with IOs

Metric	Jan-Apr 2022					
	Intervention Tribunals				Control Tribunals	
	Jessore 1	Jessore 2	Dhaka	Khulna	Chittagong	Cox's Bazar
% of SPP engaging with IOs	0%	0%	0%	2.7%	0%	0%

Reason # 7 Lack of access to evidence

As mentioned in the earlier section, the prosecution is delayed also because of lack of access to evidences. The stakeholders also explained how there is a delay in submission of the charge sheet from the investigating officers, primarily due to two reasons. The first being lack of sufficient evidences and second because they investigating officers themselves are overburdened by workload.

The transboundary nature of the human trafficking cases further exacerbates the prosecution process due to lack of access to evidence. Moreover, there is no effective coordination channel for the investigation procedure for transboundary investigation.

[Very few human trafficking crimes take place within the country, rest takes place outside the country and in most of the times our hands are tied because of lack of enough evidence.]- Addl SP

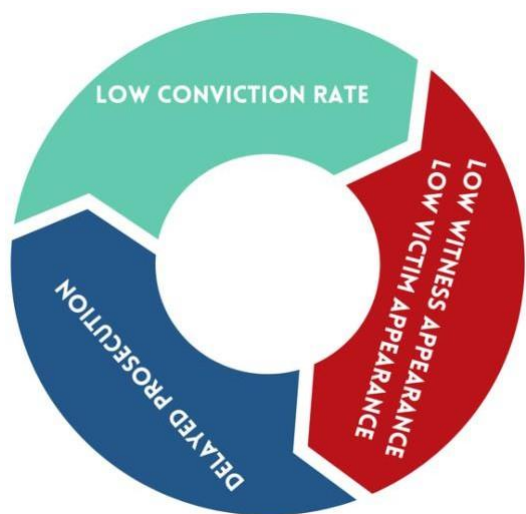
Reason # 8 Struggle with defendant identification

When a case is filed, many a times victims cannot identify the defendant. Among various reasons behind this, some are i) IOs may fail to identify the accuse as a result of poor information/misinformation provided by the victims e.g., accused may have used fake name or identity; ii) as an outcome of compounding, victims sometimes provide false testimony in the court while identifying the accused; iii) lack of resource in terms of collaborating with neighbor countries to identify the accused. There is a lack of proper detail in the charges against defendant. Most of the case are filled by police and they put vague accusation or invalid information which is hard to prove. It is often expressed by the stakeholders that the real culprit is not identified and gets a leverage to roam around freely.

3.5 Consequences of low conviction: Lose confidence in the legal system

Poor economic background of the complainants, victims, and witness is one factor that demotivates the complainants from pursuing their cases in prosecution. The demotivation is further compounded when the procedure is sluggish, and conviction rate low.

Survey results showed that 72.09% of complainants from intervention areas and 71.43% from control areas were willing to pursue their cases, while more than one fourth were not willing to pursue their case. The ones that are not willing to pursue their cases (22) owe it to two main reasons: informal settlement outside court (10) and sluggishness in the procedure (6). There were some who also explained that the victim is already rescued (3) to they dropped out of the prosecution.



Picture 3: Factors behind delayed

Losing confidence in the legal system and moral discouragement are the main consequences of low conviction among the victims and complainants. The victims do not report the cases in future because the anticipatory result is not positive, moreover, the same discouragement and lack of confidence has a domino effect, leading other complainants to under-report the cases. The ones that have reported, stop appearing in the courts, leading to frequent postponement of the dates. **This causes a vicious cycle of delayed prosecution and low conviction.**

Another consequence of low conviction rate or delayed prosecution process is compounding of the case by the victim by agreeing not to prosecute the felon in exchange for money or some other form of compensation. As it is seen from the survey results where 10 out of 22 cases are not willing to pursue their case since, they have settled the deal outside the court. All these factors demotivating complainants and victims from pursuing their cases in prosecution, by default act as a benefit for the defendant.



Possibility of bail grant

The likelihood of bail grant of the accused influencing the complainants, victims and/or witnesses was comparatively higher during Covid-19 pandemic due to humanitarian concern. Besides, sometimes the court is convinced that the cases have no merit and it might grant defendant bail when the case is pending for a long time. In this context, a tribunal judge from Dhaka shared that **“[bail is required sometimes as the cases get delayed. There are pending cases from 1995 as well. We simply cannot keep anyone in jail without proper merit and evidence against him.]”**

The PP from Dhaka also stated that “When the witness does not arrive for years, bail needs to be granted as the court cannot hold a person without any solid proof of the offense for years after years. For example, a person is being imprisoned for 1.5 years, and neither the police nor the court can make them appear in the court, in such a case, if the person files a petition for bail, the court falls into a dilemma.”

3.6 Low knowledge and confidence level of the respondents

In the baseline study, 35.14% of the respondents (26) from the intervention areas reported to have no understanding about the court proceedings, while 45.95% (34) said that their understanding is on a lower side. On a scale of 1 to 5, these respondents have given themselves an average of 1 to 2. The status is same as at the time of review of case dockets in 2021 as there has been no capacity building or orientation program/ activities to the complainant/ victim about the court proceedings.

37.84% (28) of the respondents were not at all confident to communicate with the public prosecutor and another 36.49% (27) were somewhat confident. Contradictorily, the confidence increases when it comes to producing their witness before the tribunal. 63.51% (47) from the intervention areas reported their confidence in producing the witness before the court as opposed to 12.16% who were not at all

confident. The table below presents the level of knowledge and confidence among the respondents based on their own assessment.

Table 11: Knowledge about court proceedings

		Intervention areas		Control areas	
		Count	%	Count	%
To what extent do you understand the court proceedings?	Extracted from case dockets (N/A)	12		32	
	Not at all	26	35.14%	9	90.00%
	To great extent	1	1.35%	0	0.00%
	To lesser extent	34	45.95%	0	0.00%
	To some extent	13	17.57%	1	10.00%
On a scale of 1 to 5 how much would you rate on legal knowledge?	0	21	28.38%	7	70.00%
	1	26	35.14%	2	20.00%
	2	24	32.43%	1	10.00%
	3	2	2.70%	0	0.00%
	4	1	1.35%	0	0.00%
How confident are you that you can make communication with public prosecutor?	Extracted from case dockets (N/A)	12		32	
	Confident enough	19	25.68%	4	40.00%
	Not at all confident	28	37.84%	4	40.00%
	Somewhat confident	27	36.49%	2	20.00%
How confident are you that you can produce their witnesses before the tribunal for examination?	Extracted from case dockets (N/A)	12		32	
	Confident enough	47	63.51%	6	60.00%
	Not at all confident	9	12.16%	3	30.00%
	Somewhat confident	18	24.32%	1	10.00%

CHAPTER FIVE: OUTCOMES OF JCBD'S PROSECUTION WORK TO DATE AND KEY FINDINGS FROM RETROSPECTIVE BASELINE

JCBD worked closely with the Ministry of Home Affairs of Bangladesh in finding ways to expedite the process of prosecution of the human trafficking cases pending trial. In the process, JCBD reviewed 354 cases which are at the different stages of trial to identify the factors that are fettering the prosecution process.

A retrospective baseline was carried out to identify the situation of effective prosecution before the support from Justice and Care. The information and data were gathered retrospectively referring to the secondary documents, in particular, a report on 'Review and Analysis of Human Trafficking Cases Pending Trial in Bangladesh' commenced by JCBD in February 2021. In the review, eight districts of Bangladesh were selected considering the volume of cases pending trial. In total, 354 cases were reviewed and analyzed from case dockets and court records (trials). Additionally, key informant interviews were carried out with 159 of 354 of the complainants. The key findings from the review of the case dockets in 2020 are as follows:

1. Procedural misapplication in regards to the pre-trial investigation of the human trafficking cases by the tribunals has been identified. The tribunal judges are ordering agencies other than the local police stations to conduct the inquiry, despite there being clear provisions in Sec 19 of PSHTA 2012 directing the investigation to be carried out by a police officer not below the rank of sub-inspector from the concerned local police station;
2. In less than 5% of cases has the Investigating Officer incorporated any kind of foreign evidence. With the vast majority (75%) of cases reviewed involving trafficking outside Bangladesh, this is a very significant issue;
3. Of the 159 key Informant interviews, more than 40% of complainants were not interested in pursuing their respective cases in prosecution, in part due to the sluggishness of the procedure;
4. 96% of cases in the Examination of Plaintiff Witness stage involve witnesses who have failed to appear before the tribunal to give their testimonies;
5. Poor engagement of Public Prosecutors with victims and complainants is the norm - with almost 70% of victims and complainants having had no communication with the Public Prosecutor. Of those cases where there has been contact, 20% of complainants report being harassed by the Prosecutor;
6. Granting bail significantly impacts the availability of the accused to progress the trial; in 35% of cases where bail has been granted, the accused has absconded;
7. Amongst the 159 key informant interviews, almost 90% of complainants have been found to have difficulty understanding the court proceedings;
8. Amongst the 159 key informant interviews, more than 75% of complainants are found to be financially incapable of pursuing prosecution and attending court dates.

5.1 JCBD and its contribution to the prosecution process

Following the formal publication of its research and recommendations at a meeting with the Ministry of Home Affairs, Ministry of Law, CID, PBI and other key stakeholders in March 2021, Justice and Care began its programming. As a part of its wider intervention, four Human Trafficking Tribunals are being assisted by JCBD till date. Two of the tribunal are situated in Jashore, one in Khulna, and one in Dhaka.

Since border regions are the key areas where victims or in risk populations reside, with a partnership with Border Guard Bangladesh (BGB), JCBD arranged for an awareness-raising event in October 2020. In continuation of this, the organization arranged for several sessions in the border areas to spread information, especially among the young women who are highly at risk of being trafficked. Key activities and achievements at the time of this report in April 2022 include:

Note: Since the scope of work of this evaluation focused on the prosecution element, the details of prevention are skipped.

• Direct support to a cohort of human trafficking cases awaiting prosecution

The UBSOF Progress Reports explain that from the very beginning of the project, JCBD is working closely with Government of Bangladesh (GoB). With a view to ensure a sustainable change in the prosecution procedure, JCBD proposed 17 recommendations to the Ministry of Home Affairs (MOHA). Being satisfied by the recommendation, GoB also asked the organization to review 4,500 pending cases. A report based on the recommendation to improve the prosecution process of Human trafficking was also handed to MOHA. JCBD also supported the local law enforcement to make arrests, filing new cases, and investigate cases. This organization has launched the very first in-depth analysis of the cases backlogged in the Bangladesh Court system with the request and support of GoB.

213 human trafficking cases have been supported by JCBD. The majority of trials are ongoing. Within these supported cases, Justice and Care working together with the SPP has achieved:

- 6 offenders convicted of human trafficking offences under the PSHTA 2012, across 4 cases, out of 15 cases disposed. 3 were cross-border cases and one was intercepted at the border - all were prosecuted under the 2017 Prevention and Suppression of Human Trafficking. The guilty were sentenced for an average of 6 years each plus fines (2x7 years, 1x8 years, 3x5 years). In a context where there were a total of 25 convictions of traffickers in the whole country in 2019 (out of 312 prosecuted); and only 7 convicted nationally in 2020 (14 acquitted, out of 517 suspects prosecuted), these 7 convictions are extremely significant (US TIP report 2020 and 2021)
- Successfully opposed bail of 46 offenders - which is vital to prevent their absconding and/or intimidating the victims/witnesses in their case.

• Witness attendance programme

Outreach to witnesses began in August 2021 with the direct partnership with SPP of the above-mentioned tribunals and paused briefly during December court closures. So far Justice and Care has:

- Reached out to 515 witnesses
- Seen 232 of those outreached go on to attend court
- Anecdotally, the average rates of witness attendance reported by the prosecutors in the Jashore tribunals have doubled from 3-4 per month before August 2021 to 7-8 per month since
- Challenges have emerged with witnesses attending court only to be denied the opportunity to hear their evidence by the judges - Justice and Care are now investigating the reasons for this.

According to the tribunal judges from the intervention areas, JCBD stood out as the pioneering organization working in the sector of prosecution by working to increase witness attendance through witness outreach program and working collaboratively with the investing officers. The work of JCBD, has proven to be beneficial in terms of reducing the delay in prosecution process. The judges of the intervention areas emphasized that efforts of JCBD in directly calling government witnesses to attend in court or monitoring and providing facilities to non-government witnesses in addition to government witnesses has been beneficial.

Witness attendance program is one of the major initiatives supported by JCBD. The case facilitators are appointed by JCBD who facilitates witnesses in every step. The case facilitators take note of the hearing and inform the witness and victims, when necessary. The tribunals of Dhaka, Khulna and Jashore expressed their appreciation towards the witness attendance program and deem it a crucial step to minimize the delay in prosecution process.

JCBD's support regarding witness attendance has brought a significant change through the financial assistance such as transportation cost as well as encouragement to attend the trials. - Tribunal Judge, Khulna

Besides, recognizing the fact that most of the victims are poor, JCBD provide economic support to them and encourage to attend witness program. In many cases, victim's residence is far from the court and they cannot afford the travel cost and cannot join the daily work. In this context, JCBD is providing them the economic and psychosocial support (safety and security) which motivates them to attend the witness program. Furthermore, JCBD is also trying to increase number of witnesses by providing them detail information about the case, support and legal assistance.

"If JCBD reaches out, only then witnesses show up or else not." - Panel Lawyers

"The support provided by JCBD in bringing the witness to the court is indeed helping to speed up the trial." – Tribunal Judge, Khulna

- **Capacity building support to prosecutors, judges and district legal aid committees**
 - 4 Meetings have been conducted with 43 judges from the Anti-human Trafficking Offenses Tribunals to discuss the nuances of human trafficking cases and to specifically seek commitment to adherence to section 19 of the PSHTA 2012 whereby judges must order local police investigations in response to the registration of trafficking cases. This commitment has been secured from 100% of the judges engaged.

- 3 Meetings with 13 Special Public Prosecutors and Additional Public Prosecutors from the Anti-human Trafficking Offenses Tribunals to discuss the importance of meeting with witnesses, relevant laws and the effect of trauma on victim testimony. JCBD also convened two SPP with 38 police officers to explain and demonstrate the important of them collaborating with each other prior to an investigation report being submitted, in order to ensure that adequate evidence is included and correct procedures are followed. Again, those engaged verbally committed to practise change, including agreement to meet with witnesses/complainants and with investigating officers in relation to trafficking cases. Because the rules of the law clearly set out and require the correct practice, when these rules are brought to the attention of the trainees, they readily accept the necessary change in their practice.
- Justice and Care Bangladesh has secured membership of the District Legal Aid Committees in 3 districts. The District Legal Aid Committee is a government body established in every district that provides legal aid for the litigants who are incapable of seeking justice due to financial insolvency, destitution, helplessness, and for various socio-economic conditions. As a result of JCBD's memberships with the committees, individuals seeking assistance in trafficking cases are regularly forwarded to them and they provide whichever assistance they may require, e.g., financial assistance, legal support from their legal team or a dedicated panel lawyer, victim rescue, repatriation, aftercare, etc.
- Following a spike in human trafficking during the pandemic in Jhenaidah district, JCBD was invited to an emergency meeting with the Deputy Commissioner, BGB Commanders and political leaders to advise those stakeholders on how to respond to the huge spike in organised crime activity. On JCBD's advice, the Deputy Commissioner formed a mobile court to help the BGB prosecute brokers and traffickers on the spot, rather than the accused joining the lengthy court backlog and absconding from bail, free to continue their illicit activities. The political leaders offered their commitment and the Head of the District Police committed to doing all in his power to prosecute the criminals. JCBD was also invited to work with the BGB to activate the counter-trafficking committees in bordering union councils, work which is underway.

The review 2021 result identified, mistakes of the IOs in the primary case filling may result into harsh punishment in some cases. Hence, JCBD has initiated a communication channel among the IOs, PPs and panel lawyers to minimize such issues. Besides, capacity building programmes of these groups was also arranged and incentive through guiding about proper evidence collection.

JCBD has also supported in building good relationship between the panel lawyers and public prosecutors, and legal case facilitators and public prosecutors by organizing different training program which offer a scope of relationship building and networking among these stakeholders. The public prosecutor explained how it is important and mandated that investigating officer coordinate with the public prosecutor before the prosecution, but it is not happening. JCBD, on the other hand, is making its effort to bring all the concerned stakeholders together to collaborate and cooperate with each other.

“[JCBD is helping to increase the coordination and communication between us by arranging different seminars, where we get to interact and cross-learn from each other.]” Panel Lawyer, Jashore

Furthermore, JCBD has engaged and are closely following up with the public prosecutors about the case status. Public prosecutors are provided with logistics support to ensure more efficient engagement from public prosecutors. There has been an engagement of panel lawyers. These panel lawyers help communicate with the public prosecutor on behalf of the victims. There are instances when a case is filed and victims forget the case details. In such times, panel lawyers bridge the communication and information gap between the judge, prosecutor, and victim.

“People, including judges and prosecutors were more cooperative when they see the involvement of panel lawyers.” Legal case facilitator

- **Training to police, support with investigations and engagement with law enforcement leads**
 - 151 police trained in victim-centric approaches and the need to meet with prosecutors prior to submitting charge sheets in accordance with rule 10 of the PDHTSA 2012. Furthermore, Police Superintendents in the project working districts following JCBD’S advocacy have written to all investigators to instruct them to meet with Prosecutors before submitting charge sheets, widening the implementation of the training beyond the immediate trainees to all police in Khulna and Satkhira Districts.
 - JCBD has also been training Border Guards Bangladesh to identify potential human trafficking victims amongst individuals intercepted crossing the border illegally - this work was previously carried out under a separate funded project but will form part of this prosecution project going forward. 1 BGB battalion has now incorporated JCBD’s training module into their training curriculum for new recruits, which JCBD hope to see replicated across all battalions in due course.
 - JCBD has developed formal partnerships with the Criminal Investigations Department and Rapid Action Battallion, on top of its existing partnerships with the BGB and Police Bureau of Investigations, for collaboration on human trafficking investigations.
 - JCBD has supported 38 law enforcement investigations with specialist knowledge and brokering coordination with Indian counterparts
 - 31 victims rescued as a result of JCBD’s support to investigations
 - 59 accused traffickers arrested as a result of JCBD’s support to investigations
 - Pioneered acceptance of testimony via video conference with CID for repatriated victims
 - Arranged witness protection for 8 witnesses being harassed by their accused or associates of the accused
 - JCBD are creating a secure database of known traffickers to facilitate understanding of perpetrators and their modus operandi - with over 1,000 traffickers’ details recorded to date

- JCBD have instigated a new piece of research into the shortcomings of charge sheets submitted by investigators, to identify key recommendations for improvement and inform the training content. They have analyzed over 100 cases and early findings indicate a total lack of foreign evidence, liaison with Interpol or use of cyber forensics. When the research concludes, the findings will be used to create recommendations for law enforcement and to further refine training curricula.
- At the request of the US Department of Justice, JCBD has contributed the content of various modules of US DoJ's International Criminal Investigative Training Assistance Programme being offered to law enforcement in Bangladesh.

The work of JCBD is not just limited to witness attendance, but also in rescuing victims from transboundary trafficking. The number of cases where trafficking destination is within the border of Bangladesh is vastly outnumbered by cases where the destination is outside of borders. According to the survey result, only 11.63% (10) from intervention areas and 16.66% (7) from control areas reported that the case of trafficking occurred within the country; the rest occurred outside the country. The findings in the review of 2021 reflect similar statistics. 87.21% (75) of the cases from intervention areas; and 83.34% (35) cases from control areas were trafficking outside the country. In this situation, the support provided by JCBD in rescuing victims from transboundary trafficking is exemplary.

In order to motivate the CIDs and other stakeholders in the rescue mission, JCBD team has provided necessary assistance (including financial support, transportation and food) in helping the CIDs and other concerned stakeholders in rescue mission. The support provided by JCBD is very relevant to the context and is highly appreciated by all judges. The CIDs and police, and legal aid officer explained that JCBD is prompt that the government and they seek assistance from JCBD in rescuing the cases than from the government. The experience, expertise and networking of JCBD were credited for the promptness and effectiveness in rescue operations.

“[JCBD is promptly working in terms of rescuing victims, they also helped with transportation assistant for rescue missions in a case or two.]”- CID

“[I want share one of my experiences,] a lady who lives Jashore was called by the CMM court of Dhaka to give a statement about a human trafficking case. She did not know where to go, where court location is and whom to contact. This is the level of awareness among the witness. It is the same for victims. The beauty of witness attendance program is to support the witnesses and guide them through the process.” - Legal Case Facilitators

JCBD has also supported investigations been in partnership with the Criminal Investigations Department explained the legal case facilitators. In an interview, the legal case facilitator mentioned of a case where the victim was stranded in India, we engaged CID to this case and they arranged a video conference for the official statement. After that, Bangladesh Police informed the responsible immigration authority and police to solve the issue. Indian Police took steps and eventually we come to an agreement to bring them back to the country.

- **Advocacy and then outworking on behalf of government on key national tools**
 - Justice and Care successfully advocated with the Government regarding the need for national guidelines on the implementation of the Mutual Legal Assistance Treaty - an advocacy process which also included JCBD advising the US State Department to include the need for these guidelines in the prioritized recommendations for Bangladesh in the 2021 TIP report, which it duly did. The Government of Bangladesh not only accepted the recommendation but formally requested JCBD to draft the guidelines on their behalf, which JCBD did in early 2022 in partnership with the Ministry of Law and Parliamentary Affairs, CID and Police Headquarters and which are now being vetted for approval by the Government.
 - Similarly, Justice and Care successfully advocated with the Government regarding the need for National Victim Identification Guidelines for law enforcement and in 2021 was requested by the Ministry of Home Affairs to draft these on behalf of the government. JCBD has done this work in partnership with the CID and in consultation with all branches of law enforcement, as well as the International Office for Migration and Winrock International. The draft guidelines are about to be submitted to the government for vetting in June 2022.

A cohort of 212 prosecution cases was also being supported by JCBD from November 2020. Assistance was provided to SPP on behalf of the victim and supporting witnesses. A district-level partnership was also established between JCBD’s legal advisor and district judges and district legal aid committees.

5.2 Reflection of JCBD’s work

Baseline study has collected data from all intervention and control tribunals to make a comparison the current status with the status before. Data reveal that the pending cases are higher than what it was till December 2020 for apparent reasons, however the proportion does not seem to be increasing drastically.

Table 12: Comparison of No. of HT cases pending

Metric	Intervention Tribunals				Control Tribunals		Intervention Tribunals				Control Tribunals	
	Jan- Dec 20				Jan – Dec 20		Jan- Apr 22				Jan – Apr 22	
	Jessore 1	Jessore 2	Dhaka	Khulna	Chittagong	Cox’s Bazar	Jessore 1	Jessore 2	Dhaka	Khulna	Chittagong	Cox’s Bazar
No. HT cases pending (approx.)	68	62	776	188	118	15	74	70	1065	148	17	5

If the number of cases disposed is analyzed, it seem to be still a problem. The cases disposed in Dhaka has tremendously gone up signaling the prevalence of miscategorized cases. In other areas, the trend is not significant.

Table 13: Comparison of No. of HT cases disposed

Metric	Intervention Tribunals				Control Tribunals		Intervention Tribunals				Control Tribunals	
	Jan- Dec 20				Jan – Dec 20		Jan- Apr 22				Jan – Apr 22	
	Jessore 1	Jessore 2	Dhaka	Khulna	Chittagong	Cox's Bazar	Jessore 1	Jessore 2	Dhaka	Khulna	Chittagong	Cox's Bazar
No. HT cases disposed during the preceding 12 months	7	8	180	4	4	0	6	10	447	26	2	1

The proportion of witness attending the court to record evidence has shown a positive result. The positive trend can be credited to JCBD's project intervention, as they have supported in witness attendance. Comparing the data from January to December 2020 to the current date shows that in the tribunals the rate of witness attendance has gone up. The case is interesting in Chittagong. The number is high as the cases are being filed by police themselves and they are one of the witnesses who attendant the court for reporting evidence.

Table 14: Comparison of No. of witness attending to record evidence

Metric	Intervention Tribunals				Control Tribunals		Intervention Tribunals				Control Tribunals	
	Jan- Dec 20				Jan – Dec 20		Jan- Apr 22				Jan – Apr 22	
	Jessore 1	Jessore 2	Dhaka	Khulna	Chittagong	Cox's Bazar	Jessore 1	Jessore 2	Dhaka	Khulna	Chittagong	Cox's Bazar
Average No. witnesses attending to record evidence per month	1	0.83 (Total 10)	25	1	0%	0	0.66	1.41 (Total 17)	40	15	91	0

Additionally, the review of 2021 showed that more than 40% of the complainants were not interested in pursuing their cases in prosecution due to sluggishness of the procedure. In the baseline, the motivation of the complainants seems to have slightly increased as 72.09% of complainants from intervention areas and 71.43% from control areas are willing to pursue their cases. This could possibly be because of the direct support of the project to the victims and the witness attendance project that has built trust among the victims/complainants. The motivation seems to have increased among the complainants since the operations of Anti-Human trafficking tribunals started. The complainants/victims feel that the delay in prosecution due to sluggishness in procedure will somewhat improve.

Another remarkable area where JCBD's project can be credited to have made a significant progress is in terms of ensuring contact of the SPP with the victim/complainant. As opposed to the situation back in 2020, where 0-1% of the victims had contact with SPP, the situation changed drastically as shown in the table below. In case of Khulna, as much as 64.9% of victims are reported to have contact with SPP and 30-35% in Jessore. Further analysis shows that there still need improvement in case of Dhaka and control areas.

Table 15: Comparison of % of victims/complainants who have contact with SPP

Metric	Intervention Tribunals				Control Tribunals		Intervention Tribunals				Control Tribunals	
	Jan- Dec 20				Jan – Dec 20		Jan- Apr 22				Jan – Apr 22	
	Jessore 1	Jessore 2	Dhaka	Khulna	Chittagong	Cox's Bazar	Jessore 1	Jessore 2	Dhaka	Khulna	Chittagong	Cox's Bazar
% victims / complainants who have had contact with SPP	0%	0%	0%	1%	0%	1%	33.78%	30%	2.07%	64.9%	6%	1%

Furthermore, the project has also shown slight improvement in terms of reducing the number of inquiries' that are incorrectly ordered. From January to December 2020, there were as many as 37 in one of the tribunals in Jessore, and 24 in another tribunal in Jessore, which went down to 10 and 7, respectively as of January to April 2022. Though there is a scope for improvement in sensitizing criminal law stakeholders about the provision of inquiry and investigation, as there seems to be varied understanding between the two.

One area where JCBD has supported but need further reinforcement and strengthening is ensuring the engagement of SPPs with the investigating officers. The review 2021 result identified, mistakes of the IOs in the primary case filling may result into harsh punishment in some cases. Hence, JCBD has initiated a communication channel among the IOs, PPs and panel lawyers to minimize such issues. Besides, capacity building programmes of these groups was also arranged and incentive through guiding about proper evidence collection. Despite the support, the proportion of SPPs engaging with the investigating officers has shown no improvement in any tribunals, except for Khulna, where there is a very small progress (2.7% from 0%).

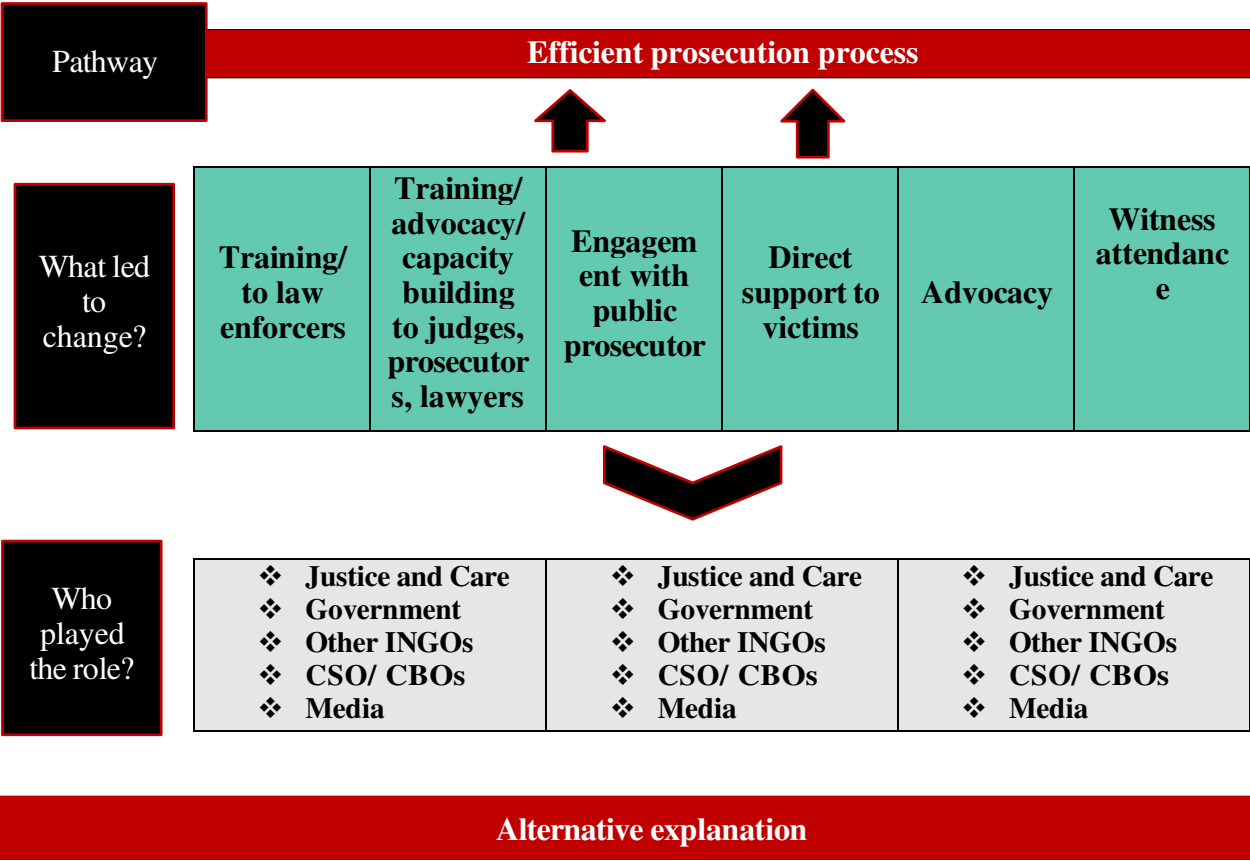
Table 16: Comparison of % of SPPs engaging with IOs

Metric	Intervention Tribunals				Control Tribunals		Intervention Tribunals				Control Tribunals	
	Jan- Dec 20				Jan – Dec 20		Jan- Apr 22				Jan – Apr 22	
	Jessore 1	Jessore 2	Dhaka	Khulna	Chittagong	Cox's Bazar	Jessore 1	Jessore 2	Dhaka	Khulna	Chittagong	Cox's Bazar
% SPPs engaging with IO's	0%	0%	0%	0%	0%	0%	0%	0%	0%	2.7%	0%	0%

CHAPTER FIVE: RESEARCH PLAN FOR FUTURE

Given the longitudinal nature of study, the end line evaluation will adopt process tracing method for the evaluation as it is well suited for identifying and assessing causal inferences, particularly when there is a known outcome. In this case the outcome of interest will be ‘efficient prosecution process’. The steps for the process tracing are as follows:

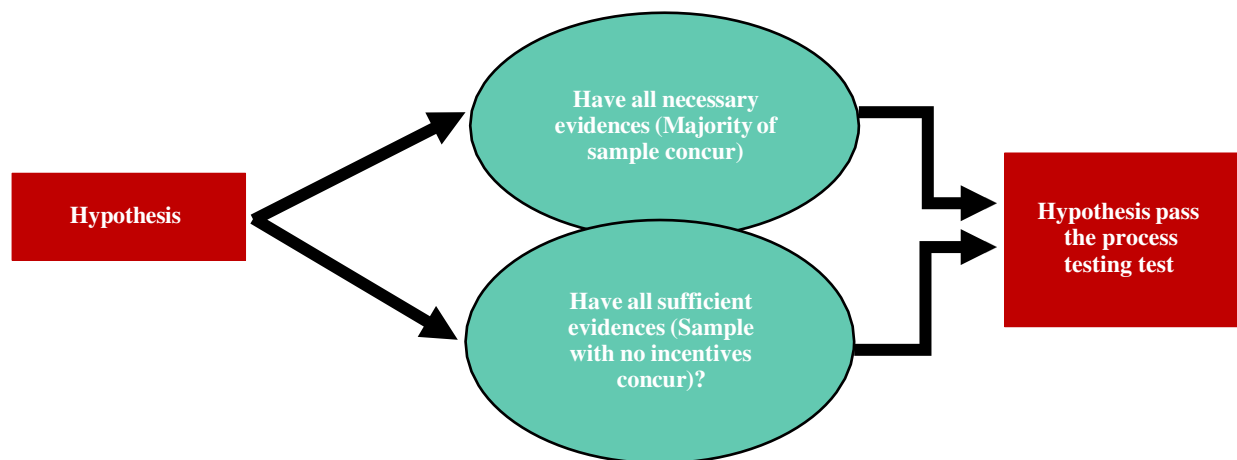
- Step 1: Identify possible pathways
- Step 2: Determine the factors that contributed to the change
- Step 3: Identify the stakeholders/ actors involved in bringing about the change in step 2
- Step 4: Formulate alternative explanations



To select one pathway (hypothesis) and discount the alternatives, the explanation must pass the process tracing tests. To consider the hypothesis to be true beyond doubt, the explanation must be both 1) necessary and 2) sufficient.

- The hypothesis will be considered to be ‘necessary’, when the vast majority of the sample concur with the explanation, and will be considered to be ‘sufficient’ when the stakeholders, those with no assumed incentives to respond in a certain way, concur to the same, and there is evidence to dispel the alternative hypothesis/explanation.

Each of the pathways will be tested to determine whether there will be necessary and sufficient explanations to pass the test. Furthermore, the alternative hypothesis will also test to verify if it holds any weight on choosing the pathway.



The collection of the evidence will use mixed method of data collection. The sample will consist of broad range of stakeholders, majorly the ones used in the baseline. Survey questionnaire and interview guides will be developed.

While the process tracing component of the evaluation will look at the broader picture in assessing the contribution of the project to the observed impact, OECD DAC criteria focuses on examining the performance of the prosecution project itself. The evaluation questions will be categorised into four themes: effectiveness, efficiency, relevance and sustainability – in line with the evaluation criteria recommended by the Organisation for Economic Co-operation and Development's Development Assistance Committee (OECD DAC).

- Relevance: The extent to which the project is contextual and aligned with the needs of the community
- Efficiency: The extent to which the project is carried out timely with available resources
- Effectiveness: The extent to which project succeed to meet its outcomes
- Sustainability: The extent to which the project can sustain in its own after funding ceases
- Impact: The extent to which the project bring in changes in the lives of victims and the justice system

Key informant interviews will be the data collection method to find answers to the OECD DAC criteria. Key informant interviews will be carried out with the tribunal judges, special public prosecutors, senior BGB, police and CID to understand the standing of the prosecution landscape and assess the capacity of the criminal justice stakeholders after project's intervention.

Specifically, to measure the 'effectiveness' component under the OECD DAC criteria, a quasi-experimental design will be adopted, same as in the baseline. As stratified random sampling will be employed for cases from three different areas with same sample sizes. A control group will be selected from a non-intervention area. Semi-structured interviews will be carried out with the cases that have been supported by the project to understand the status of their trial after the completion of the project. Comparisons will be made with the baseline status to assess the change in the experiences and status of their cases.

Considering the challenges and limitations of the baseline, mitigation measures will be developed in the inception phase of the end line and efforts will be made to mitigate the challenges.

CHAPTER SIX: CONCLUSION AND RECOMMENDATIONS

6.1. Conclusion

Although Bangladesh is considered as one of the world's largest manpower exporters, human trafficking rate is also high here and that leads to a backlog of about 4,500 human trafficking cases until 2021, according to government data. The major reasons behind most of these pending cases/backlogs are greatly because of lack of evidence from foreign authorities, lack of witness attendance as well as financial instability of the victims. To minimize this, special courts were opened in 2020 under 2012 anti-trafficking law. However, due to the COVID-19 outbreak, only one trafficking conviction was made which was nine in 2019¹⁴.

In order to minimize the delay in Human trafficking cases of Bangladesh, JCBD has been planning and implementing multiple initiatives throughout the prosecution process. From arranging help to rescue victims of slavery and human trafficking, to empower them to rebuild their lives, and to prevent further trafficking, JCBD has been engaged in all these steps. In order to ensure sustainability of its activities, the organization also collaborating with the local government, law enforcement agencies, and prosecution bodies. At the baseline stage, it has ensured witness attendance, assisted local law enforcement in investigation, raised awareness among vulnerable people of in risk communities, collaborated with authority from the key support areas of this project.

This baseline study also identified the current status of the prosecution of human trafficking case, furthermore to retrospectively looked into the situation before the commencement of activities initiated by JCBD and assessed how the situation has changed after their intervention.

Low witness attendance is one of the major barriers in effective prosecution. There are other impediments to effective prosecution, including lack of access to evidence, miscategorized cases, overburdening of work. There are barriers in the investigation phase because of which the cases were even not able to be disposed in conviction; the major barrier being lack of access to evidence and failure to incorporate evidence from foreign lands.

In order to overcome these challenges, it takes a transformative system level change. Right from advocating to amend the definition to establishment of additional anti-human trafficking tribunals; such changes need time and collaborative effort from all level of influences. Nevertheless, the solutions that can 'accommodate' the barrier, at the same time contribute to the transformative change are to increase the witness appearance in the court, facilitate cases to victims and witnesses, engage investigating officer with public prosecutors to enhance cooperation and coordination. By working towards mitigating the barriers of economic insecurity and social pressure and fears, the low witness attendance can be improved. Engaging special public prosecutors in a more cooperative and communicative manner with the complainants and victims from the start will definitely see improvement in witness attendance, thereby resulting in higher conviction rates.

¹⁴ Naimul Karim, 'Lack of evidence, financial help found hurting Bangladesh trafficking cases' (*Thomson Reuters Foundation*, March 22, 2021). < [HTTPS://WWW.REUTERS.COM/ARTICLE/US-BANGLADESH-TRAFFICKING-COURT-IDUSKBN2BE1FK](https://www.reuters.com/article/us-bangladesh-trafficking-court-idUSKBN2BE1FK) >

The situation since the establishment of anti-human trafficking tribunals have undoubtedly improved. The backlog of human trafficking cases has been slowly reducing. The burden of Prevention of Violence against Women and Children Tribunals has reduced. Judges from these tribunals are getting to review the charge-sheet more efficiently than before thereby either disposing the case, or taking cognizance of the offense. The human trafficking tribunals are hearing the cases every day.

[Previously, HT cases had hearings once or twice in every six to seven months. Now every case has proper hearings from time to time, whether witnesses appear or not.] Tribunal Judge, Khulna

The operations have just started in the tribunals, so these tribunals are in transition. It will take some time for the tribunals to adjust and adapt. Moreover, the effect of the pandemic of 2020 hindered the smooth and effective operation of the tribunals. Witness examination was seriously hindered by the pandemic leading to delayed prosecution.

However, all stakeholders agreed that impactful results and positive prosecution outcomes will only be guaranteed when major bottleneck of low witness attendance, and lack of access to evidence is resolved.

6.2. Recommendations

Barriers to effective prosecution	Recommendation
Limited jurisdiction of anti-human trafficking tribunals	<ul style="list-style-type: none"> There should be strong advocacy to bring in amendment in the current law in section 27(3) of the Prevention of Violence against Women and Children Act 2000. The current law limits the jurisdiction of anti-human trafficking tribunals to try other ancillary cases.
Miscategorized cases	<ul style="list-style-type: none"> The investigating officers should be extensively trained in understanding the definition that will help in identification of the cases.
Overburdening of work to handle cases	<ul style="list-style-type: none"> The NGOs, INGOs, human right activists together with government agencies and criminal justice stakeholders should advocate in establishing a greater number of anti-human trafficking tribunals to reduce the burden of Prevention of Violence against Women and Children Tribunal in handling human trafficking cases. The establishment should focus more on need-based (i.e., areas with a greater number of human trafficking cases) than establishing equally in all administrative units.
Lack of access to evidence	<ul style="list-style-type: none"> There is a need to increase the capacity of the criminal justice stakeholders, especially to the judges in effective use of evidence to dispose of the cases to ensure that the prosecution delays are mitigated.

	<ul style="list-style-type: none"> ● The investigating officer should be trained in all matters concerning foreign evidence. There have not been instances where the investigating officer has incorporated foreign evidence. It is important for them to be trained in the use of foreign evidence and the legislations and interlink between the crime and origin of offense. ● CIDs have to expend the money out of pocket when they go on a mission to gather evidences, or in meeting the victims of public prosecutors. The government and NGOs can arrange a provision with proper logistical support to gather evidences.
Transboundary investigations	<ul style="list-style-type: none"> ● The transboundary investigations can be coordinated and led by IOM; a UN Body mandated to work for migrants. Such entity will have both financial and technical capacity to lead the investigations adhering to strong accountability mechanism. ● The government should have a treaty with the high-risk destination countries for better cooperation and coordination in the investigation process. There should be a focal person assigned in these countries by the government (possibly within the embassy) to coordinate for collection of foreign evidence.
Low cooperation and communication between public prosecutors and victims/complainants	<ul style="list-style-type: none"> ● NGOs and INGOs can incentivize public prosecutors to work more efficiently and effectively by engaging with the victims/complainants. This can be done by intrinsically and extrinsically motivating the public prosecutors by supporting them in logistics, communication and recognition.
Low coordination efforts between different criminal justice stakeholders	<ul style="list-style-type: none"> ● NGOs and INGOs can organize and networking event, more of a cross-affiliated learning sessions among these stakeholders to get regular update on the roles and challenges of each stakeholder. Moreover, such events can help in build networks and create synergies in the work.
Low level of legal literacy among victims and complainants	<ul style="list-style-type: none"> ● NGOs and INGOs can support the victims and complainants keep track of the case updates and explain the court proceedings through facilitators.

How can JCBD help?

The scope of support of JCBD can be expanded in offering possible solutions in accommodating the barriers. The role of JCBD is highly appreciated by the criminal justice stakeholders. The primary task of buying in support and trust from these stakeholders is already achieved by JCBD through its commendable work in witness attendance and rescue operations. In the coming days, the scope can be expanded by facilitating the cases right from the start after rescuing the victim. JCBD can facilitate victims/ survivors to file their case, and offer economic and psychosocial rehabilitation. Moreover, JCBD may increase their engagement area in the HT prosecution from the inception to the completion process. For example, the support may include from providing guidance while someone comes for

filing cases, filing the reports, until the prosecution process ends. Furthermore, the work concerning witness attendance can be continued to increase witness attendance in court. Given the networks and expertise of JBCB, it can support and work closely with CID to carry out transborder investigations and collect foreign evidence.

It can work towards bringing transformative change in the legislation and at the system by advocating for the change in definition of human trafficking in PHSTA, 2012. Moreover, JCBD can advocate and attempt to influence in establishment of more numbers of anti-human trafficking tribunals.

ANNEXES

1. Summary statistics table of each survey question (Attached in an Excel File)

2. List of participants interviewed

SL No.	Name of the participant	Area	Position	Mode of interview	Date of interview	Who took the interview?
1	Akteruzzaman	Dhaka	Addl. SP. (CID)	in-person	27/02/2022	Mr. Khan
2	Saidur Rahman	Dhaka	SSP (CID)	in-person	27/02/2022	Mr. Khan
3	Jesmin Akter	Chittagong	Public Prosecutor	in-person	06/3/2022	Mr. Khan
4	Syed Md. Rezaur Rahman (Reza)	Cox's Bazar	Public Prosecutor	in-person	07/3/2022	Mr. Khan
5	Jannatul ferdous	Chittagong	Tribunal Judge	in-person	06/3/2022	Mr. Khan
6	MD Abdur rahman	Dhaka	Tribunal Judge	in-person	07/3/2022	Mr. Khan
7	Md. Moshir Rahman Khan	Cox's Bazar	Tribunal Judge	in-person	07/3/2022	Mr. Khan
8	Ahsanul Haque Siam	Jashore	Legal Case Facilitator	Phone	14/03/2022	Tohura Moriomi Misti
9	Jibon Mia	Dhaka	Legal Case Facilitator	Phone	15/03/2022	Tohura Moriomi Misti
10	Mollah Rabiul Islam	Khulna	Legal Case Facilitator	Phone	14/03/2022	Tohura Moriomi Misti
11	Adv. Momin Khan	Dhaka	Panel Lawyer, Dhaka Tribunal	in-person	03/3/2022	Mr. Khan
12	Adv. Sajuty Suznin	Jashore	Panel Lawyer, Jashore Tribunal	in-person	01/3/2022	Mr. Khan
13	Adv. Sagorika Das	Khulna	Panel Lawyer, Khulna Tribunal	in-person	01/3/2022	Mr. Khan
14	K.M Sajjadul Haque Shihab	Dhaka	PP Dhaka Tribunal	in-person	03/3/2022	Mr. Khan
15	Adv. Mustafizur Rahman Mukul	Jashore	PP Jashore Tribunal	in-person	28/02/2022	Mr. Khan

16	Adv. Shumonto Kumar Biswas	Khulna	PP Khulna Tribunal	in-person	28/02/2022	Mr. Khan
17	Kazi Abdul Hannan	Dhaka	Tribunal Judge	in-person	24/02/2022	Mr. Khan
18	M A Awal	Khulna	Tribunal Judge	in-person	19/02/2022	Mr. Khan
19	Probin Kumar Das	Khulna	Legal Aid Officer	Phone	12/3/2022	Mr. Khan
20	MS Rafia	Jashore	Legal Aid Officer	Phone	13/03/2022	Mr. Khan
21	Mr. Tushar	Dhaka	Legal Aid Officer	Phone	13/03/2022	Mr. Khan
22	MS Razia	Chittagong	Legal Aid Officer	Phone	13/03/2022	Mr. Khan

3. Data collection tools, including survey questionnaire (Attached in another MS Word File)

4. Raw dataset (Attached in an Excel File)