CHAPTER II

THEORIES, DATA BASE AND METHODOLOGY

2. Introduction:

This chapter provides a detailed description of the theoretical understandings, data base and methodology of the study. In the initial part, the chapter provides an illustration of the applications of Systems theory, Feminist Standpoint Theory, Third World Feminist Theory and Feminist Jurisprudence and their relevance for this research. In the later part of the chapter the database of secondary and primary data; its sources, limitations and approaches; tools and analysis applied in the study is discussed. The methodological process of the research is also discussed in this chapter. The process through which data is collected; their classifications and the limitations of each source of data are illustrated in this chapter too.

2.1 Theoretical Framework:

Women’s Studies is accepted as an important component of Social Work and Sociology which works on various concepts such as patriarchy, power, emancipation and gender roles (Pitcher & Whelahan, 2005). Time and again the issue of domestic violence is addressed through various legislations and has been treated as a part of Women’s Movement since the second wave of feminist movement. The enactment of the rights of women through IPC 498A & 304B, the Dowry Prohibition Act-1961 and the Protection of Women from Domestic Violence Act 2005 ensures that women can deter violence at domestic front. Theoretical explanations of domestic violence are essential to show why and how domestic violence occurs through a wide range of contradictory accounts, ranging from the socio cultural to the individualistic. Theories are borrowed from Feminist, Social Work, Sociology and Legal perspective and are assumed to provide a broader background to the issue of domestic violence.
2.1.1 System Theory

System Theory studies reciprocal relationships among individuals, groups, organizations, and communities. It mutually inter-influences factors in the environment seeking to holistically change behaviour by examining interacting components. System Theory is a part of the discipline Sociology and Social Work where it studies the system of interrelation, interconnection and interdependence as an imperative concept. It focuses on the relationships among individuals, groups, organisations and communities and how it mutually influences factors of the environment (Zapf, 2010). General system theory attempts to emphasize holistically the behaviour of people and societies by identifying the interacting components of the system and the controls that keep these components stable and in the state of equilibrium. It is concerned with the boundaries, roles, relationships, and the flow of information within the people. The key concern is there is a lack of resources, an absence of linkage between people and resource systems or between resource systems; problematic interactions between people within the same resource system or within the resources and finally individual internal problem solving involving corporate resources (Andrea, 2011). According to Systems Theory, family is the central focus and individuals are located within the family. A family, considered to be a dynamic system or organization, contains both interdependent and interacting components (Cunningham et al., 1998). The family systems consist of four major subsystems; spousal in the broadest sense, parents, child, siblings, and the smallest sub systems that is the individuals. Families vary according to degree of openness and closeness which can vary over time and circumstances. A symptom of one family member is often a way of deflecting tension away from another part of the system and hence represents a relationship problem. Morphostasis⁵ and morphogenesis⁶ describe a system’s ability to remain stable within the context of change, and conversely to change within the context of stability. To maintain the healthy

---

⁵ Morphostasis calls for a system to emphasise interactions involving negative or deviation attenuating feedback. It refers to the system’s tendency towards stability or a state of dynamic equilibrium. Andrea 2011:252

⁶ Morphogenesis on the other hand demands positive or deviation amplifying feedback to encourage growth, innovation and change. Andrea 2011: 252
balance, both processes are necessary. With any system, tensions inevitably exist between forces seeking constancy and the maintenance of the status quo on the one hand and opposing forces demanding change on the other (Andrea, 2011). Maruyama (1968) & Hoffman (1981) pointed out that survival of any system depends on the interactions of these two key processes. Unlike homeostasis, which is the maintenance of the behaviour constancy in a system, Morphostasis mechanisms operate to maintain the system’s structural constancy. Morphogenesis mechanisms however seek to push the system toward new levels of functioning, allowing it to adapt to changing conditions. Outside the family, organisations under Government such as criminal justice system plays a mediating role by providing counselling and alternate way of settling disputes; which however might fail at times due to non compromising attitudes of the partners. The criminal justice system also acts as a system just like a family with components such as police, courts, corrections, additional levels of agencies and institutions which are multiple and overlapping (Van Gigch, 1978). The Criminal Justice System and the subsystems within them shares common goals of effectiveness, fairness and efficiency (Maguire, Howard & Newman, 1998). Criminal Justice can have encompassing systems each of which can be described in terms of input, processing and output. The system must maintain equality between input and output. A Police Officer who arrests a perpetrator (input) normally will do the paper work on the arrest (process) and the output is reflected in the court through verdict (Bernard, Pauline III & Pare, 2005). Survivors are processed when police, prosecutors and the judges pay attention to their complaints so they leave the system satisfied in some areas. Satisfied survivors can be described as completed product of criminal justice processing (Snipes & Maguire, 2003). The goal of criminal justice system is to change offenders as non offenders while simultaneously satisfying both the survivors and the public (Bernard, Pauline III & Pare, 2005). So there is morphogenesis which demands a positive change leading to the stability of the system through decreased perpetrators and satisfied survivors (Morphostatis).
This can be more meaningful when the victim that is a woman’s perspective is highlighted through the theory of feminist standpoint.

2.1.2. Feminist Standpoint

The emergence of standpoint is a collective process occurring through the recognition and acknowledgment of others who occupy more or less the same standpoint as oneself (Harding, 2004). Standpoint understands how knowledge of gender is interrelated with women’s experiences and the reality of gender. It is a way of inquiring how women experience life differently from men, or intersexual or others, because they live in specific social relationships to the exercise of male power. Feminist standpoint theorists explore the difficulties of establishing relationships between knowledge and power without discarding the hope of telling better stories about gendered lives. There are however different ways of thinking about taking a feminist standpoint. The notion that ‘women speaking their truth’ results in novel knowledge of gendered social lives grounded in women’s experience is a central theme of conceptions of a feminist standpoint. Women ‘speaking their truth’, are situated in relation to forms of power: that shapes their lives; that they can variably exercise; that constitutes what counts as knowledge; that determines whose voice can be heard (Ramazanoglu and Holland, 2002). Feminist standpoint is grounded in women’s experience including emotions and embodiments. Standpoint has dual perspectives: the personal perspective developed through experience of women and the perspective of the oppressors which they develop to survive (Smith, 1987). Standpoint is not only created within specific individuals but also within communities as in how things are put together in the actualities of women’s lives (Naples, 1999).

Nancy Hartsock’s (1983a, 1983b) view that women generally experience life differently from men because they live in different social relationships to men’s exercise of power, and thereby they experience material differences in gendered conditions of life. She does not claim that women actually have privileged knowledge of power relations, or privileged ways of accessing reality as a result of being female. Women can understand the social world from a feminist
standpoint due to sharing of a common material situation (gender subordination) and develop a common political consciousness (feminism). The adoption of a feminist standpoint is a way of exposing real relations of gender subordination as unjust, and so has a liberatory role. Since a feminist standpoint is not fixed in one social position, or from a female identity, or from a women’s body, it must be grounded on women’s experience of gender subordination and constituted as feminist theory. Hartsock proposes a critical connection between a potential for standpoint and women’s experience (Ramazanoglu and Holland, 2002).

The women’s movement is a reflection of historic inequality and suppression experienced by women across different countries of the world. This theory guides in the development of women’s articulation of their rights and narration of their subjugation. The common experience of victimhood binds the women to claim their share of knowledge through their standpoint. In this research, this theory will help to understand the subjective perspective of women victim of domestic violence.

2.1.3: Third World Feminist Theory

There is a meaning, history and implication of feminism in cross cultural third world (Lughod, 1998) due to its uniqueness. Feminist analyses of Third World women's oppression and resistance should be historically situated and Third World women's agency and voices should be respected (Herr, 2014). Third world women are implicit survivors of particular socio-economic system (Mohanty, 1991). There are differences among women due to their race, class, gender, sexuality, sexual orientation, nationality and ethnic background; however it is important to analyse their interrelationships among their categories within specific historic locations (Mohanty, 1988). It is the responsibility of feminists to work together to end forms of oppression based on “social forces that divide women from each other,” such as “race, class, sexual orientation, colonialism, poverty, religion, and nationality” (Bunch 1987). The difference of issue of domestic violence is closely woven with the caste system, economic status and class discrimination influenced by multiple identities and social status of women.
These intersections contribute to unique experiences of oppression and privilege (Bush, 1992). Third world women are the active agents of their own projects of liberation from male hegemony. In fact, a self-reliant critical practice and analysis of the subject-position of third world women calls crossing the ideological shadow lines between the ‘traditional’ and the ‘modern’, the ‘progressive’ and the ‘retrogressive’ (Chakraborty, 2012). Their shared history of experience of oppression helps to create or co-create meaning and understanding (Hesse-Biber, 2002). Cultural norms are to be seen as a mitigating factor to a crime instead of making the act more punishable. There is a rural urban, religion, regional differences and their corresponding responsibilities (Riesman, 2000) to narrate the various backgrounds in which domestic violence against women takes place. Studies that have adhered to this idea reveal that Third World women’s resistance often does not involve an explicit demand for gender equality or radical social restructuring in order to achieve feminist goals. Instead, Third World women tend to opt for gradual changes that result from their collaboration with their male counterparts to enhance their communal influence vis-à-vis other members and to improve living standards of their families and of the community itself (Jayawardena 1986; Ong 1987; Shiva 1993; Basu 1995; Pardo 2001; Forbis 2003; Basu 2010). Also, local women’s activisms tend to be aligned with other local social movements, such as national, pro-democracy, or human-rights movements (Herr, 2014).

2.1.4 Feminist Jurisprudence

Women’s role in society is determined by her socially constructed gender which ensures her inequality and subordination in relation to law and society which is characterised by male dominance. Society and law is male and jurisprudentially it applies a male standpoint. Women can only use state power in order to improve women’s formal position (Mackinnon, 1989). Feminist Jurisprudence is a family of different perspectives or frameworks used to analyse the actual and the desirable relationship between law and gender (Barlett, 1999). It is a part of law philosophy that seeks to analyze and redress more traditional legal theory and practice. It focuses on the ways in which law has been structured that deny the
experiences and needs of women. Feminist jurisprudence claims that patriarchy (the system of interconnected relations and institutions that oppress women) infuses the legal system and all its workings, and it is an unacceptable state of affairs. After series of struggle, laws oppressing women have been repealed, amended and enacted through which women are gaining access to the kind of knowledge, structures and process that make change possible. Social institutions tend to trivialize and ignore women’s experience of violence. Our current legal and judicial system enforces existing power relationships and thereby perpetuates partner violence (Brownmillar, 1975). Therefore, Feminist Jurisprudence attempts to explain critique and change law on behalf of and from the perspective of women (Littleton, 1989). The task of feminist jurisprudence in all its manifestation is to research and analyse the conditions of women under law, full cognisant of the differing cultural, legal and political context in order to improve the status of women (Barnett, 1998).

Studies of police response to partner violence indicates the level of violence are low, protection of women is often withheld and the attitude of the state reflects a desire to stay out of family disputes and let the family members work the problems out privately (Koss et al, 1994). Some research suggests that police officers may openly discourage women from filing formal charges against a violent spouse (George, Winfield and Blazer, 1992). Investigations examining situation in which the justice system has failed to provide protection to female survivors of partner violence have exposed several problems: the trivialisation of women’s experience by law enforcement officials and judges, problems with arrest policies and a common myth that both partners are equally responsible for the violent behaviour. The inability of the criminal judicial system to deal effectively with partner violence continues to be a major factor in the perpetuation of violence (Ford et al, 1995). Women’s experience of inequality is seen in sexist laws which have demand to review the laws according feminist lens which is followed in feminist jurisprudence. Women’s struggle in law is to repeal laws as they form part of the material conditions of women’s oppression; and to obtain enactment of laws intended to improve status of women through critiques of political and legal theory; social and political activism; law reforms, litigation and whenever possible there should
be application of feminist jurisprudence. Feminist theorists continue to view partner violence as reflective of a larger patriarchal structure that functions to subordinate women major institutions including criminal justice, health, military athletic and religious institutions are seen as reflecting patriarchal values and encouraging and maintaining violence against women (Marin & Russo, 1999). These patriarchal values exist in a variety of forms across a variety of levels. At the macro societal level, our legal system, institutions and other societal structures reflect and perpetuate these values. At the individual level, patriarchal values can become incorporated in everyday though and action as men who expect to be able to control the women in their lives resort to physical violence, sexual violence or both when their privileged status is threatened. Eliminating male violence against women requires working at macro society level (Francis, 2013). The law makers have moved from being a patriarchal agent; the problem that is analysed in the judiciary system is the lack of a productive system to generate faster delivery of services which makes it a slow process for the ones seeking fast result.

Through the system theory, feminist standpoint, third world feminism and feminist jurisprudence, domestic violence is located in the society where the difference experience of the service providers and survivors ensures a dual perspective. The system theory highlights the important of part of the judicial as well as the service providing agency as a system to balance and promote equality, co-ordination and harmony for the system to function. The specific situations or location of the researcher is considered extremely important in finding the conditions of the positions in this complex system based on individual’s needs, rewards, expectations and attributes of the people living in the system, directly involved in resolving a problem. Alison Jaggar in Feminist Politics and Epistemology: the Standpoint in 2004, explains women’s distinctive social position makes possible a view of the world that is more reliable and less distorted than the research that begins ‘from the lives of men in the dominant group’. Here, feminist jurisprudence says that every understanding has a perspective. This perspective influences it, and provides an interpretive field for
whatever matters of fact there may be (Burchard, 2004). Since law is made; administered and enforced by people thereby people must have a perspective. Law must reflect those perspectives at least to some degree (Smith, 2009). Feminists tend to agree that the extent to which a practice or person is unaware of their own perspective, that perspective will more strongly influence their interpretations of the world. Feminist jurisprudence sees the workings of law as thoroughly permeated by political and moral judgments about the worth of women and how women should be treated. To cater women’s experience including emotions and embodiment, a feminist standpoint entails women voicing their experience. This grounding raises particularly contentious issues about knowing experience, claiming connections between experience, knowledge and reality (Francis, 2013). Through a systemic correlation as women of third world countries, the unique experience and their location can help to show the impediments in a legal system when accessed the justice delivery.

2.2 Database

This study is based on both primary as well as secondary data.

2.2.1 Source of Secondary Data

Secondary data are collected from various sources.

i. National Crime Record Bureau 2012 and 2014 and Assam Police Website are consulted for statistics of prevalence of crimes against women and domestic violence both in the national and as well at the state level. Statistics on domestic violence were also collected from Assam State Commission for Women.

ii. To have a better understanding about domestic violence in the state, reports such as ‘Unheard’ and ‘Annual Report 14-15’ are collected from North East Network, ‘National Consultation on the Protection of Women from Domestic Violence Act, 2005 Report’ from Human Rights Law Network etc were consulted.
iii. Articles on women’s rights from National Institute for Public Cooperation and Child Development (NIPCCD), articles on domestic violence across the world from Centre for Women’s Development Studies (CWDS), research articles on domestic violence study on Kerala from Omeo Kumar Das Institute of Social Change and Development (OKDISCD) located at Guwahati were consulted.

iv. Reports published by Oxfam, World Health Organisation, World Bank, UN Women, Economic and Political Weekly etc are also another source of secondary data.

v. Open access journals and peer reviewed journals from Springer on Family Violence, Journal of Interpersonal Violence, Violence Against Women, Cross- Culture Research; Gender & Society from Sage and Women’s Studies International Forum from Elsevier were collected from Tezpur Central University and Department of Women’s Studies, Gauhati University.

vi. Criminal Investigation Department (CID), Headquarter, Assam Police, gave the data for fifteen years on 498A, 304B and Crime against Women IPC. Data on Dowry Prohibition Act, 1961 was given later to the Researcher as it was unavailable.

2.2.2 Source of Primary Data

To identify the primary data, total number of reported cases under 498A, 304B and Crime against Women were calculated for the period of 2000-2014. The Researcher collected these data from January 2015 to May 2016 onwards from the Inspector, Crime Branch after prior permission from the concerned authority by consulting the various legal records and documents. This data was essential to finalise the occurrence of districts with highest domestic violence reported. Cases under PWDVA, 2005 could not be taken into consideration due to disparities in its recording system, inconsistence in the availability of data both at the state and
district level and non-availability of data records in certain districts. Based on these data, the districts which crossed the benchmark of 10,000 were taken as sample districts. They were Barpeta, Dhubri, Nagaon, Cachar and Kamrup (Metro). These five districts provided more or less an overall regional representation of Assam. To fulfil the requirement of this study, it was felt essential to take district level data because for majority of the service providers their jurisdiction is limited to their respective district.

**Figure 2.1 Map of Assam with the study areas**

![Map of Assam with study areas](http://d-maps.com/carte.php?num_car=31155&lang=en)


The map highlights the five districts where research was conducted with the study period of looking into 15 years data.
Table 2.1 District Data of 2000-2014

<table>
<thead>
<tr>
<th>SL No</th>
<th>Districts</th>
<th>304 B</th>
<th>498A</th>
<th>Crime Against Women</th>
<th>Total Crime</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Kamrup</td>
<td>77</td>
<td>1833</td>
<td>4479</td>
<td>6389</td>
</tr>
<tr>
<td>2</td>
<td>Kamrup M</td>
<td>128</td>
<td>2980</td>
<td>7915</td>
<td>11023</td>
</tr>
<tr>
<td>3</td>
<td>Nalbari</td>
<td>37</td>
<td>983</td>
<td>2528</td>
<td>3548</td>
</tr>
<tr>
<td>4</td>
<td>Barpeta</td>
<td>153</td>
<td>5014</td>
<td>9752</td>
<td>14919</td>
</tr>
<tr>
<td>5</td>
<td>Goalpara</td>
<td>29</td>
<td>2336</td>
<td>3953</td>
<td>6318</td>
</tr>
<tr>
<td>6</td>
<td>Dhubri</td>
<td>153</td>
<td>6719</td>
<td>12226</td>
<td>19098</td>
</tr>
<tr>
<td>7</td>
<td>Kokrajhar</td>
<td>21</td>
<td>963</td>
<td>2133</td>
<td>3117</td>
</tr>
<tr>
<td>8</td>
<td>Sonitpur</td>
<td>115</td>
<td>2795</td>
<td>5959</td>
<td>8869</td>
</tr>
<tr>
<td>9</td>
<td>Darrang</td>
<td>67</td>
<td>2591</td>
<td>6695</td>
<td>9353</td>
</tr>
<tr>
<td>10</td>
<td>Sivasagar</td>
<td>46</td>
<td>2122</td>
<td>4871</td>
<td>7039</td>
</tr>
<tr>
<td>11</td>
<td>Jorhat</td>
<td>15</td>
<td>1868</td>
<td>3736</td>
<td>5619</td>
</tr>
<tr>
<td>12</td>
<td>Golaghat</td>
<td>29</td>
<td>1769</td>
<td>4605</td>
<td>6403</td>
</tr>
<tr>
<td>13</td>
<td>Dibrugarh</td>
<td>35</td>
<td>1675</td>
<td>3637</td>
<td>5347</td>
</tr>
<tr>
<td>14</td>
<td>Lakhimpur</td>
<td>18</td>
<td>1892</td>
<td>4188</td>
<td>6098</td>
</tr>
<tr>
<td>15</td>
<td>Nagaon</td>
<td>139</td>
<td>7172</td>
<td>13112</td>
<td>20423</td>
</tr>
<tr>
<td>16</td>
<td>Karbi Anglong</td>
<td>6</td>
<td>275</td>
<td>928</td>
<td>1209</td>
</tr>
<tr>
<td>17</td>
<td>Dima Hasao</td>
<td>9</td>
<td>32</td>
<td>238</td>
<td>279</td>
</tr>
<tr>
<td>18</td>
<td>Cachar</td>
<td>129</td>
<td>5417</td>
<td>8751</td>
<td>14297</td>
</tr>
<tr>
<td>19</td>
<td>Karimganj</td>
<td>111</td>
<td>1999</td>
<td>3914</td>
<td>6024</td>
</tr>
<tr>
<td>20</td>
<td>Bongaigaon</td>
<td>55</td>
<td>1437</td>
<td>2787</td>
<td>4279</td>
</tr>
<tr>
<td>21</td>
<td>Morigaon</td>
<td>50</td>
<td>1529</td>
<td>4192</td>
<td>5771</td>
</tr>
<tr>
<td>22</td>
<td>Tinsukia</td>
<td>40</td>
<td>1149</td>
<td>3482</td>
<td>4671</td>
</tr>
<tr>
<td>23</td>
<td>Dhemaji</td>
<td>19</td>
<td>1311</td>
<td>3253</td>
<td>4583</td>
</tr>
<tr>
<td>24</td>
<td>Hailakandi</td>
<td>43</td>
<td>1191</td>
<td>2903</td>
<td>4137</td>
</tr>
<tr>
<td>25</td>
<td>Chirang</td>
<td>41</td>
<td>592</td>
<td>1495</td>
<td>2128</td>
</tr>
<tr>
<td>26</td>
<td>Udalguri</td>
<td>45</td>
<td>461</td>
<td>1424</td>
<td>1930</td>
</tr>
<tr>
<td>27</td>
<td>Baksas</td>
<td>43</td>
<td>301</td>
<td>1184</td>
<td>1528</td>
</tr>
</tbody>
</table>

Source: Data collected from CID Office, Guwahati

The above table reflected the data from 27 districts and five districts namely Barpeta, Dhubri, Nagaon, Cachar and Kamrup (Metro) having benchmark of 10,000 as total crime were selected for the study.

To conduct the study, the service providers were selected based on the district headquarters as maximum information could be gathered there. Therefore, the
Researcher collected the data from Dhubri Town, Silchar City, Barpeta Town, Nagaon Town and Kamrup Metropolitan.

**Service Providers:**

For interviews with the Police Officials the Sadar Police Stations across the four districts of Dhubri, Cachar, Barpeta and Nagaon were visited. However, the Officer in Charge of All Women Police Cell of Kamrup Metro was interviewed for information regarding Kamrup Metro due to its inclusive nature. It seemed to be research friendly and the permission is granted for it especially from the Police Commissioner. Permission for Sadar Police Stations is granted from Superintendent of Police (SP) Office, Guwahati.

The interviews with the Police officials gave an overview of the work profile, the conditions of working and tackling of cases related to IPC sections, Special Law and Protection of Women from Domestic Violence Act, 2005. Under PWDVA, 2005, Police under sub section 5 have the right to inform the survivors to make an application and claim a relief through protection order, monetary relief, residence, compensation and so on. The Police have also the right to file a case under 498A IPC.

Under Section 8 and 9 of the Protection of Women from Domestic Violence Act (PWDVA), 2005; the Protection Officers are officiated to deal with incidences of domestic violence. In Assam, the decision is given to senior most field officials in the Social Welfare Department, that is, the District Social Welfare Officer (DSWO) on deputation for three years to be Protection Officer. There are varied responsibilities for the DSWO to undertake plans, policies and programmes, enact, guide and co-ordinate the efforts of both Governmental & Non-Governmental Organizations working in the field of Women & Child Development Sector such as development of Anganwadi Centres as Community Resource Centres for Pregnant & Lactating Mothers and overall development of

---

7 Sadar defines Police Station in small town connected to District Headquarter
Women & Children, welfare for Old & Infirm and to facilitate Persons with Disabilities to live with Dignity.

Along with these responsibilities, as a Protection Officer- assisting Magistrate, making Domestic Incident Report, provide reliefs mentioned in the Act and assist the domestic violence survivors are some major tasks. All the five districts having Protection Officer / District Social Welfare Officers are centrally located with other government official buildings except for Cachar. They are usually the senior level officers promoted with nearly more than twenty years of experience in Social Welfare Department. Five Protection Officers from Barpeta, Dhubri, Nagaon, Cachar, and Kamrup Metro were interviewed to seek their experience in the implementation of PWDVA, 2005 whether survivors are benefitted from this act.

Under PWDVA, 2005 the role of the lawyer is not specially mentioned. But due to their expertise on IPC and Special laws, the survivors approach them to advocate their case. The lawyers in five districts having working experience ranging from five to twenty five years were interviewed for this study. The interviews are taken in the district court premises and in the District Social Welfare Office. In Barpeta district, the interviewed lawyer was the first one to register a case under PWDVA, 2005. All the lawyers have thorough experience of IPC crimes and Special Law crimes.

Section 5 and 14 provides the role and a duty of Service providers through NGO’s which take major responsibility of family counselling and provide free legal aids. In Kamrup Metro, its Indian Council for Child Welfare (ICCW) centre in CID Office, Ulubari, in Nagaon its Sadou Axom Gramyo Puthibhoral Sangstha, in Cachar its Woodichee, in Barpeta, the counselling centre is Assam Enviro Legal Protection Society, in Dhubri its Assam Mahila Samata Society (AMSS). These five counselling centres have their own counsellors who are trained under various programmes organised by the State and Central Social Welfare Department. In some areas Mahila Samitis also functions and highlight the case to NGOs.
Section 6 of the Protection of Women from Domestic Violence Act, 2005 mentions the requisite of shelter homes to the aggrieved persons. Shelter Homes not only provide shelter and food but also medical check-up, support and training for sustenance of women who have no place to go after they have left the in-laws and maternal home due to domestic violence or have been driven out due to filing of the case. Shelter Homes is an important legal provision as a form of rehabilitation at the time of distress. It is the alternative place of shelter when the survivors do not have any place to go to because women’s effective rights in land still remains elusive (Agarwal, 2008). Shelter Homes are there in Kamrup (Metro) namely, Global Organisation for Livelihood Development (GOLD). In Cachar it is known as Nivedita Nari Sangstha. In Dhubri it is Fulkumari Bapuji Club however, in Barpeta, there is no shelter home has been identified. Nagaon has an active Shelter home under Gram Bikas Parishad NGO. The Shelter Homes are under the scheme of ‘Swadhar Greh’ under the Women and Child Development Ministry, Government of India. The Shelter Home Incharge of the Homes has been interviewed.

Under PWDVA, 2005 Section 7, it mentions the role of a person in charge of a medical facility to provide medical aid. Also, whenever a victim comes to the police station and files a case, a medical check-up is thoroughly done through the Police to see any injury or assault to the survivors and seeks a medico-legal report. The five doctors’ specialisation expanded from orthopaedic, surgery, psychiatry, forensic medicine to gynaecology and obstetrics who were interviewed for the study. The doctors ranged from Registrar to Chief Medico Legal Officer who had experiences from six years to twenty years. These doctors mostly deal with domestic violence cases that are reported in Casualty Department. The doctors narrated how the medico legal reports are made by probing the survivors inform about domestic violence. Most of them give excuses of falling and hurting themselves. The doctors provided information of the types of injury mostly associated with domestic violence.

PWDVA, 2005 under Section 5 and 12 describes the role of Judicial Magistrate of the first class or Metropolitan Magistrate governing under Court of Criminal
Procedure, 1973 to look into the cases of domestic violence through the domestic incident report and issue the relief orders, date of hearings and try at best to dispose the application within a period of sixty days after first date of hearing. The Magistrates are available in all the districts. Five magistrates of the study areas were interviewed to know about the judicial process of delivering the cases.

**Survivors:**

The word ‘Survivors’ is to look into the women who have experienced domestic violence; approached any service provider to come out of their helpless situation against all odds. Thirty five survivors were interviewed from five sample districts of the study. It took an average of three to four days to get the interviews of seven survivors in a particular district. The selection procedure of the survivors was through identification from the Police Officials, Lawyers, District Social Welfare Officers and NGO’s. The criteria were that at least a case either on 498A, 304B, Dowry Prohibition Act or Protection of Women from Domestic Violence has to be registered by the survivors. Questions were asked to seek their perspective on the origin and nature of violence in the family, seeking immediate help when violence is meted out to them, social support and familiarity with the legal system.

**Others:**

Data were also collected from Mediation Cell, District Legal Cell Authority (DLSA), and District Women Cells. The Researcher came across these organisations during field work in all the five districts. Their main role was to provide counselling, legal aids and help to women in distress. However under the District authority, there were Women Cells in Dhubri, Barpeta, Cachar and Nagaon which are supervised by a Civil Servant associated with the administration who recorded the case on any issue of violence against women and network with other agencies to look into the matter. Their interviews were also conducted.
2.2.3 Data Limitation

Data of cases registered under Dowry Prohibition Act, 1961 and other crime against women rates could not be provided for certain districts like Kokrajhar, Golaghat and Dima Hasao till research period of May, 2016. However, it was collected later by December, 2016.

The Police Officers were in transferable postings with an average of five months thereby they did not have much information about the characteristic of their respective the Police Stations. They relied on their colleagues and subordinates. However, they had thorough knowledge on the IPC and the Special Law crimes. The process of permission granted was rigorous although prior permission was taken from Deputy Inspector General (General Administration) as well as Superintendent of Police of the five districts. The permission took a minimum of one day before the interview with the Police Officials.

The Protection Officer of the five districts gave the interview with prior telephonic permission and through the letter issued from the Directorate of Social Welfare. The issuance of letter took almost a month. The interview dates has been scheduled according to the dates given by the Protection Officers and thus the priority of the districts followed. Due to extreme busy schedule of the Protection Officers, interview process was stopped in between as they had to cater the responsibilities to the survivors and other official duties.

Maintenance of data on the implementation of PWDVA, 2005 were not uniform across the five districts. It took time to get the datas as some of the clerks/office bearers have already retired from the service so the whereabouts of files are difficult to trace. Again it depends from officer to officer on the maintenance of the records. The researcher had to make number of visits to collect records of the cases registered from 2007 onwards till 2014.

The lawyers were extremely busy in the first half of the office hours due to the client’s hearing and they sit in the crowded, court premises. The data were collection in chaotic, rush hours of the courts. In such situations their clients and
colleagues were together with them which also affected the data collection process.

The Family Counselling Centres under NGOs were limited to only family counselling and legal aid but various professional counselling techniques were not there. Training had been provided by NIPCCD and Central Social Welfare Board. The counsellors are not trained professionals but have evolved over a period of time due to training and experience.

Except for Barpeta, the rest of the Districts have Shelter Home for domestic violence. The conditions needed further improvement as people had less awareness on Shelter Home. Shelter Homes were also located in distant areas so it took a lot of time to reach there.

In the case of doctors, some of them were reluctant to give interviews. It was not feasible for the doctors to space more than 45 minutes for the interview because they constantly needed to attend their patients. There was no privacy in the interviews as patients and other staffs were nearby watching the process of data collection which was distracting sometimes.

For the survivors, it was extremely difficult to make them understand as the data was for pure academic purpose. Some of the survivor’s relatives were suspicious in nature as they thought the researcher was an informer of the perpetrator or media personnel. The Research tried to control emotional involvement as the narratives were extremely sensitive and shocking. At few times, the researcher had to take a break to come back to composure due to saddening narration of the survivor’s feelings; and reflecting their sense of vulnerability. In Cachar, Barpeta, the Protection Officer helped to get the survivors as they stayed at far flung areas. In Dhubri, the Research paid the travel charges of the survivors as they were extremely poor and they lied at home to come out in different pretext so the relatives would not know the purpose of the case.

Some of the survivors wanted the interview at their household so finding their houses at distant location was a limitation. The weather was also not conducive
because the data was collected during the monsoon season and the accessibility of roads in Dhubri and Cachar were difficult.

2.3. Sample Design

The universe represents women who have registered a case of domestic violence in any justice delivery system at any time of their life in the five districts of Assam out of which few samples were taken to represent the universe. Service providers of the five districts were taken to represent the samples of state machinery which is discussed below in detailed manner.

2.3.1 Sample Area

The study calls for the collection of data from the district level because of the service providers and agencies are based in the district head quarters of the state. They act as enabling agency where the legislative body grants these service providers for authorization or legitimacy the power to take certain actions. To identify these districts, the reported cases of domestic violence rate that of 498A and 304B and various Crime Against Women under IPC are calculated for a period of fifteen years, 2000 to 2014. Those districts which have registered more than 10000 cases of 498A and 304B and Crime against Women have been identified as the sample districts. Thereby, Barpeta, Dhubri, Nagaon, Cachar, Kamrup (Metro) are the sample districts of this study. Data on PWDVA, 2005 are found only from 2009 onwards and that too not of all the districts although the Act was implemented from 2006 onwards. Data on Dowry Prohibition Act, 1961 are also not found for the study period, therefore, the researcher used only the IPC sections to calculate the rate of domestic violence and thereby identify the sample area.

Over the last decade, the Nagaon district recorded the highest number of crimes against women in the state. According to the leading newspaper- The Times of India, dated May 11, 2016, it reported that from 2005 to 2015 November, 7,472 women have reportedly faced some kind of crime against them in Nagaon district. Of these, 95 were killed for dowry. Also, out of 3,815 arrested in
connection with these cases, only 18 were convicted. Lower Assam's minority-dominated district of Dhubri came second in the list. In the last decade, 7,385 women fell victim to various crimes. Again 127 women were reportedly killed in dowry-related cases in Dhubri. “Out of at least 7,648 people arrested in connection to crimes against women in Dhubri district, only one was convicted.”

During the same time frame, Barpeta district was in the third position, with 6,477 women being affected, including 141 dowry deaths. The Barak Valley's Cachar came fourth with 6,162 women who are survivors of crimes, of which 135 were killed in dowry cases. The Kamrup (Metro) district was fifth in terms of crimes against women in the state over the last decade. At least 101 women have died in connection to dowry-related cases in the metro district in the last decade.

Previously no studies have been done in this area of domestic violence except for Kamrup (Metro), which was a part of Kamrup District. In 2003 Kamrup district was divided into two separate districts; Kamrup (Metro) and Kamrup (Rural).

There are numerous studies carried out by North East Network\(^8\), scholars and other research agencies and institutions on domestic violence but extensive critical study on the survivors and state machinery relationship is not yet carried out. The sample areas of this study are the five districts which registered the highest number of cases under 498 (A), 304B, Crime against Women (CAW) and Protection of Women from Domestic Violence Act (PWDVA), 2005 as well as Dowry Prohibition Act (DPA), 1961 during the period 2000-2014.

### 2.3.2 Sample size

The Protection Officers of each district, one police official, one NGOs official having family counselling centres, one senior lawyers with more than 5 years of experience, one doctor specially assigned as per the PWDV Act, one shelter home in-charge of each district and magistrates are taken as samples for service providers from each sample districts as to show the execution or implementation part of these acts. Seven survivors from each district is taken who have filed their

---

\(^8\) North East Network (NEN) is a women right based NGO working in three states of Assam, Nagaland and Meghalaya. NEN conduct studies and publishes a lot of reports on Gender Based Violence.
cases under any of these legal provisions; PWDVA, IPC- 498A and 304B or DPA. Thereby a total of 35 survivors and 35 service providers totalling to 70 samples is the size of the sample for the study. The representation of thirty five survivors from different cultural-ethnic background namely Assamese, Bodo, Nepali, Bengali is taken to analyse the study.

Table 2.2: Sample Design

<table>
<thead>
<tr>
<th>Sl No</th>
<th>Sample Districts</th>
<th>Total Samples (Service Provider)</th>
<th>Total Samples (Survivors)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Nagaon</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>2</td>
<td>Kamrup(Metro)</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>3</td>
<td>Barpeta</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>4</td>
<td>Dhubri</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>5</td>
<td>Cachar</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>Total</td>
<td>5</td>
<td>35</td>
<td>35</td>
</tr>
</tbody>
</table>

Source: Self

Non probability method is used for data collection through Purposive Sampling as the Researcher is looking at the roles of the Service Providers in delivery of service and the perception of the survivors to the judicial system.

The study is exploratory in nature as it tries to probe the implementation process of the legal provisions by the service providers and the legal services benefits availed by the survivors. All the interviewees come from different socio-cultural and economic background (detailed information provided in Chapter IV). Two principles of Social Work, that is, Principle of Controlled Emotional Involvement⁹ to have an emphatic relationship with the service providers and the survivors as well as Principle of Self Determination¹⁰ to improve the choices for the survivors, be it psychological and economical is applied thoroughly. Respect to every individual dignity and worth is valued throughout research. Informed consent of the survivors is taken prior to the case study for protecting the privacy.

---


¹⁰ Used in Social Work profession to have freedom in make choices for the survivors. ibid.
of researched person’s initially through telephonic talk and later on before starting the interview sessions which was identified by snowball sampling. The purpose and the intension of the study is explained to each respondent of the study and only after receiving a verbal consent the interview was carried out. To meet the survivors who have agreed after telephonic conversation, time, location and proper introduction is given before starting their journey for their safety and rights of the persons. There are few questions (for the survivors of domestic violence) which are sensitive in nature. While asking those questions, care is taken not to hurt the sentiments of the respondent. Since the study deals with sensitive and personal issue of domestic violence, purposive sampling method was considered to be suitable one for the study.

2.3.3 Tools

Two sections of people are directly involved in the execution and the delivery of the legal provisions of domestic violence under the legal system of India. They are the service providers and the survivors. Semi structured interview schedule is used for qualitative data gathering technique as it includes free interaction between the researcher and interviewee and it also includes opportunities for clarification and discussion (Bless and Higson-Smith, 2000). It is used to collect the data from these two sections of people. Separate schedules are used for the survivors and for the service providers. Semi structured interview schedule gives a better understanding of the problems which are subjective in nature. The common questions for the service providers are mainly on the roles and responsibilities, experience, support, infrastructure, monitoring, evaluation and assessment and cooperation and coordination from the others. It is used for the service providers; the protection officers, lawyers, family counselling centres, police, shelter home in-charge, doctor, magistrate and other NGO’s as well as the survivors. Although separate schedule was prepared for FCC, it was found to be a unit of NGO. The socio-economic profile in the schedules are structured, rest of the questions related to the process of implementation, support, training are semi structured to know the perspectives and suggestions from the viewpoint of survivors and service providers. However, for the DLSA, Mediation cell and
District Women Cell and social workers, unstructured interview schedule is taken due to the discovery of these agencies only after the field visit. The medium of language used during the interview are Assamese, Bengali, Hindi and English and it is taken at the survivor’s residence, NGO’s, Government Office, Courts and the offices of the service providers. It is as per the convenience of the respondents.

Open ended questions maximise discovery and description and produces non standardization information that allows researchers to make full use of differences among people. It offers ideas, thoughts and memories in their own words rather than in the words of the researcher. The richness about the feeling and experience is vivid (Reinharz, 1992). The schedule consisted both open-ended as well as close-ended questions. Thereby, a mixed methodology consisting both qualitative as well as quantitative methods are used to analyse and probe the problem. Quantitative data through close ended questions in interview schedule are also applied in the study. It is to procure socio-economic background of the respondents and also to provide graphical representation of certain information. Pseudo names are used to hide the identities of the survivors.

2.4 Methodology

The study also takes into account the method of interventions. According to the National Strategy on Domestic, Sexual and Gender Based Violence Report from 2010 to 2014, Government of Ireland, there are two kind of interventions as a sustainable mechanism for combating domestic violence –primary (prevention, recognising and understanding) and secondary (reporting, responding and referring). For this study, secondary intervention is used. Secondary intervention arises when any crime or incident happens and a direct role is played by the service providers by offering their professional help. Secondary interventions therefore range from routine enquiry and medical attention in hospital, to direct service provision to survivors, to relief provided through the civil and criminal justice process. The survivors who have atleast filed a section be it 498A, 304B,
Dowry Prohibition Act or PWDVA and have sought justice through any service providers are the samples.

2.5 Tabulation and Analysis

From the standpoint of the legislators, executioners as well as the petitioners who come to register their cases, pilot testing is done in April to May 2015 in Dhubri and Kamrup (Metro) where it is felt that data is not documented on records for domestic violence from the records. The questions are tested and reframed for the main field work study. The field work in the five districts expanded from the month of January to October 2016. Tabulation and analysis of data is conducted simultaneously from the period of August to November, 2016 on the five districts. The interviews are then translated and transcript simultaneously with the help of NCH Express Scribe version 5.19 and then thematised and analysed accordingly. A preventive method is used to show the necessary conditions fulfilled by the state machinery after a crime against women, that is, domestic violence is committed in order to reduce the effects of violence. The analyzing of data and writing of the thesis is from the period of November, 2016 till May, 2017 that incorporates five chapters in total.
The flow chart enables to look into how different laws namely 498A, 304 IPC, Dowry Prohibition Act and PWDVA work for delivering services to the survivors under the criminal and civil justice system and the reliefs and punishments provided based on the nature of the crime.