

Rape Prosecutions in Bangladesh: Evidentiary Challenges, Victim Protection and Fair Trial Concerns

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ABSTRACT: Rape is one of the most serious forms of sexual violence and presents distinctive challenges for criminal justice systems because the offence frequently occurs in private, may leave limited physical evidence, and often depends substantially upon the testimony of the complainant and the proper collection and interpretation of corroborative evidence. In Bangladesh, the legal framework governing rape prosecutions is principally contained in the Penal Code 1860, the Evidence Act 1872, the Nari-O-Shishu Nirjatan Daman Ain 2000, the Code of Criminal Procedure 1898 and the Constitution of the People's Republic of Bangladesh. Section 9 of the Nari-O-Shishu Nirjatan Daman Ain 2000 provides the principal statutory framework for punishment of rape, while specialised tribunals are responsible for trying offences under the Act. The legal framework has undergone significant amendments, including the Evidence (Amendment) Act 2022 and the Nari-O-Shishu Nirjatan Daman (Amendment) Act 2026. This article examines the principal evidentiary challenges affecting rape prosecutions in Bangladesh, with particular attention to victim testimony, medical and forensic evidence, DNA evidence, delay in reporting and medical examination, hostile witnesses, inconsistencies in statements, digital evidence and the historical use of character evidence. The 2022 amendment to section 146 of the Evidence Act introduced an important restriction on cross-examination concerning a rape victim's general immoral character or previous sexual behaviour, while repealing section 155(4), which had expressly permitted attacks on the complainant's character. Nevertheless, the continuing judicial discretion under section 146 raises questions concerning the practical scope of this protection. The article further examines victim protection. Section 14 of the Nari-O-Shishu Nirjatan Daman Ain restricts publication of information capable of revealing the identity of victims, including through online and social-media platforms. Section 31 permits protective custody in appropriate circumstances, while the 2025 amendments introduced section 32B, enabling tribunals or magistrates to order protection for complainants, victims and witnesses and to provide reasonable travel and time compensation to witnesses. The 2026 amendment also strengthened the statutory framework concerning medical examinations and DNA testing. At the same time, rape prosecutions must comply with fair-trial guarantees. Article 35(3) of the Constitution guarantees an accused person the right to a speedy and public trial by an independent and impartial court or tribunal established by law. The prosecution therefore carries the responsibility of proving the charge according to law, while the accused retains procedural rights necessary for an impartial adjudication. The challenge is consequently to develop a system that protects complainants from intimidation, humiliation and secondary victimisation without compromising the accused's right to challenge prosecution evidence. Using a qualitative doctrinal methodology supplemented by socio-legal and comparative analysis, this article argues that effective rape prosecution requires a balanced evidentiary framework. Medical evidence should assist rather than replace judicial assessment of the complainant's testimony; forensic and digital evidence should be collected according to reliable procedures; cross-examination should remain meaningful but should not become a vehicle for irrelevant character attacks; victim and witness protection should be operational rather than merely declaratory; and trial procedures should be sufficiently expeditious while preserving the accused's constitutional guarantees. The article proposes reforms concerning forensic capacity, evidence preservation, judicial guidelines, victim-sensitive procedures, witness protection, digital evidence, prosecutorial practice and case management.

1. Introduction

Rape is a grave violation of bodily autonomy, dignity, personal security and sexual integrity. Its prosecution presents distinctive legal and evidentiary difficulties because the alleged offence frequently occurs without independent eyewitnesses. Unlike offences committed in public spaces, sexual offences commonly take place in private environments where the complainant, the accused and the surrounding circumstances may constitute the principal sources of evidence. Consequently, the criminal justice system must determine whether the prosecution has established the essential elements of the offence through a combination of testimonial, documentary, medical, forensic, circumstantial and, increasingly, digital evidence.

The legal regulation of rape in Bangladesh is principally distributed across several legal instruments. The Penal Code 1860 contains the traditional definition of rape, while the Nari-O-Shishu Nirjatan Daman Ain 2000 provides a specialised statutory regime concerning rape and other forms of violence against women and children. Section 9 of the 2000 Act currently provides severe penalties for rape and specifies circumstances falling within the statutory definition. The 2026 amendment retained the principal punishment of death or life imprisonment with fine for rape while making further amendments to the statutory framework.

The prosecution of rape must also be understood within the law of evidence. The Evidence Act 1872 establishes general principles concerning relevance, admissibility, witnesses, examination and cross-examination and burden of proof. Section 101 places the burden of proving asserted facts upon the person who seeks a judgment based upon those facts, while section 118 generally recognises the competence of persons to testify unless a recognised incapacity prevents them from understanding questions or giving rational answers. Section 134 further provides that no particular number of witnesses is required for proof of a fact.

The evidentiary treatment of rape has nevertheless historically generated controversy in Bangladesh. A particularly important issue has been the treatment of the complainant's character and previous sexual behaviour. Before the Evidence (Amendment) Act 2022, section 155(4) permitted the accused in a rape prosecution to introduce evidence concerning the complainant's general immoral character. The 2022 amendment repealed section 155(4) and amended section 146 so that questions concerning the victim's general immoral character or previous sexual behaviour cannot ordinarily be asked in cross-examination; such questions may only be asked with the permission of the Court when considered necessary for the ends of justice.

This reform represents an important change in the evidentiary treatment of sexual-violence complainants. However, legislative reform alone cannot resolve all evidentiary difficulties. Academic research on Bangladesh has identified the continuing influence of what has been described as a "rule of corroboration" and a corresponding expectation that medical evidence should demonstrate physical signs of rape. The literature argues that the absence of injury may sometimes be treated as evidence against the complainant even though the absence of visible injury does not necessarily establish consent or falsity.

Medical evidence is undoubtedly important. The legal framework provides for medical examination of both the accused and the victim. The 2025 amendment to section 32 expanded the framework by permitting examinations using modern technology at government hospitals or government-recognised private hospitals and requiring prompt examination and certification. The 2026 amendment further developed the DNA-testing regime, requiring judicial or tribunal approval where the investigating officer considers DNA examination necessary and providing for priority processing of DNA samples in rape-related offences.

Forensic evidence is particularly significant because the Evidence Act now expressly recognises physical or forensic evidence, including blood, semen, hair, body material, DNA, fingerprints, palm prints, iris impressions and footprints, where such material may establish the commission of an offence or a connection between the offence, victim and offender. The Evidence (Amendment) Act 2022 also recognised digital or electronic records, including CCTV records, cell-phone records and data from digital devices, within the evidentiary framework.

The protection of victims represents another major dimension of rape prosecution. A complainant may face threats, social stigma, pressure to withdraw, public exposure, hostile questioning and repeated recounting of traumatic events. Section 14 of the Nari-O-Shishu Nirjatan Daman Ain prohibits publication of information capable of revealing the identity of a victim, including name, address, photograph or other identifying information through newspapers, other media, online platforms or social media.

The statutory position has also developed concerning witness protection. Section 32B, inserted through the 2025 reform process and retained in the current framework, empowers the tribunal or magistrate to order necessary protection for a complainant, victim or witness and permits reasonable compensation for witnesses' travel and time. This development is important because the willingness of witnesses to participate in criminal proceedings can be undermined by intimidation, economic pressure or fear of retaliation.

Victim protection, however, cannot be understood as an alternative to fair trial. The accused is also protected by constitutional guarantees. Article 35(3) of the Constitution provides that every person accused of a criminal offence has the right to a speedy and public trial by an independent and impartial court or tribunal established by law. Article 35(4) protects the accused against compelled self-incrimination. A rape prosecution must therefore protect the complainant while preserving the accused's opportunity to know, challenge and test the evidence relied upon by the prosecution.

This article examines these interconnected issues. It considers the legal framework, existing literature, evidentiary challenges, victim-protection mechanisms and fair-trial concerns. It further analyses the relationship between forensic evidence and testimonial evidence, the role of cross-examination, the effect of delay, the protection of identity and witnesses, and the implications of recent legislative reforms.

The central proposition is that an effective rape-prosecution system must pursue two objectives simultaneously: first, ensuring that genuine complaints can be investigated and adjudicated without victimisation or evidentiary prejudice; and secondly, ensuring that an accused person is convicted only where the prosecution establishes guilt according to the applicable legal standard and fair-trial requirements.

2. Literature Review

2.1 Introduction to Existing Literature

The existing literature concerning rape prosecutions in Bangladesh may broadly be divided into several interconnected categories. The first concerns the substantive criminal-law framework governing rape. The second examines evidentiary rules and judicial approaches to complainant testimony. The third focuses upon medico-legal evidence and forensic examination. The fourth addresses victim protection and witness participation. The fifth considers procedural delay, institutional capacity and the effectiveness of specialised tribunals.

A particularly important contribution is Taqbir Huda's study of medico-legal jurisprudence in Bangladesh. The research examines the relationship between corroboration, resistance and medical evidence and argues that the historical emphasis on physical signs of rape has contributed to a jurisprudential culture in which the absence of injury may be interpreted as undermining the complainant's credibility.

The literature therefore raises an important conceptual question: should medical evidence be treated as an independent prerequisite for establishing rape, or should it be evaluated as one component of the complete evidentiary picture? The latter approach is more consistent with the general principles of evidence because the Evidence Act does not require a fixed number or category of evidence for every fact. Section 134 expressly states that no particular number of witnesses is required for proof of a fact.

2.2 Medical and Forensic Evidence

Recent research has focused on clinical forensic medicine and the quality of medico-legal evidence in Bangladesh. A 2025 study identifies shortages of forensic experts, laboratories and trained female physicians, together with inadequate forensic protocols, as significant challenges to effective rape investigation.

A 2026 qualitative study examining implementation of the ban on the two-finger test reported continuing implementation gaps and identified concerns regarding the quality of medico-legal evidence and the potential effects on survivors' bodily integrity and willingness to engage with the justice system.

These studies demonstrate that evidentiary problems do not begin in the courtroom. They may arise at the earliest stage of investigation through delayed medical examination, inadequate sample collection, poor documentation, lack of specialist personnel or improper interpretation of medical findings.

2.3 Character Evidence and Cross-Examination

The Evidence (Amendment) Act 2022 is particularly important in this area. Section 146 was amended to prohibit questions concerning a rape victim's general immoral character or previous sexual behaviour in cross-examination, subject to judicial permission where the Court considers such questioning necessary for the ends of justice. Section 155(4), which had expressly permitted evidence concerning the complainant's general immoral character, was repealed.

Recent scholarship nevertheless suggests that the new provision leaves an area of judicial discretion that may require careful guidelines to ensure that the protective objective of the amendment is realised in practice.

2.4 Victim and Witness Protection

The literature on witness protection in Bangladesh has repeatedly identified the absence of a comprehensive witness-protection regime as an institutional problem. Academic research has argued that witnesses may become unwilling to participate in criminal proceedings because of threats, intimidation and pressure.

The legislative position has changed in recent years. Section 32B now permits tribunals and magistrates to order protection for complainants, victims and witnesses. The development is significant, but the effectiveness of protection depends upon implementation, resources, institutional coordination and clear procedures for assessing risk.

2.5 Fair Trial and the Rights of the Accused

The literature on sexual-offence prosecution must also account for the rights of accused persons. Article 35(3) of the Constitution guarantees a speedy and public trial before an independent and impartial court or tribunal established by law.

Fair trial in rape cases therefore requires that victim-sensitive procedures do not eliminate the accused's right to challenge relevant evidence. Restrictions on irrelevant or prejudicial questioning may protect the dignity of the complainant while leaving legitimate cross-examination available concerning material inconsistencies, identification, chronology, consent where legally relevant, and other genuinely probative matters.

2.6 Digital Evidence

The emergence of digital evidence has transformed rape investigations. Communications through mobile phones, messaging applications, social-media accounts, location records, CCTV footage, photographs, recordings and other digital material may become relevant to issues such as identification, contact between parties, chronology, threats, inducement and post-occurrence conduct.

The Evidence (Amendment) Act 2022 expressly incorporated digital or electronic records into the evidentiary framework and recognised expert opinion concerning digital records.

The principal challenge is no longer merely whether digital evidence is theoretically admissible. It also concerns authenticity, integrity, preservation, chain of custody, metadata, extraction methodology and the possibility of alteration or manipulation.

2.7 Research Gap

The existing literature provides important analyses of individual dimensions of rape prosecution. However, several gaps remain.

First, evidentiary challenges are often examined separately from victim-protection mechanisms.

Secondly, medical evidence is frequently analysed without sufficient integration with testimonial, forensic and digital evidence.

Thirdly, the relationship between victim protection and the accused's fair-trial rights requires more systematic examination.

Fourthly, recent statutory developments in 2025 and 2026 require integrated analysis because the legal framework has changed significantly since earlier scholarship.

Fifthly, the effectiveness of statutory protections depends upon institutional implementation, but the relationship between legal rules and investigative and judicial practice remains insufficiently integrated.

3. Research Objectives

3.1 General Objective

The general objective of this research is to examine the evidentiary, procedural and institutional challenges affecting rape prosecutions in Bangladesh and to assess how victim protection can be strengthened while maintaining the constitutional requirements of fair trial.

3.2 Specific Objectives

The specific objectives are:

1. To examine the statutory framework governing rape prosecutions in Bangladesh.
2. To analyse the principal evidentiary challenges in rape cases.

3. To examine the evidentiary significance of victim testimony.
4. To assess the role and limitations of medical and forensic evidence.
5. To examine the legal framework governing DNA evidence.
6. To analyse the impact of delay in reporting, medical examination and investigation.
7. To examine the protection of victims and witnesses during investigation and trial.
8. To analyse the restrictions on character-based cross-examination introduced by the Evidence (Amendment) Act 2022.
9. To examine the implications of digital evidence in rape prosecutions.
10. To analyse fair-trial rights of accused persons in rape cases.
11. To identify regulatory and institutional gaps in the existing system.
12. To propose legal and institutional reforms for effective, victim-sensitive and fair rape prosecutions.

4. Research Questions

This research is guided by the following questions:

1. What is the existing legal framework governing rape prosecutions in Bangladesh?
2. What are the principal evidentiary challenges in rape cases?
3. What role should victim testimony play in establishing rape?
4. How should medical and forensic evidence be evaluated in rape prosecutions?
5. What are the implications of recent reforms concerning DNA and forensic evidence?
6. How effectively does Bangladeshi law protect victims and witnesses?
7. What challenges arise from delay, hostile witnesses and evidentiary inconsistencies?
8. How should courts balance victim protection with the accused's right to cross-examine?
9. What role can digital evidence play in modern rape prosecutions?
10. Are existing procedural safeguards sufficient to ensure a speedy and fair trial?
11. What institutional barriers reduce the effectiveness of rape prosecutions?
12. What reforms could strengthen both victim protection and fair-trial guarantees?

5. Methodology

5.1 Research Design

This study adopts a qualitative doctrinal legal research methodology. Doctrinal research is appropriate because the principal subject is the interpretation and application of legislation, constitutional provisions, evidentiary rules and judicial decisions.

The research also employs analytical and limited comparative approaches. The analytical approach evaluates the relationship between evidentiary requirements, victim protection and fair-trial principles. The comparative approach considers selected international and South Asian developments where relevant.

5.2 Sources of Data

Primary Sources

Primary sources include:

- Constitution of the People's Republic of Bangladesh 1972;
- Penal Code 1860;
- Code of Criminal Procedure 1898;
- Evidence Act 1872;
- Evidence (Amendment) Act 2022;
- Nari-O-ShishuNirjatan Daman Ain 2000;
- Nari-O-ShishuNirjatan Daman (Amendment) Ordinance 2025;

- Nari-O-Shishu Nirjatan Daman (Amendment) Act 2026;
- DNA Act 2014;
- Judgments of the Supreme Court of Bangladesh;
- Relevant tribunal decisions and reported cases.

Secondary Sources

Secondary materials include:

- books on criminal law and evidence;
- journal articles;
- empirical studies;
- medico-legal research;
- institutional reports;
- human-rights reports;
- law-reform materials;
- academic commentaries.

Priority is given to legislation and official sources, supplemented by peer-reviewed research and other reliable academic materials.

5.3 Doctrinal Analysis

The doctrinal analysis focuses particularly upon:

- statutory definition of rape;
- burden and standard of proof;
- victim testimony;
- corroboration;
- medical evidence;
- forensic evidence;
- DNA evidence;
- digital evidence;
- cross-examination;
- character evidence;
- hostile witnesses;
- victim protection;
- witness protection;
- procedural delay;
- fair-trial guarantees.

5.4 Analytical Framework

The effectiveness of rape prosecution is examined according to five criteria:

Accuracy: Whether the evidentiary system permits reliable determination of disputed facts.

Victim protection: Whether complainants and witnesses are protected from intimidation, exposure and unnecessary secondary victimisation.

Fairness: Whether both prosecution and defence receive appropriate procedural safeguards.

Timeliness: Whether investigation and trial occur without unjustified delay.

Enforceability: Whether statutory protections and judicial decisions are effectively implemented.

5.5 Comparative Perspective

The comparative analysis is limited and does not attempt to transplant foreign rules directly into Bangladesh. It considers international developments relating to victim-sensitive procedures, forensic evidence, witness protection and fair-trial safeguards in order to identify potentially useful principles.

6. Legal Framework Governing Rape Prosecutions in Bangladesh

6.1 Constitutional Framework

The Constitution provides the broader legal foundation for criminal justice.

Article 31 protects individuals against actions detrimental to life, liberty, body, reputation or property except in accordance with law. Article 32 protects life and personal liberty. Article 35 establishes important protections concerning criminal trial and punishment.

Most significantly for the present study, article 35(3) provides that every person accused of a criminal offence has the right to a speedy and public trial before an independent and impartial court or tribunal established by law. Article 35(4) protects against compelled self-incrimination. These provisions apply to rape prosecutions just as they apply to other criminal proceedings.

6.2 Penal Code 1860

Section 375 of the Penal Code historically defines rape through several circumstances, including intercourse against the woman's will, without her consent and in certain circumstances involving fear or mistaken identity. The provision also contains age-related and marital exceptions.

The Penal Code therefore remains relevant to understanding the general criminal-law concept of rape, although prosecutions under the specialized Nari-O-Shishu Nirjatan Daman Ain are particularly important in Bangladesh.

6.3 Nari-O-Shishu Nirjatan Daman Ain 2000

Section 9 is central to rape prosecution. The current statutory framework provides severe punishment for rape, including death or life imprisonment with fine.

The severity of punishment makes evidentiary accuracy particularly important. The stronger the potential punishment, the greater the importance of ensuring that conviction is based upon reliable and lawfully admitted evidence.

6.4 Specialised Tribunals

Section 20 provides that offences under the Act are tried by tribunals constituted under the Act, subject to the statutory provisions concerning jurisdiction. The law provides that, once hearing begins, the trial should proceed continuously on working days and ordinarily be completed within 180 working days from receipt of the case for trial.

The statutory time limit reflects the importance attached to timely adjudication. However, the existence of a statutory deadline does not itself guarantee that every case will be completed within that period.

6.5 Medical Examination

Section 32 provides a statutory framework for medical examination of both accused persons and victims. The 2025 reform permits examinations at government hospitals or recognised private hospitals using modern technology and requires prompt examination and certification. Medical evidence may assist the court in determining matters such as physical injury, biological material and other forensic findings. However, medical evidence should not automatically be equated with proof or disproof of rape.

6.6 DNA Evidence

The 2026 amendment to section 32A significantly strengthened the legal framework concerning DNA examination. The investigating officer may consider DNA testing necessary in light of the facts and circumstances, but tribunal or magistrate approval is required. Where DNA samples in rape cases are sent to a DNA laboratory, priority processing is contemplated.

The provision creates an opportunity for more scientifically grounded investigations while also requiring procedural oversight.

6.7 Protection of Victim Identity

Section 14 restricts publication or dissemination of information through newspapers, other media, online platforms or social media in a manner that reveals the identity of a victim. The provision extends to names, addresses, photographs and other identifying information.

This protection is particularly important in the digital age because online publication can permanently amplify information and expose survivors to continuing social harm.

6.8 Protective Custody

Section 31 allows a tribunal or magistrate, where considered necessary for the safety of a woman or child or an associated person, to order protective custody outside prison at an appropriate government-designated place or with an appropriate person or organisation.

Protective custody should, however, be used carefully and in a manner that protects the survivor without unnecessarily restricting her autonomy.

6.9 Witness and Victim Protection

Section 32B permits a tribunal or magistrate, on application or on its own initiative, to make necessary orders for the safety or protection of complainants, victims or witnesses. It also permits reasonable compensation for witnesses' travel and time.

This provision is significant because a criminal case cannot function effectively if witnesses are unable or unwilling to participate safely.

7. Evidentiary Challenges in Rape Prosecutions

7.1 The Private Nature of the Offence

One of the most fundamental challenges is the absence of independent eyewitnesses. Sexual offences frequently occur in private, meaning that the prosecution may depend upon the complainant's testimony together with surrounding circumstances and forensic evidence.

The absence of eyewitnesses should not itself determine the outcome of a prosecution. The question is whether the evidence as a whole establishes the charge according to the applicable standard.

7.2 Victim Testimony

The testimony of the complainant can be central to a rape prosecution. Section 118 of the Evidence Act establishes general competence of witnesses, while section 134 confirms that no fixed number of witnesses is required to prove a fact.

The important question is therefore not whether the complainant is the only witness, but whether her testimony is legally admissible, materially reliable and sufficiently supported by the totality of the evidence where corroboration is required by the circumstances of the case.

7.3 Corroboration and the Risk of Over-Reliance on Medical Evidence

Academic research has identified the historical influence of corroboration requirements in Bangladesh. The problem arises when the absence of physical injury is treated as evidence that the sexual act was consensual or that the allegation is false.

Such reasoning may create difficulties because physical injury can depend upon many circumstances, including the nature of the incident, the passage of time, the age and physical condition of the parties, and whether resistance was physically possible. Medical evidence should therefore be interpreted carefully and in context.

7.4 Delay in Medical Examination

Delay can affect the availability of biological evidence. It may also affect the condition of injuries and the ability of forensic specialists to recover relevant material.

The statutory requirement of prompt medical examination is therefore important. The 2025 amendments expressly require medical examination to be completed as soon as possible and certification to be provided within the prescribed period.

However, delay should not automatically be equated with fabrication. Courts should consider the circumstances explaining the delay, including fear, social pressure, threats, family intervention, geographical barriers and psychological trauma.

7.5 DNA Evidence

DNA evidence can potentially establish biological association between a person and material recovered during an investigation. However, its probative value depends upon proper collection, packaging, preservation, laboratory methodology, interpretation and chain of custody.

The 2026 amendment's requirement for tribunal or magistrate approval for DNA testing reflects an attempt to introduce procedural oversight.

7.6 Chain of Custody

Forensic evidence can lose evidentiary value if the prosecution cannot adequately establish how it was collected, sealed, transported, stored and examined.

A robust chain-of-custody system should identify:

1. the person collecting the sample;
2. the date and time of collection;
3. the location;
4. the method of collection;
5. packaging and sealing;
6. transfer between officials;

7. laboratory receipt;
8. examination methodology;
9. storage after examination.

7.7 Hostile Witnesses

Witnesses may change their testimony because of intimidation, settlement, social pressure or other reasons. Hostile testimony creates difficulties for the prosecution but does not necessarily mean that every part of the evidentiary record becomes unusable.

The court must assess the evidence according to the applicable evidentiary rules and determine what portions, if any, remain reliable and legally usable.

Recent case-focused scholarship has examined the evidentiary significance of hostile witnesses and statements recorded under section 22 of the Nari-O-Shishu Nirjatan Daman Ain.

7.8 Inconsistencies in Statements

Minor inconsistencies are possible in human testimony. However, material contradictions may affect credibility.

The legal challenge is to distinguish between:

- minor discrepancies;
- inconsistencies caused by trauma or passage of time;
- discrepancies concerning peripheral facts; and
- contradictions concerning essential elements of the prosecution case.

A fair evidentiary analysis should not treat every inconsistency as proof of falsity.

7.9 Character Evidence

Historically, character evidence created serious difficulties in rape trials. Section 155(4) of the Evidence Act permitted evidence concerning the complainant's general immoral character. This provision was repealed in 2022.

Section 146 now restricts questions concerning general immoral character or previous sexual behaviour in rape or attempted-rape prosecutions, subject to judicial permission where necessary for the ends of justice.

The reform represents a movement away from treating a victim's sexual history as a general measure of credibility. Nevertheless, judicial guidance remains important so that the exception does not undermine the general protection.

7.10 Digital Evidence

Digital evidence can include:

- mobile-phone records;
- text messages;
- social-media communications;
- photographs;
- CCTV footage;
- location information;
- audio and video recordings;

- electronic documents;
- device metadata.

The 2022 amendment expressly recognised digital or electronic records, including CCTV and cell-phone records, within the Evidence Act.

The challenge is to ensure that digital evidence is authentic, relevant and properly preserved.

8. Victim Protection in Rape Prosecutions

8.1 Protection from Identity Disclosure

Victim identity protection is essential because disclosure can produce social stigma, discrimination and continuing online exposure.

Section 14 addresses this issue by prohibiting publication that reveals the identity of a victim, including through online and social-media channels.

The effectiveness of this provision increasingly depends upon monitoring digital platforms and preventing secondary dissemination of identifying information.

8.2 Protection from Threat and Intimidation

Victims and witnesses may face pressure from accused persons or their associates. Section 32B now provides an explicit statutory basis for protective orders.

However, protection requires practical mechanisms such as:

- risk assessment;
- emergency contact mechanisms;
- police protection where necessary;
- safe transportation;
- secure waiting areas;
- confidentiality;
- relocation in exceptional circumstances;
- monitoring of threats.

8.3 Protection from Secondary Victimisation

A survivor may experience secondary victimisation when repeatedly required to describe the incident in insensitive or humiliating environments.

Victim-sensitive procedures should therefore seek to minimise unnecessary repetition while preserving the defence's legitimate right to challenge evidence.

8.4 Medical Protection

Medical examination should be conducted professionally, promptly and with respect for dignity. The statutory reforms concerning medical examination create a legal basis for improved practice.

The continued implementation of appropriate forensic protocols is essential. Recent research concerning the implementation of the ban on the two-finger test demonstrates that legal reform requires institutional enforcement and professional training.

8.5 Protection of Children

Child victims require additional safeguards because of age, vulnerability and developmental considerations. The current statutory framework permits specialised child-violence tribunals for child rape offences.

Procedures should minimise intimidation and unnecessary exposure while maintaining evidentiary reliability.

9. Fair Trial Concerns

9.1 Presumption of Legality and Evidentiary Proof

Rape is a grave offence, but the seriousness of the allegation does not eliminate the requirement of lawful proof.

The Evidence Act places the general burden upon the party seeking a judgment based on asserted facts.

The prosecution must therefore establish the essential elements of the offence according to the applicable legal standard.

9.2 Right to an Independent and Impartial Tribunal

Article 35(3) guarantees a speedy and public trial before an independent and impartial court or tribunal established by law.

This guarantee applies equally to accused persons in rape cases.

9.3 Right to Challenge Evidence

A fair trial requires a meaningful opportunity for the defence to challenge prosecution evidence.

This does not mean that every question is permissible. The 2022 amendment demonstrates that Parliament has recognised the need to limit certain forms of questioning concerning the complainant's character and sexual history.

The proper balance is therefore between relevant cross-examination and protection against irrelevant or prejudicial questioning.

9.4 Speedy Trial

The Nari-O-Shishu Nirjatan Daman Ain requires tribunal trials to be completed within the statutory period, currently expressed in working days.

Delay harms both sides.

For victims, prolonged proceedings may extend trauma and uncertainty.

For accused persons, prolonged proceedings may result in extended stigma, legal expense and uncertainty.

Speed therefore contributes to fairness when combined with adequate procedural safeguards.

9.5 Trial in the Absence of the Accused

The Act permits trial in absentia in defined circumstances where the tribunal has reasonable grounds to believe that an accused has absconded or concealed himself and cannot readily be arrested.

Because the right to a fair trial is constitutionally protected, such proceedings require careful compliance with statutory safeguards and meaningful procedural protection for the absent accused.

9.6 Victim Protection and Defence Rights

Victim protection and defence rights are not inherently contradictory.

For example, protecting a victim's identity does not necessarily prevent the defence from testing material evidence. Similarly, restricting irrelevant questions about sexual history does not prevent legitimate questioning about facts directly relevant to the charge.

The objective should therefore be protected participation rather than unrestricted participation and meaningful defence rights rather than unrestricted cross-examination.

10. Regulatory and Institutional Gaps

10.1 Forensic Capacity

Bangladesh continues to face challenges concerning forensic expertise, laboratory capacity and trained personnel. Recent research identifies shortages of experts, laboratories and trained female physicians as important obstacles.

10.2 Fragmented Evidence Management

Evidence may pass through multiple institutions:

- police;
- medical facilities;
- forensic laboratories;
- prosecutors;
- tribunals.

Weak coordination can result in delay, loss of evidence or uncertainty concerning chain of custody.

10.3 Limited Implementation of Victim Protection

Although section 32B creates a statutory protection mechanism, protection requires resources and institutional procedures. A statutory power that is rarely used or inadequately resourced cannot provide consistent protection.

10.4 Procedural Delay

The statutory 180-working-day framework demonstrates legislative concern with delay. Nevertheless, current reporting indicates that substantial numbers of rape cases remain unresolved for prolonged periods, with the Rape Law Reform Coalition reporting in March 2026 that more than 10,000 rape cases had remained unresolved for over five years. This figure is an attributed claim by the coalition rather than an independent official case-flow statistic and should therefore be treated accordingly.

10.5 Limited Witness Protection Infrastructure

Academic research has identified the historical absence of a comprehensive witness-protection framework as a significant obstacle.

The introduction of section 32B is therefore significant, but implementation mechanisms remain important.

10.6 Digital Evidence Management

The law now recognises digital evidence, but investigators, prosecutors and judges require specialised expertise to evaluate:

- metadata;
- authenticity;

- device extraction;
- encryption;
- cloud storage;
- manipulated media;
- chain of custody.

11. Emerging Challenges

11.1 Social Media and Victim Identification

The expansion of social media increases the risk that victim identities may be exposed through screenshots, photographs, videos or indirect identification.

Section 14 expressly extends protection to online and social-media publication, demonstrating the statutory recognition of this problem.

11.2 Artificially Generated or Manipulated Evidence

Artificial intelligence and editing technologies may create manipulated photographs, videos, audio recordings and conversations.

Courts may increasingly need expert assistance to distinguish authentic digital evidence from manipulated material.

11.3 Online Grooming and Digital Communication

Digital communications may form part of the circumstances surrounding sexual offences. Messages can establish relationships, threats, inducement, chronology or post-occurrence conduct.

However, digital communications must be authenticated and interpreted within context.

11.4 Forensic Backlogs

The expansion of DNA testing creates opportunities for stronger evidence but may also increase laboratory workloads. Priority processing of rape-related DNA evidence under the 2026 amendment is therefore significant.

11.5 Balancing Privacy and Evidence Collection

Digital and biological evidence may involve highly sensitive personal information. Investigative procedures should therefore maintain proportionality, confidentiality and lawful authorization.

12. Limitations of the Study

This study has several limitations.

First, it is primarily doctrinal and does not include a large-scale empirical survey of judges, prosecutors, police officers, medical professionals, forensic experts or rape survivors.

Secondly, reported judicial decisions do not necessarily represent every rape prosecution in Bangladesh.

Thirdly, institutional practices may vary between districts and tribunals.

Fourthly, rape law and procedure have recently undergone significant amendments. Consequently, future judicial interpretation may alter the operation of several provisions examined in this article.

Fifthly, the study does not attempt to provide a statistical assessment of conviction rates based on a comprehensive national dataset.

13. Recommendations

13.1 Develop Comprehensive Rape-Prosecution Guidelines

A unified prosecution guideline should establish standards for investigation, evidence collection, medical examination, DNA testing, digital evidence, victim interviews and prosecution.

13.2 Strengthen Forensic Infrastructure

Bangladesh should increase:

- DNA laboratory capacity;
- forensic personnel;
- trained forensic physicians;
- regional forensic facilities;
- evidence-storage systems;
- quality-control mechanisms.

Recent research supports the need for stronger forensic capacity and clearer forensic protocols.

13.3 Establish Robust Chain-of-Custody Procedures

Every forensic sample should be documented from collection through laboratory analysis and presentation in court.

Digital systems may be used to record evidence transfers and reduce uncertainty.

13.4 Strengthen Victim and Witness Protection

Section 32B should be supported by detailed rules covering:

- risk assessment;
- emergency protection;
- safe transportation;
- confidential communication;
- temporary relocation;
- financial assistance;
- protection from intimidation.

13.5 Develop Judicial Guidelines on Section 146

Courts should develop clear guidance concerning when, if ever, questions concerning previous sexual behaviour may be permitted under the statutory exception.

The protective principle should remain that irrelevant sexual history should not be used merely to attack credibility.

13.6 Reform Medical-Evidence Practice

Medical professionals should receive specialised training concerning:

- trauma-informed examination;
- forensic sample collection;
- documentation;
- interpretation of injuries;

- limitations of medical findings;
- prohibition of inappropriate examination practices.

The 2026 research concerning the implementation of the two-finger-test ban reinforces the importance of effective professional implementation.

13.7 Improve DNA Testing

The statutory framework should be supported by:

- adequate laboratory funding;
- rapid processing;
- accredited laboratories;
- quality-control systems;
- trained personnel;
- transparent reporting;
- secure evidence storage.

13.8 Develop Digital-Evidence Protocols

Specialised protocols should address:

- seizure of digital devices;
- forensic imaging;
- metadata;
- authentication;
- preservation;
- chain of custody;
- expert testimony;
- manipulated or synthetic media.

13.9 Introduce Trauma-Informed Court Procedures

Tribunals should consider procedures that reduce unnecessary distress while preserving defence rights, including appropriate waiting arrangements, confidentiality measures and minimization of unnecessary repetition.

13.10 Strengthen Case Management

Courts should monitor statutory timelines and identify reasons for delay.

Where delay occurs, the responsible institutional cause should be identified and addressed.

13.11 Maintain Meaningful Defence Rights

Reform should not create a presumption of guilt.

The defence must retain the opportunity to:

- receive relevant prosecution material;
- challenge admissible evidence;
- cross-examine witnesses on relevant matters;
- challenge forensic methodology;
- contest authenticity;
- present lawful defence evidence.

13.12 Improve Prosecutorial Training

Public prosecutors should receive specialised training in:

- sexual-offence evidence;
- forensic evidence;

- digital evidence;
- trauma-informed prosecution;
- victim protection;
- ethical cross-examination;
- constitutional fair-trial requirements.

13.13 Protect Victim Identity Online

Implementation of section 14 should be strengthened through cooperation among:

- courts;
- police;
- media organisations;
- online platforms;
- prosecutors;
- cybercrime investigators.

13.14 Establish Reliable National Data

A centralised national database should record:

- complaints;
- FIRs;
- investigations;
- charge sheets;
- trials;
- acquittals;
- convictions;
- appeals;
- case duration;
- reasons for disposal.

Reliable data would permit evidence-based legal reform without relying primarily on isolated reports or media estimates.

14. Conclusion

Rape prosecutions in Bangladesh operate within a complex legal environment in which the interests of victims, witnesses, accused persons and the wider administration of justice must be accommodated simultaneously. The legal framework has developed considerably over time. The Nari-O-Shishu Nirjatan Daman Ain 2000 provides specialised criminal provisions and tribunal procedures, while amendments in 2022, 2025 and 2026 have introduced or strengthened safeguards concerning character evidence, medical examination, victim and witness protection and DNA evidence. The evidentiary dimension remains particularly important. Rape frequently occurs without independent eyewitnesses, making the complainant's testimony central to the prosecution. Medical and forensic evidence can provide important corroborative or contextual information, but the absence of physical injury should not automatically be treated as proof that rape did not occur. The literature on Bangladesh has demonstrated the historical problems associated with excessive reliance upon physical signs and corroboration.

The Evidence (Amendment) Act 2022 represents an important development by repealing section 155(4) and restricting questions concerning a rape victim's general immoral character or previous sexual behaviour under section 146. Nevertheless, the continuing judicial discretion contained in the amended provision demonstrates the need for careful judicial guidelines and

consistent application. Recent reforms concerning victim protection are also significant. Section 14 protects victim identity, including against disclosure through online and social-media platforms. Section 32B provides a statutory mechanism for protecting complainants, victims and witnesses. These provisions recognise that criminal justice cannot be effective where participation in the process exposes victims and witnesses to avoidable danger.

At the same time, victim protection must operate alongside constitutional fair-trial guarantees. Article 35(3) protects the accused's right to a speedy and public trial before an independent and impartial court or tribunal. Fair trial therefore requires that restrictions on cross-examination be directed toward preventing irrelevant or prejudicial questioning rather than eliminating legitimate defence scrutiny.

The future development of rape prosecution in Bangladesh should consequently move beyond the simple question of whether laws are sufficiently severe. Effective justice depends upon the quality of investigation, reliability of evidence, forensic capacity, protection of witnesses, professional medical examination, judicial case management and constitutional fairness.

The most effective legal framework is one in which victims can report offences without fear, evidence can be collected and evaluated scientifically, witnesses can participate safely, courts can adjudicate cases without unnecessary delay, and accused persons can challenge the prosecution case through fair procedures.

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