

Addressing the Legal Void: Ensuring Justice for Adult Male Rape Victims in Bangladesh

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Abstract

The objective of this study is to explore and determine the legal constraints related to adult male rape and the consequences as they exist in the Bangladeshi criminal justice system. Primary and secondary data sources for the study were derived from the narratives of adult male rape survivors, blood relatives of rape survivors, police officers, and legal practitioners. A snowball sampling technique was applied. The study reveals that there is an absence of a police-support response to adult male rape victims, which is attributable to the lack of a gender-neutral definition of rape. This legal definition vacuum diverts complainants to a range of other futile options, such as submitting a general diary and/or adjacent complaints and seeking assistance from other law enforcement agencies. Finally, this study demonstrates that the landscape of the Bangladeshi criminal justice system is likely to remain unchanged until its legal foundation is better developed.

Keywords: adult male rape, criminal justice system, legal vacuum, Bangladesh

INTRODUCTION

The judiciary organ of the Bangladeshi government provides safeguards for rape victims and ensures justice by relying on statutes,¹ such as the Penal Code-1860, the Evidence Act-1872, the Code of Criminal Procedure-1898, and the Women & Children Repression Prevention Act-2000. These are the main laws on criminal procedure and on criminal activities related to rape and sexual assault, making them the primary and initial legal refuge for the crime victim. However, the significance of statutes is not limited only to functions of the judiciary; the functions and capacities of law enforcement agencies, especially the police, are also relevant.

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¹ Statutes refer to written laws that have been enacted by a legislative body, such as a parliament or congress. These laws are formally codified and carry the force of law within a particular jurisdiction.

In most cases, sensitive issues like rape are subject to police treatment, ranging from a complaint² to a charge sheet³ via a First Information Report (FIR).⁴ This would have an overall impact on any national criminal justice system, and Bangladesh is no exception. Adult male rape is considered taboo⁵ in Bangladesh, victimized privately, and not shared publicly. A 2013 United Nations study on men and sexual violence in the Asia-Pacific region concluded that men raping women was prevalent, although male-on-male rape did occur, including in Bangladesh,⁶ thus posing it as a seemingly overlooked problem. The notion of the underreporting of male rapes has already been recognized in a previous study,⁷ revealing that this underreporting is caused by a typology of factors, including psychological trauma, noncooperation from law enforcement agencies, and public shame.⁸ Within this landscape, the inflated level of underreported male rapes leads to a situation that is more fragile and volatile than ever.⁹ Asking for justice is easy but moving through the criminal justice process itself is tiresome for victims. Indeed, there are many procedural formalities, ranging from complaint to conviction, which must be performed to obtain justice.¹⁰ These formalities are fraught in some countries like Bangladesh, which ranks 124th among 139 countries on the Rule of Law Index,¹¹ and where the journey of a male rape survivor to seek justice is beyond comprehension. This is especially the case when the involved law enforcement agency is uncooperative due to legal constraints. Although delays and complexities in the trial system is a general problem among all judicial systems, there are two certainties that make the situation unique in Bangladesh: first, the male victim will never find justice, and second, the perpetrator will never face due punishment.

At present, landscape-appropriate literature is found on female sexual violence, but the scenario is quite the opposite for male rape.¹² This study seeks to fill this gap by specifically addressing the issue of adult male rape. Although both types of sexual violence are crucial concomitantly, and they threaten the law and order of any country, male sexual victimization is far behind in obtaining justice from the present criminal justice system in Bangladesh. On a global scale, the rights of women are the result of long-term movements,¹³ but men's rights

² Police complaints are formal grievances lodged against law enforcement officers or agencies regarding alleged misconduct, a violation of rights, or improper behavior.

³ A charge sheet, also known as an indictment or complaint, is a formal document that outlines the specific criminal charges brought against an individual or entity by a prosecuting authority. It serves as the initial step in the legal process and provides details about the alleged offenses.

⁴ The First Information Report (FIR) is a legal document that is filed with the police to report the commission of a cognizable offense, meaning an offense for which the police can make an arrest without a warrant. An FIR is an important document that initiates the investigation process and records the essential details of the offense.

⁵ The term "taboo" suggests that the topic of male rape is treated as a sensitive and highly stigmatized issue within the society of Bangladesh. It implies that there are significant cultural, societal, or institutional barriers that prevent open discussions, recognition, or acknowledgment of male rape as a valid and important concern.

⁶ Emma Fulu, Xian Warner, Stephanie Miedema, Rachel Jewkes, Tim Roselli, and James Lang, "Why Do Some Men Use Violence Against Women and How Can We Prevent It? Quantitative Findings from the United Nations Multi-country Study on Men and Violence in Asia and the Pacific" (Bangkok: UNDP, UNFPA, UN Women, and UNV, 2013), 3. See Table 4.4 for the results of the study specific to Bangladesh (both urban and rural contexts) for male-on-male rape, <https://www.undp.org/asia-pacific/publications/why-do-some-men-use-violence-against-women-and-how-can-we-prevent-it>.

⁷ Sandesh Sivakumaran, "Sexual Violence Against Men in Armed Conflict," *European Journal of International Law - EUR J INT LAW* 18 (Apr. 1, 2007): 253–76, <https://doi.org/10.1093/ejil/chm013>.

⁸ Amnesty International, "Yemen: Ta'iz Authorities Must Tackle Child Rape and Abuse under Militia Rule," 2019; Hollie McKay, "Male Rape Emerging as One of the Most Under-Reported Weapons of War," Fox News, 2019, <https://www.foxnews.com/world/male-rape-emerging-as-one-of-the-most-underreported-weapons-of-todays-wars>.

⁹ Aliraza Javaid, "Male Rape, Masculinities, and Sexualities," *International Journal of Law, Crime and Justice* 52 (2018): 199–210, <https://doi.org/10.1016/j.ijlcrj.2017.12.003>.

¹⁰ Conviction refers to a formal declaration by a court of law that someone is guilty of committing a criminal offense. It is the result of a judicial process where a person accused of a crime has been found guilty beyond a reasonable doubt or has entered a guilty plea.

¹¹ The Business Standard, "Bangladesh Ranks 124th among 139 Countries on Rule of Law Index," 2021.

¹² Aliraza Javaid, "Voluntary Agencies' Responses to, and Attitudes toward Male Rape: Issues and Concerns," *Sexuality & Culture* 20, no. 3 (2016): 731–48, <https://doi.org/10.1007/s12119-016-9348-z>.

¹³ Oishik Sircar, "Feminist Lawyering, Violence against Women, and the Politics of Law Reform in India: An Interview with Flavia Agnes," *Jindal Global Law Review* 11, no. 2 (2020): 365–87, <https://doi.org/10.1007/s41020-021-00133-w>.

should also be considered. This article focuses on Bangladeshi law enforcement agencies' lack of response to male rape victims due to legal constraints and the ensuing consequences of those constraints.

The history of adult male rape, along with a plethora of underreporting in Bangladesh, can be traced back to 1971 when Bangladesh separated from West Pakistan and became an independent nation.¹⁴ Before liberation, various wartime crimes, including sexual victimization of men, women, and children occurred during the Liberation War of 1971.¹⁵ Nevertheless, no justice was served for war victims, as Bangladesh's criminal justice system was operating (and still operates) under statutes inherited from the British, which were hundreds of years old,¹⁶ and which were not suitable for tackling contemporary emerging crime types. Since its founding, Bangladesh has undergone many national development plans, ranging from five-year to two-year plans, based on poverty-reduction strategies that have outlined deeper socio-economic improvement milestones.¹⁷ The last additions to the list of development plans were the Millennium Development Goals and the Sustainable Development Goals.¹⁸ Both of these global development frameworks address such issues as women's empowerment and gender equality as incorporated in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),¹⁹ but a noticeable development related to male victimization of sexual assault has been overlooked. With this backdrop, there is no denying that a striking gap exists in this area and that the guardians of law—police and the courts—are shackled when it comes to providing safeguards and access to the Bangladeshi criminal justice system for adult male rape victims.

This study attempts to fill this gap by exploring the topic, especially the police response to male rape victims; the reason behind the absence of legal support; and finally, the consequences of the aforementioned. Because of the sensitive nature of this topic, both primary and secondary sources of data were collected where primary sources consisted of written responses from the blood relatives of rape survivors (N-11) using the snowball sampling style due to its suitability; and interviews with law enforcement personnel (N-8) and legal practitioners (N-8) using the purposive sampling style as few respondents were familiar with this area and had only moderate experience with it, ranging between five and seven years. The secondary sources of data were narratives of adult male rape survivors found in newspapers and reports. Other sources of secondary data were the Penal Code-1860,²⁰ the Evidence Act-1872,²¹ the Code of Criminal Procedure-1898,²² research articles, and newspaper articles. As the issue deals with human emotion, respect, and dignity, the qualitative data collection method was also utilized. Data from male rape victims was collected then analyzed using NVivo (a software program for data analysis), and data from those victims' relatives was collected using a precise semi-structured questionnaire in lieu of interviews because the respondents were reluctant to spend much time recalling the distressing incidents. In-depth interviews were conducted to collect data from law enforcement personnel and legal practitioners. The data was then analyzed using

¹⁴ Technically, gender-related crime occurred before 1971 but it was then East Pakistan, not Bangladesh.

¹⁵ Stacy Banwell, "Introduction," *Gender and the Violence(s) of War and Armed Conflict: More Dangerous to Be a Woman?*, 2020a, 1–17, <https://doi.org/10.1108/978-1-78769-115-520201002>; Nayanika Mookherjee, "Mass Rape and the Inscription of Gendered and Racial Domination during the Bangladesh War of 1971 BT - Rape in Wartime," in *Rape in Wartime. Gender and Sexualities in History*, ed. Raphaëlle Branche and Fabrice Virgili (London: Palgrave Macmillan UK, 2012), 67–78, https://doi.org/10.1057/9781137283399_5; Dina M Siddiqi, "The Spectral Wound: Sexual Violence, Public Memories and the Bangladesh War of 1971, by Nayanika Mookherjee," *International Feminist Journal of Politics* 19, no. 1 (Jan. 2, 2017): 126–28, <https://doi.org/10.1080/14616742.2016.1257337>.

¹⁶ Mohammed B. Kashem, "Issues and Challenges of Police Investigative Practices in Bangladesh: An Empirical Study," in *Crime, Criminal Justice, and the Evolving Science of Criminology in South Asia. Palgrave Advances in Criminology and Criminal Justice in Asia*, ed. Shahid M Shahidullah (London: Palgrave Macmillan UK, 2017), 273–95, https://doi.org/10.1057/978-1-137-50750-1_10.

¹⁷ Syed Abu Hasnath, "The Practice and Effect of Development Planning in Bangladesh," *Public Administration and Development* 7, no. 1 (Jan. 1, 1987): 59–75, <https://doi.org/10.1002/pad.4230070105>.

¹⁸ Admos O. Chimhowu, David Hulme, and Lauchlan T. Munro, "The 'New' National Development Planning and Global Development Goals: Processes and Partnerships," *World Development* 120 (2019): 76–89, <https://doi.org/10.1016/j.worlddev.2019.03.013>.

¹⁹ Ayu Nanda Anak Agung Saraswati, "The Discourse of Reservations to CEDAW on Women's Rights in Malaysia, Brunei, and Indonesia," *Indonesian Journal of International Law* 19, no. 4 (2022): 515–38.

²⁰ Government of the People's Republic of Bangladesh, "Laws of Bangladesh" (1860).

²¹ Government of the People's Republic of Bangladesh, "Laws of Bangladesh" (1872).

²² Government of the People's Republic of Bangladesh, "Laws of Bangladesh" (1898).

reduction, display, and conclusive methods. This type of study is sensitive in nature and requires following ethical guidelines since it involves human participants.²³ However, due to the existing stigma²⁴ associated with the issue, no adult male rape survivor or victim was found willing to participate in the research, so their narratives were collected from newspapers and reports, thus allowing this study to be conducted without permission from the Bangladeshi Ethical Committee. Consequently, a content analysis was used to find information on the cases of survivors.

The remainder of this article is structured as follows. The second section (below) provides a definition of adult male rape. The next section introduces the study and provides discussion. Conclusions are then drawn in a final section that also suggests a way forward.

DEFINITION OF ADULT MALE RAPE

The statutes of Bangladesh that address the notion of rape are found in the Penal Code-1860, the Evidence Act-1872, the Code of Criminal Procedure-1898, and the Women & Children Repression Prevention Act-2000. However, as the present study centers on adult male rape, it focuses on all these statutes except the latter, the Women & Children Repression Prevention Act-2000.

Penal Code-1860

The oldest statute in Bangladesh that covers rape is found in the Penal Code-1860. Specifically, sections 375, 376, and 377 deal with rape and sexual harassment by providing definitions and punishment modalities. In section 375, rape is defined as follows:

Sexual intercourse with a woman under circumstances falling under any of the following five descriptions:

- 1) Against her will
- 2) Without her consent
- 3) With her consent, when her consent has been obtained by putting her in fear of death, or of injury
- 4) With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married
- 5) With or without her consent, when she is under fourteen years of age

This definition does not consider the possibility of a man as a victim. According to this definition, rape is something that can only be perpetrated by a man. Indeed, this gender-biased definition of rape found in section 375 fails to provide any space for men or male child rape victims, as it only covers the punishment for men who have raped women.

With respect to the punishment or penalties for rape, section 376 states, “Whoever commits rape shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to 10 years, and shall also be liable for a fine, unless the woman raped is his own wife and is not under 12 years of age, in which case he shall be punished with imprisonment of either description for a term which may extend to two years, or with [a] fine, or with both.”

Section 376 provides that, if a husband rapes his wife who is not under the age of twelve, he will be sentenced to two years’ imprisonment, fined, or both. Since non-consensual sexual intercourse with a wife of thirteen years old or older is not rape per section 375, to prove the rape of a wife, the female victim must be under thirteen, but if not below twelve years old, the husband will be sentenced to two years, fined, or both. The law is not clear about sexual cohabitation with a wife who is under twelve years of age though it may be presumed that this will fall under the general sentencing for rape.

Finally, section 377 of the Penal Code states, “*Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable [for a] fine.*” (italics added).

²³ World Health Organization, “WHO ethical and safety recommendations for researching, documenting and monitoring sexual violence in emergencies” (Geneva PP - Geneva: World Health Organization, 2007).

²⁴ Stigma refers to the negative attitudes, beliefs, and stereotypes held by individuals or society at-large towards a particular group or issue.

Section 377 is quite clearly concerned with consensual sexual intercourse that falls outside the heterosexual norm, an activity that has been widely used throughout the South Asian region to criminalize same-sex relations. That means that section 377 provides the punishment for voluntary carnal intercourse against the order of nature and does not address the issue of adult male rape.

Although a child protection law, such as the Women & Children Repression Prevention Act-2000, protects male minors,²⁵ adult males remain outside the scope of justice because of their gender and age. Indeed, the aforementioned sections from the Penal Code-1860 only consider women to be victims of rape and men as perpetrators, and there is no provision or law protecting the same situation when a man is raped or sexually harassed, either by a man or by a woman. This is especially true when evidence has been found that rape is not a sex crime, and only men are perpetrators.²⁶

Evidence Act-1872

Any type of sexual violence, like rape or torture, whether against men or women, which causes a desecration of human dignity, liberty, and rights, endangers articles 11 and 32 of the Constitution of Bangladesh. Despite constitutional provisions, section 155, ‘Impeaching witness credit,’ subsection (4) of the Evidence Act-1872 states, “When a man is prosecuted for rape or an attempt to ravish, it may be shown that the prosecutor was of generally immoral character.” This section’s connotation is also that a rape perpetrator is male, which is in line with the gender-biased definition of rape in the Penal Code-1860. Although an exceptional claim can be made for a female perpetrator, the code does not necessarily recognize that a female figure is capable of committing a vicious crime,²⁷ which is a prevalent belief in South Asia in terms of a gender-biased definition of rape.²⁸

Code of Criminal Procedure-1898

Finally, in Bangladesh’s Code of Criminal Procedure-1898, rape is mentioned only twice in the entire code. Section 561(1), under the heading, ‘Special provisions with respect to the offence of rape by a husband,’ “(a) take[s] cognizance of the offence of rape where the sexual intercourse was between a man with his wife.” Following the tradition of earlier statutes, this section of the Code of Criminal Procedure also considers the perpetrator of a rape case to be a male figure, ruling out the possibility that the victim is a male, thus resulting in a total absence of a legal definition for adult male rape.

Surprisingly, some police officers concur with the legal system’s perspective. They believe that the statutes are in order, and no amendment is necessary:

The laws are absolute and true. [...] There is no such thing as adult male rape. These laws have been there for hundreds of years and proven their effectiveness regarding [the] protection of society. [...] It is true that [a] few allegations exist, but those could be false allegations or politically influence[d] actions to create chaos. The adult male rape is a myth [concerning] how an adult male can be raped. [...] No such thing is possible while a man is alive; he will fight for his honor ‘til his last breath. (Police Constable 2, Male).

This was actually a collective response drawn from two middle-aged police constables. Their reactions show that some police officers think that it is literally impossible for an adult male to be raped by another man. They believe that the laws are absolute and true, and on top of that, the temporal duration for existing laws demonstrates that they are effective in addressing aspects of societal law and order. Regarding the few adult male rape cases, the constables believe that those are either false allegations or politically influenced. This excerpt also suggests that there is a common zone between legal statutes and police perceptions. And although only two police personnel concurred,

²⁵ Male minor means a boy who is not an adult—that is, under eighteen years old.

²⁶ Natasha McKeever, “Can a Woman Rape a Man and Why Does It Matter?” *Criminal Law and Philosophy* 13, no. 4 (Dec. 2019): 599–619, <https://doi.org/10.1007/s11572-018-9485-6>.

²⁷ Laura Sjoberg, *Women as Wartime Rapists: Beyond Sensation and Stereotyping* (New York: New York University Press, 2020), <https://doi.org/10.18574/nyu/9780814744932.001.0001>.

²⁸ Harshad Pathak, “Beyond the Binary: Rethinking Gender Neutrality in Indian Rape Law,” *Asian Journal of Comparative Law* 11, no. 2 (Dec. 2016): 367–97, <https://doi.org/10.1017/asjcl.2016.8>.

it suggests that there could be others in law enforcement who agree with them. Indeed, it is evident that the role of the police is highly associated with masculinity.²⁹

However, the responses of the majority of study participants, in contrast with those discussed above, indicate that the entire domestic criminal structure is changing. Three respondents acknowledged that police personnel's inability to react accordingly to an adult male victim, arguing in turn that to keep pace with evolving criminal activity, a legal foundation should evolve, as suggested in the following:

There is no denying that from time to time [we] receive and hear such cases. [...] Whether [a] man experiences the same humiliation and pain as a woman or not, we heard [about an] incident of suicide soon after [such an] allegation, which made us believe the agony is the same regardless of gender. [...] This type of crime is more prevalent in rural areas, but in any circumstances we cannot provide them safeguards under [an] adult male rape victim legal provision due to formalities. We cannot fit their allegations into any sections or proper cases. [...] There should be laws to protect males from all types of crime. (Sub-Inspector 3, Male).

This response was provided by a senior police officer and others. The quotation reflects a police pool's recognition of an adult male rape incident. Although the police officers are sympathetic with the victim, they express and point out the police's helplessness when accepting complaints from adult male rape victims since they do not fit into any legal parameters—that is, the police cannot process the case because of the absence of an applicable legal provision. This quotation suggests that police demand a correction or amendment to the respective legal provision to ensure the safeguarding of victims regardless of their gender.³⁰

Supporting the above statement, a survivor said that there is no proper legal provision, and because of that, the police do not want to help male victims:

Police are bound by laws. Only because [of] an inappropriate definition, the door to justice is closed for us. [...] Complaints [of] such incidents to police are risky. [...] [I fear] losing my honor and my family's, not to mention [that of] my relatives. [...] [The] family also does not want to expose this in society, arguing “who would marry the daughter of a male rape victim?” (Survivor).

When I went to the police station, I experienced non-cooperation from them due to [the] absence of [a] proper legal provision. [...] This legal complexity makes the situation very volatile for us. (Survivor).

These excerpts reveal the dark side of male rape. Although both male and female victims of sexual assault feel dishonored, the male context is different. The entire family feels ashamed for the victim. Society questions the victim's strength and often tries to prevent him from submitting a complaint for fear of exposing and then damaging the family's honor. It seems that the vacuum of a single legal provision bars adult male rape victims from seeking justice.

Like most of the former British colonies, Bangladesh is still under the influence of the colonial legacy, which dominates and is present in all spheres of life, ranging from the government administration to the entire legal system.³¹ The Penal Code-1860, the Evidence Act-1872, and the Code of Criminal Procedure-1898 are part of a British legal framework that is more than one hundred years old and does not provide a gender-neutral definition of rape, thus narrowing the path for seeking justice. In the criminal justice system, which consists of many formalities, victims should begin with police complaints. Unfortunately, in the context of Bangladesh, due to the absence of proper legal provisions, police cannot accept complaints from adult male rape victims, making further investigations of the accusations impossible.

THE CONSEQUENCES OF A LEGAL VACUUM WHEN ADDRESSING ADULT MALE RAPE VICTIMS IN BANGLADESH

As the notion of an “absence of proper legal definition” has now been established, the present article turns to the consequences of that absence from different dimensions. In the current legal system of Bangladesh, this gender-

²⁹ Meg Lawrence, “Men Cannot Be Raped: The Systematic Silencing of Male Victims of Sexual Violence in Conflict” (Åbo Akademi University, 2017).

³⁰ Rebecca L Sandefur, “Access to Civil Justice and Race, Class, and Gender Inequality,” *Annual Review of Sociology* 34, no. 1 (July 7, 2008): 339–58, <https://doi.org/10.1146/annurev.soc.34.040507.134534>.

³¹ Hussain M. Fazlul Bari, “Evolution of the Criminal Justice System in Bangladesh: Colonial Legacies, Trends and Issues,” *Commonwealth Law Bulletin* 45, no. 1 (Jan. 2, 2019): 25–46, <https://doi.org/10.1080/03050718.2019.1681285>.

specific definition of sexual assault or rape hampers the delivery of justice, and it prevents these crimes from being reported to police. Even further, the definition doesn't prevent these types of crimes from happening. The following are some of the consequences of this legal vacuum:

Personal

The first and immediate reaction occurs on a personal level—that is, where an individual personally experiences hardship because of law enforcement's lack of cooperation. In this study, the consequences of the definition vacuum ranged from psychological trauma and identity crisis to confusion as illustrated by this survivor's response:

When the police officer said I cannot file a complaint, I was confused. [...] This was not just a complaint; it was my last resort to seek justice. I feel dishonored and after so many years still sometimes I think of suicide. [...] I will never be the same again in front of the eyes of my family. The agony is still there. I will never be normal again. The police rejected my case. [...] They said a man cannot be raped. I don't think I am a man now. (Survivor).

This excerpt suggests that, on a personal level, many emotional dynamics interact when the law rejects an adult male rape case. The victim realizes or is forced to realize that his identity is in crisis. This pushes him into additional agony since the perpetrator cannot be charged and punished without a crime.³² The adult male rape victim lives inside a bubble of shame and dishonor for the rest of his life. Some of these victims even commit suicide.³³ All of a victim's personal reactions, including shame, dishonor, and agony, are the result of the existing legal system. As the police reject these cases, reactions surface and dwell inside the minds of survivors.

Social

The second crucial reaction or response occurs at the societal level, where both family and the media play a vital role. Family means blood relatives. And media signifies print media, social media, and broadcast media. The following excerpts reflect these family and media influences:

We told our father not to file a complaint at the police station until our sisters get married. [...] Who would marry a daughter of an adult male rape victim? [...] Even our other relatives advised us to file the case later. [...] We will complain or go to the village court, but this is not the right time. (Relatives 2, female).

We will not be able to walk in society with such shame. People around us will know and try to avoid us, they already do. We feel isolated and disconnected from society [...] especially after [the] news reports; everyone knows us, but the police station is not taking the complaint. (Relatives 1, male).

Generally, family and society react the same way to an adult male rape case. Society considers an adult male rape victim as a culprit too, and it tries to label the victim a sodomizer, which is a heinous crime in the society of Bangladesh. Thus, the family of the victim tries to remain off of the legal radar and out of the newspaper. The society of Bangladesh is strict when it comes to sodomy, and no family of sound mind would establish a familial relationship with someone who has performed this act. Fear that a victim's offspring will not be able to marry because of a sodomy accusation makes the family hide the incident from society. In terms of the media, the Women & Children Repression Prevention Act-2000, art. 14 (1), clearly bans exposing the identity of anyone who is a victim of a crime; hence newspapers generally do not print the identities of female and child rape victims.³⁴ However, because adult male rape is not covered by the definition of a rape victim, this safety measure does not apply, and, as a result, the news is broadcasted and circulated by the media, putting the family in danger and causing it shame.

³² Moira Peelo and Keith Soothill, "Personal Power and Public Control: Sex Crimes and Problem Pages," *Howard Journal of Criminal Justice* 33, no. 1 (1994): 10–24, <https://doi.org/10.1111/j.1468-2311.1994.tb00791.x>.

³³ Taqbir Huda, "What Legal Action Can a Male Rape Victim Take?" *The Daily Star*, 2019.

³⁴ Dhakatribune, "Writ Filed to Ban on Exposing Identity of Rape Survivors, Victims" (Bangladesh, 2021), <https://archive.dhakatribune.com/bangladesh/2021/01/19/writ-filed-to-ban-exposing-identity-of-rape-survivors>.

Legal

Among all the responses caused by the absence of a proper legal definition of rape, the most crucial and significant is the response of the police. The Bangladeshi police act at the frontiers of the criminal justice system and assist in formalities. However, the police are bound by laws and cannot act outside of legal permissions as illustrated by the excerpt below:

We went to the police, and we were refused to report the case. [...] The police officer told us that we are making false allegations [...] or our brother was gay, and it was an act of sodomy. [...] They were very rude. (Relatives 3, male).

The police cannot take such cases [...] [as] they don't have any legal provision to address this crime; [...] they are not to be blamed. They are just following the rules and regulations. (Legal practitioners 2, male).

Our uncle went to the police, and the police did not take his case. [...] They suggested filing the case differently. [...] [Our] uncle was embarrassed but he reported [the crime] following the police's advice. (Survivor).

Unfortunately, we cannot process male rape cases. Because of legal reasons [...] especially for adults, we advise them to follow the other section [of the law] and file a case under another legal provision. (Police officers 2, male).

The feedback implies that there are multifaceted complexities that emerge in response to the lack of a proper definition of adult male rape. In all cases, the victim is treated as the culprit. The guardians of justice are bound by laws. First, there is a serious psychological impact that sometimes leads to suicide when rejecting the law for male rape. Second, the family of the victim is more inclined to hide the crime, thinking it will otherwise make the situation worse for the victim and his children. Finally, the legal system fails to provide the victim with proper justice and instead points the victim towards a diversion of the criminal case. This diversion causes self-shame as stated in section 377 of the Penal Code, which deals with “unnatural offences” and criminalizes the act of someone who “voluntarily has carnal intercourse against the order of nature.”³⁵ It implies consensual sexual intercourse between men, which is considered sodomy, and the victim becomes the culprit in the process.

EXPLORING THE LANDSCAPE OF ADULT MALE RAPE VICTIMS AND POLICE RESPONSES IN BANGLADESH

The term “adult male” contrasts with “children.” According to section 2(K) of the Women & Children Repression Prevention Act-2000,³⁶ a “child” means any person under fourteen years of age. Hence, any male over the age of fourteen is considered to be an adult male and is thus deprived of the law's safeguarding mechanism.

The notion of sexual assault against both males and females can be traced back to the prehistoric age,³⁷ although the topic is still considered taboo in many modern societies. And although the complaint process is an integral part of the Bangladeshi criminal justice system, this stigma results in a breakdown of the judicial process since few male victims are willing to risk being exposed as a male victim of sexual assault, and even fewer actually complain, making it a highly underreported crime.³⁸ Several influential studies have already established that the police response to adult male rape has a shape-shifting influence.³⁹ The same studies argue that complaining of the crime of

³⁵ Government of the People's Republic of Bangladesh, *Laws of Bangladesh*, 1860.

³⁶ United Nations Women, “Prevention of Cruelty against Women and Children Act” (2000).

³⁷ J. Patrak and B. Hedge, *The Trauma of Sexual Assault—Treatment, Prevention and Practice, Cognitive Behaviour Therapy* (New York: Wiley, 2002).

³⁸ Rachel Kalish, *Book Review: Abdullah Khan, N. (2008). Male Rape: The Emergence of a Social and Legal Issue. Hampshire, UK, and New York, Men and Masculinities*, vol. 12 (New York: Palgrave MacMillan, 2010), <https://doi.org/10.1177/1097184x09331748>.

³⁹ Aliraza Javaid, “Police Responses to, and Attitudes towards, Male Rape: Issues and Concerns,” *International Journal of Police Science and Management* 17, no. 2 (2015): 81–90, <https://doi.org/10.1177/1461355715580914>; Aliraza Javaid, “Moving through Shadows: Police, Policing and Male Rape,” *International Journal of Human Rights* 21, no. 7 (2017b): 1002–22, <https://doi.org/10.1080/13642987.2017.1323737>; Aliraza Javaid, “Masculinities, Sexualities and Identities: Understanding HIV

male rape is subject to the pertinent law enforcement agency's treatment,⁴⁰ thus making that agency a key determinant of a criminal justice system's success.

Indeed, police response is crucial for many reasons. Much of it is shaped and embedded in the fabric of norms and values, which is often perceived as a legal foundation. A previous study found a range of factors that facilitate the prevalence of the underreporting of male rape.⁴¹ First of all, it is subject to a social norm that is moderately associated with patriarchy. The most recent study on the topic pointed out that the male rape victim often remains silent—in fear of losing his honor in a patriarchal society.⁴² Similar findings have revealed that masculinity often stands as a barrier for male victims of sexual violence to seek justice, and notwithstanding the victim's point of view, law enforcement personnel sometimes consider adult male rape victims' allegations to be false, again falling under the cloak of patriarchy.⁴³ Compared to being a victim of typical types of crimes, a male rape victim fears society and the social system because they threaten the very fabric of a patriarchal foundation guarded by a sense of masculine identity. Indeed, the most common form of societal response to a male rape survivor is social exclusion.

Advancing further into the domain of male psychology, there is another crucial factor regarding the tendency not to report male rapes to police. Male rape victims are more reluctant to report to police for fear of being tagged as a homosexual⁴⁴ in a Muslim-majority country like Bangladesh, which has anti-homosexual ideology embedded into the culture, making it almost impossible for adult male rape victims to complain to the police.⁴⁵ These personal obstacles are socio-culturally embedded, making it difficult to contemplate a formal complaint. Besides personal reluctance, non-cooperation from every direction, including from friends, family, and colleagues, makes it more difficult for male rape victims to file police complaints⁴⁶ let alone seek justice. A previous study conducted in the early 1990s revealed that the impact of rape on family function is a particularly neglected area that requires further research.⁴⁷

Other voluntary agencies⁴⁸ are also silent on this serious issue. The response of voluntary organizations regarding male rape victims ranks below police support, which is already an established fact,⁴⁹ supporting Aliraza Javaid's study where he argues that voluntary organizations are considerably negligent when it comes to their treatment of male rape survivors, and Bangladesh is no exception.⁵⁰ On top of that, while most female rape victims are attended by female police officers, which is a clear adherence to the binding legal provision, the situation for male rape victims or survivors is quite the opposite. An adult male rape victim certainly feels insecure and ashamed in front of a female police attendant during the collection of evidence and fears speaking freely with her

Positive and HIV Negative Male Rape Victims," *International Sociology* 32, no. 3 (2017a): 323–42, <https://doi.org/10.1177/0268580917696387>.

⁴⁰ Jayne Walker, John Archer, and Michelle Davies, "Effects of Rape on Men: A Descriptive Analysis," *Archives of Sexual Behavior* 34, no. 1 (2005): 69–80, <https://doi.org/10.1007/s10508-005-1001-0>.

⁴¹ Jewkes et al., "Prevalence of and Factors Associated with Non-Partner Rape Perpetration: Findings from the UN Multi-Country Cross-Sectional Study on Men and Violence in Asia and the Pacific."

⁴² Mohammad Mazher Idriss, "Abused by the Patriarchy: Male Victims, Masculinity, 'Honor'-Honor-Based Abuse and Forced Marriages," *Journal of Interpersonal Violence* 37 (2021): 13–14, <https://doi.org/10.1177/0886260521997928>.

⁴³ Christopher T. Conner, "Aliraza Javaid (2018) Male Rape, Masculinities, and Sexualities: Understanding Policing, and Overcoming Male Sexual Victimization. London, UK: Palgrave Macmillan," *International Journal for Crime, Justice and Social Democracy* 9, no. 2 (May 2020): 200–202, <https://doi.org/10.5204/ijcjsd.v9i2.1443>.

⁴⁴ Philip N.S. Rumney, "Gay Male Rape Victims: Law Enforcement, Social Attitudes and Barriers to Recognition," *International Journal of Human Rights* 13, no. 2–3 (June 1, 2009): 233–50, <https://doi.org/10.1080/13642980902758135>.

⁴⁵ Corinne Lennox and Matthew Waites, *Human Rights, Sexual Orientation and Gender Identity in the Commonwealth: Struggles for Decriminalisation and Change* (London: University of London Press, 2013), <https://doi.org/10.14296/518.9781912250134>.

⁴⁶ Jerrold L. Stein, "Peer Educators and Close Friends as Predictors of Male College Students' Willingness to Prevent Rape," *Journal of College Student Development* 48, no. 1 (2007): 75–89, <https://doi.org/10.1353/csd.2007.0008>.

⁴⁷ Sarah Crome and Marita P. McCabe, "The Impact of Rape on Individual, Interpersonal, and Family Functioning," *Journal of Family Studies* 1, no. 1 (1995): 58–70, <https://doi.org/10.5172/jfs.1.1.58>.

⁴⁸ "Voluntary agencies" refers to non-governmental agencies that work in the domains of gender rights, all forms of violence, and victim support systems.

⁴⁹ Alan Greig, "Sex and the Rights of Man," *IDS Bulletin* 37, no. 5 (2006): 84–88, <https://doi.org/10.1111/j.1759-5436.2006.tb00307.x>.

⁵⁰ Javaid (n12).

after he was sexually assaulted by another male.⁵¹ The most comprehensive scholarship that addresses the topic of male rape and its legal dilemma in Bangladesh is found in the form of a previous study.⁵² In this study, Shariful Islam drew attention to amending existing rape laws by arguing that they have many flaws, although the author overlooked establishing a link between police response and rape laws.

The landscape of male rape in Bangladesh revolves around patriarchy, masculinity, stigma, taboo, noncooperation, and a system-induced complexity. Above all, the response of law enforcement agencies or police is most important. It is evident that the support and cooperative attitudes of police must play a vital role in ensuring the process of delivering justice to adult male rape victims in Bangladesh, and thus the dynamics behind the absence of supportive responses from police is of great importance.

CONCLUSION

The findings of this study help to justify the need to amend the respective criminal laws in Bangladesh. A gender-biased definition of rape creates many challenging complexities and leads to injustice. The present study reveals that the police response, in general, is bound by the law. And laws are shaping society's mindsets and attitudes, including those of the police and the common citizen. This definition vacuum as described above only worsens the situation since criminals who commit these types of crimes receive no punishment. On top of that, the male victim will stop seeking justice for his rape, which ultimately might make it a crime norm.⁵³

The findings also suggest that the present gender-biased definition of rape heightens stigma and promotes masculinity in the wrong way. In this landscape, adult male rape is legitimized by all spheres of society, and the victim is considered a culprit. It should be mentioned, however, that some police officers think the situation is changing, and that justice should be accessible to all regardless of gender, and that current laws should be amended before the situation becomes more fragile and volatile. Indeed, there is now a call for a gender-neutral rape definition.

The findings of this study also show that a gender-specific definition of rape causes serious challenges for the criminal justice system. The police response is especially bound by the legal provision, and law enforcement cannot provide safeguards and ensure that the procedures for justice are followed in the case of adult male rape. As police personnel operate at the frontiers of the Bangladeshi legal system, their recognition of the male rape definition vacuum is pivotal for securing an amendment to the current law. The consequences that emerge in this landscape are multifaceted and facilitate an environment in which the social stigma and taboo regarding adult male rape prevails. The situation will likely remain unchanged until the relevant legal provisions are amended, as many actors and social factors are fueled by Bangladesh's current legal system.

As to the limitations of this study, the findings are based on a comparatively small sample of rape survivors, relatives, police, and legal practitioners. This is due to the social stigma and taboo attached to the notion of male rape, and thus many potential respondents declined to participate in the data collection. With regard to future studies, there is a need for a comparative analysis of legislative and judicial practices across different jurisdictions regarding male rape.

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⁵¹ Dr. Michelle Davies, Rhiannon Smith, and Dr. Paul Rogers, "Police Perceptions of Rape as Function of Victim Gender and Sexuality," *Police Journal* 82, no. 1 (2009): 4–12, <https://doi.org/10.1350/pojo.2009.82.1.466>; Joanna Jamel, Ray Bull, and Lorraine Sheridan, "An Investigation of the Specialist Police Service Provided to Male Rape Survivors," *International Journal of Police Science & Management* 10, no. 4 (Dec. 1, 2008): 486–508, <https://doi.org/10.1350/ijps.2008.10.4.101>.

⁵² Shariful Islam, "An Overview of the Existent Rape Laws in Bangladesh: Need for Urgent Reformation and Change," *Green University Review of Social Sciences* 5, no. 2 (2019): 45–60.

⁵³ A crime norm is a situation where the victim loses hope for justice and accepts it as the norm.

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