

RESEARCH ARTICLE



Beyond the Burden of Chastity: Character Evidence and the Changing Judicial Mindset in Bangladesh

Jannatun Ferdos¹, Faiqua Tahjiba^{*,2}

^{1,2}Lecturer, Department of Law and Land Administration, University of Rajshahi, Bangladesh

*Corresponding: tfaiqua@ru.ac.bd

Received: 13.06.2026

Accepted: 20.08.2026

Publication date: 31.08.2026

ABSTRACT

In 2022, the colonial-era Evidence Act, 1872, was finally amended by the Evidence (Amendment) Act, 2022. It repealed section 155(4), the provision that allowed legal practitioners to attack sexually assaulted women's "general immoral character" to undermine their testimony. Although the repealed provision was widely appreciated as a vital step toward more just and gender-sensitive criminal justice, this paper argues that the amended version only abolished the colonial rule formally, preserving much of its functional spirit. Even though revised Section 146(3) bars inquiries into a victim's past behavior during cross-examination, courts may still permit them if deemed vital to fairness "for the ends of justice". What remains vague is how often such situations truly justify the breach of the victim's privacy. The lack of clear guidance, combined with broad judicial discretion, means the practice effectively remains tethered to the same colonial logic of invasive scrutiny. Yet legal wording only captures part of reality, as inside courtrooms, practices persist through subtle means such as in the Raintree Hotel verdict. Analysing the statutory provisions along with ten reported Appellate Division cases, this paper embeds the 2022 amendment within a broader critique of legislative repeal without structural and cultural transformation, which risks relocating, rather than dismantling, colonial mechanisms of control over survivors' credibility. The paper concludes by calling for binding judicial guidelines and stronger sexual violence shield protections to end the discretionary loophole.

Keywords: Character Entitlement, Evidence Act, Judicial Discretion, Colonial Mechanism



This work is licensed under a Creative Commons Attribution-NonCommercial 4.0 International License (CC BY-NC 4.0).

1. Introduction

A major impediment to justice for sexual violence cases in Bangladesh is the colonial rule of corroboration, which requires judges to verify the complainant's testimony with other evidences.¹ The evidentiary burden is structural rather than incidental, as it is embedded within the statute that continues to govern the standards of courtroom proof today.² Since its enactment in 1872, the Evidence Act has set the standards for considering survivors of sexual violence credible in Bangladeshi courtrooms, often under restrictive conditions.³⁴ Survivors of sexual violence encounter significant obstacles in their pursuit of justice, as exemplified by the historical use of the invasive two-finger test, which undermined their bodily integrity and dignity. Although this procedure was eventually acknowledged as patriarchal, unscientific, and a violation of survivors' rights to privacy, dignity, and physical integrity, the trauma it caused was often intensified during courtroom proceedings.⁵ The practice of questioning survivors' credibility often transforms the trial process into an additional source of distress, as secondary victimization is interactionally produced during courtroom cross-examinations of women who have experienced sexual violence.⁶

In both cases, it remains challenging to evaluate the extent of protection that individual women and girl victims or survivors have obtained during the trial procedure and through the Court's orders. In the absence of substantial reforms within the legal system and without social security or support mechanisms, women and girls are often forced to relinquish the pursuit of justice through accountability or reparation, instead accepting minimal settlements.⁷

When a statute itself works as a pathway of moral profiling of a victim, it is obvious that the opposing parties will grab that chance. The Evidence Act, 1872 gave such a change to those opportunity seekers. Section 155(4) of the Act allowed defense lawyers to bring up character evidence against complainants during trials.⁸ This section is a discriminatory law from the colonial era, based on outdated and patriarchal ideas about women's and girls' virginity, reinforcing gender inequality.⁹ This practice shifted the trial's focus from the

¹Taqbir Huda, "“No Signs of Rape”: Corroboration, Resistance and the Science of Disbelief in the Medico-Legal Jurisprudence of Bangladesh" (2022) 29 Sexual and Reproductive Health Matters 2096186 <<https://doi.org/10.1080/26410397.2022.2096186>>.

²ibid

³Equality Now (2025). *Sexual violence in Bangladesh: How years of activism by CSOs led to landmark amendment to the Evidence Act*.

⁴The Daily Star (2019). *The colonial legacy of rape laws*.

⁵*State of Jharkhand v Shailendra Kumar Rai @ Pandav Rai* (2022) 14 SCC 229, [31]–[33].

⁶Selena Mariano, 'The “Double Bind” of Gender-Based Violence: Secondary Victimization in Courtroom Cross-Examinations' (2026) 44 Behavioral Sciences & the Law 96 <<https://doi.org/10.1002/bsl.70025>>.

⁷Sara Hossain, 'Public Interest Litigation on Violence Against Women in Bangladesh' in Amy Barrow and Joy L Chia (eds), *Gender, Violence and the State in Asia* (Routledge 2016) ch 7, 119, 129.

⁸Taqbir Huda, *Between 'Virtue' and 'Immorality': Why Character Evidence Must Be Prohibited in Rape Cases* (Rape Law Reform Research Reports No 1, BLAST and UN Women 2019), 5.

⁹ibid

accused to the complainant's chastity.¹⁰ Although advocates may acknowledge progress reflected in legal reforms, it is considerably more difficult to demonstrate a meaningful impact on the lived experiences of victims of gender-based violence.¹¹ For nearly 150 years, this provision justified a courtroom culture where a survivor's sexual history, attire, marital status, and prior relationships were seen as relevant to whether rape occurred or consent was absent.¹² This provision even permitted the defence to present evidence regarding a complainant's sexual history to support the argument that individuals who were not virgins could not be raped.¹³ This reasoning was based on the assumption that sexually experienced women were more likely to consent and subsequently file false complaints.¹⁴ Feminist legal scholarship throughout South Asia has consistently identified this evidentiary framework as a colonial legacy that embedded Victorian concerns about female chastity into criminal procedure and preserved them largely without scrutiny long after independence.¹⁵ On this point, some remarkable incidents of gendered entitlement in trial, including the Raintree incident demanded a significant change to this provision.

The Evidence (Amendment) Act, 2022 was framed as a corrective mechanism to this history. It repealed section 155(4) outright and inserted a revised section 146(3), which, *prima facie*, bars cross-examination into a victim's general character or past sexual conduct. The reform was celebrated, both within Bangladesh and by regional observers, as bringing the law into alignment with international human rights standards on the treatment of sexual violence survivors. Yet the reformed provision retains a significant carve-out, still permitting courts such questioning where it is considered necessary "for the ends of justice". This phrase is nowhere defined, and no threshold, guideline, or standard of necessity accompanies it. The result is a structure in which the prohibition is general, and the exception is elastic, so that the question of whether a survivor's past will be put on trial is left, once again, to unguided judicial discretion. Cases such as the Raintree Hotel verdict illustrate how easily this discretion can be exercised to reproduce the very reasoning the amendment was meant to foreclose, with a survivor's conduct, credibility, and character re-entering the proceedings through interpretive rather than statutory means.¹⁶

¹⁰ Siddiqui, M, 'Legal Tangle over "Chaste" and "Immoral" Women'

https://www.academia.edu/10024606/Legal_tangle_over_chaste_and_immoral_women accessed 11 August 2026.

¹¹ Sara Hossain, 'Public Interest Litigation on Violence Against Women in Bangladesh' in Amy Barrow and Joy L Chia (eds), *Gender, Violence and the State in Asia* (Routledge 2016) ch 7, 119, 129.

¹² Evidence Act: Both Sections Questioning Victims Will Be Amended' *The Daily Star* (Dhaka, 23 February 2022). <https://www.thedailystar.net/news/bangladesh/news/evidence-act-both-sections-questioning-victims-will-be-amended-2967431> accessed 12 August 2026.

¹³ Elizabeth Kolsky, "'The Body Evidencing the Crime': Rape on Trial in Colonial India, 1860–1947" (2010) 22(1) *Gender & History* 109-130.

¹⁴ *ibid*

¹⁵ Arathi P.M., 'Book Review: Pratiksha Baxi, *Public Secrets of Law: Rape Trials in India*' (2014) 44 *Social Change* 488 <<https://doi.org/10.1177/0049085714536807>>.

¹⁶ 'It's No Rape: They Danced, Drank, Swam' *The Daily Star* (Dhaka, 12 November 2021)

<https://www.thedailystar.net/news/bangladesh/crime-justice/news/its-no-rape-they-danced-drunk-2227711> accessed 12 August 2026.

This paper argues whether the formal abolition of Section 155(4) by the Evidence (Amendment) Act 2022 effectively eliminates chastity-based character evidence from sexual violence trials in Bangladesh, or if such reasoning persists through discretionary judicial and procedural mechanisms. The analysis traces the colonial ideological foundations of Section 155(4) and examines the doctrinal gaps that remain unaddressed by the 2022 Amendment. Furthermore, the study identifies alternative legal routes through which chastity-based reasoning re-emerges in post-2022 sexual violence trials in Bangladesh. This study addresses that closing this loophole requires not merely narrower procedural drafting but the deliberate introduction of a substantive value system, anchored in constitutional guarantees of dignity, privacy, and equality, capable of constraining judicial discretion from within.

1.1 Literature Review

Scholarship addressing chastity-based character evidence in Bangladeshi sexual violence trials falls into three main categories. The first includes studies done before the repeal of section 155(4). For example, a study on the “science of disbelief” shows that corroboration and resistance rules, together with section 155(4), led to institutional disbelief of complainants.¹⁷ A review of case files found that defence lawyers often used this provision to portray complainants as immoral.¹⁸ Most of this literature is descriptive and was published before the 2022 Amendment.

The second category is comparative South Asian doctrinal scholarship. These works offer useful methods but do not focus on Bangladesh. For example, one study found that Indian medical practice continued chastity-testing even after reforms in 2003.¹⁹ Another argued that changing the law is not enough to change deep-rooted judicial habits.⁵ A comparative study of India, England and Wales, and Canada used a similar approach to this paper, but did not cover Bangladesh or events after 2022.²⁰

The third category is comparative rape shield scholarship, which sets out the doctrinal pattern used in this paper for section 146(3). Early research shows that the idea of “relevance” has often hidden moral judgments.²¹ Later studies found that even well-established rape shield laws still allow sexual history evidence through certain exceptions.⁸ Research aimed at practitioners also shows that the wording of the law alone does not decide court outcomes.⁹ However, none of the current research offers a doctrinal analysis of

¹⁷ Taqbir Huda, “‘No Signs of Rape’: Corroboration, Resistance and the Science of Disbelief in the Medico-Legal Jurisprudence of Bangladesh” (2022) 29 Sexual and Reproductive Health Matters 2096186 <<https://doi.org/10.1080/26410397.2022.2096186>>.

¹⁸ Taqbir Huda, *Between ‘Virtue’ and ‘Immorality’: Why Character Evidence Must Be Prohibited in Rape Cases* (Rape Law Reform Research Reports No 1, BLAST 2019).

¹⁹ Devika Mitra and M. Satish, ‘Testing Chastity, Evidencing Rape: Impact of Medical Jurisprudence on Rape Adjudication in India’ (2014) 26(1) National Law School of India Review 51.

²⁰ Kalika Mehta and Avantika Tiwari, ‘Between Sexual Violence and Autonomy: Rethinking the Engagement of the Indian Women’s Movement with Criminal Law’ (2021) 22 German Law Journal 860.

²¹ Nikunj Kulshreshtha, ‘The Contemporary Status of Rape Shield Laws in India’ (2023) 27 The International Journal of Evidence & Proof 3.

section 146(3)'s "ends of justice" exception or explains its closure in the context of Bangladesh's constitution which this paper aims to address and fill that gap.

1.2 Colonial Legacies of Gendered Entitlement

Gendered stereotypes constitute a form of secondary victimization, especially within judicial proceedings, where defence attorneys may invoke a victim's gender to challenge their credibility.²² This issue is not just a rare anomaly. Instead, it shows how certain practices became part of the colonial legal system. The creation of Section 155(4) was a key part of the imperial evidentiary system set up after 1857. The Evidence Act of 1872 played a major role in the wider colonial effort to organize and unify different common law rules into a single code, primarily drafted by Sir James Fitzjames Stephen.²³ Stephen served as the Law Member of the Viceroy's Council and shaped the Act to fit the needs of colonial administration.²⁴ It became effective on 1 September 1872 throughout British India.²⁵ Within this codification, section 155(4) authorized the defence in rape prosecutions to present evidence regarding the complainant's "generally immoral character" to challenge her credibility.^{26,27}

The provision's logic rested on a specifically Victorian taxonomy of female sexual virtue rather than on evidentiary relevance. This moralistic framing has distorted statutory doctrine across the broader legal landscape governing witness integrity and reputation. Generally, the rules governing the admissibility of character evidence can be systematically categorized into three areas: (I) admissibility to establish the character of a party or third person as a fact in issue; (II) admissibility to demonstrate the character of a party or third person as circumstantial evidence; and (III) admissibility to assess the character of a witness.²⁸ Nevertheless, historical scholarship on colonial-era trials shows the provision allowed the defence to argue that a sexually experienced complainant could not have been assaulted without her consent. This rested on the assumption that such a woman was more likely to have agreed to intercourse and later fabricated a complaint.²⁹ This taxonomy did not just inform judicial reasoning but structured the categories through which a survivor's testimony could be heard as credible. Commentary on the Bangladeshi provision described this as a division between "ropeable" and "non-ropeable" women, with the onus on the survivor to establish

²²Mariano (n 6).

²³Kunal Ambasta, 'One Hundred (and Fifty) Years of Solitude: The Indian Evidence Act 1872 as a Lost Project of Law Reform' (2024) 8 Indian Law Review 1 <<https://doi.org/10.1080/24730580.2023.2283644>>.

²⁴*ibid*.

²⁵*ibid*

²⁶ Evidence Act 1872, s 155(4) (Bangladesh) (as originally enacted; repealed by Evidence (Amendment) Act 2022).

²⁷ Elizabeth Kolsky, "'The Body Evidencing the Crime': Rape on Trial in Colonial India, 1860–1947" (2010) 22(1) Gender & History 109.

²⁸ David Torrance, 'Evidence of Character in Civil and Criminal Proceedings' (1902) 12 Yale LJ 352, 353.

²⁹ Elizabeth Kolsky, "'The Body Evidencing the Crime': Rape on Trial in Colonial India, 1860–1947" (2010) 22(1) Gender & History 109.

which category she occupied.³⁰

The colonial legal framework was not exclusive to Bangladesh. India and Pakistan also inherited the same provision from the 1872 codification and initiated reforms prior to Bangladesh. This provision remained largely unexamined in Bangladesh, retaining the provision for nearly a century while India implemented statutory amendments in 2003,³¹ and Pakistan enacted the Qanoon-e-Shahadat Ordinance in 1984,³² although character evidence was only partially retained in practice. The repeal in Bangladesh resulted from sustained feminist legal mobilization rather than independent legislative reform. In November 2021, Bangladesh Legal Aid and Services Trust, Ain o Salish Kendra, and Naripokkho filed a public interest litigation petition seeking the cancellation of sections 155(4) and 146(3).³³ The petition was submitted in response to increased activist pressure following the widely criticized observations in the Raintree Hotel verdict.³⁴ The High Court was subsequently informed that the government had already resolved to repeal both provisions. The Evidence (Amendment) Bill 2022 was enacted by voice vote on 3 November 2022, thereby repealing provisions that allowed character-based cross-examination of survivors.³⁵

1.3 How “the Ends of Justice” Rebuilds the Old Inquiry

This analysis starts by highlighting the gap between what section 146(3) prohibits and what it allows. The section bans questions about a victim’s “general immoral character” or past sexual conduct during cross-examination, using language similar to the previous law. However, it makes an exception for material the court finds necessary “for the ends of justice”. Unlike similar reforms elsewhere, there is no list of factors or judicial guidelines to explain this exception. Other jurisdictions, such as England and Wales, require judges to record written reasons or consider specific factors like relevance, prejudice, and necessity before admitting such evidence. For example, section 41 of the Youth Justice and Criminal Evidence Act 1999 in England and Wales requires a prior leave application, which courts enforce strictly.³⁶ Empirical studies confirm that these applications are central to decision-making.³⁷ In Canada, similar provisions are interpreted through a

³⁰ Kalpana Kannabiran, ‘Sexual Assault and the Law’ in Kalpana Kannabiran and Ranbir Singh (eds), *Challenging the Rules of Law: Colonialism, Criminology and Human Rights in India* (Sage 2008) 78.

³¹ The Evidence (Amendment) Act 2002 (India), s 3, amending the Indian Evidence Act 1872, s 155(4) (India) (w.e.f. 1 January 2003).

³² Faisal Daudpota, ‘Pakistan’s Evidence Law Should Be Revised: Benchmarking Qanun-e-Shadat Order of 1984’ (SSRN, 2026) <<https://doi.org/10.2139/ssrn.6304560>>.

³³ Equality Now (2025). *Sexual violence in Bangladesh: How years of activism by CSOs led to landmark amendment to the Evidence Act*.

³⁴ HC Orders to Submit Report on Steps Taken to Repeal Section 155(4) of Evidence Act’ *The Business Standard* (Dhaka, 16 November 2021) <https://www.tbsnews.net/bangladesh/court/provisions-evidence-act-facilitates-questioning-victims-character-be-repealed>.

³⁵ Evidence (Amendment) Act 2022 (Bangladesh) <http://bdlaws.minlaw.gov.bd/act-1416.html>.

³⁶ Paul Roberts, ‘Vulnerable Witnesses and the Principle of Orality’ in Paul Roberts and Adrian Zuckerman, *Roberts & Zuckerman’s Criminal Evidence* (3rd edn, OUP 2022).

³⁷ Laura C H Hoyano, ‘Cross-examination of Sexual Assault Complainants on Previous Sexual Behaviour: Views from the Barristers’ Row’ [2019] Crim LR 75.

framework of prohibited inferences (the “twin myths”) that limit how judges may use a complainant’s sexual history.³⁸ This drafting choice is vital because it shifts decision-making authority from the legislature, which sets general rules, to individual judges who apply an undefined standard in each case.

This pattern is well documented as even when judgments avoid the statutory term “immoral character”, they often revisit a complainant’s conduct, relationship history, and behavior before and after the alleged assault as part of credibility assessments. Scholars have shown that judges continue to admit sexual history evidence through discretionary and constitutional exceptions, which undermines the substantive value of shield provisions.³⁹ Critics note that rape shield statutes are so full of exceptions that they function as little more than sieves.⁴⁰ Frequently, only the framing has changed; material once introduced as character evidence is now presented as relevant to credibility or the “ends of justice”, while the underlying approach remains largely unchanged.

When viewed in light of comparative shield-law literature, the Bangladeshi approach is neither unusual nor unexpected. Surveys of rape shield regimes in the United States, Canada, England and Wales, Scotland, and New Zealand reveal similar recurring challenges, regardless of regulatory structure.⁴¹ A recent multi-jurisdiction review confirms that issues with sexual history evidence persist across diverse legal systems.⁴² Bangladesh differs in its lack of procedural safeguards, such as mandatory pre-trial applications or written reasons, which other jurisdictions adopted because unstructured exceptions proved ineffective. The reliance on “probative value versus prejudice” balancing and the continued use of cross-examination tactics targeting complainants’ conduct,⁴³ even decades after reform, highlight the importance of these safeguards.⁴⁴ Legislative repeal without a supporting value framework creates only the appearance of reform, allowing the underlying logic to resurface whenever discretion is exercised. Comparative literature describes this as the “policy cycle”,⁴⁵ where reform rhetoric outpaces doctrinal change, and courtroom practices can undermine statutory amendments.⁴⁶

³⁸ Lisa Dufrainmont, ‘Myth, Inference and Evidence in Sexual Assault Trials’ (2019) 44(2) Queen’s LJ 316.

³⁹ Aviva Orenstein, ‘The Seductive Power of Patriarchal Stories’ (2015) 58 Howard LJ.

⁴⁰ I Bennett Capers, ‘Real Women, Real Rape’ (2013) 60 UCLA L Rev 826.

⁴¹ Fiona E Raitt and M Suzanne Zeedyk, ‘Rape Trauma Syndrome: Its Corroborative and Educational Roles’ (1997) 24(4) J Law & Soc 552.

⁴² Joanne Conaghan and Yvette Russell, ‘Sexual History Evidence in Review’ in Kate Gleeson and Yvette Russell (eds), *New Directions in Sexual Violence Scholarship: Law, Power and Change* (Routledge 2023).

⁴³ Gregory M Simonsen, ‘Rape Victim Confrontation’ (1985) Utah L Rev.

⁴⁴ Sarah Zydervelt, Rachel Zajac, Andy Kaladelfos and Nina Westera, ‘Lawyers’ Strategies for Cross-Examining Rape Complainants: Have We Moved Beyond the 1950s?’ (2016) 57(3) Brit J Criminol 551.

⁴⁵ Joanne Conaghan and Yvette Russell, ‘Sexual History Evidence in Review’ in Kate Gleeson and Yvette Russell (eds), *New Directions in Sexual Violence Scholarship: Law, Power and Change* (Routledge 2023).

⁴⁶ Saumya Maheshwari, ‘The Language of Evidence in Rape Trials’ (2014) 10(1) Socio-Legal Rev 1.

1.4 Legal Theories on “Chastity” as a Benchmark for Credibility

Legal scholars have noted that courts often use a complainant’s sexual history to assess credibility rather than relevance. Vivian Berger argued that admitting evidence of a rape complainant’s past sexual conduct introduces a ‘consent by disposition’ logic, treating a woman’s past choices as a measure of her honesty.⁴⁷ Susan Estrich expanded on this, stating that the law’s distinction between ‘genuine’ and ‘unchaste’ victims reflects a belief that only certain complainants deserve legal protection, with chastity viewed as essential for credibility.⁴⁸

South Asian feminist legal scholars have traced the logic of credibility in sexual assault cases back to colonial times. Pratiksha Baxi’s ethnographic research on Indian rape trials shows that character evidence was less about legal relevance and more about ritualized courtroom practices. In these trials, the complainant’s sexual history was used to judge her honesty, her consent, and whether she deserved to be recognized as a victim.⁴⁹ Kalpana Kannabiran’s work on sexual assault law also links this practice to colonial legal thinking, where chastity became a stand-in for both consent and the complainant’s right to be believed.⁵⁰ Geetanjali Gangoli’s wider study of Indian feminist legal activism points out that this link between chastity and credibility is built into postcolonial criminal procedure, not just a rare occurrence.⁵¹ In Pakistan, Supreme Court decisions on rape have historically judged a complainant’s credibility by comparing them to a ‘prototypical’ victim, defined by chastity and expected behaviour.⁵² Hence, in sexual violence cases, courts have used the concept of “chastity” to assess complainant credibility, often before considering the facts of the alleged assault.

Similarly, Catharine MacKinnon’s dominance approach contends that legal rules are not neutral because they reflect and support male power over women.⁵³ This view explains that courts assumed a woman’s sexual history mattered, since the law’s supposed ‘objectivity’ was not truly gender-neutral.⁵⁴ Spivak’s analysis of the subaltern woman’s structural inability to be heard on her own terms within systems shaped by both imperial and patriarchal power offers a theoretical feature for understanding the persistent undermining of sexual violence complainants’ credibility by character evidence, conceptualized as a colonial-patriarchal evidentiary hybrid, even after its formal statutory repeal.⁵⁵ Another strand by Michael Lipsky’s theory of

⁴⁷ Vivian Berger, ‘Man’s Trial, Woman’s Tribulation: Rape Cases in the Courtroom’ (1977) 77 Colum L Rev 1.

⁴⁸ Susan Estrich, ‘Rape’ (1986) 95 Yale LJ 1087.

⁴⁹ Pratiksha Baxi, *Public Secrets of Law: Rape Trials in India* (Oxford University Press 2014).

⁵⁰ Kalpana Kannabiran, ‘Sexual Assault and the Law’ in Kalpana Kannabiran and Ranbir Singh (eds), *Challenging the Rules of Law: Colonialism, Criminology and Human Rights in India* (Sage 2008) 78.

⁵¹ Geetanjali Gangoli, *Indian Feminisms: Law, Patriarchies and Violence in India* (Ashgate 2007).

⁵² Orubah Sattar Ahmed, ‘Lost Chastity to Lost Honor: The Heuristic Shift in Rape Discourse by the Supreme Court of Pakistan’ (2021) 23(1) Georgetown Journal of Gender and the Law 1.

⁵³ Catharine A MacKinnon, *Toward a Feminist Theory of the State* (Harvard University Press 1989).

⁵⁴ *ibid*

⁵⁵ Gayatri Chakravorty Spivak, ‘Can the Subaltern Speak?’ in Cary Nelson and Lawrence Grossberg (eds), *Marxism and the Interpretation of Culture* (University of Illinois Press 1988) 271.

street-level bureaucracy says that front-line state actors, such as trial judges, have significant discretion when applying statutory policy.⁵⁶ This discretion often leads to the same biases that formal reforms were meant to remove. This practice still persists in Bangladesh, despite the formal repeal of section 155(4), as discussed in this paper.

1.5 Constitutional Interpretation on ‘Equality’, ‘Dignity’, and the ‘Pursuit of Justice’

Article 27 of the Constitution establishes that all citizens are equal before the law and are entitled to equal protection and Article 31 provides with the right to equal protection of law for all citizens.⁵⁷ The previous character-evidence rule contravened this principle by permitting the use of a woman’s sexual history to assess her credibility, thereby creating a gender-based distinction and denying complainants the same protection afforded to other witnesses. Analysing sexual violence law from the perspective of equality demonstrates that these rules constitute substantive denials of constitutional equality, rather than mere technical errors.⁵⁸ Historical analysis further reveals that the association between unchastity and diminished credibility has persisted in legal reasoning, even after formal amendments to the rules.⁵⁹ When section 146(3) leaves the ‘ends of justice’ undefined and subject to judicial discretion, it enables the re-emergence of such outdated reasoning. Judicial reliance on antiquated notions of female chastity is fundamentally inconsistent with the Constitution’s guarantee of equality.

The Constitution further reinforces these principles through its explicit commitment to human dignity. Dignity serves as a guiding standard for judicial interpretation,⁶⁰ and in sexual assault proceedings, the complainant’s dignity and privacy are rights that must be upheld throughout the trial process.⁶¹ Permitting judges to evaluate a survivor’s worth based on their sexual history constitutes not only a legal error but also a violation of their dignity. Failure to articulate these values clearly within the law, risks perpetuating the same outdated notions of chastity that the legal reforms sought to eliminate.⁶²

Article 104 provides remedial mechanisms to meet these problems.⁶³ It allows the Appellate Division to issue any orders necessary to achieve complete justice in cases before it. This ‘complete justice’ power is a special constitutional authority, different from regular legal discretion, and research shows it is broad enough to give

⁵⁶ Michael Lipsky, *‘Street-Level Bureaucracy: Dilemmas of the Individual in Public Services’* (Russell Sage Foundation 1980).

⁵⁷ Constitution of the People’s Republic of Bangladesh, art 27 & 31

⁵⁸ Robin West, ‘Equality Theory, Marital Rape, and the Promise of the Fourteenth Amendment’ (1990) 42 Fla L Rev 45

⁵⁹ Julia Simon-Kerr, ‘Unchaste and Incredible: The Use of Gendered Conceptions of Honor in Impeachment’ (2008) 117 Yale LJ 1854.

⁶⁰ C McCrudden, ‘Human Dignity and Judicial Interpretation of Human Rights’ (2008) 19 European Journal of International Law 655 <<https://doi.org/10.1093/ejil/chn043>>.

⁶¹ Lise Gotell, ‘The Ideal Victim, the Hysterical Complainant, and the Disclosure of Confidential Records: The Implications of the Charter for Sexual Assault Law’ (2002) 40 Osgoode Hall LJ 251.

⁶² I Bennett Capers, ‘Real Women, Real Rape’ (2013) 60 UCLA L Rev 826

⁶³ Constitution of the People’s Republic of Bangladesh, art 104

real meaning to open-ended rules.⁶⁴ Synthesizing the views on Articles 27 and 104, the issue is elevated to a constitutional duty rather than remaining solely a matter of statutory interpretation. The exception must support equality and dignity, and the Appellate Division can use its power through guidelines, required pre-trial steps, or written reasons, to make sure it does.

2. Methodology

This paper uses doctrinal legal research to find, interpret, and combine legal sources to answer a specific legal question.⁶⁵ The analysis also takes a socio-legal approach, looking at the law in its historical and institutional setting, especially the colonial roots of the Evidence Act 1872 as it applies in Bangladesh. Main sources include the Evidence Act 1872 (both original and amended), the Evidence (Amendment) Act 2022. Doctrinal analysis of reported judgments offers a view of how character evidence operates at trial.⁶⁶ High Court Division judgments that apply section 146(3), including the Raintree Hotel verdict, were found using the Supreme Court of Bangladesh website, BDLEX, and Manupatra, and were reviewed to see how courts interpret the “ends of justice” exception. This study relies on secondary sources, including Law Commission reports, National Parliament debates preceding the amendment, and research on rape shield laws in other common law countries. These materials enable a comparison between Bangladeshi law and international standards. Rather than focusing solely on section 146(3), the study examines the law’s practical application in real scenarios through the analysis of cases. The research uses only publicly available judgments and analyses how the provision is applied in legal texts and discussions.

For the empirical inquiry, ten judgments from the Appellate Division and High Court Division decided within 1991 to 2025 were selected using purposive sampling. These reported cases have been analysed across three central themes: (i) *Substantive Evolution: From Moral Blame to Strict Legal Liability*, (ii) *Procedural Transition: From Character Attacks to Evidentiary Integrity*, and (iii) *Post-2022 Procedural Gaps: Surviving Flaws After Reform*. This method evaluates both pre- and post-amendment cases in order to identify shifts in judicial mindset regarding character evidence and to locate existing procedural loopholes.

3. Findings and Discussion

The study presents its findings in line with two specific objectives. It first examines the legal scope and statutory consequences of the 2022 Amendment. Afterwards it compares the pre- and post-amendment judicial trends regarding character evidence, highlighting progressive transitions along with the prevailing

⁶⁴ Shailendra Kumar, ‘Sketching the Limits of Article 142 of the Constitution of India: A Constitutional Necessity’ in Salman Khurshid, Sidharth Luthra, Lokendra Malik and Shruti Bedi (eds), *Judicial Review* (Cambridge University Press 2020) 365, 366.

⁶⁵ Terry Hutchinson and Nigel Duncan, ‘Defining and Describing What We Do: Doctrinal Legal Research’ (2012) 17(1) *Deakin L Rev* 83

⁶⁶ Laura C H Hoyano, ‘Cross-Examination of Sexual Assault Complainants on Previous Sexual Behaviour: Views from the Barristers’ Row’ [2019] *Crim LR* 75.

procedural drawbacks.

3.1. The Limits of Statutory Reform: Judicial Discretion and Legal Loopholes

After analysing the statutory provisions from pre and post amendment periods of Evidence Act, 1872, the study reveals three principal findings. First, the formal repeal of Section 155(4) has not totally abolished character evidence from sexual violence trials, rather it introduced a scope for discretionary application of this entitlement by inserting the “ends of justice” term in the proviso of Section 146(3). This is not a new tradition for Bangladesh. In any jurisdiction where a shield law permits judicial discretion, or where courts interpret such discretion, judges tend to apply a probative-value-versus-prejudice analysis.⁶⁷ As a result, the protective function of the statutory law is effectively nullified. Second, the lack of any clear guidelines, fact checking methods, or evidentiary standard governing this exception has led to inconsistent and largely unreviewable judicial practice. This is illustrated by the *Raintree Hotel* verdict, where reasoning similar to the old “immoral character” inquiry re-entered proceedings under the guise of ensuring fairness to the accused rather than an overt character attack. Rules of evidence intended to address fact-finder bias should be formulated as mandatory rather than discretionary.⁶⁸ A specific, non-discretionary approach resolves most issues of interpretation.⁶⁹ Third, and most importantly, procedural amendments alone cannot solve this issue, as judicial discretion continues to operate within an unreformed institutional mindset. Those working on the 2022 amendment should realize that a shield law can “reinscribe the very chastity requirement it hoped to abolish”.⁷⁰ Without grounding the exception in explicit values, the amendment might continue the same logic it was meant to remove. The 2022 amendment did not provide any clear articulation of core constitutional values, namely survivor dignity, privacy, and equality before the law, that judges should balance against the accused’s fair-trial rights when applying the exception. Without these principles embedded in binding guidelines or judicial training, discretion naturally defaults to inherited cultural biases rather than constitutional standards. Consequently, the findings indicate that closing this loophole requires more than narrower procedural drafting. Hence, it demands a structured value framework that grounds judicial reasoning in the true purpose of the 2022 reform, rather than leaving that purpose to be reinterpreted in every case.

3.2. Thematic Case Analysis

Ten Appellate Division cases have been purposively selected for this study, which have been analysed under three different themes. These themes have been chosen according to the impact of the 2022 Amendment of

⁶⁷ Gregory M Simonsen, ‘Rape Victim Confrontation’ (1985) Utah L Rev 371

⁶⁸ Jane H Aiken, ‘Protecting Plaintiffs’ Sexual Pasts: Coping with Preconceptions Through Discretion’ (2002) 51 Emory LJ 559

⁶⁹ *ibid*

⁷⁰ I Bennett Capers, ‘Real Women, Real Rape’ (2013) 60 UCLA L Rev 826

the Evidence Act regarding character evidence and the remaining procedural deficits.

Theme 1

Substantive Evolution: From Moral Blame to Strict Legal Liability

Prior to the amendment, a specific practice of moral entitlement to the female frequently existed in judicial matters. In *Abdul Awal* case (1995)⁷¹ though there was a direct evidence of gang rape and murder, the gravity of such heinous offences has been mitigated by narrating the “element of sex-related perversity” of the victim which also commuted the conviction from death penalty to life imprisonment. The same pattern of commutation of death sentence has been observed in *Idris Ali Bhuiyan* (1995)⁷² case and *Zahiruddin* (1995)⁷³ case, where the offenders were privileged on the ground of their wives’ unchastity.

Moreover, a bitter reality of legalizing the rape offence by stating that the victim was engaged in street prostitution is recorded in *Md. Saidur Rahman Neoton* (1993)⁷⁴ case. Eventually, this entitlement bore such an impactful effect on the judicial system that the accused person got an acquittal due to lack of any other corroborative evidence. Furthermore, in gang-rape and murder case of *Yasmin* (2001)⁷⁵, offenders tried to cover up the crime by fabricating a story that the victim was Banu, a prostitute. The police even arrested a sex worker to distract the public attention on the point that only a prostitute had been involved in this offence. Again, while relying upon the custodial presumptive evidence, the defence council had successfully gained a reduction on punishment in *Md. Nazrul Islam* (2021)⁷⁶, which was a wife killing case. These case references reflect the systemic realities of a patriarchal society that routinely seeks opportunities to shift culpability onto women by targeting their character.

After the amendment in 2022, a mentionable change has been noticed in this regard. In *Md. Islam* (2023)⁷⁷ and *Md. Azizul Haq* (2025)⁷⁸ cases, courts are seen to focus on the substantive rights of the victims like maintenance, dower and custodial safety, rather than imposing character-based entitlement on them. In these

⁷¹*Abdul Awal v The State* (1994) Jail Appeal No 1 of 1993, Supreme Court of Bangladesh (Appellate Division) [1994] LEX/BDAD/0078/1994.

⁷²*Idris Ali Bhuiyan v Enamul Haque* (1995) Jail Appeal No 1 of 1994, Supreme Court of Bangladesh (Appellate Division) [1995] LEX/BDAD/0043/1995.

⁷³*Zahiruddin v The State* (1995) Jail Appeal No 1 of 1994, Supreme Court of Bangladesh (Appellate Division) [1995] LEX/BDAD/0172/1995.

⁷⁴*Md Saidur Rahman Neoton v The State* (1993) Criminal Appeal No 14 of 1992, Supreme Court of Bangladesh (Appellate Division) [1993] LEX/BDAD/0048/1993.

⁷⁵*The State v Md Moinul Haque and Others* (2001) Death Reference No 14 of 1997, Supreme Court of Bangladesh (High Court Division) [2001] LEX/BDHC/0247/2001.

⁷⁶*Md Nazrul Islam v The State* (2021) Criminal Appeal No 3 of 2013, Supreme Court of Bangladesh (Appellate Division) [2021] LEX/BDAD/0137/2021.

⁷⁷*Md Islam v Tasfiya and Others* (2023) Civil Revision No 340 of 2021, Supreme Court of Bangladesh (High Court Division) [2023] LEX/BDHC/0072/2023.

⁷⁸*Md Azizul Haque v Tahura Khatun (Mainu)* (2025) Civil Revision No 2792 of 1994, Supreme Court of Bangladesh (High Court Division) [2025] LEX/BDHC/0158/2025.

cases, the courts were expressly seen to reject the character entitlement of women while determining the offenders' liability. Thus, the matter of producing unnecessary character evidence has been judicially discouraged after 2022, which is undoubtedly a remarkable progress to safeguard the dignity of a woman.

Theme 2

Procedural Transition: From Character Attacks to Evidentiary Integrity

This study demonstrates how gendered entitlement systematically undermined the evidentiary weight of criminal offences. While analysing *Abdul Gafur (1991)*⁷⁹ case, a tendency of weaponizing the former section 155(4) of the Evidence Act, 1872 has been noticed. Here, defence counsel successfully discredited the opposing female witness by portraying her as a 'woman of doubtful virtue,' ultimately securing an acquittal due to the absence of independent corroborating evidence. Likewise, in *Most. Rahela Khatun (1996)*⁸⁰ case, when the victim filed a charge of outraging her modesty against an official, the HDC quashed the claim upon the petition of the accused on the ground that the victim was a habitual false claimer. However, the AD eventually overturned the decision, stating that- decisions cannot be quashed on unproved defence materials. It proves the deceptive use of gendered entitlement by the male respondents to evade the judicial proceedings.

Findings from the after-amendment cases notice that a significant transition in evidentiary strictness has been established while determining punishment, rather than taking into account the character of the victim. In *Md. Islam (2023)*⁸¹ case, the court strictly relied upon the 'conclusive proof' of section 12 of the Evidence Act, 1872 in recognizing the paternity of the child, denying the unproved DNA test report. Moreover, the husband was also penalised for his false implication of bad character on his wife. Similarly, in *Azizul Haq (2025)*⁸² case, the court outright denied to take into account the defendant-husband's claim in the written statement that his wife is of an immoral character and confirmed the decree in favour of the appellant-wife, relying upon the statutory dower rights. These precedents illustrate a crucial transition in the judicial mindset, prioritizing gender equality and human rights over moral profiling.

Theme 3

Post-2022 Procedural Gaps: Surviving Flaws After Reform

Although post-amendment jurisprudence marks essential progress toward eliminating irrelevant gendered

⁷⁹*Abdul Gafur v The State* (1991) Criminal Appeal No 3 of 1991, Supreme Court of Bangladesh (Appellate Division) [1991] LEX/BDAD/0063/1991.

⁸⁰*Most Rahela Khatun v Md Abul Hassan and Others* (1996) Criminal Appeal No 5 of 1994, Supreme Court of Bangladesh (Appellate Division) [1996] LEX/BDAD/0078/1996.

⁸¹*Md Islam v Tasfiya and Others* (2023) Civil Revision No 340 of 2021, Supreme Court of Bangladesh (High Court Division) [2023] LEX/BDHC/0072/2023.

⁸²*Md Azizul Haque v Tahura Khatun (Mainu)* (2025) Civil Revision No 2792 of 1994, Supreme Court of Bangladesh (High Court Division) [2025] LEX/BDHC/0158/2025.

biases from judicial decisions, parties continue to exploit these issues as mechanisms for procedural harassment. Especially, the attempt of character assassination through false claims in the written statements, harassment in the preliminary judicial stages and the motive of using indirect evidence tactics highlighted the existing flaws in the newly amended Act.

The 2022 amendment restricted moral profiling of a woman during cross examination. However, it has omitted to extend this bar in respect of unnecessarily weaponizing in the written statement. In both the mentioned cases (Md Azizul Haq case, Md. Islam case), the victims were alleged as the women of immoral characters, which was ultimately unapproved by the court. Yet, without statutory mechanisms to filter or strike out objectionable claims, such statements are routinely incorporated into the pleadings.

Another existing flaw of the judicial structure is lack of scrutiny in admitting any scientific document. In Md. Islam case, the defence tried to prove the unchastity of his wife by showing an unproved DNA test report, which was accepted by the trial courts. Hence, throughout the whole procedure, the victim had to face unbearable attacks on her character simply due to a procedural defect by the trial court. Although the HCD strictly complied with the statutory provisions and rejected all unproven materials, this case remains an instance of procedural anomalies that cause unwanted suffering to women.

Furthermore, no strict provision to compensate the victim is inserted in the existing judicial system, when she faces moral profiling. Just because of some heinous patriarchal mentality of the respondents, the victims have to go through an intolerable mental pressure, losing their social dignity as well as financial loss. This compensatory instance is observed in Md. Islam case, but only in the HCD stage. Mandating this practice at the trial stage, particularly in district courts and family tribunals, would deter bad-faith defence strategies from subjecting victims to such victim-blaming claims.

4. Beyond Repeal: Advancing a Value-Anchored Legal Shield

The 2022 amendment demonstrates that removing a colonial-era provision from the statute does not necessarily eliminate the underlying reasoning it once supported. Comparative research confirms that legislative repeal alone rarely alters courtroom practice. Despite multiple reforms, cross-examination strategies for rape complainants have remained largely unchanged for decades⁸³, and sexual history evidence continues to be admitted despite statutory restrictions.⁸⁴ Section 146(3)'s undefined "ends of justice" exception has enabled the substance of the former character-evidence inquiry to persist under a different designation, as illustrated by the Raintree Hotel verdict. This represents a structural weakness common to

⁸³Sarah Zydervelt and others, 'Lawyers' Strategies for Cross-Examining Rape Complainants: Have We Moved Beyond the 1950s?' [2016] British Journal of Criminology azw023 <<https://doi.org/10.1093/bjc/azw023>>.

⁸⁴Clare McGlynn, 'Rape Trials and Sexual History Evidence: Reforming the Law on Third-Party Evidence' (2017) 81 The Journal of Criminal Law 367 <<https://doi.org/10.1177/0022018317728824>>.

earlier shield-law reforms in other jurisdictions, rather than a uniquely Bangladeshi issue.

The conceptual and practical challenges associated with sexual history evidence recur regardless of the regulatory approach adopted.⁸⁵ When admissibility is subject to broad judicial discretion, courts frequently revert to a probative-value-versus-prejudice analysis that undermines the effectiveness of the shield.⁸⁶ The gendered association between unchastity and incredibility, once codified in law, continues to shape judicial reasoning even after formal repeal.⁸⁷ To address this gap, it is not enough to simply improve how laws are written. There needs to be binding judicial guidelines that clearly set out key values like survivor dignity, privacy, and equality before the law. These guidelines should also include procedural safeguards, such as requiring pre-trial applications and written reasons when this kind of evidence is allowed. Rules meant to reduce fact-finder bias should be specific and not left to each judge's discretion, since clear limits are needed for them to work efficiently.⁸⁸ The values articulated by a shield law are significant, as poorly drafted shields may reinforce the very chastity assumptions they are intended to eliminate.⁸⁹ While formal abolition removes problematic statutory language, functional abolition also requires eliminating assumptions about female chastity, credibility, and worth from judicial reasoning. Without this change, judicial discretion allows colonial logic to persist in new forms, and the burden the 2022 amendment aimed to remove remains with survivors.

5. Conclusion

The enactment of the Evidence (Amendment) Act 2022 was widely celebrated as a historic turning point in Bangladesh's legal landscape. By formally repealing Section 155(4) and revising Section 146(3), the legislature took an essential step to dismantle a 150-year-old colonial provision that allowed lawyers to attack a woman's "general immoral character" during trial. For generations, this colonial legacy institutionalized patriarchal entitlement inside courtrooms, forcing female victims and witnesses to defend their own chastity, clothing, and sexual history rather than the facts of the crime.

As this study has demonstrated through longitudinal thematic case analysis, the pre-amendment jurisprudence was deeply shaped by gendered entitlement. In cases like *Abdul Awal* (1994), *Idris Ali Bhuiyan* (1995), and *Zahiruddin* (1995), offenders gained substantive impunity through reduced sentences simply because their wives were labelled "wayward" or unchaste. Similarly, in *Md. Saidur Rahman Neoton* (1993)

⁸⁵Joanne Conaghan and Yvette Russell, *Sexual History Evidence and the Rape Trial* (Bristol University Press 2023) <<https://doi.org/10.51952/9781529207842>>.

⁸⁶Gregory M Simonsen, 'Rape Victim Confrontation' (1985) 1985 Utah Law Review <<https://doi.org/10.63140/b9pivls-5n>>.

⁸⁷Julia Simon-Kerr, 'Unchaste and Incredible: The Use of Gendered Conceptions of Honor in Impeachment' (2008) 117 The Yale Law Journal 1854 <<https://doi.org/10.2307/20454696>>.

⁸⁸Jane H. Aiken, 'Protecting Plaintiffs' Sexual Pasts: Coping with Preconceptions Through Discretion' (2002) 51 Emory LJ 559.

⁸⁹I Bennett Capers, 'Real Women, Real Rape' (2013) 60 UCLA L Rev 826 <https://www.uclalawreview.org/real-women-real-rape/>.

and the *Yasmin* case (2001), patriarchal mechanisms attempted to shield perpetrators by portraying victims as prostitutes to erase the gravity of sexual violence. Procedurally, as seen in *Abdul Gafur* (1991) and *Rahela Khatun* (1996), unproved and intentional entitlement on character was used as a tool to impeach witness credibility and derail legal proceedings before trial.

Following the 2022 amendment, a positive change in the judicial mindset started to come into light. In post-reform cases like *Md. Islam* (2023) and *Md. Azizul Haque* (2025), the judges of the Supreme court have rejected character attacks, and instead focused highly on the objective statutory rights such as maintenance, dower, and conclusive presumptions of legitimacy. In recent times, Judges are more prone to penalizing the persons involved with moral profiling and prioritizing statutory rules over any unproved claims. This shift marks an essential progress to secure dignity and equality for women in our legal system.

However, this paper argues that repealing the law is not the only way to achieve complete justice. The revised Section 146(3) containing the term “for the ends of justice” leaves a huge scope for occurring injustice towards the women. Without clear legal standards and systematic procedures, this phrase stands as an elastic backdoor. It shifts this issue from the boundary of the statutes to judicial discretion without proper guidance, which allows old colonial ideas about female virtue to return to courtrooms in new ways, as reflected in the *Raintree Hotel* case. Furthermore, these procedural gaps should also be addressed from the lower courts, to ensure a harassment-free environment for female litigants.

References

1. *Abdul Awal v The State* (1994) Jail Appeal No 1 of 1993, Supreme Court of Bangladesh (Appellate Division) [1994] LEX/BDAD/0078/1994.
2. *Abdul Gafur v The State* (1991) Criminal Appeal No 3 of 1991, Supreme Court of Bangladesh (Appellate Division) [1991] LEX/BDAD/0063/1991.
3. Arathi P.M., ‘Book Review: Pratiksha Baxi, *Public Secrets of Law: Rape Trials in India*’ (2014) 44 *Social Change* 488 <<https://doi.org/10.1177/0049085714536807>>.
4. Aviva Orenstein, ‘The Seductive Power of Patriarchal Stories’ (2015) 58 *Howard LJ*
5. Catharine A MacKinnon, *Toward a Feminist Theory of the State* (Harvard University Press 1989).
6. Clare McGlynn, ‘Rape Trials and Sexual History Evidence: Reforming the Law on Third-Party Evidence’ (2017) 81 *The Journal of Criminal Law* 367<<https://doi.org/10.1177/0022018317728824>>.
7. C McCrudden, ‘Human Dignity and Judicial Interpretation of Human Rights’ (2008) 19 *European Journal of International Law* 655 <<https://doi.org/10.1093/ejil/chn043>>.

8. Constitution of the People's Republic of Bangladesh, art 27 & 31.
9. Constitution of the People's Republic of Bangladesh, art 104.
10. David Torrance, 'Evidence of Character in Civil and Criminal Proceedings' (1902) 12 Yale LJ 352, 353.
11. Elizabeth Kolsky, "'The Body Evidencing the Crime': Rape on Trial in Colonial India, 1860–1947" (2010) 22(1) Gender & History 109.
12. Evidence Act: Both Sections Questioning Victims Will Be Amended' *The Daily Star* (Dhaka, 23 February 2022) <https://www.thedailystar.net/news/bangladesh/news/evidence-act-both-sections-questioning-victims-will-be-amended-2967431> accessed 12 August 2026.
13. Evidence Act 1872, s 155(4) (Bangladesh) (as originally enacted; repealed by Evidence (Amendment) Act 2022).
14. Equality Now (2025). *Sexual violence in Bangladesh: How years of activism by CSOs led to landmark amendment to the Evidence Act*.
15. Evidence (Amendment) Act 2022 (Bangladesh) <http://bdlaws.minlaw.gov.bd/act-1416.html> accessed 12 August 2026.
16. Faisal Daudpota, 'Pakistan's Evidence Law Should Be Revised: Benchmarking Qanun-e-Shadat Order of 1984' (SSRN, 2026) <<https://doi.org/10.2139/ssrn.6304560>> accessed 12 August 2026.
17. Fiona E Raitt and M Suzanne Zeedyk, 'Rape Trauma Syndrome: Its Corroborative and Educational Roles' (1997) 24(4) J Law & Soc 552.
18. Gayatri Chakravorty Spivak, 'Can the Subaltern Speak?' in Cary Nelson and Lawrence Grossberg (eds), *Marxism and the Interpretation of Culture* (University of Illinois Press 1988) 271.
19. Geetanjali Gangoli, *Indian Feminisms: Law, Patriarchies and Violence in India* (Ashgate 2007).
20. Gregory M Simonsen, 'Rape Victim Confrontation' (1985) Utah L Rev.
21. HC Orders to Submit Report on Steps Taken to Repeal Section 155(4) of Evidence Act' *The Business Standard* (Dhaka, 16 November 2021) <https://www.tbsnews.net/bangladesh/court/provisions-evidence-act-facilitates-questioning-victims-character-be-repealed> accessed 12 August 2026.
22. I Bennett Capers, 'Real Women, Real Rape' (2013) 60 UCLA L Rev 826.
23. *Idris Ali Bhuiyan v Enamul Haque* (1995) Jail Appeal No 1 of 1994, Supreme Court of Bangladesh (Appellate Division) [1995] LEX/BDAD/0043/1995.

24. 'It's No Rape: They Danced, Drank, Swam' *The Daily Star* (Dhaka, 12 November 2021) <https://www.thedailystar.net/news/bangladesh/crime-justice/news/its-no-rape-they-danced-drank-2227711> accessed 12 August 2026.
25. Jane H Aiken, 'Protecting Plaintiffs' Sexual Pasts: Coping with Preconceptions Through Discretion' (2002) 51 Emory LJ 559.
26. Joanne Conaghan and Yvette Russell, 'Sexual History Evidence in Review' in Kate Gleeson and Yvette Russell (eds), *New Directions in Sexual Violence Scholarship: Law, Power and Change* (Routledge 2023).
27. Julia Simon-Kerr, 'Unchaste and Incredible: The Use of Gendered Conceptions of Honor in Impeachment' (2008) 117 Yale LJ 1854.
28. Kalpana Kannabiran, 'Sexual Assault and the Law' in Kalpana Kannabiran and Ranbir Singh (eds), *Challenging the Rules of Law: Colonialism, Criminology and Human Rights in India* (Sage 2008) 78.
29. Kunal Ambasta, 'One Hundred (and Fifty) Years of Solitude: The Indian Evidence Act 1872 as a Lost Project of Law Reform' (2024) 8 Indian Law Review 1 <<https://doi.org/10.1080/24730580.2023.2283644>>.
30. Laura C H Hoyano, 'Cross-examination of Sexual Assault Complainants on Previous Sexual Behaviour: Views from the Barristers' Row' [2019] Crim LR 75.
31. Lisa Dufraimont, 'Myth, Inference and Evidence in Sexual Assault Trials' (2019) 44(2) Queen's LJ 316.
32. Lise Gotell, 'The Ideal Victim, the Hysterical Complainant, and the Disclosure of Confidential Records: The Implications of the Charter for Sexual Assault Law' (2002) 40 Osgoode Hall LJ 251.
33. *Md Azizul Haque v Tahura Khatun (Mainu)* (2025) Civil Revision No 2792 of 1994, Supreme Court of Bangladesh (High Court Division) [2025] LEX/BDHC/0158/2025.
34. *Md Islam v Tasfiya and Others* (2023) Civil Revision No 340 of 2021, Supreme Court of Bangladesh (High Court Division) [2023] LEX/BDHC/0072/2023.
35. *Md Nazrul Islam v The State* (2021) Criminal Appeal No 3 of 2013, Supreme Court of Bangladesh (Appellate Division) [2021] LEX/BDAD/0137/2021.
36. *Md Saidur Rahman Neoton v The State* (1993) Criminal Appeal No 14 of 1992, Supreme Court of Bangladesh (Appellate Division) [1993] LEX/BDAD/0048/1993.

37. Mehta K and Tiwari A, 'Between Sexual Violence and Autonomy: Rethinking the Engagement of the Indian Women's Movement with Criminal Law' (2021) 22 German Law Journal 860
38. Michael Lipsky, *'Street-Level Bureaucracy: Dilemmas of the Individual in Public Services'* (Russell Sage Foundation 1980).
39. Mitra D and Satish M, 'Testing Chastity, Evidencing Rape: Impact of Medical Jurisprudence on Rape Adjudication in India' (2014) 26(1) National Law School of India Review 51
40. *Most Rahela Khatun v Md Abul Hassan and Others* (1996) Criminal Appeal No 5 of 1994, Supreme Court of Bangladesh (Appellate Division) [1996] LEX/BDAD/0078/1996.
41. Orubah Sattar Ahmed, 'Lost Chastity to Lost Honor: The Heuristic Shift in Rape Discourse by the Supreme Court of Pakistan' (2021) 23(1) Georgetown Journal of Gender and the Law 1.
42. Paul Roberts, 'Vulnerable Witnesses and the Principle of Orality' in Paul Roberts and Adrian Zuckerman, *Roberts & Zuckerman's Criminal Evidence* (3rd edn, OUP 2022).
43. Pratiksha Baxi, *Public Secrets of Law: Rape Trials in India* (Oxford University Press 2014).
44. Robin West, 'Equality Theory, Marital Rape, and the Promise of the Fourteenth Amendment' (1990) 42 Fla L Rev 45.
45. Sara Hossain, 'Public Interest Litigation on Violence Against Women in Bangladesh' in Amy Barrow and Joy L Chia (eds), *Gender, Violence and the State in Asia* (Routledge 2016) ch 7, 119, 129.
46. Sarah Zydervelt, Rachel Zajac, Andy Kaladelfos and Nina Westera, 'Lawyers' Strategies for Cross-Examining Rape Complainants: Have We Moved Beyond the 1950s?' (2016) 57(3) Brit J Criminol 551.
47. Saumya Maheshwari, 'The Language of Evidence in Rape Trials' (2014) 10(1) Socio-Legal Rev 1.
48. Selena Mariano, 'The "Double Bind" of Gender-Based Violence: Secondary Victimization in Courtroom Cross-Examinations' (2026) 44 Behavioral Sciences & the Law 96 <<https://doi.org/10.1002/bsl.70025>>.
49. Shailendra Kumar, 'Sketching the Limits of Article 142 of the Constitution of India: A Constitutional Necessity' in Salman Khurshid, Sidharth Luthra, Lokendra Malik and Shruti Bedi (eds), *Judicial Review* (Cambridge University Press 2020) 365, 366.
50. Siddiqui, M, 'Legal Tangle over "Chaste" and "Immoral" Women'

51. https://www.academia.edu/10024606/Legal_tangle_over_chaste_and_immoral_women accessed 11 August 2026.
52. *State of Jharkhand v Shailendra Kumar Rai @ Pandav Rai* (2022) 14 SCC 229, [31]–[33].
53. Susan Estrich, ‘Rape’ (1986) 95 Yale LJ 1087.
54. Taqbir Huda, ‘“No Signs of Rape”: Corroboration, Resistance and the Science of Disbelief in the Medico-Legal Jurisprudence of Bangladesh’ (2022) 29 Sexual and Reproductive Health Matters 2096186 <<https://doi.org/10.1080/26410397.2022.2096186>>.
55. Taqbir Huda, *between ‘Virtue’ and ‘Immorality’: Why Character Evidence Must Be Prohibited in Rape Cases* (Rape Law Reform Research Reports No 1, BLAST 2019).
56. Terry Hutchinson and Nigel Duncan, ‘Defining and Describing What We Do: Doctrinal Legal Research’ (2012) 17(1) Deakin L Rev 83.
57. The Daily Star (2019). *The colonial legacy of rape laws*.
58. The Evidence (Amendment) Act 2002 (India), s 3, amending the Indian Evidence Act 1872, s 155(4) (India) (w.e.f. 1 January 2003).
59. *The State v Md Moinul Haque and Others* (2001) Death Reference No 14 of 1997, Supreme Court of Bangladesh (High Court Division) [2001] LEX/BDHC/0247/2001.
60. Vivian Berger, ‘Man’s Trial, Woman’s Tribulation: Rape Cases in the Courtroom’ (1977) 77 Colum L Rev 1.
61. *Zahiruddin v The State* (1995) Jail Appeal No 1 of 1994, Supreme Court of Bangladesh (Appellate Division) [1995] LEX/BDAD/0172/1995.