

Implementation of the ban on Two-Finger Test (TFT) in collecting medico-legal evidence on rape

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Background

The Two-Finger Test (TFT) in collecting evidence on rape has long been criticised as a violation of women's fundamental rights, including the right to privacy, physical and mental integrity, and dignity. The test is neither scientific nor reliable. In April 2018, the Bangladesh High Court officially banned the use of TFT in medico-legal evidence collection for rape cases. Despite the ban, sporadic reports suggest that the unscientific and traumatising practice of TFT is still being

used in medico-legal examinations. This outdated practice poses a direct threat to achieving Sustainable Development Goal (SDG) 5: *Eliminating harmful traditional practices* and ensuring dignified healthcare services for survivors of violence against women. This qualitative study explores the current status of the implementation of the TFT ban and the challenges in its implementation.

What is the Two-finger test (TFT) in the context of this study?

TFT is a test performed by medical practitioners for collecting medico-legal evidence on rape. TFT involves the insertion of two fingers into the vagina of the reported rape survivor to test hymen rupture and vaginal laxity.

Reported Cases

365 females reported raped from January to October 2024 in Bangladesh.^[1]

Source: Prothom Alo, Ittefaq, Samakal, Sangbad, Janakantha, Jugantor, Naya Diganta, Daily Star, New Age, Dhaka Tribune (including their e-papers), some online news portals and Ain o Salish Kendra (ASK)

Common Interpretations of TFT Results

Absence of
hymen rupture



No sexual intercourse occurred

Two-fingers did
not pass through
the vagina



No sexual intercourse occurred

Two-fingers pass
easily through
the vagina



The female is habituated to having sex

Rape cannot be established

^[1]Ain o Salish Kendra (ASK). (2024). Violence Against Women -Rape (Jan-Oct 2024). Retrieved from <https://www.askbd.org/ask/2024/11/13/violence-against-women-rape-jan-oct-2024/>

The Harmful Nature of TFT

Unscientific

TFT measures laxity of the vagina which is not a useful indicator to assess sexual assault^[2]

TFT checks for injuries which does not prove or refute sexual assault^[3]

TFT has no medical utility in proving rape^[4]

Unethical

TFT is a grave violation of a female's bodily integrity and is likely to cause further psychological trauma and physical discomfort to a rape survivor^[5]

Traumatic

TFT has negative health outcomes such as anxiety, depression, Post Traumatic Stress Disorder (PTSD), suicidal tendency^[6]

Low conviction rate works as a deterrent to reporting of rape^[7]

The Study

Objective(s)

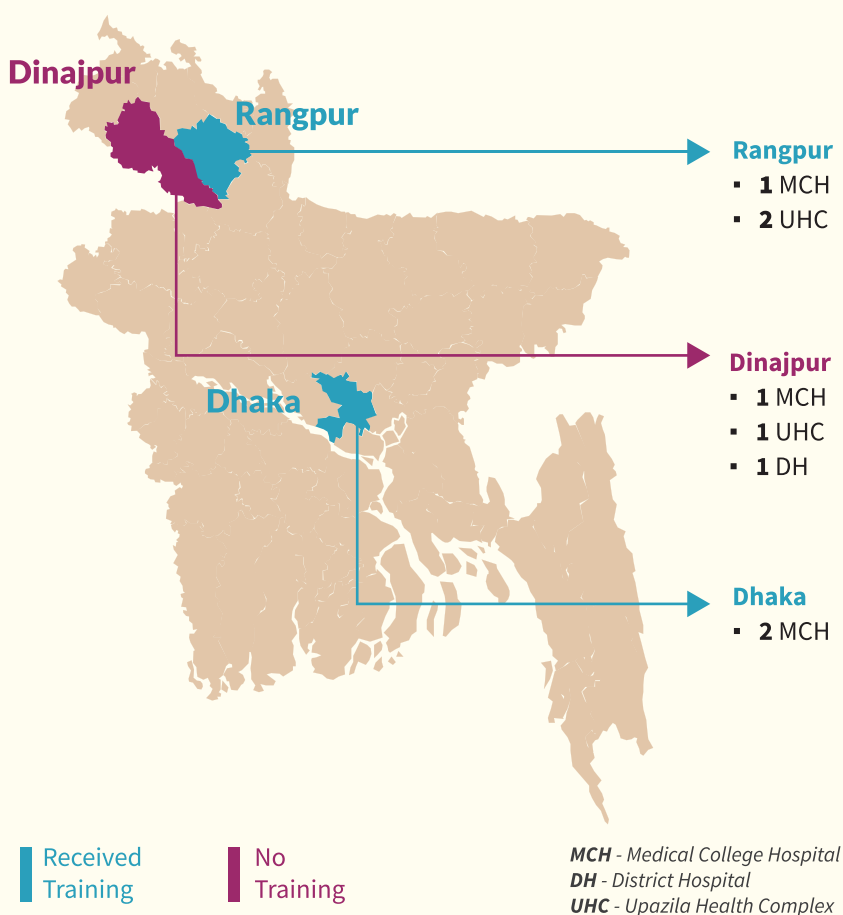
Overarching

To assess the implementation of the TFT ban and the factors underlying the state of implementation.

Specific

- Explore the **knowledge, attitudes** and **practices** of the stakeholders
- Explore **challenges** in ban implementation
- Provide evidence-based **recommendations** for improved implementation in similar contexts

8 Public Health Facilities, Lawyers, and NGO staff covered from:



35 Key Informant Interviews (KII):

- Health sector staff including **Rape examiners & support staff, other Forensic Department staff, and the Ministry of Health and Family Welfare**
- Legal sector including **Lawyers and Police Officers**
- **NGO staff**

2 Focus Group Discussions (FGD) with NGO staff

5 In-Depth Interviews (IDI) with Rape survivors and/or their families

^[2]Olson & Moreno 2017, Lloyd et al., 2005, Poland et al., 2021

^[3]Naumann et al 2023, Heger et al., 2002, Adams et al., 1994

^[4]WHO, 2018

^[5]WHO 2016, Huda 2022

^[6]WHO 2016, WHO 2018

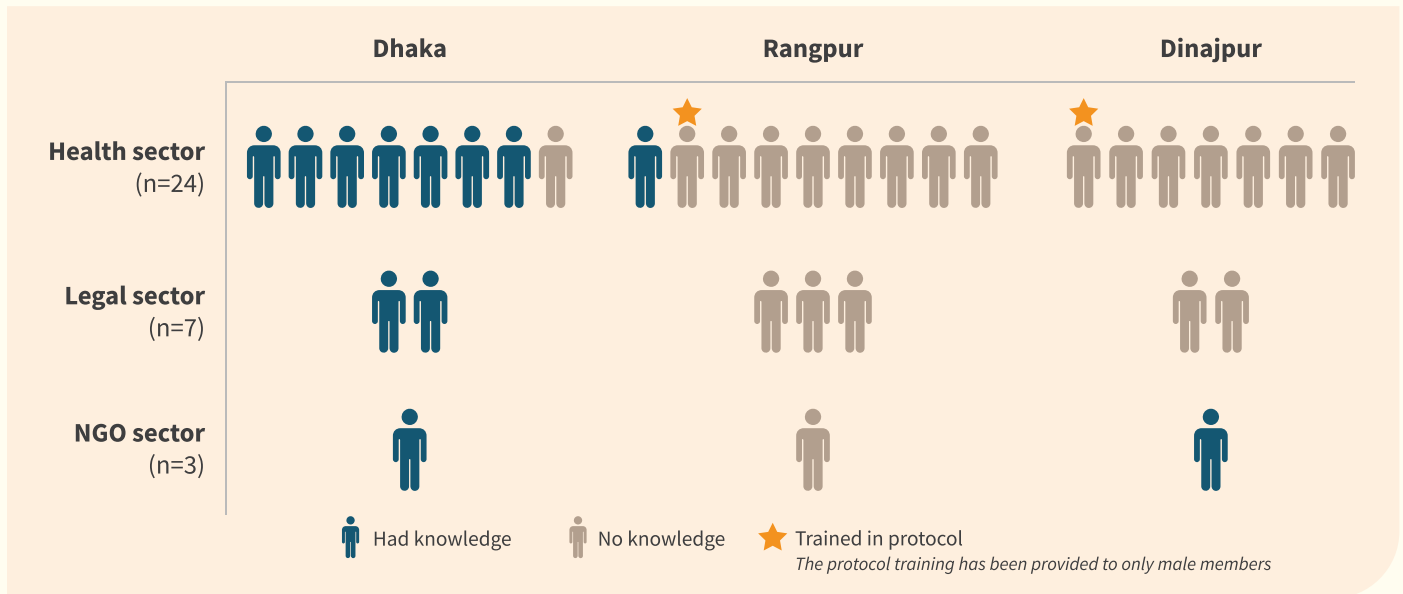
^[7]Fulu et al. 2019, Mitra & Satish 2014, Tahmina & Bhowmik 2018

Key Findings

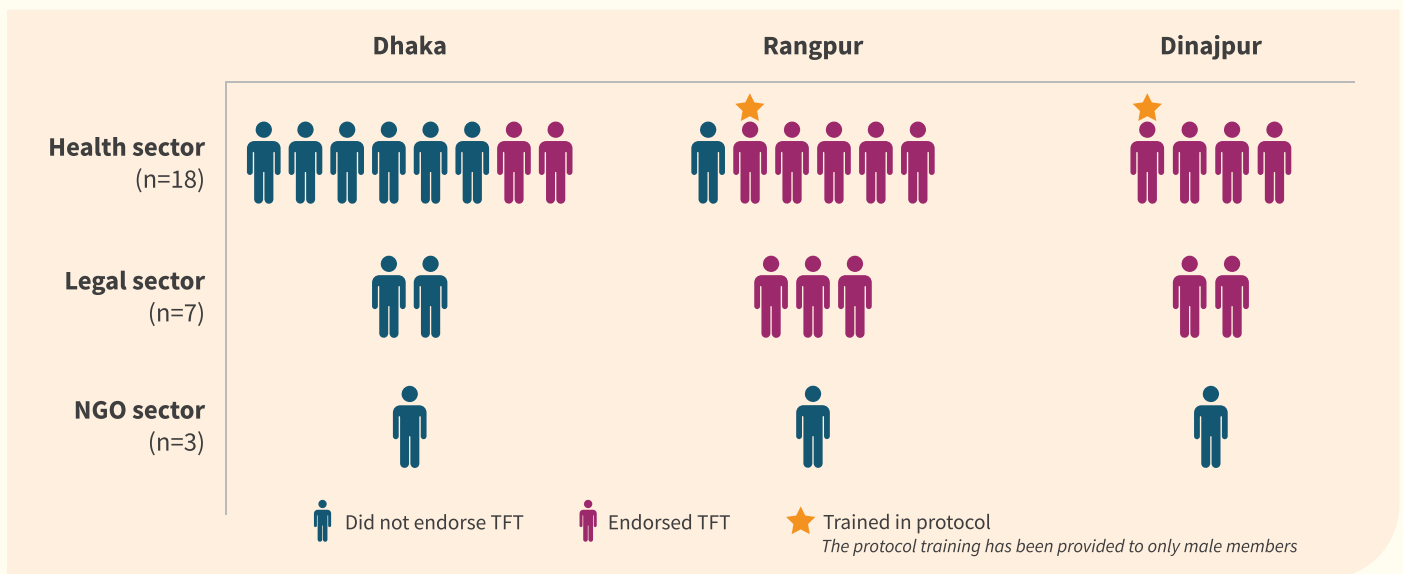
While no evidence of TFT use was found in Dhaka, TFT was still being used by all providers conducting medico-legal examination of rape and in legal proceedings in Rangpur and Dinajpur districts. The government organised training

on the protocol pertaining to health sector response to survivors of violence. Only 2 out of 12 rape examiners interviewed received the training. One of them was not yet assigned to examine rape, the other one continued to use TFT.

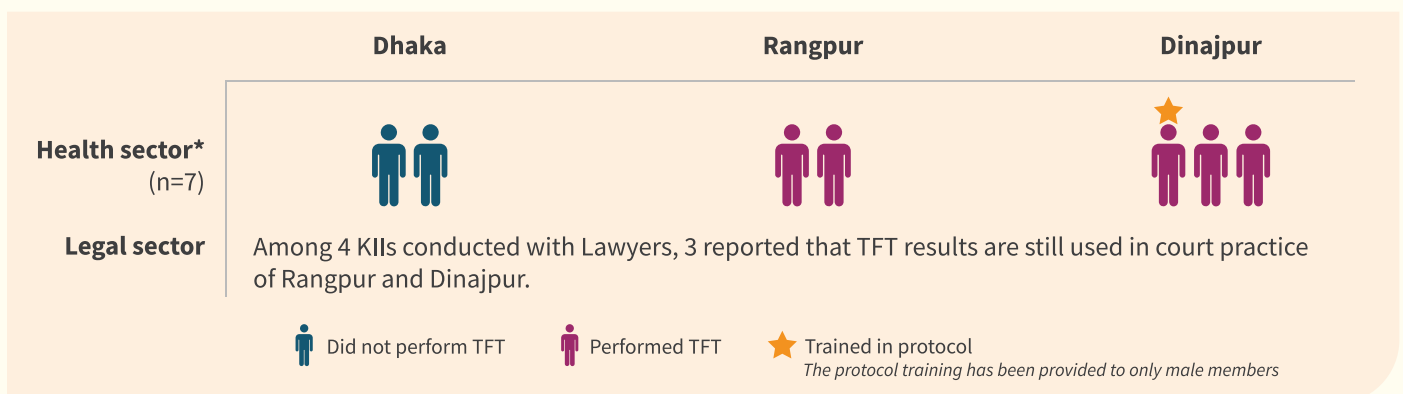
Knowledge of stakeholders about TFT ban (based on the KII)



Attitudes of stakeholders regarding TFT (based on only those who shared their opinion)



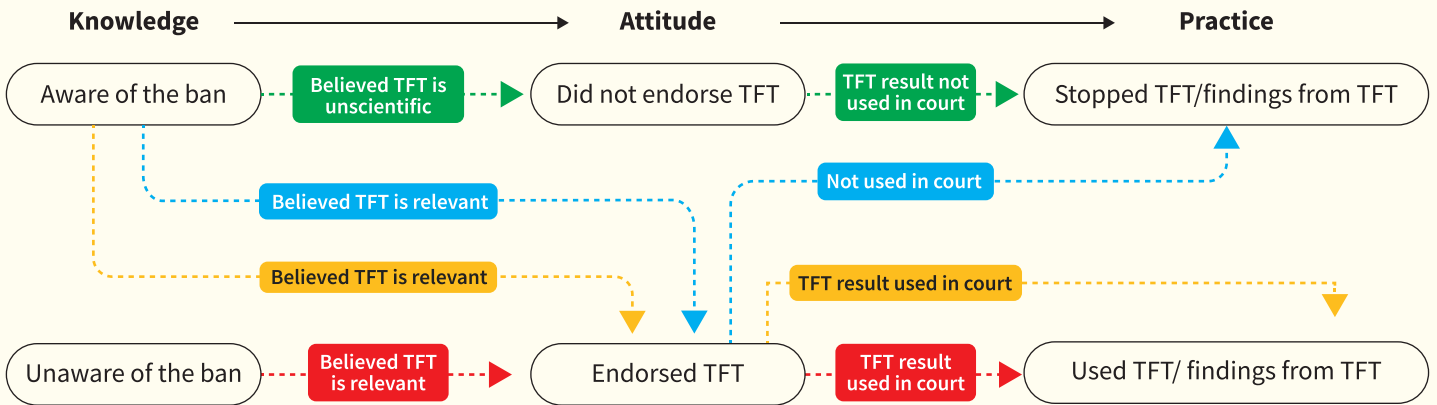
Practice of TFT by Rape Examiners and Lawyers



*In the health sector, we interviewed 12 rape examiners and out of these 12, 7 had experience of conducting rape examination. 5 out of these 7 used TFT in rape examination.

Scenarios in the TFT ban implementation

Four main scenarios emerged from the data in relation to knowledge, attitudes and practices regarding the implementation of the ban among rape examiners and lawyers.



Scenario 1

Applicable to a rape examiner and lawyer in Dhaka. Both were aware of the ban, understood the unscientific nature of TFT. They knew the court in Dhaka does not ask for TFT results. So there was no use of TFT.

Scenario 2

Another rape examiner from Dhaka believed TFT is relevant. But she was aware of the ban and knew TFT results were not accepted at the court in Dhaka. So, she abandoned TFT.

Scenario 3

Observed in Rangpur, this rape examiner was aware of the ban, but strongly believed TFT is relevant. The court in Rangpur asked for TFT results allowing her to continue TFT.

Scenario 4

Observed both in Dinajpur and Rangpur, these rape examiners had no knowledge of the ban and strongly believed TFT is relevant. TFT results were demanded at the district courts. Ultimately resulting in routine use of TFT.

Factors Facilitating Implementation of the ban:

- Government circular on TFT ban
- Understanding that TFT is unscientific
- Rejection of TFT results by the court

Factors Deterring Implementation of the ban:

- Low reach of the government circular on TFT ban
- Ineffective training on the health response protocol in changing pro-TFT beliefs
- Prevailing conviction that TFT proves rape
- Absence of revised medico-legal form not requiring reporting of TFT results in the health facilities
- Continued use of TFT results in the court

Recommendations

- Widely disseminate information on the ban in all relevant sectors
- Train all relevant health care providers effectively on the protocol
- Introduce checklist for rape examination
- Expedite distribution of revised medico-legal examination forms
- Increase government monitoring at the local level
- Ensure rejection of TFT results in legal proceedings
- Increase NGO activism and engage in social media campaign
- Ensure multisectoral coordination

Way forward

The health and legal sectors along with the NGOs need to join forces in improving implementation of the TFT ban taking into consideration the current state and the study recommendations.



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