

**AdSEARCH**  
by icddr,b

# Upholding the Ban on the **Two-Finger Test**


A Collective Effort to  
Record the Historical  
Milestones of the  
Two-Finger Test Ban  
on Rape Survivors in  
Bangladesh

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A compilation by AdSEARCH Communications Team

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A "per vaginum" or Two-Finger Test (TFT) is an explicitly intrusive physical examination wherein a doctor inserts two fingers inside the vagina of a rape survivor to check if the hymen is intact or not, and the size of the vaginal opening and the laxity of vagina.

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In April 2018

The Bangladesh High Court banned the use of TFT in medico-legal examinations for rape survivors.

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TFT was once widely accepted, but an inhumane and scientifically unfounded practice historically used in Bangladesh to provide medico-legal evidence in rape cases. Despite its severe psychological and physical toll on victims and its lack of scientific value, the test continued for decades. Neither the state of the hymen nor vaginal laxity can scientifically prove or disprove sexual assault or a person's consent.

The test was commonly used to term rape survivors as "habituated to sex" due to past sexual intercourse to cast doubt on the moral propriety of the survivor, ignoring the main issue of consent. Still, even the effectiveness of such

physical examinations of rape victims is questionable since it is usually delayed from a medical standpoint and adds psychological trauma and physical discomfort often amounting to secondary rape to the victim.

Over the past two decades, multiple stakeholders in Bangladesh have called for an end to the two-finger test. In 2018, the High Court issued a judgment clearly banning the use of TFT for the collection of medico-legal evidence in rape cases, terming the practice as "unscientific, inconclusive, and degrading with no forensic value". The High Court's decision to ban the test reflects a growing awareness and commitment to upholding the

principles of justice, equality, and respect for women's bodily autonomy.

In light of this, the Advancing Sexual and Reproductive Health and Rights (AdSEARCH) project by icddr,b, supported by Global Affairs Canada (GAC), assessed the practical scenario with the goal of supporting improved implementation of the TFT ban. Initiated in April 2023, the study assessed the implementation of the ban in selected facilities and identified existing barriers. AdSEARCH also documented the experiences of a select few who actively pursued work for the ban. This document is a collective effort to record the historical milestones of the TFT ban.

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<sup>1</sup>Hossain, S. (2016). *Rape and the two-finger test: Gender, human rights and legal reform*. In R. Kapur (Ed.), *Gender, alterity and human rights: Freedom in a fishbowl* (pp. 157–180). Edward Elgar Publishing.

<sup>2</sup>Huda, S. (2022). *Legal and institutional responses to rape in Bangladesh: Challenges and the way forward*. In T. Khan (Ed.), *Human rights in Bangladesh: Past, present & futures* (pp. 143–166). University Press Limited.

<sup>3</sup>BLAST v. Bangladesh, High Court of Bangladesh, 12 April 2018, WP No 10663/2013, <https://www.blast.org.bd/content/pressrelease/18-04-2018-Press-Release-tfteng.pdf>

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# The premise that women may lie about rape is a primary motivation for court-ordered TFT.

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Many of this country's laws were inherited from the colonial period. Before the 2022 amendment, Section 155(4) of the Evidence Act, established in 1872 and rooted in Victorian notions of sexuality, reflected well this legacy. The sub-section explicitly states: "When a person is prosecuted for rape or an attempt to commit rape or outraging the modesty of a woman, it may be shown that the prosecutrix is of generally immoral character."

This provision institutionalised a culture where, in rape cases, the complainant's "character" and "sexual history" were routinely scrutinised in court. The underlying presumption was that women might fabricate allegations of rape, and therefore, their past sexual behaviour must be examined. This very premise justified court-ordered virginity tests, including the so-called Two Finger Test (TFT).

The practice of TFT was not an indigenous development but rather a colonial import. The British medical jurisprudence directly introduced the test to the Indian subcontinent (which at that time included present-day Bangladesh). Colonial medical manuals, such as Norman Chevers' *A Manual of Medical Jurisprudence for India* (1870) and later influential texts by Isador

B. Lyon, became authoritative references for medico-legal procedures in the region. Yet, as historian Hanne Blank points out in *Virgin: The Untouched History*, virginity testing is neither unique to South Asia nor confined to rape trials—it has appeared across cultures and eras. Still, within the colonial legal-medical framework, it was codified and legitimised in the subcontinent as a tool to question survivors rather than to support them. Inserting fingers into the vagina of a rape survivor to assess whether she was "habituated to sex" is not only scientifically baseless but also constitutes a grave violation of her bodily integrity and human rights. Conducted without consent in many cases, the TFT inflicted further trauma on women and girls and has rightly been recognized as a form of secondary rape. Most importantly, prior sexual activity can never be a criterion for dismissing a rape allegation.

This premise creates a hostile environment for survivors and places the mental and physical burden of rape on women. It further compounds other possible repercussions of reporting rape, such as the fear of violence from partners and ridicule and retribution from women's families and communities.

## *This practice is:*

### **Unscientific**

TFT has no forensic value in proving or disproving rape.

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### **Traumatic**

TFT subjects women and girls to further trauma, due to violation of health and human rights, as it is often conducted without consent.

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### **Humiliating**

TFT perpetuates the myth that women may lie about rape, placing an unfair burden of proof on the survivors.

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In the last two decades, the case arose from widespread concerns among women's rights advocates, researchers, law enforcement agencies, and government officials about the invasive and unscientific nature of the TFT. Consequently, multiple stakeholders have called for an end to the TFT in Bangladesh.



*TFT primarily seeks to examine the laxity of Vagina and to detect any further injuries, yet these factors have no relevance to the occurrence of rape. Laxity of vagina can vary from individual to individual. It cannot prove or disprove rape. There is also a faulty notion that lack of resistance proves consent. But rape often takes place through coercion, intimidation and threat, which can also be implicit making a woman unable to resist. Thus, looking for signs of resistance for proving rape in such instances is not valid. Typically, injuries can be found in 70% of the rape cases. Furthermore, rape may not only involve vagina. Anal, oral and other types of rape are completely overlooked in our legislation. The other huge caveat in our legislation is around marital rape.*



**Dr Ruchira Tabassum Naved**, from icddr,b on TFT  
*An Interview with AdSEARCH on July 2024*

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## The TFT ban in 2018 marks a significant milestone in Bangladesh's legal and human rights landscape.

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The ban is seen as a crucial step towards ensuring fair treatment of survivors of sexual violence and promoting gender justice in the legal system. However, the journey to this verdict was fraught with challenges.

One of the primary initiatives for banning TFT is rooted in a consortium of researchers, service providers, and activists who worked together to develop and implement this ban. In

addition, a coalition was formed to challenge the validity of the TFT, which included Bangladesh Legal Aid and Services Trust (BLAST), Ain O Salish Kendra, Bangladesh Mahila Parishad, BRAC, Manusher Jonno Foundation, Naripokkho and Ruchira Tabassum Naved and Mobarak Hossain . Their collective efforts led to significant legal developments.



*As part of a broader initiative, between 2010 and 2014, BLAST was part of the SAFE project, a joint effort with four other organisations. SAFE aimed to reduce gender-based violence against young women and girls in urban slums and address sexual and reproductive rights and health to show considerable improvements in these areas. Our advocacy wasn't driven solely by the objectives of SAFE. It fundamentally stemmed from our core work of providing*



**Mahbuba Akhter**, from Bangladesh Legal Aid and Services Trust (BLAST), on the steps to Ban TFT  
*An online interview with AdSEARCH in December 2024*

legal aid to women and children. We began to notice that the cases of sexual violence survivors who sought BLAST's assistance were either failing to secure any remedy or were becoming entangled in prolonged delays. We felt compelled to investigate why this was happening.

To do this, 65 cases were set aside for an in-depth research to understand the reasons for the long delays and lack of justice. This research, around 2009-10, was primarily conducted by Fatema Shubhra, a faculty member at Jagannath University, who was studying the patterns of these cases. She prepared a report based on her findings, which was initially unpublished but later formed the basis of a book she authored in 2015.

Fatema Shubhra's report helped us identify several key factors responsible for the failure to resolve these cases. One of the most significant was the medico-legal examination, which ultimately led us to file the public interest litigation against the TFT. Another major issue was the nature of the court's cross-examination, where victims were subjected to deeply objectionable and degrading questions. For example, they would be asked if the victim was "habituated to sex."

This raised fundamental questions for us: Does this imply that a married woman cannot be a victim of rape? Can a sex worker not be raped? Are they not entitled to justice? These questions sparked extensive discussions within BLAST. It was this realisation, stemming from the injustices within the medico-legal system, that compelled us to initiate legal action against the inhumane practice known as the Two-Finger Test."

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Mahbuba Akhter, who is still involved in BLAST's advocacy activities, observed the complexity and tardiness of rape cases. It was noticed that in most cases, the victims were not getting proper justice and another study with support from the SAFE project was proposed to investigate the underlying causes. The objective was to analyse the nature and obstacles of rape cases.

Indian Consultant Ashmita Basu was appointed, who reviewed over 50 of the 65 cases and found that TFT was being applied indiscriminately from children to married women, which is not only unscientific but also humiliating for them. Later on, Sylvie McCallum Rougerie, one of the legal intern on behalf of BLAST, visited the medical

facilities and observed the medico-legal examination process in person. Rougerie confirmed that these examinations were violating the human rights of the victims. In 2013, BLAST filed a Public Interest Litigation (PIL). Mahbuba Akhter, advised BLAST to initiate discussions with medical professionals regarding the issue. Professor Dr Gulshan Ara from BIRDEM General Hospital pointed out that TFT has no scientific basis. In addition to written opinions, doctors testifying directly in court as experts strengthen legal battles. Through a collective effort, the movement was taken to the next step. Following the filing of the case, the court took the matter seriously and constituted a high-level committee to address the issue. The case filed in the High Court to ban TFT progressed rapidly. The court summoned forensic experts to direct hearings. Experts presented their written statements as well as oral arguments, effectively outlining the rationale for banning the TFT. In 2018, the High Court ruled to ban TFT. The Ministry of Health and Family Welfare (MoHFW) chose not to appeal the rule and started implementing the new medico-legal protocol.”



**Barrister Sara Hossain**, from Bangladesh Legal Aid and Services Trust (BLAST) on the steps to Ban TFT  
*An interview with AdSEARCH on December 2024*

**The Two-Finger Test' (TFT) is not scientific, reliable and valid rather violative of the fundamental rights of the survivors/victims of rape guaranteed under Articles 27, 28, 31, 35(5), 39(1) and 43(b) of the Constitution, and not permitted by various Conventions of the United Nations Organisation referred to in this judgment and the 'Health Response of Gender Based Violence- Protocol for Health Care Providers' developed and published by the Government in the Ministry of Health and Family Welfare in 2017 and hence, the same is hereby prohibited in any examination of the survivors/victims of rape.**

*(From the verdict delivered by the HC bench of Justice Gobinda Chandra Tagore and Justice AKM Shahidul Huq in 2018, banning the TFT)*

## 8 High Court Directives<sup>5</sup>

- 1 Prohibition of TFT**

The TFT is deemed unscientific, unreliable, and invalid, and is thus prohibited in any examination of rape victims.
- 2 Healthcare Protocols**

Health Response to Gender-based Violence protocols must be made available to forensic experts, physicians, police officers, public prosecutors, and other relevant legal professionals.
- 3 Medical Certificates**

Physicians and forensic experts must issue medical certificates without using degrading terms like “habituated to sexual intercourse” and must refrain from inquiring about the victim's past sexual experiences.
- 4 Specialist Referrals**

Deep-seated intra-vaginal examinations should be referred to a gynecologist for expert opinions on identifying injuries or for medical reasons.
- 5 Children and Young Girls**

Per speculum, examinations are not mandatory for children or young girls with no history of penetration or visible injuries.
- 6 Bimanual Test**

The bimanual test, unrelated to TFT and used only in obstetric-gynecological exams, should not be practiced on rape victims.
- 7 Trained Medical Staff**

The government must appoint trained doctors and nurses for the medical examination of rape victims, conducted preferably by female physicians in the presence of female police or a female relative, ensuring the privacy of the victim.
- 8 Protection from Degrading Questions**

The Nari-o-Shishu Nirjaton Tribunal must ensure that no lawyer asks degrading questions to rape victims that are unnecessary for ascertaining information about the rape.



*In 2013, the Ministry of Health and Family Welfare constituted a committee to prepare a guideline for the medical examination of women and children who faced the brutality of rape. For this purpose, in 2014, the Ministry of Health formed a committee tasked with drafting medico-legal guidelines for the examination of women and children. In 2015, a petition was submitted to include forensic experts in this committee. The Secretary of the Ministry of Health, judges from the Women and Children's Court, doctors, and police officers were involved in formulating the guidelines. In response to a 2015 petition, the opinions of multiple forensic experts were sought, but they could not be persuaded. Extensive discussions continued with them. We continued our efforts to convince them that in cases of rape, the TFT is never acceptable. Later, discussions were held with gynecologists. By 2016, forensic doctors gave their opinions. In 2017, five forensic experts stated that the Two-Finger Test is unscientific and has no basis in cases of rape violence. The journey from 2013 to 2018 was not easy. Many individuals had to be convinced to appear before the court.*

Extensive consultations were held with many of them, who provided differing opinions. Even after the verdict, many challenges arose. The Ministry of Health developed a protocol. A circular was issued, and the guidelines were formulated.'



**Masuda Rehana Begum**, from Bangladesh Mahila Parishad on the steps to Ban TFT  
An interview with AdSEARCH on September 2024

## A Timeline on the Ban of TFT

<b>2013</b>	<b>8 October</b>	BLAST, along with Ain O Salish Kendra, Bangladesh Mahila Parishad, BRAC, Manusher Jonno Foundation, Naripokkho, and two medical experts (Dr Ruchira Tabassum Naved and Dr Mobarak Hossain Khan), filed a writ petition (WP No. 10663/2013) challenging the validity of the TFT <sup>6</sup>
<b>2013</b>	<b>10 October</b>	The High Court issued a <i>Rule Nisi</i> and interim direction to develop a comprehensive guideline for the examination and treatment of rape and sexual violence victims
<b>2014</b>	<b>25 May</b>	The Ministry of Health and Family Welfare (MoFHW) constituted a committee and prepared a guideline on examining and treating rape victims
<b>2015</b>	<b>12 August</b>	MoFHW filed an affidavit complying with the guideline
<b>2016</b>	<b>7 August</b>	The High Court required the presence of forensic experts to provide opinions on the TFT
<b>2017</b>	<b>16 August</b>	Experts stated that the TFT is unscientific and unnecessary
<b>2017</b>	<b>18 July</b>	BLAST filed a supplementary affidavit supporting the experts' opinions
<b>2017</b>	<b>23 October</b>	The government filed an application to call additional forensic experts
<b>2018</b>	<b>10 April</b>	The court received a supplementary affidavit including the Health Care Protocol
<b>2023</b>	<b>31 August</b>	The High Court observed in full text of verdict
<b>2019</b>	<b>21 July</b>	A Government Circular was issued in light of the directives derived from the judgment on the Two-Finger Test (Writ Petition No. 10663 of 2013) and the directives concerning the filing of complaints by survivors of sexual and gender-based violence at police stations (Writ Petition No. 5541 of 2015).

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## The Bangladesh High Court's (HCs) ban against the TFT is a move towards realising women's rights. However, it should be examined whether the HC's judgment has been taken seriously by practitioners and translated into practice.

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During legal proceedings and in subsequent stages, there was attempt to raise public awareness regarding the TFT ban. BLAST and other organisations carried out campaigns on this issue through roundtable discussions in media and educational institutions. Institutions like icddr,b along with others jointly took the initiative to train the police, doctors, and lawyers. BLAST initiated a

training programme for police and lawyers emphasising the significance of new protocols and explaining the necessity of moving away from the use of TFT. Even though TFT has been banned and new protocols have been formulated, significant challenges remain in enforcing them in the relevant health and legal sectors:

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### Lack of Training

Awareness of the protocols among police, medical professionals, and local lawyers remains inadequate

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### Lack of Information

Victims and their families are often unaware of the ban

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### Legal Arrangements

The absence of penalties for violating the protocol poses challenges for effective enforcement

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To overcome these challenges, it is necessary to make information easily available to the victims, to arrange for displaying the guidelines in forensic centers, and to organise specialised training programmes for professionals.



*The medico-legal examiners can be important allies in strengthening enforcement of the ban. Additionally, there are a number of women-friendly hospitals that have previously engaged with this issue. If the Ministry issues a circular to reaffirm the ban—reminding facilities of the prohibition on the two-finger test—it could provide some institutional support. However,*

*experience shows that many official notices often go unheeded in practice. In this regard, Civil Surgeons at the district level can play a pivotal role. Coordinated efforts with their offices may enhance compliance and oversight. Moreover, activists and NGOs also have a critical role to play. Through structured monitoring, they can contribute significantly. Institutions with greater capacity—whether in human resources or regional presence—should take the lead in these monitoring activities.”*



**Advocate Kamrun Nahar**, from Naripokkho on effective implication of the ban  
An interview with AdSEARCH on October 2024

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## The 2018 HC ruling that banned TFT has not yet been effectively disseminated across all the relevant sectors

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*Doctors who are involved in conducting such tests are not made aware of the ban properly. To address this problem, the eight directives that came along with the High Court's rule could be simplified into a concise booklet written in simple language and distributed widely. In doing so, it could be expected that the use of such tests gets reduced significantly. Additionally, a Public Interest Litigation (PIL) can be filed again if there is evidence of non-compliance or violations of the High Court's directives, holding responsible parties (e.g., Ministry of Health and Family Welfare, Ministry of Home Affairs) accountable.*

*Since the High Court has issued the ruling, compliance has become legally mandatory, hence, the test cannot be conducted under any circumstances. Even a lawyer cannot produce the result of such a test as evidence of rape before the court."*



**Advocate Md. Shahinuzzaman**, from Ain O Salish Kendra on the current status of the ban  
*An interview with AdSEARCH on November 2024*

AdSEARCH by icddr,b initiated a study on April 2023 titled "Implementation of the Ban on the Two-Finger Test (TFT) in Collecting Medico-Legal Evidence on Rape", to assess the implementation of the ban on the TFT in collecting medico-legal evidence in rape cases. Completed on September 2024, the study was carried out at eight public health facilities and involved interviews with lawyers and NGO staff across Dhaka, Dinajpur, and Rangpur districts.

To learn more,  
please scan:



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