



War time rape victims cannot be viewed as a mere woman who lost her chastity. In fact they fought by laying their highest self-worth, for the cause of our independence.²

The characterisation of sexual violence as a crime against honour has been socially entrenched throughout history. This gendered narrative is reflected in the articulation of sexual violence across diverse cultures, and also in international humanitarian law. Against this backdrop, this paper analyses recent prosecutions for sexual violence at the Bangladeshi International Criminal Tribunals (Bangladeshi ICTs), where these crimes are framed as attacks against honour. It argues that viewing conflict-related sexual violence through the lens of “honour”, and the related notions of social morality such as chastity, dignity, modesty or purity, fuels the shame and stigma associated with sexual violence, while entrenching harmful gender stereotypes. Despite seeking to mitigate stigma by valorising survivors, the approach taken by the Bangladeshi ICTs in framing sexual violence as a crime against honour has contributed to the perpetuation of the stigma attached to this crime and the disempowerment of survivors.

Through concepts such as honour, chastity and modesty, the narrative of female morality and sexual purity permeates the naming and articulation of sexual violence in many societies. In Tamil culture, the relationship between chastity and rape is unequivocal. The commonly used word for “rape” in the Tamil language literally translates to the “destruction of chastity” (“

Thus, a man's honour is linked to the sexual purity and physical safety of the women in his family, as well as his ability to protect their "virtues".¹⁰ When women are sexually assaulted, male family members are considered to have been emasculated through their failure to protect them and defend their family honour. As argued by Brownmiller, "Defense of women has long been a hallmark of masculine pride, as possession of women has been a hallmark of masculine success. Rape by a conquering soldier destroys all remaining illusions of power and property for men of the defeated side".¹¹ Thus, in a reported incident of sexual violence in Syria, militia raping a girl while forcing her father to watch exclaimed: "We want to take your honour".¹²

This narrative of morality and chastity, coupled with notions of chivalry, is replicated in the legal description of sexual violence under international humanitarian law (IHL). The gendered language of honour and morality in prohibiting sexual violence in conflict permeates early IHL instruments.¹³ These gendered constructs embedded in IHL endure until today and cannot be dismissed as mere linguistic relics. As discussed below, the judicial narrative and litigation strategy adopted during recent prosecutions of sexual violence cases before the Bangladeshi ICTs is replete with stigmatising language that is reliant on the concept of honour.

This paper seeks to explore the problematic consequences of viewing conflict-related sexual violence (CRSV) through the lens of "honour", and the related notions of social morality such as chastity, dignity, modesty or purity.¹⁴ It probes the intersections

between honour, stigma and shame, arguing that situating sexual violence in the realm of social morality fuels the stigmatisation of survivors of this crime. It then focuses on recent prosecutions before the Bangladeshi ICTs for CRSV committed during the Bangladesh Liberation War of 1971.¹⁵ Judgments of the Bangladeshi ICTs provide a framework through which to explore the inadvertent but problematic outcomes linked to articulating sexual violence through the prism of "honour": first, as an assault on the national honour of the state; secondly, as harming the collective honour of the community (*izzat*); and finally, as an attack on the personal honour of the survivor. The final section of the paper, while highlighting the achievements of the Bangladeshi ICTs in prosecuting CRSV observes that, despite seeking to valorise victims and eschew victim-blaming, these prosecutions and other reparative efforts have had the unintended consequences of disempowering and stigmatising them. The paper concludes with some thoughts on mitigating the stigma associated with sexual violence.

Articulating sexual violence as an attack against honour and situating this crime in the realm of social morality fuels the stigmatisation of survivors. "Stigmatisation is a social process that leads to the marginalisation, labelling or ostracism of individuals or groups."¹⁶ vidkondly 1.550.6

discussed below, gender stereotypes associated with female chastity and male invincibility impede accountability for sexual violence.¹⁸

The stigma associated with sexual violence is virtually universal,¹⁹ and its

While the stigma related to sexual violence is longstanding, the ways in which it is exploited continue to evolve with time and technology. A noxious combination of technology and stigma can also condemn survivors to silence, and in some instances, trap them in a vicious cycle of violence. Survivors of CRSV in Sri Lanka have reported that

persecution at home.⁴¹ Sexual violence was committed in a widespread and

Izzat

The father of the nation of Bangladesh, its first Prime Minister Sheikh Mujibur Rahman, introduced the term *"Birangona"*. *"Birangona"* literally translates as "war heroine", and was intended to valorise women (for example, political activists, freedom fighters and survivors of rape), by acknowledging their sacrifices for the freedom of the country during the war of liberation. Prime Minister Sheikh Mujibur Rahman spearheaded efforts to recast sexual violation as women's sacrifice for the nation, emphasising that rape survivors should be treated with honour and respect.⁵⁰ This was a unique endeavour, which was especially progressive over four decades ago. This approach sought to eschew a practice that was and is as prevalent as it is deeply unjust: victim-blaming.⁵¹ Nonetheless, D'Costa writes that the term became a

them in the narrative of the nationalist cause. It foists upon them this narrative and straightjackets them into a cause that is much larger than their own lived experiences. As Das notes in her exploration of this concept in the context of the Partition of India and Pakistan:

[V]ictory or defeat in war was ultimately inscribed on the bodies of women. [...] Yet, the violence of the Partition was unique in the metamorphosis it achieved between the idea of appropriating a territory as nation and appropriating the body of the women as territory.⁶¹

Moreover, by equating sexual violence with women's contributions to the national cause, this narrative also implies that experiencing these crimes was a willing sacrifice by survivors, thus masking the reality of their lack of choice and the abject violence inherent in this crime. It leads to the individual harm experienced by survivors being primarily viewed through the prism of the harm to the nation. As Hirsh and Sarkis argue:

If a nation uses sexual violence prosecutions to advance its own policies, agendas, and ambitions, women's struggles will be discounted as will the overall struggle against sexual violence.⁶²

Women's experiences of sexual violence were also viewed in the context of their family and community honour (*izzat*):



The use of women's bodies as battlefields or the sites of conflict instrumentalises them in the narrative of the nationalist cause.

[H]undreds of thousands women who sacrificed their supreme honour for the cause of our independence. The rest of their life must be allowed to go on with utmost honour. In fact they fought by laying their highest self-worth, for the cause of our independence. *It is the time to unlock the collective voice to recognise and honour our great mothers and sisters, the war heroines.*⁶³

First, survivors were defined in terms of their role in the community as "great mothers and sisters",⁶⁴ or "daughter of [a man] or son's wife".⁶⁵ A reliance on gender stereotypes and socially constructed norms in labelling and identifying survivors – as mothers, daughters, sisters and wives – strips them of identity and agency, and overlooks their individuality. This approach of defining women by way of their relationships with others is replicated in IHL. Out of the 42 provisions focusing on women in the 1949 Geneva Conventions and their 1977 Additional Protocols, 19 deal with women as mothers, proffering a constrained vision of what it means to be a female experiencing conflict.⁶⁶

54 Judgment (Trial), Azharul Islam (ICT-BD Case No. 05 of 2013), ICT-1, 30 December 2014, § 331 (emphasis omitted).

55 *Qaiser* Judgment, § 974.

56 See, e.g., Rahman et al., Judgment, §§ 351, 464; Judgment (Trial), Shikder et al. (ICT-BD Case No. 10 of 2016), ICT-1, 13 August 2018, §§ 439, 366.

57 *Qaiser* Trial Judgment, § 720 (emphasis added).

58 *Shikder* et al., Trial Judgment, § 365 (emphasis added).

59 *Ibid.*, § 439; Judgment (Trial), Sheikh Md. Abdul Majid et al. (ICT-BD Case No. 07 of 2016), ICT-1, 28 March 2019, § 553.

60 One of the criticisms made of the first case before the International Criminal Tribunal for the Former Yugoslavia that prosecuted only sexual violence was that the examination of the survivors in the courtroom took the perpetrator's perspective in eliciting the details of the crime, with little room for the survivors to narrate the crime as experienced and leaving them disempowered by the process. See Julie Mertus, "Shouting from the Bottom of the Well: The Impact of International Trials for Wartime Rape on Women's Agency", *International Feminist Journal of Politics* 6 (1) (2004), 110.

61 Veena Das, "Language and Body: Transactions in the Construction of Pain", *Daedalus* 125 (1) (1996), 82–83.

62 Susan Hirsch and Caroline Sarkis, "Establishing Rape as a Crime Against Humanity: Innovations and Reactions from African Nations" in *Women, War and Violence: Topography, Resistance and Hope*, ed. Mariam M. Kurtz and Lester R. Kurtz, (Westport, CT: Praeger Press, 2015), 518, cited in D'Costa, "Birangona", 101.

63 *Shikder* et al., Trial Judgment, § 439 (emphasis added).

64 *Ibid.*

65 *Nizami* Trial Judgment, § 166.

66 Judith G. Gardam and Michelle J. Jarvis, *L db Zc`6gb ZY`8dc Xi VcY`xi Zg:Vi tlcVáAVI* (Alphen aan den Rijn: Kluwer International, 2001), 93–94.



By equating sexual violence with women's contributions



A reliance on gender stereotypes and socially constructed norms in labelling and identifying survivors – as mothers, daughters, sisters and wives – strips them of identity and agency, and overlooks their individuality.

Second, case law from the Bangladeshi ICTs found that family honour and group identity are enmeshed with female chastity,⁶⁷ which is to be protected by male family members. For example, one case describes a brother's role in protecting his sister from the "untold wound his sister sustained by laying down her supreme wealth".⁶⁸ This language represents the prevalent gender stereotypes associated with female chastity and male invulnerability – the perennial female victim in need of protection by the fearless male warrior. It reinforces the deep-seated and destructive myth that men cannot be victims of sexual violence, and that sexual violence is a crime that affects only women.

When sexual violence is viewed in a blinkered manner, through "mono-categorical lenses such as gender lenses of male perpetrators and female victims,"⁶⁹ our ability to properly investigate, record, categorise and respond to sexual violence is impeded. Gender stereotypes about their invulnerability entrench the invisibility of sexual violence against men. In contrast, the data on this issue, albeit limited, reveals a very different picture. While there is increasing evidence that men suffer many forms of sexual violation in diverse conflicts across the world,⁷⁰ such violence continues to be "under-reported, under-documented and under-acknowledged, thereby preventing survivors from receiving much needed assistance and from accessing justice".⁷¹ The limited attention paid to sexual violence against Rohingya men and boys is a current example of this injustice.⁷²

As seen in the judgment extracts above, the loss of "honour", "highest self-worth", or "supreme wealth" are some of the terms used to articulate the harms of sexual violence. For example, in the case of *Qaiser*, the judges rightfully commended the courage of the survivor and her daughter (a child born of rape) for coming to testify and "ignoring social ostracism".⁷³ The judgment recognises the scale of this problem, noting that "hundreds of thousands of rape survivors remained socially ostracized and unattended."⁷⁴ Yet, the judicial narrative in *Qaiser* focuses on the family members of the survivor, rather than the survivor herself. The court notes that the "social ostracism and unattended" status of the survivor is a result of the "socialisation and framing of the crime" by the court. The court notes that the "socialisation and framing of the crime" is a result of the "socialisation and framing of the crime" by the court. The court notes that the "socialisation and framing of the crime" is a result of the "socialisation and framing of the crime" by the court.

It is hardly to be believed that for getting a job [for] her son [...] a simple, illiterate, pardanshil village-woman has come forward before the Tribunal just to make a *humiliating statement against her honor and dignity such as [that of] sexual violence upon her*⁷⁷

Our social pattern does not allow a woman to prefer bringing a false accusation of yellowing her supreme honour *as it stamps stigma on her life, and makes her social and family life devastated*. Thus, we find no rationale to doubt the testimony of victims.⁷⁸

[Rape as] [t]he act of disparaging attack on their supreme honour need not be proved with detailed precision [...] [b]esides, a woman is not believed to portray a fabricated story of *demolishing self-worth*. She will never invite social stigma by telling untrue account of *ravishing self-worth*.⁷⁹

When the chastity of a woman is equated with her "highest self-worth" or "supreme wealth", this entrenches the perceived implications of rape on a woman's selfhood — the absolute and irredeemable loss of her value. Survivors themselves may see and articulate rape as an attack on their "highest self-worth" or "supreme wealth", thereby internalising the social view that the raped woman has been dishonoured. Such a framing of the crime also obscures the fact that rape is fundamentally a violent attack on the body, autonomy and security of a person.⁸⁰ When rape is described as an act worse than death⁸¹ and when the loss suffered is depicted as irredeemable and perceived to define the survivor, then the scope for her recuperation and reintegration is greatly truncated, as discussed below.

In the immediate aftermath of the Bangladeshi conflict, efforts were also made to assist survivors of sexual violence. Here too the notion of honour reared its head to the survivors' detriment. These measures did not have an unadulterated agenda of survivor well-being but were motivated by the protection of national honour and

As D'Costa writes, the children born of rape "were vivid reminders of the attack on a "pure" Bengali identity".⁸⁵ In this context, "pure" meant purging the state of Pakistani blood. This task of cleansing the "impure" was perceived as necessary to safeguard the honour of the new nation. To this end, "the state exercised

ostracism proved to be an insurmountable barrier to accessing such assistance.⁹⁸ Consequently, most survivors of CRSV did not benefit from state rehabilitation programmes and were excluded from the prevailing narratives about the “heroic” tales of the war.⁹⁹

This is reminiscent of the experiences of survivors in the immediate aftermath of the conflict decades earlier. Such was the impact of stigma, that rape survivors who survived the conflict left the country in droves.¹⁰⁰ Some survivors refused assistance to stay in Bangladesh, choosing instead to leave the country with their Pakistani captors. One woman reasoned that in a distant country, “[w]hether I work as a prostitute or sweep roads, people will not recognize me, my husband or child will not ridicule me.”¹⁰¹ Other rape survivors sought to escape stigma by aborting or abandoning babies conceived of rape, or they committed suicide after being rejected by their families and societies.

The prosecution of crimes of sexual violence as part and parcel of the core crimes perpetrated during the Bangladesh Liberation War of 1971 has been a significant achievement of the Bangladeshi ICTs. The tribunals provide a judicially endorsed account of widespread rape and sexual violence during the conflict,¹⁰² recognising the gravity of these crimes, rendering them visible and holding perpetrators accountable. This is noteworthy in light of the persistent challenges that have plagued the prosecution of sexual violence in other fora, making invisibility and impunity the hallmarks for these crimes.¹⁰³

Criminal prosecutions expose the violent nature of these acts through the trial process and can, when properly conducted, inform and educate the public, while also mitigating stigma.

When sexual violence is not prosecuted, there is no public reckoning with the acts of perpetrators. When the final word in the narrative of this crime is survivors’ silence, it compounds the view that sexual violence is not a matter to be addressed in the open, but one that survivors must bear in private, thus perpetuating the shame and blame associated with it. In the case of the Bangladeshi ICTs, the public condemnation of perpetrators of sexual violence for their crimes was unequivocal. They were named, shamed and punished.

When we reverse the stigma associated with sexual violence, we remove much of the power held by perpetrators over survivors.¹⁰⁴ Accountability for these crimes can go some way toward addressing this asymmetry in power, and also has a role to play in prevention, as evident in the views expressed by a male survivor of CRSV in Sri Lanka:

I am giving this statement to help prevent that these nasty things, such as the torture and sexual violence I suffered will not happen to any Tamils or to any human beings.¹⁰⁵

prosecution of rape before the ICTY] is not just for us," explained a woman from



This is paper 27/2021 in the LSE Women, Peace and Security Working Paper Series. The author wishes to thank Karen Tsang for her research assistance, and Lisa Davis, Michelle Jarvis and Daniela Kravetz for their invaluable feedback on this paper.

The Centre for Women, Peace and Security Working Paper Series is an outlet for research findings, position papers and policy briefs. The editorial board is led by Dr Paul Kirby and Professor Laura J. Shepherd.
lse.ac.uk/wps/wps. Design by LSE designunit (lse.ac.uk/designunit)

Centre for Women, Peace and Security, London School of Economics and Political Science, Houghton Street, London WC2A 2AE

lse.ac.uk/wps + blogs.lse.ac.uk/wps + [@LSE_WPS](https://twitter.com/LSE_WPS)