

# LEGAL ACTION ON CYBER VIOLENCE AGAINST WOMEN



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## I. Introduction

This policy brief identifies the limitations in the current laws in Bangladesh in adequately protecting women and girls from cyber violence and bringing perpetrators to justice. It also discusses relevant laws in two other countries, India and the United Kingdom. Finally, it makes recommendations on addressing existing gaps in the laws and developing effective remedies for cyber violence against women and girls. While children in general are at particular risk from cyber-crimes as are marginalised communities also face hate speech, we have focused this brief broadly on women and girls.

While limits on free speech are recognised by international and national laws in terms of restrictions on speech which instigates violence or hate speech, it is crucial to preserve and uphold the right to freedom of expression as far as possible. This is particularly important to recall in the current context of shrinking space. On the one hand, governments harshly suppress dissenting opinions through arbitrary application of the law, and, and on the other, violent extremists and religious fundamentalists threaten the right to free speech by targeting academics and activists who publicly voice critical opinions. Laws on protecting religious sentiment or 'the image of the nation' are used to create a climate of intolerance and fear, and result in self-censorship, thus jeopardising the proper exercise of democracy. Ultimately, this leaves a thin line between legitimate, and even necessary, restriction of speech and undue censorship. To combat this, a mindful, moderate approach is needed, clearly delimiting the scope of relevant laws and balancing all issues at stake.

## II. Context

The global spread of the internet and mobile technologies promised to bring about opportunities for empowerment and freedom, carving out a path towards a more compassionate, inclusive, and equal world. But the internet is a double-edged sword: while indeed granting ground-breaking freedoms and ways to make life easier, safer and more social, it continues to open up new spaces for harassment and abuse, in a world that is already hostile to women and girls, and to marginalised groups.

### **What is cyber-violence against women and girls?**

Using the scope for online anonymity, perpetrators increasingly target women and girls on the internet or by mobile phone. The wide spectrum of abuse includes hate speech, public shaming, spamming, hacking and identity theft, cyber stalking (repeatedly sending offensive or threatening emails, text messages or instant messages), surveillance tracking, malicious distribution of illegal materials such as recordings of rape, 'revenge porn' (distributing intimate videos or photographs without consent), 'morphing' (the manipulation of a person's images often onto a different body), making threats or sending obscene emails or text messages, including threats to inflict physical harm, sexual assault or to kill, as well as efforts to instigate suicide (convincing or compelling a person to end her life).<sup>2</sup>

<sup>2</sup> UN Women (2015). "Urgent action needed to combat online violence against women and girls, says new UN report". Available at [<http://www.unwomen.org/en/news/stories/2015/9/cyber-violence-report-press-release>], last access 26 Dec. 2017.

## WHO IS AFFECTED?



### GLOBAL STATS

**WOMEN ARE**  
TIMES MORE LIKELY TO BE  
**27** **VICTIMIZED BY**  
**CYBER VIOLENCE-**  
PARTICULARLY THOSE AGED 18-24

**35%** of women victims of **cyber violence in India** have come forward and officially complained, recent report shows



**18%** of women in the **European Union** have suffered some form of serious **cyber violence** since age 15



### NATIONAL STATS



**73%** of women internet users have reported cybercrimes

The **International and Communication Technology Division's Cyber Help Desk** has received more than

**17,000**  
**complaints**

**70%**  
of complainants were women.

**IN PRACTICE, MANY VICTIMS DO NOT REPORT CYBERCRIMES, IN FEAR OF SOCIAL CONSEQUENCES, IN PARTICULAR ATTACKS ON THEIR CHARACTER.**

### What is the impact of cyber violence?

Cyber violence can have many negative effects on emotional well-being, sense of self and mental health. It can lead to depression, shame, stress, insomnia, low self-esteem, self-inflicted harm, internalised stigma and sometimes self-blame, guilt, isolation, and loss of productivity. Many victims feel compelled to significantly reduce their online activity resulting in digital exclusion, shutting them out from educational and professional opportunities. In practice, cyber violence not only threatens women and girls' safety and dignity, but also jeopardises their freedom to fulfil their potential as individuals. Given the internet's global reach and its innate quality of "never forgetting", cyber violence can have even longer lasting effects than "traditional" violence.<sup>10</sup>

The multi-faceted effects of the crime are worsened by the fact that the victims are often unable to identify what they are being subjected to as a form of cyber-crime, which may also be punishable under the law. This is due to a lack of awareness with regards to the laws which are applicable and the support available, promulgated by the culture of remaining silent after having suffered some form of violence and a lack of public dialogue on these issues.

## III. Legal Framework in Bangladesh

The Constitution of Bangladesh guarantees every person the right to life, to personal liberty and to be treated in accordance with the law and prohibits discrimination on the grounds of among others, sex, race, religion and caste.<sup>11</sup> It also guarantees the right to freedom of the press, and the right of every citizen to freedom of expression.<sup>12</sup> These two rights may be restricted. However any restriction must be reasonable, in accordance with law, and for certain specified interests: these protected interests include 'decency', 'morality', 'defamation', 'contempt of court' and 'incitement to an offence' among others.

<sup>3</sup> DAI (2017). "Cyber Violence Against Women and Girls Exacerbates Digital Exclusion". Available at [<https://dai-global-digital.com/cyber-vawg-what-are-the-implications-for-digital-inclusion.html>], last access 26 Dec. 2017.

<sup>4</sup> UN Women (2015), "Cyber Violence against women and girls, A world wide wake up call", p. 16. Available at [[http://www.unwomen.org/~media/headquarters/attachments/sections/library/publications/2015/cyber\\_violence\\_gender\\_report.pdf](http://www.unwomen.org/~media/headquarters/attachments/sections/library/publications/2015/cyber_violence_gender_report.pdf)], last access 26 Dec. 2017.

<sup>5</sup> Ibid

<sup>6</sup> BDNews24.com (2017). "73 percent women subject to cyber-crime in Bangladesh" [<http://bdnews24.com/bangladesh/2017/03/09/73-percent-women-subject-to-cyber-crime-in-bangladesh>], last access 26 Dec. 2017.

<sup>7</sup> Dhaka Tribune (2017). "Women biggest victims of rising cyber crimes". Available at [<http://www.dhakatribune.com/bangladesh/crime/2017/09/21/women-biggest-victims-rising-cyber-crimes/>], last access 26 Dec. 2017.

<sup>8</sup> UN Women (2015), "Cyber Violence against Women and Girls: a World-wide Wake-up Call". Available at [<http://www.unesco.org/fileadmin/MULTIMEDIA/HQ/CI/CI/images/wsis/GenderReport2015FINAL.pdf>], last access 26 Dec. 2017.

<sup>9</sup> Halder & Jaishankar (2010) apud UN WOMEN (2015), 'Cyber Violence against women and girls, A world wide wake up call', p. 17. Available at [[http://www.unwomen.org/~media/headquarters/attachments/sections/library/publications/2015/cyber\\_violence\\_gender\\_report.pdf](http://www.unwomen.org/~media/headquarters/attachments/sections/library/publications/2015/cyber_violence_gender_report.pdf)], last access 26 Dec. 2017.

<sup>10</sup> Savita Srivastava (2012) "Pessimistic Side of Information & Communication Technology: Cyber Bullying & Legislature Laws", International Journal of Advances in Computer Science and Technology, Vol. 1, No.1. p. 14 Available at [<http://warse.org/pdfs/ijacst03112012.pdf>], last access 26 Dec. 2017.

<sup>11</sup> Constitution of Bangladesh, 1972. Articles 31, 32 and 28 respectively.

<sup>12</sup> Constitution of Bangladesh, 1972. Article 39.

Bangladesh is party to the core international human rights treaties. The most relevant in terms of our discussion, on freedom of expression, and ensuring the rights of women and girls to safety and security include the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Racial Discrimination, and the Convention on the Rights of People with Disabilities (CRPD).

The UN Declaration on the Elimination of Violence against Women, adopted by the UN General Assembly in 1993, defines as the duty of states to take action against

*“any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”.*<sup>13</sup>

The United Nations Committee on the Elimination of Discrimination against Women, which monitors implementation of CEDAW, has pointed out that under both general international laws and particular human rights treaties, states may be responsible even for acts perpetrated by individuals, if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and to provide compensation.<sup>14</sup> In General Recommendation No. 35 on gender-based violence against women, the Committee stated that

*“Gender-based violence against women occurs in all spaces and spheres of human interaction, whether public or private. These include the family, community, public spaces, workplace, leisure, politics, sport, health services, educational settings and their redefinition through technology-mediated environments, such as contemporary forms of violence occurring in the Internet and digital spaces. In all these settings, gender-based violence against women can result from acts or omissions of State or non-State actors”.*<sup>15</sup>

Legal protection against cyber violence may be sought under a range of different laws. Existing criminal laws penalise acts of cyber violence with imprisonment or fine for the perpetrator: these include the colonial-era Penal Code of 1860, as well as post-independence laws such as the Dhaka Metropolitan Police Ordinance. Laws which specifically address online content, include the Pornography Control Act and the Information, Communication and Technology Act 2006.

In general, the procedures set out in the Code of Criminal Procedure, 1898 will apply unless otherwise stated in the relevant law. While ordinary crimes are tried before the Magistrates or Session Courts, cyber-crimes, will be tried before the Cyber Crimes

<sup>13</sup> UN Women. “A brief overview of the United Nations and violence against women”. Available at [<http://www.un.org/womenwatch/daw/vaw/v-overview.htm>], last access 26 Dec. 2017.

<sup>14</sup> UN. Committee on the Elimination of Discrimination against Women, General Recommendation No. 19 (11th session, 1992): ‘Violence against women’, paragraph 9. Available at [<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>], last access 26 Dec. 2017.

<sup>15</sup> UN (2017). Committee on the Elimination of Discrimination against Women: General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19. Available at [[http://tbinternet.ohchr.org/Treaties/CEDAW/Shared Documents/1\\_Global/CEDAW\\_C\\_GC\\_35\\_8267\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_35_8267_E.pdf)], last access 26 Dec. 2017.



Tribunal, established under Section 68 of the ICT (Amendment) Act 2013. The penalty for offences which occur in relation to cyber violence depend on the nature and severity of the offence committed.

In addition to prosecution and punishment of the offender, a victim of cyber violence may seek help from the law enforcing agencies to block the objectionable content online. They may seek an injunction in a civil case. They may also file a civil action for damages (compensation) under Section 151 of Code of Civil Procedure.<sup>16</sup>

SL	LAW	RELEVANT PROVISIONS
1	<b>Bangladesh Penal Code 1860 (BPC)</b>	<p><b>a) Section 509</b><sup>17</sup> makes it an offence for anyone using words, gestures or other actions which <b>insult the modesty of a woman</b>, with the intention that these will be heard or seen by the woman, or lead to an invasion of her privacy. The maximum punishment is one year in jail, or a fine, or both.</p> <p><b>b) Section 500</b> penalises defaming any person. The maximum penalty is two years in jail, a fine, or both.</p> <p><b>c) Section 504</b> penalises insulting another intending to provoke them into breaching the public peace or committing an offence. The maximum penalty is 2 years in jail, a fine, or both.</p>
2	<b>Information, Communication and Technology Act (Amendment), 2013</b>	<p><b>Section 57</b><sup>18</sup> states that “if any person deliberately <b>publishes or transmits</b> or causes to be published or transmitted in the website or any other electronic form any material which is <b>fake and obscene</b> and if anyone sees, hears, or reads it having regard to all relevant circumstance, its effect is such as to influence the reader to become dishonest or corrupt, or causes to deteriorate or creates possibilities to deteriorate law and order, prejudice the image of the State or person, or causes to hurt or may hurt religious belief or instigate against any person or</p>

<sup>16</sup> The Code of Civil Procedure, 1908. Section 151. Available at [[http://bdlaws.minlaw.gov.bd/sections\\_detail.php?id=86&sections\\_id=15447](http://bdlaws.minlaw.gov.bd/sections_detail.php?id=86&sections_id=15447)], last access 26 Dec. 2017.

<sup>17</sup> The Penal Code, 1860. Section 509. Available at [[http://bdlaws.minlaw.gov.bd/sections\\_detail.php?id=11&sections\\_id=3572](http://bdlaws.minlaw.gov.bd/sections_detail.php?id=11&sections_id=3572)], last access 26 Dec. 2017.

<sup>18</sup> Bangladesh National Parliament (2006). “Act No. 39 of 2006: Act prepared to provide legal recognition and security of Information and Communication Technology and rules of relevant subjects”. Available at [<http://www.icnl.org/research/library/files/Bangladesh/comm2006.pdf>], last access 26 Dec. 2017.

SL	LAW	RELEVANT PROVISIONS
		organization, then this activity will be regarded as an offence.” The minimum penalty is imprisonment for seven years, and the maximum is imprisonment for 14 years and a fine up to Taka one crore. <sup>19</sup>
3	<b>Pornography Control Act, 2012</b>	<p>a) <b>Section 8 (i)</b> penalises <b>manufacturing pornography or agreeing to supply</b> participants for the purpose of producing pornography, or forcing any person to participate in such production. The maximum penalty is seven years in jail and a fine of Taka two lakhs.</p> <p>b) <b>Section 8 (ii)</b> penalises harming a person’s <b>social status, blackmailing or inflicting emotional</b> abuse on a person by means of pornography. The maximum penalty is five years in jail and a fine of Taka two lakhs.</p>
4	<b>Nari O Shishu Nirjatan Daman Ain<sup>20</sup> (Amendment) 2003 (Suppression of Violence against Women and Children Act)</b>	<p>a) <b>Section 10</b> penalises ‘sexual oppression’ including among others, any “indecent gesture”.</p> <p>b) <b>Section 14</b> penalizes the <b>publication of the identity</b> in the media of a victim of any offence under this Act. The penalty is up to two years in jail, or a fine of Taka one lakh, or both.</p> <p>c) <b>Section 9A</b> penalises causing or abetting suicide of a woman. The penalty is a minimum five years and maximum ten years in jail, and a fine.</p>
5	<b>Bangladesh Telecommunication Act, 2001<sup>21</sup></b>	<p>a) <b>Section 69</b> penalises sending any <b>obscene or indecent message</b> by a maximum of six months in jail, or a maximum fine of 50,000 taka, or both</p> <p>b) <b>Section 70</b> penalises any person <b>cause annoyance or inconvenience</b> to another <b>through telephone calls. The maximum penalty is</b> Taka 25,000 taka and, in default of payment of the fine, jail for up to three months.</p>

<sup>19</sup> Information and Technology (Amendment) Act, 2013. Available at [http://cca.portal.gov.bd/sites/default/files/files/cca.portal.gov.bd/page/5c114e9a\_7fdf\_4af0\_839d\_eed49b643bb8/ICT%20(amendment)%20Act%202013.pdf], last access 26 Dec. 2017.

<sup>20</sup> Women and Child Repression Prevention Act, 2000. Available at [http://bdlaws.minlaw.gov.bd/bangla\_all\_sections.php?id=835], last access 26 Dec. 2017.

<sup>21</sup> The Bangladesh Telecommunication Act, 2001. Available at [http://www.btrc.gov.bd/sites/default/files/telecommunication\_act\_english\_2001.pdf], last access 26 Dec. 2017.

SL	LAW	RELEVANT PROVISIONS
6	<b>Dhaka Metropolitan Police Ordinance, 1976</b> <sup>22</sup>	<b>Section 76</b> penalises insulting or annoying any woman by <b>using indecent language, sounds, gestures, or remarks</b> in any street or public place. The maximum penalty is one year in jail, a fine, or both. <sup>23</sup>
7	<b>The Children Act, 2013</b> <sup>24</sup>	<b>Clause No 3.6.6</b> prohibits showing pictures of <b>women and children</b> who are victims of rape or adultery. <b>Clause no 5.1.3</b> prohibits <b>circulation of information</b> which is confidential or defamatory to any person
	<b>JUDGMENT</b>	
1	<b>BNWLA v. Government of Bangladesh.</b> <sup>25</sup>	In this landmark judgment, the High Court laid down guidelines to address <i>sexual harassment</i> in workplace and educational institutions in both the public and private sectors. It defined <i>sexual harassment</i> as “showing pornography, indecent gestures, teasing through abusive language, stalking, demands and requests for sexual favours, and sexually coloured verbal representations”. It also required every public and private workplace and educational institution to establish a complaints committee to receive and investigate such complaints, and to take preventive measures against sexual harassment.
	<b>POLICY</b>	
1	<b>National Broadcasting Policy 2014</b> <sup>26</sup>	<b>Section 81</b> strictly prohibits <b>publication of any news report, photo or information</b> that is contrary to the best interests of children in conflict with law or in contact with law in any kind of media, print, electronic or the internet. The maximum sentence is one year’s prison or a fine or, for institutions, suspension of registration for up to two months or a fine up to Taka two lakhs.

<sup>22</sup> The Dhaka Metropolitan Police Ordinance, 1976, Section 76. Available at [[http://bdlaws.minlaw.gov.bd/sections\\_detail.php?id=511&sections\\_id=13755](http://bdlaws.minlaw.gov.bd/sections_detail.php?id=511&sections_id=13755)], last access 26 Dec. 2017.

<sup>23</sup> The Dhaka Metropolitan Police Ordinance, 1976, Section 76. Available at [[http://bdlaws.minlaw.gov.bd/sections\\_detail.php?id=511&sections\\_id=13755](http://bdlaws.minlaw.gov.bd/sections_detail.php?id=511&sections_id=13755)], last access 26 Dec. 2017.

<sup>24</sup> Children Act, 2013. Available at [[http://bdlaws.minlaw.gov.bd/bangla\\_pdf\\_part.php?id=1119](http://bdlaws.minlaw.gov.bd/bangla_pdf_part.php?id=1119)].

<sup>25</sup> Supreme Court of Bangladesh (2008). Writ Petition No. 5916 of 2008; 2011 BLD (HCD) 31. Bangladesh National Women Lawyers Association (BNWLA) versus Government of Bangladesh and Others. Available at [[http://www.supremecourt.gov.bd/resources/documents/276907\\_Writ\\_Petition\\_5916\\_08.pdf](http://www.supremecourt.gov.bd/resources/documents/276907_Writ_Petition_5916_08.pdf)], last access 26 Dec. 2017.

<sup>26</sup> Bangladesh National Broadcasting Policy, 2014. Available at [<https://www.slideshare.net/bnnrc/bangladesh-national-broadcastingpolicy-2014>], last access 26 Dec. 2017.

## IV. Law in Practice

Timeline		Cyber Crime Tribunal Cases		
28.03.2013 to 10.02.2016	In total <b>520</b> cases were filed under	Cases where women victims are involved		
	Section 57 of ICT Act	<b>14</b> (2014)	<b>50</b> (2015)	<b>26</b> (2016)
		Total	90	

There is limited research or data on how existing laws are being used to address cyber violence against women and girls. In relation to the ICT Act, an RTI application received a response that out of a total of 520 cases filed under section 57 over three years, only 90 cases had been filed by women between March 2013 and February 2016.<sup>27</sup>

There are many reasons for this apparent trend of impunity. These include the reluctance of victims to seek or pursue legal protection, given the lack of awareness of the law, lengthy and cumbersome legal proceedings, threats from the perpetrator, or fear of social stigma. The lack of public awareness or information regarding available legal remedies and mechanisms, and lack of digital literacy are other significant causes. Significantly, in cases of cyber violence, the perpetrator can remain anonymous or take action remotely, making it particularly difficult for law enforcing agencies to track or locate him/her.

## V. Lessons from Other Countries

### United Kingdom

In the UK, a number of laws aim to comprehensively protect people against cyber violence.

According to Section 1 of the *Malicious Communications Act 1988*<sup>28</sup>, it is an offence to “send letters etc. with intent to cause distress or anxiety”. This includes the sending of an electronic communication which conveys a message which is indecent or grossly offensive, a threat, or information which is false and known or believed to be false by the sender, or any electronic communication which is, in whole or part, of an indecent or grossly offensive nature, with the purpose to cause distress or anxiety to the recipient or to any other person (paragraph 1).

<sup>27</sup> Response from the ICT Ministry to application dated 31 January 2016 by BLAST under the Right to Information Act 2009 seeking information on the number and nature of cases filed under Section 57 of the ICT Act. On file with BLAST.

<sup>28</sup> Malicious Communications Act 1988, Section 1. Available at [<http://www.legislation.gov.uk/ukpga/1988/27/section/1>], last access 26 Dec. 2017.

Further, the **Protection from Harassment Act 1997** offers both civil and criminal remedies against (cyber) harassment and stalking.<sup>29</sup> According to Section 1, it is an offence for a person to pursue a course of conduct, including speech, which amounts to harassment of another, and which he or she knows or ought to know amounts to harassment. According to Section 7(2), harassment is defined as any behaviour that causes another person alarm or distress, and thus extends to acts perpetrated in cyber space. Further, acts of harassment amount to stalking if, for instance, a person contacts or attempts to contact a person by any means; publishes any statement or other material relating or purporting to relate to a person, or purporting to originate from a person; monitors the use by a person of the internet, email or any other form of electronic communication; or watches or spies on a person.

Section 32 of the **Crime and Disorder Act 1998** tackles racially or religiously aggravated harassment, including online (paragraph 1).<sup>30</sup>

Under Section 127 of the **Communications Act 2003**<sup>31</sup>, a person is guilty of “improper use of public electronic communications network” if s/he sends by means of a public electronic communications network a message or other matter that is grossly offensive or of an indecent, obscene or menacing character; or causes any such message or matter to be sent (paragraph 1); further if s/he, for the purpose of causing annoyance, inconvenience or needless anxiety to another, sends by means of a public electronic communications network, a message that he knows to be false, causes such a message to be sent; or persistently makes use of a public electronic communications network (paragraph 2). Any person may seek protection under the Defamation Act 2013 which applies to the publication of negative, or false statements of fact, online or offline, in any way identifying or referring to the claimant and causing the latter serious harm.<sup>32</sup>

## India

In India, it is possible to seek protection under **Section 509** of the **Indian Penal Code 1860** (IPC) which penalises the utterance of any word, making of any sound or exhibition of any object or the intrusion of the privacy of a woman, both with the intention to insult the modesty of such woman.<sup>33</sup> Further relevant provisions under the **Indian Penal Code 1860**<sup>34</sup>, include Sections 292(f) penalising the creation, possession, and circulation of any content or object that is obscene, indecent, scurrilous or intended for blackmail; Sections 499(ff) on defamation; and Sections 503(ff), which concern criminal intimidation (by anonymous communication).

<sup>29</sup> Protection from Harassment Act 1997. Available at [<http://www.legislation.gov.uk/ukpga/1997/40/contents>], last access 26 Dec. 2017.

<sup>30</sup> Crime and Disorder Act 1998. Section 32. Available at [<http://www.legislation.gov.uk/ukpga/1998/37/section/32>], last access 26 Dec. 2017.

<sup>31</sup> Communications Act 2003, Section 127. Available at [<http://www.legislation.gov.uk/ukpga/2003/21/section/127>], last access 26 Dec. 2017.

<sup>32</sup> Defamation Act 2013. Available at [<http://www.legislation.gov.uk/ukpga/2013/26/contents/enacted>], last access 26 Dec. 2017.

<sup>33</sup> The Indian Penal Code, Section 509. Available at [[http://www.wipo.int/wipolex/en/text.jsp?file\\_id=201592](http://www.wipo.int/wipolex/en/text.jsp?file_id=201592)], last access 26 Dec. 2017.

<sup>34</sup> Indian Penal Code 1860. Available at [<http://www.vakilno1.com/bareacts/indianpenalcode/indianpenalcode.html>], last access 26 Dec. 2017.

A law which directly addresses online content, the **Information Technology Act 2000**, penalises forms of cyber violence, such as hacking, the electronic publishing of obscene contents, and the breach of confidentiality and privacy through disclosure of another person's electronic content without their consent (Sections 66, 67, and 72).

The amended **Information Technology Act, 2008**<sup>35</sup> criminalises identity theft; cheating by personation; as well as the capture, publishing or transmission of the image of a private area of any person without his or her consent under circumstances violating the privacy of that person; the publishing or transmitting of sexually explicit material; and the publishing or transmitting of material depicting children under 18 in sexually explicit acts (Sections 66C, 66D, 66E, 67, 67A, 67B). The 2008 Amendment to this Act also penalises "sending offensive messages through communication service, etc.", namely any information that is grossly offensive or has menacing character; or any information which he or she knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, or ill will, is sent persistently; further any electronic mail or electronic mail message, for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages (Section 66A).

In 2015, the Supreme Court of India declared Section 66A to be unconstitutional because it arbitrarily, excessively and disproportionately invades the constitutional right of free speech. The Court held that the open-ended and undefined offences under this section were not in line with the allowed restrictions under **Article 19 (2) of the Constitution of India**<sup>36</sup>. The section had reportedly previously been widely misused by police in various states to arrest persons for posting critical comments about social, political, and religious issues and political leaders on social networking sites. The decision was hailed by many as a 'glorious vindication' of the right to free speech granted by **Article 19 of the Constitution**.<sup>37</sup>

## VI. Conclusion and Recommendations

Cyber space is now part of our lives, and affects the right to life and to personal liberty. Cyber violence highlights the wider failure by both state and society to secure women's and girl's safety and dignity in private and public spaces. Social and cultural factors hinder women and girl's ability to access information or voice out their concerns about such matters, leading to a culture of silence and victim blaming. This leads to emotional and mental anguish and many adverse consequences for those who are affected by cyber-crime. The lack of awareness about the crime among women and girls results further causes them to remain silent and blame themselves for such crimes.

<sup>35</sup> The Information Technology Act, 2008. Available at [[https://cc.tifrh.res.in/webdata/documents/events/facilities/IT\\_act\\_2008.pdf](https://cc.tifrh.res.in/webdata/documents/events/facilities/IT_act_2008.pdf)], last access 26 Dec. 2017.

<sup>36</sup> The Economic Times (2017). "Supreme Court rejects PIL alleging presence of repealed section in IT law". Available at

[<http://economictimes.indiatimes.com/news/politics-and-nation/supreme-court-rejects-pil-alleging-presence-of-repealed-section-in-it-law/articleshow/59743797.cms>], last access 26 Dec. 2017.

<sup>37</sup> Times of India (2017). "Supreme Court strikes down Section 66A of IT Act which allowed arrests for objectionable content online". Available at

[<http://timesofindia.indiatimes.com/india/Supreme-Court-strikes-down-Section-66A-of-IT-Act-which-allowed-arrests-for-objectionable-content-online/articleshow/46672244.cms>], last access 26 Dec. 2017.

Limits in our laws and institutions continue to hamper efforts to end and address cyber violence. Justice sector actors often lack the technical knowledge to understand the issues. Consequently, the legal framework does not yet provide an adequate response to cases of cyber violence. It remains unclear whether “traditional” crimes that occur in cyber space are considered as cybercrimes. Drafts for new legislation still do not appear to address all the types of cyber violence which reportedly occur, and transnational cases provide particular challenges. In some regards, the law goes beyond the objective: Section 57 of the Information, Communication and Technology Act (Amendment) 2013 penalises a broad range of speech that may hurt religious sentiments by prescribing the offences only vaguely, and thus giving ample scope for abuse. The section clearly undermines the fundamental right to freedom of expression as guaranteed by the **Article 39 of the Constitution**, and goes beyond what is permissible under **Article 19(3) of the International Covenant on Civil and Political Rights (ICCPR)**.

## 1. Recommendations for the Government

SL	Recommendations for Legislative Reform
1	<p><b>Information, Communication and Technology Act 2006, Section 57:</b></p> <p>This section needs immediate <b>repeal</b>.</p> <p>Section 57 of the Act penalises certain forms of online expression, and has been criticised by many organisations and individuals as over-broad and in violation of the constitutional right to freedom of expression. It does not in any event provide adequate protection to women and girls in cases of cyber violence.</p>
	<p><b>Draft Digital Security Bill 2016<sup>38</sup>:</b></p>
2	<p>i. In the Draft Bill, the following terms need to be included to ensure justice for women and girls: cyberbullying, cyber harassment, cyber stalking and hate speech.</p> <p>ii. The draft needs to include provisions clarifying how to identify the place of <b>occurrence</b>.</p> <p>iii. Provision regarding <b>compensation for victims</b> may be included.</p> <p>iv. There is a need for broader national consultation on the provisions in particular to prevent abuse of the right to freedom of expression.</p>

<sup>38</sup> The FutureLaw Initiative (2017). “The Digital Security Act, 2016 (Draft): A Sneak Peek”. Available at [<https://futrlaw.org/the-digital-security-act-2016-draft-a-sneak-peek/>], last access 26 Dec. 2017.

SL	New law on “Protection of Victims and Witnesses”:
3	<p>The Law Commission of Bangladesh has submitted two reports to the Ministry of Law, Justice and Parliamentary Affairs on the issue of protection of witnesses and victims, first in 2006 ('Final Report on a proposed law relating to protection of victims and witnesses of crimes involving grave offences' (Report No 74)) and then in 2011 (Report No 108). In the first report, the Commission proposed adopting a Victim and Witness Protection Act. If adopted this would address many significant issues, and acknowledge the importance of support mechanisms that address the physical, psychological, and economic wellbeing of victims and witnesses.</p>
	<p><b>Other Recommendations</b></p>
i	<p><b>Enact or amend laws and policies</b> to ensure clear definition of cyber violence against women and girls and to provide for effective remedies.  <u>Relevant Institution:</u> Ministry of Law, Justice and Parliamentary Affairs (Law and Justice Division).</p>
ii	<p>Introduce training and orientation <b>programmes on cyber laws, cyber awareness and cyber security and on freedom of expression</b> for government officials and justice sector actors (i.e. judges, lawyers, police, and legal service providers).  <u>Relevant Institution:</u> Supreme Court of Bangladesh; Ministry of Law, Justice and Parliamentary Affairs (Law and Justice Division); Bangladesh Bar Council; NLASO.</p>
iii	<p>Develop a <b>guideline for law enforcing agencies</b> on how to use cyber-crime related laws and to ensure relevant safeguards on the rights to personal liberty and freedom of expression are respected.  <u>Relevant Ministry:</u> Ministry of Home Affairs</p>
iv	<p><b>Enhance relationships</b> with other countries and corporations to deal with transnational cases.  <u>Relevant Ministries:</u> Ministry of Law, Justice and Parliamentary Affairs; Ministry of Foreign Affairs.</p>
v	<p>Develop communications materials <b>in simple language/with infographics/online</b> to raise public awareness of cyber violence and available remedies and services.  <u>Relevant authority:</u> Directorate of Information and Communication Technology, Government of Bangladesh, Access to Information Programme.</p>



## 2. Recommendations for other Stakeholders

SL	Stakeholder	Recommendations
1	<b>Civil Society</b>	<ul style="list-style-type: none"> <li>i. Undertake <b>advocacy</b> for relevant legal, policy and institutional reform.</li> <li>ii. Identify <b>through stakeholder mapping</b> duty bearers and their respective responsibilities.</li> <li>iii. <b>Conduct research on best practices</b> adopted in other countries, especially in South Asia, to address cyber violence.</li> <li>iv. <b>Introduce capacity building and awareness programmes</b> on cyber security and remedies for cyber violence in workplaces and educational institutions</li> <li>v. Develop and implement <b>training programmes</b> on cyber security and protection from cyber violence for judges, lawyers, social welfare officers, women's affairs officers, law enforcing agencies and legal service providers.</li> </ul>
2	<b>Media</b>	<ul style="list-style-type: none"> <li>i. Develop <b>internal guidelines</b> on publishing news about victims of violence and witnesses of crimes of violence, including cyber-violence.</li> <li>ii. Initiate <b>mass awareness programmes</b> through media, discouraging sharing images, contact details or personal information about victims or witnesses.</li> <li>iii. Build the capacity of journalists on how to prepare <b>gender-sensitive news reports</b>.</li> <li>iv. Set up or ensure that <b>complaint committees</b> address online sexual harassment in compliance with the High Court Guidelines.</li> </ul>
3	<b>Private sector</b>	<ul style="list-style-type: none"> <li>i. Develop active and effective mechanisms to address cyber-ethics in their institutions in order to combat cyber violence against women.</li> <li>ii. For local internet service providers: provide clients with contacts for national governmental and non-governmental emergency helplines, reporting and referral of cases of cyber violence.</li> <li>iii. Set up or ensure that complaint committees address online sexual harassment in compliance with the High Court Guidelines.</li> </ul>

## VII. Who Can Help in Cases of Cyber Violence against Women and Girls?

SL	SERVICE PROVIDERS	HELPLINE NUMBERS
	<b>Government</b>	
1	<b>Bangladesh Computer Emergency Response Team (BD-CERT)</b>	T: 02-8819252, 09611123123 F: 02-8819221 W: <a href="http://www.bdcert.org/incident.html">http://www.bdcert.org/incident.html</a>
2	<b>Bangladesh Telecommunication Regulatory Commission (BTRC)</b>	T: 01555121121 E: <a href="mailto:consumer.inquiries@btrc.gov.bd">consumer.inquiries@btrc.gov.bd</a> W: <a href="http://www.btrc.gov.bd">www.btrc.gov.bd</a>
3	<b>National Emergency Service</b>	T: 999
4	<b>National Helpline Centre for Violence against Women and Children</b>	T: 109 W: <a href="http://nhc.gov.bd/">http://nhc.gov.bd/</a>
5	<b>Police Bureau of Investigation (PBI)</b>	T: 02-9615764 E: <a href="mailto:dig.pbi@police.gov.bd">dig.pbi@police.gov.bd</a> W: <a href="http://www.pbi.gov.bd">www.pbi.gov.bd</a>
6	<b>Rapid Action Battalion (RAB)</b>	T: 01777720029 W: <a href="http://www.rab.gov.bd/english/report-crime-2/">http://www.rab.gov.bd/english/report-crime-2/</a>
	<b>NGOs</b>	
7	<b>Ain o Salish Kendra (ASK)</b>	T: 02-8100192, 02-8100195, 02-8100197, 01714025069 W: <a href="http://www.askbd.org/ask/">http://www.askbd.org/ask/</a>
8	<b>Bangladesh Legal Aid and Services Trust (BLAST)</b>	T: 02-83919702, 02-8317185 W: <a href="http://www.blast.org.bd">www.blast.org.bd</a> E: <a href="mailto:mail@blast.org.bd">mail@blast.org.bd</a>
9	<b>Bangladesh Mahila Parishad</b>	T: 02-9582182, 02-9511904 W: <a href="http://mahilaparishad.org/">http://mahilaparishad.org/</a>
10	<b>Bangladesh National Women Lawyers' Association (BNWLA)</b>	T: 02-8112858, 02-9143293 W: <a href="http://www.bnwlabd.org/">http://www.bnwlabd.org/</a>
11	<b>Naripokkho</b>	T: 02-8819917, 02-8153967 W: <a href="http://www.naripokkho.org.bd">www.naripokkho.org.bd</a> E: <a href="mailto:naripokkho@gmail.com">naripokkho@gmail.com</a>

BLAST is a leading legal services organization, providing legal aid from the frontlines of the formal justice system, in the village courts and magistrates' courts, to the highest court. It prioritises support to women, men and children living in poverty or facing disadvantage, disability or discrimination. It also provides legal aid, advice and representation across a range of areas, including civil, criminal, family, labour and land law, and on constitutional rights and remedies, providing access to judicial remedies alongside alternative dispute resolution wherever appropriate. BLAST undertakes public interest litigation, as a key part of its advocacy for law, policy and institutional reforms to ensure effective access to justice.

For more information, please visit: [www.blast.org.bd](http://www.blast.org.bd)

The Centre for Gender, Sexual and Reproductive Health and Rights (CGSRHR) at BRAC University's James P Grant School of Public Health, is a Centre of Excellence dedicated to research, policy, advocacy and training activities in the arena of gender, sexual and reproductive health rights, sexuality and rights in Bangladesh and in the region. It promotes a broad-based understanding of many of these core issues, with a focus on rights for marginalised groups. The Centre endeavours to expand the frontiers of public health discourse and practice, and its vision is an empowered Bangladesh where inequalities and inequities in gender, sexual and reproductive health, sexuality and sexual rights have been overcome.

For more information, please visit:

<http://sph.bracu.ac.bd/index.php/research-project/centresofexcellence/cgsrhr>

Cyber space is now part of our lives, and affects the right to life and to personal liberty. Cyber violence highlights the wider failure by both state and society to secure women's and girl's safety dignity in private and public spaces. The purpose of this policy brief is to identify the limitations in current laws of Bangladesh in adequately protecting women and girls from cyber-crime and bringing perpetrators to justice. While children in general are at particular risk from cyber-crimes and marginalised communities also face hate speech, we have focused this brief broadly on women and girls. Relevant laws in India and the United Kingdom are discussed, followed by recommendations made for addressing the existing gaps in laws in Bangladesh and developing solutions for cyber violence against women and girls.

