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Crimes of Opportunity: Applying Routine Activity Theory (RAT) to assess Legislative Effectiveness in Combating Image Based Sexual Abuse in the Context of Bangladesh

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ABSTRACT

Female targeted abuse in Bangladesh stems from a set of complex and multifaceted issues, including but not limited to religious misrepresentation, cultural dimensions, lack of government and social support, patriarchal roots, economic vulnerability, and physical vulnerability. These diverse yet analogous factors can be likened to different squares on a Rubik's cube, each representing a unique challenge that must be addressed simultaneously to solve the larger puzzle of gender-based violence. Image Based Sexual Abuse (IBSA) is the latest facet of female targeted abuse in Bangladesh. Due to the culturally and religiously conservative nature of the country, IBSA extends more widely than intimate images. By this same logic, threats of exposure are much more damaging to victims and victim allies, which can result in the justice system as a whole failing. Even in instances where victims do look for legal recourse, legislative lacking's, alongside cultural and systematic issues act as a further deterrent. This paper is the first Bangladeshi Study on IBSA, and focuses on legislative and procedural inefficiency, socio-cultural factors, and lack of public awareness. The study applies Routine Activity Theory to showcase how legislative inefficiencies in Bangladesh allow motivated offenders to exploit vulnerable targets in the absence of a capable guardian. The authors posit that in this context, the state, through its failed legislative protections, non-responsive law enforcement, and weak executive institutions, is itself the 'incapable guardian'. This study therefore seeks to redefine the 'victim centric' blame of IBSA and to establish IBSA as a crime of opportunity that exists not because of some sort of unique evil, or lack of modesty, but instead due to the inherent manner in which digital life now routinely puts women in the path of unregulated exposure, weak legal guardianship, and unchecked voyeurism, therefore allowing one to map the structural conditions, not just the malafide intent, that produces this harm

Keywords: *Image-Based Sexual Abuse, Routine Activity Theory, Cybercrime, Legal Reform, Gender-Based Violence, Bangladesh, Incapable Guardian, Gender Justice*

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I. INTRODUCTION

A. Background: The Rise of IBSA and implications for RAT in Bangladesh

Over the past two decades, Bangladesh has rapidly digitized, driven by government initiatives such as the Vision 2021 manifesto and the ‘Digital Bangladesh’³ campaign. These programs sought to integrate information and communication technology (ICT) into national development, fostering improvements in governance, education, and economic growth. However, while technological infrastructure and internet penetration grew, the accompanying legal and regulatory frameworks did not evolve at the same pace⁴. The digital boom created a new environment in which technology, once heralded as a development tool, also facilitated emerging forms of harm, most notably image-based sexual abuse (IBSA).

As online engagement became routine, users, especially women, became increasingly visible and vulnerable in digital spaces. However, there was no corresponding institutional or legal mechanism equipped to act as a “capable guardian,” a key component in Routine Activity Theory (RAT)⁵. First developed by Cohen and Felson (1979), RAT posits that crimes occur when three elements converge: a motivated offender, a suitable target, and the absence of a capable guardian⁶. In digital environments, capable guardianship includes not only individuals but also legal systems, platforms, and state institutions that prevent or respond to harm⁷.

As shown by Laskovtsov and Boyle (2025)⁸, the primary predictor of IBSA victimization is not risky online behavior but a lack of effective institutional guardianship. Victims in their study were often exposed through digital routines common to all users, such as content sharing or maintaining social media accounts. These findings reflect a broader pattern echoed in international research. Scholars have posited⁹ that criminal justice systems and digital platforms

³ Anir Chowdhury, 'Digital Bangladesh to Innovative Bangladesh: The Road to 2041' (UNDP, 25 December 2021) <https://www.undp.org/bangladesh/blog/digital-bangladesh-innovative-bangladesh-road-2041> accessed 24 October 2024.

⁴ World Bank, 'Bangladesh - Enhancing Digital Government and Economy Project: Foundation for a Digital Economy' (2020) <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/351501605110531586/bangladesh-enhancing-digital-government-and-economy-project-foundation-for-a-digital-economy> accessed 27 October 2024.

⁵ Albina Laskovtsov and Kaitlin M Boyle, 'Explaining Image-Based Sexual Abuse: An Application of Cyber Routine Activity Theory' (2025) 20 *Feminist Criminology* 1059 <https://doi.org/10.1080/15564886.2025.2485125>

⁶ Marcus Felson, 'The Routine Activity Approach' in *Environmental Criminology and Crime Analysis* (2nd edn, Routledge 2016) 11 <https://doi.org/10.4324/9781315709826> accessed 26 January 2025.

⁷ Albina Laskovtsov and Kaitlin M Boyle, 'Explaining Image-Based Sexual Abuse: An Application of Cyber Routine Activity Theory' (2025) 20 *Feminist Criminology* 1059 <https://doi.org/10.1080/15564886.2025.2485125>

⁸ Albina Laskovtsov and Kaitlin M Boyle, 'Explaining Image-Based Sexual Abuse: An Application of Cyber Routine Activity Theory' (2025) 20 *Feminist Criminology* 1059 <https://doi.org/10.1080/15564886.2025.2485125>

⁹ Henry, N., & Powell, A. (2015). Beyond the 'sext': Technology-facilitated sexual violence and harassment against adult women. *Australian and New Zealand Journal of Criminology*, 48(1), 104–118. <https://doi.org/10.1177/0004865814524218>

routinely fail to protect victims, reinforcing their vulnerability. While identifying¹⁰ the UK's fragmented legal response to IBSA as a systemic guardianship failure, with victims often falling through legislative gaps.

In Bangladesh, the situation mirrors these international trends but is further exacerbated by sociocultural norms around female honour and shame. These dynamics increase the psychological and reputational cost of victimization, making legal protections and institutional responses all the more crucial¹¹.

B. Importance of the Study

IBSA, reductively termed “revenge porn”¹², is the non-consensual creation, distribution, or threat to distribute intimate images. While globally pervasive, its consequences in Bangladesh are heightened by patriarchal social structures and cultural taboos surrounding female sexuality. Even the threat of exposure can cause reputational ruin, family rejection, and psychological trauma¹³.

Legally, Bangladesh's response to IBSA is fragmented across multiple statutes. These include the Information and Communication Technology (ICT) Act, 2006¹⁴, the now-repealed Digital Security Act (DSA), 2018¹⁵, the recently enacted Cyber Security Act (CSA), 2023¹⁶, and relevant provisions in the Penal Code¹⁷. However, these frameworks often prioritize state security over individual protection, lack clarity, and suffer from poor enforcement. Victims encounter legal ambiguity, procedural delays, and institutional apathy, which effectively deny them justice¹⁸.

This study applies Routine Activity Theory (RAT) to assess whether Bangladesh's legal frameworks and institutions function as capable guardians in preventing and addressing IBSA. By framing IBSA as a crime of opportunity enabled by absent or ineffective guardianship, the

¹⁰ Clare McGlynn and Erika Rackley, 'Image-Based Sexual Abuse' (2017) 37(3) *Oxford Journal of Legal Studies*, p.536 <https://www.jstor.org/stable/10.2307/48561003>. accessed 24 October 2024

¹¹ The Daily Star, 'Pornography and Violence against Women' (The Daily Star, Date of Publication) <https://www.thedailystar.net/law-our-rights/news/pornography-and-violence-against-women-3032941> accessed 24 October 2024

¹² Clare McGlynn and Erika Rackley, 'Image-Based Sexual Abuse' (2017) 37(3) *Oxford Journal of Legal Studies*, p.536 <https://www.jstor.org/stable/10.2307/48561003>. accessed 24 October 2024

¹³ Barbara Evers and Kaniz Siddique, *Who Gets What: A Gender Analysis of Public Expenditure in Bangladesh* (The University Press 2006) 50

¹⁴ Information and Communication Technology (ICT) Act 2006 (Bangladesh), ss 56, 57, 63

¹⁵ Digital Security Act 2018 (Bangladesh), ss 4, 18, 20, 25, 29

¹⁶ Cyber Security Act 2023 (Bangladesh), ss 18, 25, 29

¹⁷ Penal Code (Bangladesh), ss 354, 509

¹⁸ Ramisa Nawar, Farhat Fatiha Chowdhury, and Shanila Amrin, 'Invasion of Privacy: Sharing Non-Consensual Image and Video Peddling in Bangladesh' (Youth Policy Forum, YPF) <https://ypfbd.org/invasion-of-privacy-sharing-non-consensual-image-and-video-peddling-in-bangladesh/> accessed 24 October 2024.

study interrogates the adequacy of existing laws and institutional practices and is guided by the following research questions:

1. *How comprehensive are current laws in criminalising various forms of IBSA and protecting the rights of victims, in the context of Bangladesh?*
2. *How accessible and effective are legal remedies available to victims and prosecutors of IBSA, in the context of Bangladesh?*

Using a combination of doctrinal legal analysis, interviews with legal practitioners, and survivor testimony, the research evaluates the strengths and weaknesses of the current legal regime. The aim is to provide policy recommendations grounded in both theory and lived experience, contributing to broader conversations on digital rights, gender justice, and legal reform in Bangladesh.

C. Literature Review

Image-Based Sexual Abuse (IBSA) refers to the non-consensual taking, creation, sharing, or distribution of intimate or sexual images, as well as threats to disseminate such content¹⁹. Early definitions emerged from empirical studies, such as Australia's 2018 national survey, which recognized three primary behaviours: (1) creating sexual images without consent, (2) sharing or distributing such images without consent, and (3) threatening to share such images. These behaviours reflect a broader scope of abuse that moves beyond traditional forms of sexual violence into technology-facilitated spaces, redefining the boundaries of consent and privacy in digital contexts²⁰.

When first introduced in 2017 as a crime²¹, IBSA, which typically involves watching personal activities covertly for sexual gratification, was further defined to instances where the viewer knows the issue does not consent and sharing its result, and included harms caused when private sexual images are taken without the subject's consent and, when the same are distributed without their permission. This expanded IBSA to include the non-consensual creation and distribution of private sexual images removing the requirement of inherent sexual nature from images or videos, imposing the notion instead on the viewer, showcasing IBSA's subjectivity, an issue

¹⁹ Anastasia Powell, Adrian J. Scott, Asher Flynn, and Sarah McCook, 'Perpetration of Image-Based Sexual Abuse: Extent, Nature and Correlates in a Multi-Country Sample' (2022) 37(23-24) *Journal of Interpersonal Violence*, <https://doi.org/10.1177/08862605211072266> accessed 27 October 2024.

²⁰ Anastasia Powell, Nicola Henry, Asher Flynn, and Adrian J Scott, 'Image-Based Sexual Abuse: The Extent, Nature, and Predictors of Perpetration in a Community Sample of Australian Adults' (2018), *Computers in Human Behaviour*, P.1-2 <https://doi.org/10.1016/j.chb.2018.11.009> accessed 27 October 2024.

²¹ Clare McGlynn and Erika Rackley, 'Image-Based Sexual Abuse' (2017) 37(3) *Oxford Journal of Legal Studies*, p;536 <https://www.jstor.org/stable/10.2307/48561003>. accessed 24 October 2024

that intricately weaves itself with the notion of cultural, and religious impact²². The image of a *hijabi*²³, without her *hijab* for instance, while not overtly sexual by western standards of intimacy²⁴, may feel sexual or intimate to the viewer²⁵. The same may be the case with images or videos of breastfeeding women²⁶, athletic or fitness images, dancing, cultural attire (sarees expose the waist which is considered common in Southeast Asian ethnicities but not in the West) etc. In South Asian countries like Bangladesh, these sociocultural constructs heighten the stakes of IBSA, with significant reputational and psychological harm inflicted upon victims²⁷. Publicly captured sexual images, are also private unless the subject intends or consents to their publication or unless they have relinquished control over who can see the image. Consequently, a photograph of a sexual assault in a nightclub and an 'upskirt' shot captured on public transportation are both considered private sexual images. In the same way that 'private' qualifies 'sexual' about the images in question, 'non-consensual' determines the scope of IBSA²⁸. Another controversial name for IBSA is "Revenge Porn". While frequently used as a catch-all to refer to a broad range of non-consensual image-based harms²⁹, contextually IBSA is a better term to use instead of "Revenge Porn", non-consensual pornography, or involuntary porn as it better captures the essence, scope, and negative effects of this phenomenon. Terminology serves as a crucial expressive tool and frames discussions of legal remedies and options³⁰. Although the public finds resonance with this term, there are issues with the use of "Revenge Porn" terminology³¹. In addition to referring to a narrow and harmful subset of private sexual images, it also focuses on the intentions of those who commit these images rather than the harm they

²² Ruth Barcan, *Nudity: A Cultural Anatomy* (Berg Publishers 2004) <https://www.scribd.com/doc/13378257/Nudity-a-Cultural-Anatomy-Ruth-Barcan> accessed 27 October 2024

²³ Ruth Barcan, *Nudity: A Cultural Anatomy* (Berg Publishers 2004) <https://www.scribd.com/doc/13378257/Nudity-a-Cultural-Anatomy-Ruth-Barcan> accessed 27 October 2024

²⁴ Blocian, 'Evolving Images of Intimacy and Sexuality' (2022) 38(4) *Vestnik of Saint Petersburg University. Philosophy and Conflict Studies* 622 <https://doi.org/10.21638/spbu17.2022.415>

²⁵ Antoinette Raffaella Huber, 'Image-based sexual abuse: Legislative and policing responses' (2023) *Criminology & Criminal Justice* <https://journals.sagepub.com/home/cr> accessed 27 October 2024.

²⁶ Yuliana Zaikman and Amy E Houlihan, 'It's Just a Breast: An Examination of the Effects of Sexualization, Sexism, and Breastfeeding Familiarity on Evaluations of Public Breastfeeding' (2022) 22 *BMC Pregnancy and Childbirth* 122, P:03 <https://doi.org/10.1186/s12884-022-04436-1> accessed 22 October 2024

²⁷ Ruth Barcan, *Nudity: A Cultural Anatomy* (Berg Publishers 2004) <https://www.scribd.com/doc/13378257/Nudity-a-Cultural-Anatomy-Ruth-Barcan> accessed 27 October 2024

²⁸ Clare McGlynn and Erika Rackley, 'Image-Based Sexual Abuse' (2017) 37(3) *Oxford Journal of Legal Studies*, p:536 <https://www.jstor.org/stable/10.2307/48561003>. accessed 24 October 2024

²⁹ Clare McGlynn and Erika Rackley, 'Image-Based Sexual Abuse' (2017) 37(3) *Oxford Journal of Legal Studies*, p:536 <https://www.jstor.org/stable/10.2307/48561003>. accessed 24 October 2024

³⁰ Manuel Gámez-Guadix, Estibaliz Mateos-Pérez, Sebastian Wachs, Michelle Wright, Jone Martínez, & Daniel Íncera, "Assessing image-based sexual abuse: Measurement, prevalence, and temporal stability of sextortion and nonconsensual sexting ("revenge porn") among adolescents" (2022) 94 *Journal of Adolescence* 789, <https://doi.org/10.1002/jad.12064> accessed 25 October 2024

³¹ Clare McGlynn and Erika Rackley, 'Image-Based Sexual Abuse' (2017) 37(3) *Oxford Journal of Legal Studies*, p:536 <https://www.jstor.org/stable/10.2307/48561003>. accessed 24 October 2024

cause to victim-survivors³².

The term "porn" in the context of non-consensual production and dissemination of sexual images, tends to engender an inappropriate sense of legitimacy and choice. By adequately defining "image-based sexual abuse" as "non-consensual creation and distribution of private sexual images," these problems are avoided. "Sexual abuse" captures the severe harms that can happen and accurately describes them while representing the experiences of victim-survivors. Additionally, it places within the framework of sexual offence laws and policies, classifying it as a type of sexual violence³³.

Internationally, legal responses to IBSA have evolved at varying speeds. Canada's Intimate Images and Cyber Protection Act (2018) is among the most comprehensive, offering remedies that include criminal charges, civil liabilities, and dispute resolution mechanisms³⁴. Other countries, like Australia³⁵, Ireland³⁶, and South Korea³⁷, have developed progressive legislation mandating swift platform compliance for takedowns, psychological support for victims, and penalties even for threats of dissemination. In contrast, the United Kingdom³⁸ and United States³⁹ lack unified national frameworks, resulting in fragmented enforcement. These varying approaches highlight how legal infrastructures either empower or fail victims of IBSA.

As of the writing of this paper in 2025, IBSA is not a recognized offence in Bangladesh⁴⁰, it is however indirectly covered in part under a multitude of laws and international instruments and conventions. As such, theoretically, victims of sexualized cyber harassment in Bangladesh can seek legal recourse through several laws, laid out in Table 3A, Table 3B, Table 3C and Table 3D below. The absence of a clear legal definition contributes to low reporting and inadequate

³² Anastasia Powell, Nicola Henry, Asher Flynn, and Adrian J Scott, 'Image-Based Sexual Abuse: The Extent, Nature, and Predictors of Perpetration in a Community Sample of Australian Adults' (2018), *Computers in Human Behaviour*, P.1-2 <https://doi.org/10.1016/j.chb.2018.11.009> accessed 27 October 2024.

³³ Antoinette Raffaella Huber, 'Image-based sexual abuse: Legislative and policing responses' (2023) *Criminology & Criminal Justice* <https://journals.sagepub.com/home/cr> accessed 27 October 2024.

³⁴ Cyber Safety Act, 2013, S. 3(1)(b)

³⁵ Online Safety Act, 2021, S.77-81

³⁶ Harassment, Harmful Communications and Related Offences Act, 2020, S.2-4; Women's Aid, 'Brief on the Harassment, Harmful Communications and Related Offences Act (Coco's Law) 2020-2021' (2023) <https://www.womensaid.ie/app/uploads/2023/04/Brief-on-the-Harassment-Harmful-Communications-and-Related-Offences-Act-Cocos-Law-2020-2021.pdf> accessed 28 October 2024.

³⁷ Korean Parliament Set to Vote on Bills to Toughen Punishments for Deepfake Sex Crimes This Week, (*The Hankyoreh*, 24 September, 2024) https://english.hani.co.kr/arti/english_edition/e_national/1159519.html accessed 22 October 2024.

³⁸ Criminal Justice and Courts Act of 2015, S.33-37

³⁹ Privacy Act of 1974, California Penal Code, New York Penal Law Section 245.15, Texas Penal Code Section 21.16., Florida Statutes Section 784.049, Illinois Compiled Statutes Section 720, Arizona Revised Statutes Section 13-1425, Colorado Revised Statutes Section 18-7-107, Georgia Code Section 16-11-90, Hawaii Revised Statutes Section 711-1110.9, Minnesota Statutes Section 617.261

⁴⁰ Antoinette Raffaella Huber, 'Image-based sexual abuse: Legislative and policing responses' (2023) *Criminology & Criminal Justice* <https://journals.sagepub.com/home/cr> accessed 27 October 2024.

legal redress. ActionAid's 2022 study found that over 63% of women reported experiencing online violence, but less than 27% of victims pursued legal remedies⁴¹. This systemic failure of institutions, law enforcement, courts, and tech platforms, to offer protection illustrates what Routine Activity Theory (RAT) would term as 'incapable guardianship.'

Realistically, most of these forms of violence tend to go unreported due to the impact or perceived impact to the victim or victim allies. In fact, by 2022 63.51% of female survey respondents of a study conducted by ActionAid Bangladesh, reported facing online violence, which was a more than 13% increase compared to 2021. As such, people's distrust of the system runs deep. So much so that according to studies more than 73% of cyber-crime victims do not seek legal assistance⁴².

When it comes to non-consensual image sharing, spam, sex-act videos, rape threats, and indecent proposals are just a few of the unsettlingly commonplace content that malicious actors share on social media platforms, along with false and manipulated images of unclothed women. According to studies, a significant number of violent and sexualized abuse is directed towards young women in Bangladesh on the internet. Reports have shown in years prior, that approximately 17,000 complaints had been filed to the government's Cyber Help Desk by December 2017, with women accounting for 70% of the complainants⁴³.

In the absence of a precise legal definition of IBSA in Bangladesh, a definition that incorporates socioeconomic, religious, cultural, and women's rights viewpoints that are pertinent to Bangladesh and universally applicable must be created. Moreover, Relationship retaliation, sextortion, voyeurism (e.g., upskirt and down blouse), exploitation, and sexual assault are just a few of the situations in which intimate body images are distributed without consent. The reasons vary from coercion and sexual gratification to financial gain and retaliation. Which is why, publicly taken sexual photos are considered private unless the subject gives permission for them to be published or gives up ownership⁴⁴.

Routine Activity Theory posits that crimes occur when a motivated offender, a suitable target,

⁴¹ ActionAid Bangladesh, 'Research Findings: Online Violence Against Women' (2023) https://www.actionaidbd.org/storage/app/media/Research%20Findings_Online%20Violence%20Against%20Women.pdf accessed 28 October 2024

⁴² ActionAid Bangladesh, 'Research Findings: Online Violence Against Women' (2023) https://www.actionaidbd.org/storage/app/media/Research%20Findings_Online%20Violence%20Against%20Women.pdf accessed 28 October 2024

⁴³ Farhana Akter, 'Cyber Violence Against Women: The Case of Bangladesh' (Gender IT.org, 17 June 2018) <https://genderit.org/articles/cyber-violence-against-women-case-bangladesh> accessed 24 October 2024

⁴⁴ Anastasia Powell, Nicola Henry, Asher Flynn, and Adrian J Scott, 'Image-Based Sexual Abuse: The Extent, Nature, and Predictors of Perpetration in a Community Sample of Australian Adults' (2018), *Computers in Human Behaviour*, P.1-2 <https://doi.org/10.1016/j.chb.2018.11.009> accessed 27 October 2024.

and the absence of a capable guardian converge. Applied to IBSA, the theory helps explain how increased digital exposure — through routine activities like social media use or messaging — positions individuals, particularly women, as suitable targets. The anonymity and reach of digital platforms facilitate motivated offenders, while ineffective legal systems and slow-reacting platforms signify guardianship failure.

While some critics argue that RAT risks blaming victims by emphasizing their ‘routine’ exposure, recent adaptations of the theory shift focus toward institutional and structural failures. Rather than questioning the victim’s behaviour, this paper uses RAT to evaluate the effectiveness of legal guardianship in preventing and addressing IBSA. Scholars like Henry and Powell (2018) stress that both the criminal justice system and digital platforms often fail to respond adequately to IBSA, leaving victims unprotected and perpetrators unpunished. This guardianship failure is particularly stark in Bangladesh, where enforcement remains weak, legal definitions are ambiguous, and cultural stigma deters victims from coming forward. A capable guardian, in RAT terms, must be proactive, responsive, and embedded in an ecosystem of support — qualities currently missing in Bangladesh’s fragmented legal and institutional response. By applying RAT within this cultural and legislative landscape, this research identifies not only the prevalence of IBSA but also the enabling conditions that allow it to persist.

II. LEGISLATIVE DEFINITIONS OF IBSA AS OF 2025: A GLOBAL PERSPECTIVE

Increased IBSA crimes are leading to global-scale legislative changes, with both criminal and civil liabilities⁴⁵. Statistically⁴⁶ ‘Sextortion’ although more prevalent in Eastern countries, is better addressed through the advanced legal systems and aggressive anti-sextortion initiatives of the West, a contrast that demonstrates the efficacy of legal systems in combating sextortion⁴⁷.

Canada addressed IBSA and cyberbullying directly through the 2018 Intimate Images and Cyber Protection Act (“IICPA”) is one of the most comprehensive acts currently covering it and establishes restorative justice, mediation, and dispute resolution procedures for sharing intimate photos without consent. An intimate image is currently defined by this statute as inclusive of nudity, exposure of genitals, anal region, breasts, or engagement in explicit sexual activity. Determining, regardless of intent, sharing intimate images, would enable jail terms of

⁴⁵ Antoinette Raffaella Huber, ‘Image-based sexual abuse: Legislative and policing responses’ (2023) *Criminology & Criminal Justice* <https://journals.sagepub.com/home/cr> accessed 27 October 2024.

⁴⁶ Nicola Henry and Rebecca Umbach, ‘Sextortion: Prevalence and correlates in 10 countries’ (2024) *Computers in Human Behavior* P:05 <https://doi.org/10.1016/j.chb.2024.108298>

⁴⁷ Nicola Henry and Rebecca Umbach, ‘Sextortion: Prevalence and correlates in 10 countries’ (2024) *Computers in Human Behavior* P:05 <https://doi.org/10.1016/j.chb.2024.108298>

up to 5 years, as well as face punitive liability awarded based on deterrent principles. Prior to this in 2013, certain Canadian jurisdictions passed the Cyber-safety Act (“CSA”), covering IBSA in broad strokes under the banner of ‘cyber bullying’⁴⁸ this was however stricken down, after a challenge in *Crouch v Snell*⁴⁹.

In contrast, the UK and US currently have no comprehensive national law addressing all types of IBSA. However, in the UK the Criminal Justice and Courts Act of 2015 forbids the production, dissemination, or threat of dissemination of intimate images without consent⁵⁰. While in the US most states have passed laws dealing with the issue of sharing private photos without consent⁵¹.

Ireland's, Coco's Law or as it is known formally the Harassment, Harmful Communication and Related Offences Act, adopts a more serious approach by making it illegal to distribute, publish, or threaten to distribute intimate images without consent, with the intention of causing harm or with reckless disregard for it. Along with sending threatening or egregiously offensive communications, it also forbids recording, sharing, or publishing intimate images without permission. Ireland's laws allow for punishment up to 7 years and are inclusive of psychological harm. They allow for prosecution of individual offences, and unlike harassment, do not require patterns. There is however a requirement to establish intent to harm and is not sufficed by recklessness⁵².

In Australia, when a complaint or objection is made and no consent is provided, the Commissioner has the authority to send removal notices to social media companies, end users, and hosting service providers asking them to take down intimate images. Recipients are required to comply within 24 hours, or for as long as the Commissioner permits. A \$500 penalty exist for noncompliance⁵³.

'Chapter XXVA – Intimate Images' was added to the Criminal Code of Western Australia in 2019 to protect victims of IBSA by means of harsh penalties and rectification orders. By addressing different types of IBSA, this legislation seeks to eliminate legal gaps. It is also made

⁴⁸ Cyber Safety Act, 2013, S. 3(1)(b)

⁴⁹ *Crouch v Snell* (2015) 367 NSR (2d) 357 (SC)

⁵⁰ Criminal Justice and Courts Act of 2015, S.33-37

⁵¹ Privacy Act of 1974, California Penal Code, New York Penal Law Section 245.15, Texas Penal Code Section 21.16., Florida Statutes Section 784.049, Illinois Compiled Statutes Section 720, Arizona Revised Statutes Section 13-1425, Colorado Revised Statutes Section 18-7-107, Georgia Code Section 16-11-90, Hawaii Revised Statutes Section 711-1110.9, Minnesota Statutes Section 617.261

⁵² Harassment, Harmful Communications and Related Offences Act, 2020, S.2-4; Women's Aid, 'Brief on the Harassment, Harmful Communications and Related Offences Act (Coco's Law) 2020-2021' (2023) <https://www.womensaid.ie/app/uploads/2023/04/Brief-on-the-Harassment-Harmful-Communications-and-Related-Offences-Act-Cocos-Law-2020-2021.pdf> accessed 28 October 2024.

⁵³ Online Safety Act, 2021, S.77-81

to adjust to any future developments in technology that might make IBSA easier⁵⁴.

Other sections of the Criminal Code (WA), such as stalking, threats made with the intention of profit, indecency, and offences involving the use of surveillance equipment, may be used to prosecute certain IBSA cases. The #LetHerSpeak / #LetUsSpeak campaign started in 2018 to end the gag laws that prohibiting survivors of sexual assault from telling their stories in public, led to significant reforms, legal support, and policy change⁵⁵.

Brazil's Criminal Code makes all forms of non-consensual distribution of intimate images illegal, including so-called "revenge pornography." Offenders may face up to 5 years in prison⁵⁶. While in Kenya, sharing pornographic and intimate images is expressly illegal under the Computer Misuse and Cybercrimes Act of 2018, can extend up to 25 years in specific cases⁵⁷.

Currently the most accountability driven approach for IBSA however can be seen in South Korea, where the Deep Fake Sex Crime Prevention Act, has recently been passed and is awaiting presidential approval. The Amendment of the Sexual Violence Prevention and Victims Protection Act and the Act on the Protection of Children and Youth against Sex Offenses, included clauses ensuring that the state is directly responsible for erasing illegal photography and supporting victims in their return to daily life. It also would lay the basis for the establishment and operation of the Advocacy Centre for Online Sexual Abuse Victims, which would aid victims in getting their personal information erased from online platforms and work to prevent further victimization. The amendments also raise sentencing for specific offences by 2 years each. distribution or threats associated with sale, purchase, or distribution of these materials are also included in this definition, in addition to the act of taking such images without permission⁵⁸.

A. The Theoretical and Socio-Cultural Context

First presented by Lawrence Cohen and Marcus Felson in 1979, Routine Activity Theory (RAT) offers a fundamental framework for comprehending criminal conduct by combining three essential components: (1) a motivated offender, (2) a suitable target, and (3) the lack of an effective guardian. The idea emphasizes how everyday living patterns enable crime, moving

⁵⁴ Criminal Law Amendment (Intimate Images) Act 2019 (WA).

⁵⁵ About the Campaign, *LetHerSpeak* <https://www.letusspeak.com.au/> accessed 22 October 2024

⁵⁶ CODIGO PENAL BRASIL(Decreto-Lei nº 2.848 de 07.12.1940 alterado pela Lei nº 9.777 em 26/12/98)

⁵⁷ Computer Misuse and Cybercrimes Act of 2018(amended in 2022), S.24, 37

⁵⁸ Korean Parliament Set to Vote on Bills to Toughen Punishments for Deepfake Sex Crimes This Week, (*The Hankyoreh*, 24 September, 2024) https://english.hani.co.kr/arti/english_edition/e_national/1159519.html accessed 22 October 2024.

away from offender pathology and toward situational criminology. RAT has been employed more frequently in cyber settings, such as research on cyberbullying and cybersexual abuse as well as IBSA⁵⁹, despite its historical application to property crime. RAT provides a useful perspective through which to view image-based sexual abuse (IBSA), particularly in Bangladesh, and explains why IBSA flourishes in digital spaces that are influenced by social, cultural, and legal deficiencies⁶⁰.

The idea of a motivated offender (the first component of RAT) is closely associated with the deeply ingrained patriarchal systems that govern both public and private life in Bangladesh, where patriarchy not only shapes social norms but also serves as the foundation for legal and cultural views on gender roles. As a patriarchal society, enmeshed in both public and private patriarchy, built on a foundation of misinterpretation of religion and the non-recognition of unpaid work⁶¹, where over 99% of the people hold at least one bias against women, including 99% of women holding biases against their own gender⁶²— almost any kind of image, that is taken or shared without consent either is or can be turned into an intimate image, which then can be used to cause abuse.

Because of this profoundly ingrained bias, there are many motivated criminals who believe that IBSA is socially and culturally acceptable. Religious and cultural misinterpretations in Bangladesh normalize gendered entitlement to the point where males may assume women automatically consent to the usage of any photograph or unknowingly provide permission for their online presence to be exploited⁶³. In effect, the socio-legal environment transforms social misogyny into criminal motivation, satisfying the first RAT component: a motivated offender.

Patriarchal attitudes are pervasive in online interactions, as seen by the numerous instances of cyberbullying on Facebook in Bangladesh. The study, which makes use of UN Women's 4I's framework, discovers that victim blaming, misogynistic remarks, and the normalization of violence against women are examples of internal and ideological masculinities. The public comment sections frequently mirror society's propensity to disparage women rather than stand

⁵⁹ Albina Laskovtsov and Kaitlin M Boyle, 'Explaining Image-Based Sexual Abuse: An Application of Cyber Routine Activity Theory' (2025) 20 *Feminist Criminology* 1059 <https://doi.org/10.1080/15564886.2025.2485125>

⁶⁰ Marcus Felson, 'The Routine Activity Approach' in *Environmental Criminology and Crime Analysis* (2nd edn, Routledge 2016) 11 <https://doi.org/10.4324/9781315709826> accessed 26 January 2025.

⁶¹ Farah Deeba Chowdhury, 'Theorising Patriarchy: The Bangladesh Context' (2009) 37(4) *Asian Journal of Social Science* <https://doi.org/10.1163/156853109X460200> accessed 27 October 2024

⁶² UNDP Bangladesh, 'Over 99 percent of Bangladeshis hold at least one bias against women' (UNDP, 24 October 2023), <https://www.undp.org/bangladesh/blog/over-99-percent-bangladeshis-hold-least-one-bias-against-women> accessed 27 October 2024.

⁶³ United Nations Women, *Gender-Based Violence in Bangladesh* (Report, UN Women Bangladesh 2021) <https://bangladesh.unwomen.org> accessed 15 June 2024.

for victims, particularly on Prothom Alo's Facebook page. These trends demonstrate how patriarchal systems use digital media to justify physical and sexual abuse while simultaneously silencing women. But it's also important to recognize that new counter-narratives opposing this poisonous culture are calling for improved reporting instruments, awareness campaigns, and online safeguards⁶⁴. Scoping evaluations reveal that men are more prone to commit IBSA, frequently motivated by rewards like power, status, or enjoyment. Global and regional empirical studies demonstrate that this trend is not exclusive to Bangladesh. Because of the normalization of sharing nonconsensual images and the cultural taboos around female sexuality, offenders perceive IBSA as low-risk and socially acceptable⁶⁵

Next, RAT's second component, 'a suitable target'⁶⁶ manifests in the digital visibility and societal invisibility of Bangladeshi women. According to a 2023 policy brief, 86% of female and 91% of male Bangladeshi children access the internet, and nearly half report being sexually abused online. Once termed "nonexplicit," any image can be sexualized if society deems it immodest, and that societal pressure positions women online as vulnerable "suitable targets"⁶⁷. Images of women, are frequently taken without consent, sometimes digitally manipulated, and often shared across networks, forums, or private groups with sexually explicit captions. In a patriarchal context where the idea of "modesty" is still a moral yardstick, even the most mundane image of a woman can be misused or recontextualized as an "invitation" for harassment or blackmail⁶⁸. Women have been silenced or blackmailed by having their faces placed on pornographic images. Others are subjected to "sextortion" through forced photograph sharing, and deepfake pornography, which is not yet illegal, has started to target Bangladeshi women⁶⁹.

Instead, of perpetrator focus, women in Bangladesh who are sexually assaulted are frequently treated as the perpetrator. This demonstrates that instead of viewing them as individuals in need of assistance, society views them as "suitable targets" for criticism. Because they are aware that the public would always question the victim rather than the abuser, even well-educated families

⁶⁴ Lamia Islam, 'Patriarchal Masculinities and Cyberbullying on Facebook: Unraveling Interconnections and Implications in the Context of Bangladesh' (2024) 41(1) *Gender Issues*

⁶⁵ McGlynn, C., Rackley, E., & Houghton, R. (2017). *Beyond 'Revenge Porn': The Continuum of Image-Based Sexual Abuse*. *Feminist Legal Studies*, 25(1), 25-46. DOI: 10.1007/s10691-017-9343-2

⁶⁶ Marcus Felson, 'The Routine Activity Approach' in *Environmental Criminology and Crime Analysis* (2nd edn, Routledge 2016) 11 <https://doi.org/10.4324/9781315709826> accessed 26 January 2025.

⁶⁷ UNICEF Bangladesh, *Online Child Sexual Abuse in Bangladesh* (Policy Brief, 2023) <https://www.unicef.org/bangladesh/en/reports/online-child-sexual-abuse-bangladesh> accessed 15 June 2025.

⁶⁸ McGlynn, C., Rackley, E., & Houghton, R. (2017). *Beyond 'Revenge Porn': The Continuum of Image-Based Sexual Abuse*. *Feminist Legal Studies*, 25(1), 25-46. DOI: 10.1007/s10691-017-9343-2

⁶⁹ NORC at the University of Chicago and the International Center for Research on Women, 'Case Study: Technology-facilitated Gender Based Violence in Bangladesh (2022) <https://www.norc.org/PDFs/CaseStudy-Tech-facilitatedGBV-Bangladesh.pdf> accessed 28 October 2024.

advise women to keep quiet. Both boys and girls are indoctrinated from an early age with beliefs that make women more culpable, particularly when their "honour" is associated with their physical appearance. This facilitates the selection of women as targets for assailants, both for the crime and for subsequent social punishment⁷⁰.

The lack of competent guardians, the third component of RAT, is glaringly evident in Bangladesh's institutional, legal, and cultural framework⁷¹. To start there is no explicit definition or determination of IBSA. Although Bangladeshi Cyber Crime Legislation, does hold certain fallbacks in some of the key National Laws, that may be referenced, such as, Section 509 of *the Penal Code* which uses modesty as a standard⁷². Table 3B and 3A further detail available piecemeal definitions and remedies that are available.

However, as IBSA is not specifically targeted in these acts and the punishment not being predetermined⁷³ subjective interpretation (a) undermines crime severity, in cases where the with social pressured disproportionately impacting poor and affluent perpetrators⁷⁴. More critically in terms of the subjectiveness of *Bangladeshi* IBSA (b) the punishment is precluded by the clarifier 'modesty of any women' and then goes on to identify acts exhibited by one against 'such women'. The definition is widened of course in the Suppression of Violence against Women and Children Act (SVWC)⁷⁵. Even with the growth of the laws, the nature of traditional Bangladeshi society, remains unchanged, with a presumption of guilt⁷⁶ or 'asking for it' attached to females who do not conform to specific social norms. Rape culture specifically has a sort of impunity that revolves around issues such as character evidence, two finger test etc. only recently being eradicated⁷⁷

On the rare occasions where women move to seek justice, despite obstacles they continue to face roadblocks, including social shaming, victim blaming, harassment of victims and victim

⁷⁰ Afrida Kiswar Esha, 'Victim-blaming in Bangladesh: a Medusa syndrome?' *The Financial Express* (Bangladesh, 19 November 2020, updated 3 December 2020) <https://thefinancialexpress.com.bd/views/reviews/supply-of-services-definition-in-the-vat-law> accessed 15 June 2025.

⁷¹ Marcus Felson, 'The Routine Activity Approach' in *Environmental Criminology and Crime Analysis* (2nd edn, Routledge 2016) 11 <https://doi.org/10.4324/9781315709826> accessed 26 January 2025.

⁷² Penal Code(Bangladesh), S 509

⁷³ Penal Code(Bangladesh), S.63

⁷⁴ The Business Standard, 'Rape Case: Bails of Apan Jewellers Owner's Son and 4 Others Cancelled'(3 October, 2021) <https://www.tbsnews.net/bangladesh/court/rape-case-bails-apan-jewellers-owners-son-and-4-others-cancelled-310906> accessed 27 October 2024.

⁷⁵ Suppression of Violence against Women and Children Act, S10

⁷⁶ Femi Oke, Shuprova Tasneem, Sara Hossain, and Sultan Mohammad Zakaria, Why are women raped with impunity in Bangladesh?, (October 11, 2020), https://www.youtube.com/watch?v=Qszxfl-W77s&ab_channel=AlJazeeraEnglish accessed 29 October 2024

⁷⁷ Rezaul Karim, 'High Court issues 8 directives to ban two-finger test for rape victims' (30 August, 2023, *The Business Standard* <https://www.tbsnews.net/bangladesh/court/high-court-issues-8-directives-ban-two-finger-test-rape-victims-691906> accessed 29 October 2024

allies, defamation. Sara Hossain, in an interview with Al-Jazeera, clarifies that the laws need reform, yes - however the bigger problem is the 'rape culture', which perpetuates partially through the judicial process, and the now repealed two finger test and issues such as character assassination, need to be addressed. The deeply embedded culture leads to challenges in enforcing laws, such as the death penalty for rape-related murder, due to court reluctance stemming from lack of due process and subjective views on proportionality.

A spokesperson for Amnesty International on the same interview, touches upon the fact that in addition to the patriarchy and misogyny that heavily weigh on Bangladeshi social constructs, there is or has been a lack of political will, a theory which is backed up by the fact that for many of these instances of rape including in the 2021 Gang Rape that sparked mass protests, the rapist was a politically influential leader of the locality.

The theoretical and socio-cultural context surrounding IBSA in Bangladesh, requires a deeper dive into numerous issues including the 'modesty-code', and how that is imbedded into the social context, relevant cultural dimensions which address social biases and the need for comprehensive reforms, both in terms of legislation and the social attitudes.⁷⁸ Sexual violence is a serious problem in Bangladesh, where most of the offenders are able to avoid punishment due to a deeply ingrained culture of impunity. Ain o Salish Kendra (ASK) reports that 975 women were raped between January and September of this year, including 208 gang rapes. Tragically, 12 women killed themselves and 45 were raped and killed. Twelve suicides have been connected to sexual harassment, which impacted 161 women. In addition, 21 women suffered acid assaults, 20 boys were assaulted, and 627 youngsters were raped. Despite these concerning statistics, just 3% of offenders receive punishment, suggesting that 97% remain unpunished⁷⁹.

Patriarchy, political protection of criminals, moral deterioration, and a deficient criminal justice system all contribute to the continuation of these crimes. Police frequently abuse victims by harassing them and asking inappropriate questions, which discourages reporting and legal action. Laws are still out of date, and political parties usually distance themselves from members who are implicated without being held truly accountable. Offenders are further emboldened by the sluggish, inefficient legal system and inadequate investigations. Through institutional incompetence and official indifference, patriarchy pardons perpetrators, prolonging violence

⁷⁸ Femi Oke, Shuprova Tasneem, Sara Hossain, and Sultan Mohammad Zakaria, Why are women raped with impunity in Bangladesh?, (October 11, 2020), https://www.youtube.com/watch?v=Qszxfl-W77s&ab_channel=AlJazeeraEnglish accessed 29 October 2024

⁷⁹ 'Why 97% Sex Offenders in Bangladesh Go Unpunished' Daily Sun (15 June 2025) <https://www.daily-sun.com/post/510317/Why-97-pc-sex-offenders-in-Bangladesh-go-unpunished> accessed 15 June 2025.

against women and children. This systemic failure reflects a larger social issue. To end this pattern and guarantee justice for survivors, immediate reforms and enforcement are required⁸⁰.

This theoretical framework emphasizes how crucial it is to tackle Image based sexual abuse from multiple angles. Robust guardianship measures can be achieved by strengthening legal frameworks to ensure tighter rules for offenders, raising young women's understanding of digital issues, and increasing the accountability of digital service providers. By including RAT into the study, weaknesses can be found in the current legislative framework and provide research-based tactics to lower the incidence of IBSA and protect women's rights welfare.⁸¹

B. The Legislative Framework & Context

While IBSA, stems from Sexual Abuse and Harassment, due to the technology involved, an adequate understanding of IBSA Laws must start with a thorough exploration of the Cyber Laws of Bangladesh. These are of course in many ways supplemented by National Laws, Constitutional Rights and International Treaties.

We begin by exploring the legislation and as of 2024, the Laws that predominantly shape this landscape are the 3 Cyber Crime related Acts, the ICT, the DSA (repealed) and the CSA, and the Pornography Control Act, the Penal Code, the Suppression of Women and Children Act, and the Bangladesh Telecommunication Act. The Dhaka Metropolitan Police Ordinance, the National Broadcasting Policy and the Children Act 2013, also play fringe roles.

As we explore these, it is important to keep in mind that one of the major failures of these laws is they were never formulated with the specific intent of addressing Sexual Abuse. Rather for the longest time Cyber Security Laws in Bangladesh have been created predominantly to deal with online political dissent, instead of adequately addressing cybercrimes, such as IBSA in Bangladesh⁸².

A comparative progressive history of Cyber Laws in Bangladesh, in so far as their overlap with IBSA, is identified in the table below.

⁸⁰ 'Why 97% Sex Offenders in Bangladesh Go Unpunished' Daily Sun (15 June 2025) <https://www.daily-sun.com/post/510317/Why-97-pc-sex-offenders-in-Bangladesh-go-unpunished> accessed 15 June 2025.

⁸¹ D Kim Rossmo and Lucia Summers, 'Routine Activity Theory in Crime Investigation' in MA Andresen and G Farrell (eds), *The Criminal Act* (Palgrave Macmillan 2015) https://doi.org/10.1057/9781137391322_3 accessed 26 January 2025.; Nicola Henry, Asher Flynn, and Anastasia Powell, 'Technology-Facilitated Domestic and Sexual Violence: A Review' (2020) *Violence Against Women* <https://doi.org/10.1177/1077801219875821> accessed 12 December 2024

⁸² Taqbir Huda, 'Bangladesh: Interim Government must restore freedom of expression in Bangladesh and repeal Cyber Security Act' (Amnesty International, 8 August 2024) <https://www.amnesty.org/en/latest/news/2024/08/bangladesh-interim-government-must-restore-freedom-of-expression-in-bangladesh-and-repeal-cyber-security-act/> accessed 27 October 2024.

Table 3A Cyber Law Progression in Bangladesh in the context of IBSA

Law	Section	Language of the Law	Punishment/Fine	Primary Content	Comment	Year	Progression Insight
Information & Communication Technology Act, 2006	Section 56	Punishment for hacking with computer system.(1) If any person- (a) with the intent to cause or knowing that he is likely to cause wrongful loss or damage to the public or any person, does any act and thereby destroys, deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means; (b) damage through illegal access to any such computer, computer network or any other electronic system which do not belong to him; then such activity shall be treated as hacking offence. (2) Whoever commits hacking offence under sub-section (1) of this section he shall be punishable with imprisonment for a term which may extend to ten years, or with fine which may extend to Taka one crore, or with both	Imprisonment - Up to 10 Years and/or fine up to BDT One Crore	Addresses wrongful damage or loss caused by hacking and illegal access to computer systems	Focuses on punitive measures for hacking activities. Does not directly touch upon sexual content – as it does not discuss obtaining information and misusing intimate content, however the provision of 'alter' could in theory be used to deal with instances where IBSA content is developed from some altered information on the device.	2006	Part of broad measures to enhance cybersecurity and punish illegal access and tampering with computer systems but does not directly pertain to IBSA or Sexual Abuse.
Information & Communication Technology Act, 2006	Section 57	Punishment for publishing fake, obscene or defaming information in electronic form.-- (1) If any person deliberately publishes or transmits or causes to be published or transmitted in the website or in electronic form any material which is fake and obscene or its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, or causes to deteriorate or creates possibility 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 organisation, then this activity of his will be regarded as an offence. (2) Whoever commits offence under sub-section (1) of this section he shall be punishable with imprisonment for a term which may extend to ten years and with fine which may extend to Taka one crore.	Imprisonment - Up to 10 Years and/or fine up to BDT One Crore	Penalises the deliberate publication or transmission of fake, obscene, or defamatory information through electronic means	Highly controversial section due to extensive misuse, in terms of politically motivated harassment, does address the misuse of electronic communication for spreading harmful, fake, or obscene content but not IBSA exclusively or directly.	2006	Claimed to be aimed to regulate content shared electronically and protect public interest from harmful information. Due to mass misuse causes more harm than good, as the huge backlog of cases under this section that are politically/otherwise motivated tend to bury the genuine cases of IBSA or similar issues. The punishment however is intense enough both monetarily and in terms of imprisonment to act as a deterrent.
Information & Communication Technology Act, 2006	Section 63	Punishment for disclosure of confidentiality and privacy. Save as otherwise provided by this Act or any other law for the time being in force, no person who, in pursuance of any of the powers conferred under this Act, or rules and regulations made thereunder, has secured access to any electronic record, book, register, correspondence, information, document or other material shall, without the consent of the person concerned, disclose such electronic record, book, register, correspondence, information, document or other material to any other person shall be regarded as an offence. (2) Whoever commits any offence under sub-section (1) of this section he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to Taka two lakhs, or with both.	Imprisonment - Up to 2 Years and/or fine up to BDT 2,00,000	Protects the confidentiality and privacy of electronic records and information.	Ensures that access to personal or sensitive information obtained legally cannot be disclosed without consent.	2006	Strengthens privacy protections in the digital realm, aligning with global standards of data protection, however does not seem to be applicable for instances of IBSA as the focus is primarily on records and data.

Law	Section	Language of the Law	Punishment/Fine	Primary Content	Comment	Year	Progression Insight
Digital Security Act 2018 [To be noted that this Act has now been repealed in favour of the CSA]	Section 4	Extra territorial applicability of the Act.(1) If any person commits any offence under this Act beyond Bangladesh which would be punishable under this Act if committed in Bangladesh, the provisions of this Act shall be applicable in such manner as if he had committed such offence in Bangladesh. (2) If any person commits any offence under this Act from outside of Bangladesh using any computer, computer system, or computer network situated in Bangladesh, the provisions of this Act shall be applicable to the person in such manner as if the whole process of the offence had been committed in Bangladesh. (3) If any person commits any offence beyond Bangladesh under this Act from inside of Bangladesh, the provisions of this Act shall be applicable in such manner as if the whole process of the offence had been committed in Bangladesh.	N/A	Establishes the acts punishable beyond Bangladesh's borders for cyber offences.	Ensures persons committing offences from abroad or affecting Bangladesh's digital space are held to account.	2018	Marked a complete as the approach to digital security, accountability, and cross-border cybercrime management. Has successfully been used in cases of IBSA cases that are transnational.

Digital Security Act 2018	Section 18	Illegal access to computer, digital device, computer system, etc. and punishment. (1) If any person intentionally, (a) makes or abets to make illegal access to any computer, computer system or computer network; or (b) makes or abets to make illegal access with intent to commit an offence, then such act of the person shall be an offence. (2) If any person (a) commits an offence under clause (a) of sub-section (1), he shall be punished with imprisonment for a term not exceeding 6 (six) months, or with the fine not exceeding Taka 2 (two) lac, or with both; (b) commits an offence under clause (b) of sub-section (1), he shall be punished with imprisonment for a term not exceeding 3 (three) years, or with the fine not exceeding Taka 10 (ten) lac, or with both. (3) If any person commits an offence under this section for the second time or repeatedly, he shall be liable to double the punishment provided for that offence.	Imprisonment - Up to 3 Years and/or Fine: 10,00,000 BDT	Addresses illegal access to computer systems and networks with intent to commit offences or cause harm.	Defines the punishment for unauthorized access, setting the rate penalties to enhance cyber security.	2018	While not directly related to IBSA, building strings for punishment for unauthorized modification of computer source code will bolster the cybersecurity landscape in Bangladesh. While in turn, will not only help protect the critical property, but will enhance system security and build trust. It is worthy of note however that both punitive damages and imprisonment are significantly lower than Section 56 of the ICT which deals with similar issues, denoting a softening of the judicial blow.
Digital Security Act 2018	Section 20	Offence and punishment related to modification of computer source code. (1) If any person intentionally or knowingly hides or damages or modifies the source code used in any computer programme, computer system or computer network, or tries to hide, damage or modify the source code, programme, system or network through another person, and if such source code is preservable or maintainable, then such act of the person shall be an offence. (2) If any person commits any offence under sub-section (1), he shall be punished with imprisonment for a term not exceeding 3 (three) years, or with the fine not exceeding Taka 3 (three) lac, or with both. (3) If any person commits the offence referred to in sub-section (1) for the second time or repeatedly, he shall be punished with imprisonment for a term not exceeding 5 (five) years, or with the fine not exceeding Taka 5 (five) lac, or with both.	Imprisonment - Up to 5 Years and/or Fine: 500,000	Penalises the unauthorized modification or damage to computer source codes.	Aims to protect intellectual property and the integrity of digital systems and software from tampering.	2018	As noted above
Digital Security Act 2018	Section 25	Transmission, publication, etc. of offensive, false or threatening data/information. (1) If any person, through any website or any other digital medium, (a) intentionally or knowingly transmits, publishes or propagates any data/information which he knows to be offensive, false or threatening in order to annoy, insult, harm, humiliate or malign a person; or (b) publishes or propagates or abets to publish or propagate any information, as a whole or partly, which he knows to be propaganda or false, with an intention to affect the image or reputation of the country, or to spread confusion, then such act of the person shall be an offence. (2) If any person commits an offence under sub-section (1), he shall be punished with imprisonment for a term not exceeding 3 (three) years, or with the fine not exceeding Taka 3 (three) lac, or with both. (3) If any person commits the offence referred to in sub-section (1) for the second time or repeatedly, he shall be punished with imprisonment for a term not exceeding 5 (five) years, or with the fine not exceeding Taka 10 (ten) lac, or with both.	Imprisonment - Up to 5 Years and/or Fine: 10,00,000	Penalises the transmission of false, offensive, or threatening data through digital platforms.	Protects individuals and the state from the negative impact of digital misinformation and harmful content.	2018	Section 25 seems to replace Section 57, but with a much softer edge in terms of retribution - the imprisonment at time has been cut in half, while the fine has been reduced to 10% of the original fine in Section 57.
Digital Security Act 2018	Section 29	Publication, transmission, etc. of defamatory information. (1) If any person publishes or transmits any defamatory information as described in section 499 of the Penal Code (Act XLV of 1860) in website or in any other electronic format, he shall be punished with imprisonment for a term not exceeding 3 (three) years, or with the fine not exceeding Taka 5 (five) lac, or with both. (2) If any person commits the offence referred to in sub-section (1) for the second time or repeatedly, he shall be punished with imprisonment for a term not exceeding 5 (five) years, or with the fine not exceeding Taka 10 (ten) lac, or with both.	Imprisonment - Up to 5 Years and/or Fine: 10,00,000	Addresses the publication or transmission of defamatory information through digital mediums.	Expands traditional defamation laws to cover digital and online platforms.	2018	Ensures that defamation laws keep pace with technological advancements and the prevalence of digital communication.

Law	Section	Language of the Law	Punishment/Fine	Primary Content	Comment	Year	Progression Insight
Cyber Security Act (CSA)	Section 18	Unlawful access to computers, digital devices, computer systems, etc. and punishment. (1) If any person intentionally (a) unlawfully accesses or facilitates access to any computer, digital device, computer system or computer network; or (b) unlawfully accessed comma or assists in the entry of comma any computer comma digital device comma computer system or computer network for the purpose of committing an offence comma such act by such person shall be an offence. (2) If any person in subsection (1) (a) commits an offence under clause (a), he shall be punished with imprisonment for a term not exceeding 6 (six) months, or with fine not exceeding Taka 2 (two) lac, or with both; (b) commits an offence under clause (b), he shall be punished with imprisonment for a term not exceeding 3 (three) years, or with fine not exceeding Taka 10 (ten) lac, or with both. (3) If any offence is committed in relation to any computer, digital device, computer system or computer network protected by critical information infrastructure, he shall be punished with imprisonment for a term not exceeding 3 (three) years, or with fine not exceeding Taka 10 (ten) lac, or with both.	Imprisonment - Up to 3 Years and/or Fine: 10,00,000	Penalises unlawful access to computers and digital networks, particularly with intent to commit further offences.	Strengthens security measures and lowers tolerance for illegal access to critical digital institutions.	2022	Modernises and reinforces digital security laws, aiming to protect critical information infrastructure and reduce cybercrime. Eradication of doubling of punishment when 2nd time offence.

Cyber Security Act (CSA)	Section 25	Transmission, publication, etc. of offensive, false or threatening data[1] Information.%4(1) If any person, through any website or any other digital medium,%4 (a) intentionally or knowingly transmits, publishes or propagates any information that is offensive, false or threatening in order to annoy, insult, humiliate or malign a person, whether or not known to be false; or (b) publishes or propagates or abets to publish or propagate any information, in a wholly or partly distorted form, whether defaming the image or reputation of the state, or spreading misinformation or otherwise whether known to be slanderous or false. (2) If any person commits an offence under sub-section (1), he shall be punished with imprisonment for a term not exceeding 2 (two) years, or with fine not exceeding Taka 3 (three) lac, or with both.	Imprisonment - Up to 2 Years and/or Fine: 3,00,000	Loss of Employment as per BLR/BLA Penalizes the publication of offensive, false, or threatening information, emphasising accountability.	Updates previous laws to include digital and online behaviour, with a specific focus on intentional misinformation.	2022	Emphasises the state's intolerance for misinformation and offensive digital content, modernising the legal approach to meet current digital realities. 'he knows to be' is replaced by 'is' – adds 'whether or not known to be false' eradication of doubling of punishment when 2nd time offence.
Cyber Security Act (CSA)	Section 29	Publication, transmission, etc. of defamatory information.%4(1) If any person publishes or transmits any defamatory information as described in section 499 of the Penal Code (Act XLV of 1860) in website or in any other electronic format, such act of such person shall be an offence and he shall be liable to pay a fine not exceeding 25,00,000	Fine: 25,00,000	Penalises the digital publication or transmission of defamatory information.	Removes imprisonment for defamation offences, focusing solely on financial penalties.	2022	Aims to decrease criminalization and focus on financial repercussions, reflecting a shift towards more proportionate penalties for defamation in the digital era. Removal of imprisonment & eradication of doubling of punishment when 2nd time offence.

As observed from the data presented in the table, the evolution of digital crime laws in Bangladesh have shown a notable trend towards the reduction of punitive measures. This is particularly evident in the transition from the ICT Act to the DSA and later to the CSA. Notably, provisions relevant to IBSA were initially robust under the ICT Act; however, these have been repealed and replaced with less stringent measures under subsequent legislations.

Section 57 of the ICT Act, a central provision, was historically misused for politically motivated purposes, as illustrated in Table 3A. Mass scrutiny from national and international platforms led to this section later being replaced by Section 25 of the DSA. Although the content of Section 25 remains almost identical to Section 57, the severity of the punishment has dramatically diminished. The DSA reduced fines by 90%, decreasing from the original amount of one crore BDT, and halved the imprisonment duration. This reduction symbolizes a softening by the government towards such offences.

With the introduction of the CSA, Section 25 was further moderated. Punishment was reduced to a mere 3% of the original fine and only one-fifth of the original imprisonment term. This substantial reduction in both financial and custodial penalties for digital crimes, particularly those involving IBSA abuse, may inadvertently signal a diminished gravity with which these offences are treated.

Criticisms of this current evolution or rather devolution in regard to the laws governing criminal activity on electronic/online/digital mediums may extend to failure of the legislative growth to adequately address the core issue of the criticism which is the misuse of law. Rather than addressing the issue through the incorporation of a detailed breakdown of offences and

corresponding punishments, similar to the distinction made in homicide cases (e.g., first-degree murder, second-degree murder, manslaughter), which would clarify the severity of various digital crimes and provide a structured, transparent framework for punishments, where digital crimes could be categorised by their impact and intent, with corresponding penalties the current changes seem to simply be focused on reducing overt impact until the threshold is beneath scrutiny levels. Initially beginning with the ICT Act 2006 (amended in 2013), and later the 2018 DSA⁸³. Both of these laws were heavily criticised, by international and national bodies, so much so that in September 2023, the DSA was amended to the CSA.

IBSA aligned Sexual Harassment Laws in National Legislation has also changed, although not as frequently and not as drastically as the Cyber Laws. A Table detailing the progressive history of Sexual Harassment Laws in Bangladesh is as follows -

Table 3B Sexual Harassment Laws in Bangladesh - A Progressive History

Law	Section	Language of the Law	Punishment/Fine	Primary Content	Comment	Year	Progression Insight
Dhaka Metropolitan Police Ordinance	Section 76	Whoever willfully and indecently exposes his person in any street or public place within sight of, and in such manner, as may be seen by, any woman, whether from within any house or building or not, or willfully presses or obstructs any woman in a street or public place or insults or annoys any woman by using indecent language or making indecent sounds, gestures, or remarks in any street or public place, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to Tk2,000, or with both.	Imprisonment - Up to 1 Year and/or Fine of BDT 2000	Targets public indecency and harassment in public spaces, including indecent exposure and obstructing or insulting a woman in public.	This law is primarily focused on maintaining public order and decency, rather than directly addressing the broader spectrum of sexual harassment.	1976	Early attempts to criminalize behaviors that could lead to public disturbance and harassment. Could be connected to Cyber Flashing if social media platforms are deemed public places.
Penal Code	Section 354	Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.	Imprisonment - Up to 2 Years and/or Fine undefined under Sec.63 'not excessive'	Addresses assaults or use of criminal force against women with the intent to outrage their modesty.	Uses the term "modesty," which is somewhat subjective and limited in scope. It focuses more on physical assault.	1860	Part of colonial-era legislature which has been foundational but limited in covering modern contexts of sexual harassment.
Penal Code	Section 509	Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.	Imprisonment - Up to 1 Years and/or Fine undefined under Sec.63 'not excessive'	Deals with insulting the modesty of women through words, sounds, gestures, or intrusion of privacy.	Emphasizes verbal and non-physical forms of harassment, expanding the scope slightly beyond physical assault.	1860	Expands the definition to include psychological and emotional forms of harassment.

⁸³ Ali Riaz, 'How Bangladesh's Digital Security Act is Creating a Culture of Fear' (Carnegie Endowment for International Peace, 09 December 2021) <https://carnegieendowment.org/research/2021/12/how-bangladeshs-digital-security-act-is-creating-a-culture-of-fear?lang=en> accessed 27 October 2024.

Law	Section	Language of the Law	Punishment/Fine	Primary Content	Comment	Year	Progression Insight
Prevention of Repression on Women and Children Act	Section 10	i) Whoever, to satisfy his sexual urge illegally, touches the sexual organ or other organ of a woman or a child with any organ of his body or with any substance, his act shall be said to be sexual oppression and he shall be punished with imprisonment for either description which may extend to ten years but not less than two years of rigorous imprisonment and also with fine. ii) Whoever, to satisfy his sexual urge illegally, assaults a woman sexually or makes any indecent gesture, his act shall be deemed to be sexual oppression and he shall be punished with imprisonment for either description which may extend to seven years but not less than two years of rigorous imprisonment and also with fine.	Imprisonment - 2 Years to 7 Years and/or Fine undefined under Sec.63 'not excessive'	Defines sexual oppression very specifically, including illegal touching of sexual organs and indecent gestures aimed at satisfying sexual urges.	Provides detailed descriptions and sets rigorous punishments (imprisonment and fines).	2000	Marks a significant step towards modernizing laws to address specific acts of sexual harassment with detailed descriptions.
Bangladesh Telecommunications Act, 2001	Section 69	Penalty for sending obscene, indecent message etc.- If- (a) a person offers to another person engaged in the operation of a telecommunication apparatus or radio apparatus to send an obscene, threatening or grossly insulting message or (b) the person secondly mentioned, pursuant to such offer, knowingly or intentionally sends that message, then, in case of clause (a), the person offering to send, and in case of clause (b), both the person offering to send and the person sending, the message commits an offence, and for such offence the person so offering to send or, as the case may be, the person sending the message shall be liable to be sentenced to imprisonment for a term not exceeding 6 (six) months or to a fine not exceeding 50 (fifty) thousand taka or to both.	Imprisonment - up to 6 Months and/or Fine 50,000 BDT	Penalty for sending obscene, threatening, or grossly insulting messages via telecommunications.	Focuses on maintaining the integrity and safety of communications services.	2001	Modern approach towards regulating digital and telecommunications activities, addressing misuse of digital communication channels.
Pornography Control Act, 2012	Section 8(i)	if any person produces pornography or agrees to supply, or forces participation of any man, woman or child, or entices any man, woman or child, to participate in – any picture, video of man or woman or children with/without their knowledge then s/he will be punished with a maximum of 7 years along with a fine of up to BDT 200,000, just for capturing the image or video.	Imprisonment - Up to 7 Years and/or Fine: 200,000	Criminalizes the production and distribution of pornography involving men, women, or children.	Aims to protect individuals from exploitation and non-consensual involvement in pornographic materials.	2012	Reflects a stringent stance against the production and distribution of pornographic materials, emphasizing the protection of individuals, especially minors.
Pornography Control Act, 2012	Section 8(ii)	If any person through pornography damages another person's social and personal status, or harass any person by using their captured pornography without their knowledge then s/he will be punished with imprisonment of maximum 5 years and fine up to TK 2,00,000.	Imprisonment - Up to 5 Years and/or Fine: 200,000	Addresses the social and personal damage caused by non-consensual use of pornography.	Strictly penalizes the misuse of pornographic material to harm an individual's reputation or for harassment.	2012	Strengthens the legal framework by addressing the misuse of pornographic materials in harassing individuals and damaging reputations.

Law	Section	Language of the Law	Punishment/Fin e	Primary Content	Comment	Year	Progression Insight
Bangladesh Labour Rules, 2015	Rule 361 KA	Sexual Harassment for women includes - • Unwelcome sexually determined behaviour (whether directly or by implication) as physical contact and advances. • Attempts or efforts to establish physical relation having sexual implication by abuse of administrative, authoritative or professional powers. • Sexually coloured verbal representation. • Demand or request for sexual favours • Showing pornography. • Sexually coloured remark or gesture. • Indecent gesture, teasing through abusive language, stalking, joking having sexual implication. • Insult through letters, telephone calls, cell phone calls, SMS, e- mails, social media, photo, notice, cartoon, writing on chair-table, bench, notice board, walls of office, factory, classroom and washroom having sexual implication. • Taking still or video photographs for the purpose of blackmailing and character assassination. • Preventing participation in sports, cultural, organizational and academic	Loss of Employment as per BLR/BLA	Offers a comprehensive list of behaviors constituting sexual harassment in workplaces, including unwelcome physical contact, verbal harassment, showing pornography, and more.	The most expansive and detailed regulation, covering a wide range of actions, reflecting modern understanding of sexual harassment.	2022	Represents the most recent and holistic approach to defining and addressing sexual harassment, particularly in workplaces. This rule integrates both physical and non-physical forms of harassment, leveraging contemporary issues related to digital communication and power dynamics in professional settings.

The primary concern regarding evolution of national sexual harassment/abuse laws are the subjectivity of laws in terms of wording. The term ‘modesty’ in the Penal Code of 1860⁸⁴, is not the only instance of subjectivity or some form of superimposed need for chastity, in the 1976 Dhaka Metropolitan Police Ordinance⁸⁵, the term ‘wilful and indecent’ is used to clarify exposure, however ‘indecent’ is not defined in the Ordinance, leaving the interpretation of the term up to jurists and case-law. For a country that has a history of intense backlog in the courts due to frivolous cases, this is a very definite problem. Not to mention that the definition provided in the Penal Code, excludes men, intersex or *hijra* (third gender) individuals.

Even the female oriented *Prevention of Repression of Women and Children Act, 2000*, has legislative gaps. It is noteworthy that on public demand, in the face of 2 high profile gang rape cases in 2020, including one in the home of a victim⁸⁶, while the other was at a university dormitory, the death penalty was added as a punishment to the crime of rape, in Section 9(1), however if one turns to the remaining subsections, you can note that the pecuniary impact is either not clearly defined, or not always proportionate⁸⁷. In 2017, the son of one of the biggest Gold Jewellers in Bangladesh, was involved in the rape of two university students in a hotel at the country’s capital⁸⁸. Here the minimum 1 lakh BDT pecuniary punishment is laughable at

⁸⁴ Penal Code, S.354

⁸⁵ Dhaka Metropolitan Police Ordinance, S.76

⁸⁶ Zia Chowdhury, ‘Noakhali rape came to be known after 32 days’, *The Business Standard*, (5 October 2020) <https://www.tbsnews.net/bangladesh/crime/noakhali-rape-came-be-known-after-32-days-141694> accessed 29 October 2024

⁸⁷ Al Jazeera, ‘Bangladesh Approves Death Penalty for Rape Cases’ (12 October, 2020) <https://www.aljazeera.com/news/2020/10/12/bangladesh-approves-death-penalty-for-rape-cases> accessed 29 October 2024

⁸⁸The Business Standard, ‘Rape Case: Bails of Apan Jewellers Owner’s Son and 4 Others Cancelled’(3 October,

best and is not equitable punishment or even deterrence. For a country like Bangladesh where wealth disparity means that 10% of the wealthiest people in the country control 41% of the national total income, and the bottom 10% a mere 1.31%, the absence of proportionality⁸⁹ and income-based staggering of fines showcase clearly that the laws do not apply to the rich. This is further complicated by Bangladesh's lack of tortious recourse, disabling the avenue of alternative recompense.

The question then arises, in instances where the National Laws and Cyber Laws are failing to provide justice, do the victims of IBSA have any other avenue, through which they can seek justice? The simple answer is yes, and we explore these constitutional and international treaties in Table's 3C and 3D below, however before we do we should keep in mind that justice delayed is justice denied. In most cases of IBSA or any form of Sexual Harassment in Bangladesh, including rape, the prolonged timelines, resource constraints, and ineffectiveness of instant protection and remedy render sexual abuse an almost untouchable crime, fostering an environment where perpetrators feel and continue to actively act with impunity.

Table 3C Violations of Constitutional Rights by IBSA in the context of Bangladesh⁹⁰

Article	Section of Rights	Language of the Law	Primary Content	Dissonance	Resolution
Article 10	Fundamental Principles of State Policy	A socialist economic system shall be established with a view to ensuring the attainment of a just and egalitarian society, free from the exploitation of man by man.	Socialism and freedom from exploitation	Despite the intention to eliminate exploitation, economic inequality and exploitation, all of the above are (further exacerbated by threat of IBSA or SA) and thus remain prevalent due to culture, weak regulatory enforcement, corruption, and income disparity.	Initiate change in culture at a grassroots level. Strengthen anti-corruption measures, ensure strict regulatory oversight, and implement redistributive policies to achieve economic justice.
Article 17	Fundamental Principles of State Policy	The State shall adopt effective measures for the purpose of – (a) establishing a uniform, mass oriented and universal system of education and extending free and compulsory education to all children to such stage as may be determined by law; (b) relating education to the needs of society and producing properly trained and motivated citizens to serve those needs; (c) removing illiteracy within such time as may be determined by law.	Free and compulsory education	While the law mandates free and compulsory education, access to quality education is hampered by the lack of infrastructure, qualified teachers, and discrepancies between urban and rural education facilities. Educational scope is further directly hampered by IBSA and threats of IBSA, particularly in rural more vulnerable regions.	Increase investment in education infrastructure, provide incentives for teacher training, and ensure uniform standards of education across regions.

2021) <https://www.tbsnews.net/bangladesh/court/rape-case-bails-apan-jewellers-owners-son-and-4-others-cancelled-310906> accessed 27 October 2024.

⁸⁹ Eresh Omar Jamal, 'Time to Address the Growing Wealth Gap in Bangladesh' (September 23, 2021 The Daily Star) <https://www.thedailystar.net/opinion/the-overton-window/news/time-address-the-growing-wealth-gap-bangladesh-2181906> accessed 27 October 2024.

⁹⁰ Meagan Tyler, Harms of production: theorising pornography as a form of prostitution, *Women's Studies International Forum*, Volume 48, 2015, Pages 114-123, ISSN 0277-5395, <https://doi.org/10.1016/j.wsif.2014.11.014>. (<https://www.sciencedirect.com/science/article/pii/S0277539514002234>)

Article 18	Fundamental Principles of State Policy	(1) The State shall regard the raising of the level of nutrition and the improvement of public health as among its primary duties, and in particular shall adopt effective measures to prevent the consumption, except for medical purposes or for such other purposes as may be prescribed by law, of alcoholic and other intoxicating drinks and of drugs which are injurious to health. (2) The State shall adopt effective measures to prevent prostitution and gambling.	Public health and morality	Prostitution and Pornography have for the longest time been held to be similar but different however studies have shown that there is also reason to interpret commercial pornography (Tiktok views equating payment) should be understood as prostitution and, potentially, as a form of prostitution carrying specific and additional harms. For IBSA, where 'revenge porn' plays a big role in the type of content uploaded, it may be worth venturing into the woods to see if Bangladeshi courts which have legalised prostitution but distinguished and held guilty institutions supporting it such as brothels, and transfers, choose to extend similar restrictions on digital prostitution, by way of revenge porn. If so some of the more stringent legal ramifications (at least in the case of minors) including those in Section 372 of the Penal Code - Up to 10 years imprisonment and monetary fines would be added to IBSA implications in law.	Clarification needed on whether IBSA/revenge porn for minors will be equated to digital prostitution.
Article 19	Fundamental Principles of State Policy	(1) The State shall endeavour to ensure equality of opportunity to all citizens. (2) The State shall adopt effective measures to remove social and economic inequality between man and man and to ensure the equitable distribution of wealth among citizens, and of opportunities in order to attain a uniform level of economic development throughout the Republic. [(3)The State Shall endeavour to ensure equality of opportunity and participation of women in all spheres of national life.]	Equality of opportunity	Despite the constitutional guarantee, social and economic inequalities persist due to systemic issues like culturally high masculinity indexes, corruption, favouritism, and ineffective policy implementation.	Strengthen policies aimed at reducing inequality, enforce female quota's, ensure strict enforcement of anti-corruption measures, and provide support for marginalised groups to access opportunities.

Table 3D Violations of International Instrument/Convention by IBSA in the context of Bangladesh

International Instrument/Convention	Year	Article/Clause	Year of Impact in Bangladesh	Language of the Instrument	Primary Content and practical implementation in Bangladesh
Universal Declaration of Human Rights (UDHR)	1948	Article 1		Article 1 – "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."	While almost all of the UDHR articles have some sort of impact on the constitutional rights enshrined in the Bangladeshi constitution – Article 2 and 7 are particularly relevant, not only because they coincide with Article 27 and 28 of the Constitution, but also because of the growth in case law including, but not limited to Dr. Nurul Islam vs. Bangladesh 33 DLR (AD)201 (1981); BRAC vs. Professor Mozaffar Ahmed 41 BLD (AD) (2002); and Dalia Parveen vs. Bangladesh Biman 48 DLR 132 (1996). All of the above issues, however, require ongoing enforcement and social programs.
		Article 2		Article 2 – "Everyone has the right to life, liberty and the security of person."	
		Article 4		Article 4 – "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms."	
		Article 7		Article 7 – "All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination."	
		Article 8		Article 8 – "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."	
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949)	1949	Article 1	Ratified 1985	Article 1: "The Parties to the present Convention agree to punish any person who, to gratify the passions of another: (1) Procures, entices or leads away, for purpose of prostitution, another person, even with the consent of that person; (2) Exploits the prostitution of another person, even with the consent of that person."	Article 1 mandates the punishment of traffickers of persons, and Article 16 focuses on the mutual assistance between states in the application of the law
		Article 16		Article 16: "The Parties to the present Convention agree to take or to encourage, through their public and private educational, health, social, economic and other related services, measures for the prevention and the suppression of the traffic in persons and of the exploitation of the prostitution of others."	The Prevention and Suppression of Human Trafficking Act, 2012, aligns with this Convention, with efforts from law enforcement and NGOs to combat trafficking, though challenges remain in enforcement.

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956)	1956	Article 1 (a-f)	Ratified 1985	"Each of the States Parties to this Convention shall take all practicable and necessary legislative and other measures to bring about progressively and as soon as possible the complete abolition or abandonment of the following institutions and practices: (a) Debt bondage... (b) Serfdom... (c) Any institution or practice whereby... a woman, without the right to refuse... (d) Any institution or practice whereby a child or young person under the age of 18 years... is delivered by either or both of his	Abolishes practices such as debt bondage, serfdom, and forced marriages akin to slavery. While the above are enforced through national laws, yet practices like debt bondage in rural areas and forced labor in certain industries still require attention.
Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	1979	Article 2 (a-g)	Acceded 1984	"States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: (a) To embody the principle of the equality of men and women... (b) To adopt appropriate legislative and other measures... (c) To establish legal protection... (d) etc."	Obliges states to eliminate discrimination against women in all forms and establish equality in various areas like education, employment, and health. The Women and Children Repression Prevention Act, 2000, implements several aspects of this Convention, but societal attitudes and enforcement gaps pose ongoing challenges.
Declaration on the Elimination of Violence Against Women	1993	Article 4 (a-o)		"States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should: (a) Consider, where it does not exist, enacting appropriate legislation... (b) Adopt all appropriate measures... (c) Establish legal protection... (d) etc."	Calls for the elimination of violence against women in both public and private life. While reflected in the Domestic Violence (Prevention and Protection) Act, 2010, though domestic violence and gender-based violence remains prevalent, requiring consistent enforcement and cultural change.
International Covenant on Civil and Political Rights (ICCPR)	1966	Article 2(1)	Acceded 2000	"Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."	Focuses on the respect and protection of civil and political rights for all individuals.

All articles listed in Table All articles listed in Table 3B categorised as Fundamental Rights do have a judicial recourse by way of Article 44 of the constitution, which grants a person aggrieved of a Fundamental Right, to move to the High Court, under Article 102(1) for the enforcement of such rights. Furthermore, Article 104 also grants the Appellate Division power to issue directions, orders, decrees or writs as necessary to ensure justice in any cause or matter pending before it. For the International Instruments that are acceded to or ratified, or of which Bangladesh is a signatory, it has been decided by several subcontinental decisions that gaps in municipal law may be addressed by international conventions and protocols on said issue, and that are to be followed until national legislation enacts laws on said issue.

Applicability has been considered by courts in cases as recent as 2008, where *State vs. Metropolitan Police* 60 DLR (2008) - 660⁹¹ quoted Justice Bimalendu Bikash Roy Chowdhury who has addressed this issue in *Hussain Mohammed Ershad vs Bangladesh & Other*, 21 BLD (AD) 2001, 69, Para 2⁹² stating that -

"The national court should not, I feel, straight away ignore the international obligations, which a country undertakes. If the domestic laws are not clear enough or there is nothing therein the national courts should draw upon the principles incorporated in the international instruments. But in the cases where the domestic laws are clear and inconsistent with the international obligations of the state concerned, the national courts will be obliged to respect the national

⁹¹ State vs. Metropolitan Police 60 DLR (2008) - 660

⁹² Hussain Mohammed Ershad vs Bangladesh & Other, 21 BLD (AD) 2001, 69

laws, but shall draw the attention of the lawmakers to such inconsistencies”

The current legislative framework addressing IBSA in Bangladesh reflects not only a legal approach but is also entangled with cultural, societal, and economic complexities. While existing laws offer partial coverage of IBSA-related harms, the absence of a dedicated offence leads to significant gaps and inconsistent enforcement. This legal ambiguity has also contributed to a troubling pattern of diminished punitive responses, undermining the seriousness of the offence and building into the Incapable Guardian definition.

To move forward, a robust legal framework must adopt a multi-tiered approach that integrates national reforms, international best practices, and targeted societal interventions. At the core lies a critical question: Does the current legal system in Bangladesh adequately capture the social and moral gravity of IBSA, and are the consequences proportionate to the harm inflicted?⁹³ If the answer is no—as current trends suggest—then it becomes clear that the existing legislative framework is insufficient to meet the demands of justice.

III. IBSA VICTIMS AND PROSECUTORS: THE BRUTAL REALITY OF IBSA IN BANGLADESH

IBSA in Bangladesh reflects a convergence of motivated offenders, vulnerable victims, and absent institutional guardianship—core to Routine Activity Theory (RAT). To explore this, a mixed-method approach was used: a victim survey to assess lived experiences and legal barriers, and prosecutor interviews to uncover institutional and legislative shortcomings⁹⁴.

In a culturally conservative context, IBSA carries severe social and psychological consequences, while vague laws and weak enforcement fail to offer protection. Triangulating both perspectives reveals the gap between legal frameworks and ground realities, highlighting how Bangladesh’s current system falls short as a capable guardian—validating the utility of RAT in understanding and addressing IBSA.

A. IBSA Victims

This study employs an exploratory research design to delve deeply into the complexities of legislative effectiveness in combating IBSA in Bangladesh. Given the scope and objectives of our research, we have selected a purposive sample of 30 respondents, which is consistent with qualitative research norms. As indicated by Creswell (2013) and Marshall et al. (2013), an

⁹³ Eric Blumenson, ‘Racial Profiling and the Fourth Amendment: Response to Harris and Wilkins’ (2008) 110(2) *University of Pennsylvania Law Review* 219-223.

⁹⁴ Anastasia Powell, Nicola Henry, Asher Flynn, and Adrian J Scott, ‘Image-Based Sexual Abuse: The Extent, Nature, and Predictors of Perpetration in a Community Sample of Australian Adults’ (2018), *Computers in Human Behaviour*, P.1-2 <https://doi.org/10.1016/j.chb.2018.11.009> accessed 27 October 2024.

exploratory and qualitative approach often requires a smaller sample size to allow for in-depth analysis and understanding. This number aligns with the concept of data saturation described by Guest, Bunce, and Johnson (2006), further ensuring that we capture comprehensive insights into the experiences and perspectives related to IBSA and legislative frameworks in Bangladesh.

Interpretation of the Results:

We have classified the acquired data into six major classes such as ‘Demographic Overview’, ‘Awareness and Understanding’, ‘Personal Experiences’, ‘Reporting and Response’ and lastly ‘Impact and Effectiveness’, with recommendations for mitigation according to the interviewees attached and classified.

1. Demographic Overview

Age Group Classification:

Responses have been categorised into six groups:

Age Range	Respondent Percentage
Under 18	3.3%
18-24	53.3%
25-34	43.3%
35-44	0
45-54	0
55+	0

Of all survey respondents, 80% reported that they faced sexual abuse before reaching the age of 18. The remaining 20% reported facing sexual abuse between the ages of 18 and 24.

Awareness and Understanding:

Most of the respondents (73.3%) felt that they were aware of the legal provisions, demonstrating a high level of perceived awareness regarding IBSA laws. The same segment predominantly identified social media (53.3%) as their source of awareness, television advertisements and

campaigns and knowledge through legal advisors, tied as the second most dominant form of awareness (13.3%), while family and friends, and educational sources, were tied as the least dominant source of information (6.7%).

The survey also explored perceptions on clarity in regard to Bangladesh's current laws, and comprehensibility, 83.7% of the respondents noting they failed to properly understand the existing laws, illustrating difficulties for the majority to comprehend the existing legal provisions.

2. Effectiveness of Current Laws:

The survey presented a stark contrast between respondents' perceptions of the effectiveness of the laws, with a mere 6.7% noting positive perceptions of effectiveness, while the vast majority (93.3%) found the laws ineffective.

Respondents noting ineffectiveness, identified the following causes:

Concern	Percentage
Lack of Legal Knowledge	63.30%
Inadequate Enforcement & Gaps	53.30%
Lack of Victim Assistance	53.30%
Inadequate Penalties	33.30%
Social Stigma Deterring Reporting	46.70%
Technological Advancements Surpassing Laws	43.30%
Delayed Justice & Drawn-out Court Cases	26.70%

A combined majority (96.6%) of the respondents, showcase, either clear dissatisfaction with (46.6%) or at the least (50%) need for improvement of the legal structures dealing with IBSA. Contrasted against the complete lack of top ratings for the current existing frameworks, it is safe to say that there are critical shortfalls in the existing framework's ability to meet the needs of victims of IBSA, and as such require substantial change.

3. Enforcement Mechanisms

Reporting Process:

The survey reports from the reporting process varied significantly -

In analysing the support received by victims of IBSA during the reporting process, a significant disparity in experiences is evident, within the same sub-group of respondents, 25% felt the authorities were very responsive and supportive during the reporting process, while 25% felt that they were either very unsupportive and unresponsive, and 50% felt they were neither very supportive nor very responsive indicating that their level of support was inconsistent but generally inadequate, indicating need for systematic improvements

Arrest and Prosecution Rates:

Respondents reported a mere 25% success rate in apprehension and prosecution with notable disparity in the enforcement and legal outcomes for cases involving IBSA. In terms of barriers 33% cited a variety of reasons, such as police corruption, negligence, and delays in the legal system; 33.3% a lack of evidence; and the remaining 33.3% mentioned corruption and insufficient legal representation. This implies that getting justice for victims of IBSA may be severely hampered by both case-specific difficulties like obtaining evidence and systemic problems like corruption and inefficiencies.

Response Times:

There were significant differences in response times as well with 33.3% of respondents receiving attention right away (within 24 hours), 33.3% within two to three days, and the remaining 33.4% of respondents having to wait more than a month. The varied response times are again suggestive of inconsistency in law enforcement's handling of cases and raises questions as to whether this is a skill gap or whether there are other non-identified obstacles, such as resource limitations, bureaucracy, corruption, negligence, lack of protocols etc.

Satisfaction Levels:

The survey presented an even distribution of satisfaction levels, with law enforcement actions, at 25% each, reiterating the inconsistency in performance on part of law enforcement.

4. Accessibility of Justice

Support and Remedies:

In terms of legal action, it is worthy of note that only 6.2% of the respondents sought legal action, while 60% of the respondents chose to avoid legal action, suggesting systematic misgivings or dissatisfaction. Of this 60%, 43.3%, displayed significant aversion choosing to outright avoid legal support, while 16.7% considered but did not seek support. A substantial knowledge gap is also identified here in reference to 33.3% of the respondents who felt they were not aware of the legal options available. The vast majority of the respondents (43.3%) also

felt they were unable to access any support after facing IBSA. Of those who did receive support, the availability ranked as follows:

In terms of protective measures, within the respondent group who availed legal assistance, there was major discrepancy, with half noting the availability of protective measures while the other half noting there was no such measure, which highlights inconsistencies in how support is administered and accessed.

Furthermore, when perceptions of such access to support was evaluated the majority (76.7%) felt that access to justice and support services is lacking, while a small minority (23.3%) found it adequate, which again highlights the issue of inconsistency in the context of broader support and access to justice.

5. Personal Impact

Psychological and Social Impact:

In addition to the legal issues, IBSA also leads to psychological repercussions. Survey responses have noted about 60% of respondents, reporting elevated stress and anxiety, with an additional 53.3% having concentration issues. 30% also felt distanced or alienated, with 3.3% identifying as traumatised.

In a more social context, 56.7% of respondents reported feeling more alone or alienated, and 66.7% reporting fewer interactions. Additionally, 3.3% of respondents identified as depressed, while 36.7% noted strained relationships with friends or family. The vast majority (76.7%) of respondents felt they did not receive enough psychological support, with less than 1/4th feeling supported.

Economic Impact:

The survey noted a near even distribution of financial impact. While the survey does not cover whether these discrepancies were due to industry differences, some of the common disruptions impacting the affected 46.7%, include reduced income (21.4%), weakened job or business stability (14.3%), and adverse effects on savings (14.3%). While 28.5% noted combined impacts. Overall, these findings highlight the substantial financial difficulties faced by people affected by IBSA, even though some respondents did not specifically describe the nature of their financial difficulties.

6. General Recommendations

Survey responses clearly indicate the need for institutional reforms that strengthen guardianship mechanisms against IBSA, as framed by Routine Activity Theory (RAT). A majority (63.3%)

supported redefining and consolidating all forms of non-consensual image sharing under a unified legal framework. There was also strong endorsement for mandatory training for judges and law enforcement, with 53.3% supporting enhanced privacy protections, stricter penalties, and faster takedown procedures. While public awareness campaigns and anonymity provisions for victims also received broad approval, proactive monitoring approaches like a national offender registry were the least supported, with only 43.3% in favor.

Simplifying the reporting process (63.3%) and ensuring victim anonymity (60%) were seen as vital steps in reducing institutional friction and encouraging disclosure. Participants emphasized the importance of reducing delays in handling reports (53.3%), improving public education on IBSA (53.3%), and training law enforcement in digital forensics and victim-sensitive procedures. Improved coordination between tech platforms and state agencies (46.7%) and establishing specialised cybercrime units (46.7%) were also highlighted, though with slightly lower consensus. A smaller portion (40%) favored increasing penalties and updating laws to address emerging threats like deep fakes.

On the support front, most respondents advocated for free legal assistance (73.3%) and access to counselling services (70%). Victim-centric measures such as helplines (53.3%), victim advocates (56.7%), and cooperation with social media platforms (50%) were also suggested. While shelter homes (30%) and financial aid (20%) received less emphasis, their inclusion reflects the wide-ranging needs of survivors.

Overall, the responses illustrate a significant guardianship gap in Bangladesh's legal and institutional response to IBSA. Addressing this requires not just legal reform, but systemic restructuring of how state actors, digital platforms, and justice institutions collectively deter motivated offenders and protect vulnerable targets—core principles of RAT.

B. IBSA Prosecutors

Objective

The primary aim of this interview exercise was to gather professional insights from legal practitioners, using their experiences to validate concerns identified through victim surveys and existing IBSA literature. The objective was to derive practical, structured solutions to current legal and procedural gaps in Bangladesh's handling of IBSA cases.

Background

Interview questions were organized under four broad thematic categories. However, due to the semi-structured nature of the interviews, responses often extended beyond predefined questions,

with some participants opting not to answer certain queries. Two advocates from the same law firm were interviewed together, often responding in consensus. For coherence, the discussion is presented following the natural flow of the interviews, while the analysis reverts to the original thematic breakdown to highlight patterns and recurring insights.

Method of Research

Three in-depth, semi-structured interviews were conducted with practicing legal professionals in Dhaka. One participant was a public prosecutor for the Special Tribunal on Women and Children (SVWC), while the other two were Supreme Court advocates who had experience advising both victims and defendants in IBSA-related cases. The first author contacted six professionals—two public prosecutors, three Supreme Court advocates, and one sexual abuse specialist from Amnesty International. Four agreed to participate, all male, while one could not be reached in time. The interviews were scheduled via phone and conducted in-person at the participants' law chambers or offices. Given recent political unrest in Bangladesh⁹⁵, many legal professionals expressed hesitancy in speaking freely, impacting the scope of participation.

Interviews were held over two days: the two Supreme Court advocates on Day One and the public prosecutor on Day Two. All interviews were conducted in Dhaka and followed a semi-structured format⁹⁶. Questions were translated into Bengali where necessary, and adapted to suit the natural conversational flow. Interview prompts were developed by the authors based on preliminary survey findings and recurring gaps identified in existing IBSA research, aiming to explore alignment or divergence in prosecutorial perspectives.

Major Issues Identified in Discussion 1 with Advocate 1 and Advocate 2:

Both advocates began by noting that due to systemic challenges, they often counsel victims of IBSA to consider out-of-court settlements. The senior advocate emphasized a core legal issue: IBSA is not explicitly defined under Bangladeshi law and does not fit cleanly within existing criminal statutes. Referring to Chapter 16 of the Penal Code, he argued that while IBSA may conceptually overlap with provisions on rape or the Pornography Act, these categories are insufficient. Advocate 2 added that Section 377 may apply in certain cases, though this is

⁹⁵ Harindrini Corea and Nazia Erum, 'What is happening at the quota-reform protests in Bangladesh?' (*Amnesty International*, July 29, 2024) <https://www.amnesty.org/en/latest/news/2024/07/what-is-happening-at-the-quota-reform-protests-in-bangladesh/> accessed 24 October 2024; Md Rafid Hossain, 'The 2024 Uprising in Bangladesh: More than Just a Quota Reform' (*SOAS, University of London*, 8 July 2024) <https://www.soas.ac.uk/about/blog/2024-uprising-bangladesh-more-just-quota-reform> accessed 24 October 2024; Tariq Karim, 'Quota Protests in Bangladesh: Causes and Consequences' (*NUS Institute of South Asian Studies*, 7 July 2024) <https://www.isas.nus.edu.sg/papers/quota-protests-in-bangladesh-causes-and-consequences/> accessed 24 October 2024.

⁹⁶ Klapwijk N, 'Book Review of H Boeije, *Analysis in Qualitative Research*' (2010) 26(2) *Per Linguam* <https://perlinguam.journals.ac.za/pub/article/view/24> accessed 28 October 2024

situational and illustrates the broader issue—IBSA falls into legal grey areas, making prosecution inconsistent and difficult.

In both instances, advocates agreed that IBSA as an offence did not quite fall within any current definition and in order for proper prosecution of the same would do better to be clearly defined as a specific crime.

Regarding adequacy of the legal framework, the advocates found the procedural gaps in terms of the existing laws that we did have more concerning. Recognizing that the issue begins primarily with preservation of evidence, by the victim, who for cultural reasons, tend to immediately move to remove traces of evidence arising from both a lack of awareness and social taboos', and at the investigation stage where evidence is not preserved properly by initial law enforcement bodies. This is further discussed regarding enforcement mechanisms, at this point they allude to procedural gaps as the prime issue.

Advocate 1 contextualized this within broader historical shifts, noting how female participation in the workforce rose post-1990s with the garment sector boom, exposing women to new forms of violence. Mobile phones and social media, introduced without parallel awareness or protections, enabled the rise of IBSA. He emphasized that IBSA is a modern crime enabled by rapid technological change and societal conservatism.

When asked if the 'SVWC Act' was beneficial to the protection of women both advocates agreed that it was. The senior advocate noted that this was primarily because the Act addressed two issues –

1. The Procedural Process of Rape and similar cases hanging in regular criminal courts for years made justice hard to achieve and was more taxing on the victims
2. The 'SVWC Act' changed the definition of rape as it stood and broadened it to include 'coercion' which was one of the prime issues being faced by the society.

This change in definition made it easier for judges to bring the crimes within the ambit of rape, where the force was not physical but coercive and enabled them to address the underlying issue, without stepping outside of the definitions as set in the law.

The author then moved the conversation to effectiveness, both advocates found current laws in preventing IBSA ineffective. One noted that in most cases counsel advised victims not to pursue these cases and to instead consider out of court settlement, noting that in the absence of proper evidence preservation methods, the law could not be effective. Subsequent questions on the clarity of laws based on survey responses and solutions had the advocates noting that perhaps a

standardisation of the crime, by way of a new broader definition was needed, they both felt the core problem lay with the procedural complexities.

The advocates were asked for their opinion on the efficiency of the law enforcement and judicial systems in Bangladesh regarding IBSA cases and what the main barriers to effective enforcement were. Instantly both advocates referred to the primary law enforcement/magistrate. They also covered much of the role of cultural and systematic issues in their response. The advocate no. 2 then began to explain that what generally happens in such cases is that the victim instantly moves to erase any evidence of rape, to hide the 'shame' of the incident. This is due to social taboos regarding sexual activity, combined with a lack of awareness. Generally, the truth comes out at a later date, at which point DNA evidence is no longer available, and then the crime becomes hard to establish in court. He noted that another issue was that a large number of false cases are also filed, which can lead to unnecessary case backlog, and this can delay trial. He goes on to explain that one of the most critical pieces of evidence here is the statement taken under Section. 22 of the SVWC Act, this initial statement is taken by the magistrate and is given high value in the courts. Particularly where there is consistency with the FIR and corroborating evidence. He goes on to explain that this record of the statement was not a part of legal proceedings prior to this Act and noted additionally that this statement plays a central role in the Court's decision to provide bail or not to provide bail. In instances where the victim is alive, they are subsequently called back to give evidence and the same statement is taken, and compared for consistency, where the victim dies prior to the trial, the statement counts as the testimony and retains its value. They both noted that a common issue is inconsistency in these statements.

They noted that attempted rape and molestation cases often go unfiled due to evidentiary difficulties, delayed justice, challenges in serious cases like rape, and a lack of victim security. Taking a charge of this nature to courts or law enforcement is more likely to make victim targets as bail is easier to obtain in such cases, and attacks are more likely. Additionally, the lack of skill development at base levels plays a large role in the failure to preserve evidence. Judiciary, investigation officers, court staff, are neither equipped nor trained to handle said evidence, but are required to. This is a major skill gap that adversely impacts the investigation stage and beyond.

When asked about a sex offender registry, advocates explained the government keeps police records but lacks a central registry. Due to manual record keeping, crimes in one area (e.g., Munshiganj) may not appear in another (e.g., Sirajganj). Records aren't public, and one must file a case to access someone's criminal history via a chargesheet. The advocates supported a

public sex offender registry, impressed by its potential restrictions on offenders' work and residence.

The second advocate noted that political influence affects the connection between law enforcement and the judiciary, with the judiciary sometimes exploiting these ties for transfers and career advancement. Corruption persists due to a lack of oversight and whistleblower protection, discouraging reports to the Bar Council. The senior advocate suggested that government intelligence is lacking, and proposed tax and asset scrutiny during transfers to address corruption, though political motives impede this effort.

A query was raised about the accessibility of legal remedies for victims of IBSA in Bangladesh. Over 50% of survey participants found them inaccessible - and the author explained that we wanted to understand some of the common obstacles that victims would be facing in terms of seeking justice from their perspective as well. It is worthy of note that part of this question was responded to earlier when the advocates had referenced the difficulties in the procedural side in regarding collecting and maintaining evidence but outside of this advocate highlighted procedural challenges in evidence handling and a high caseload, partly due to false cases. IBSA cases go to regular courts, already overwhelmed with cases like Section 138 of the Negotiable Instrument Act. Financial constraints further affect the judiciary, which needs more national budget investment for better victim support.

The senior advocate at this point also noted that financial constraints played a big role. He noted that the judiciary requires a higher budget allocation in terms of national investment in order to provide better Victim Support. Judges earn 85,000-95,000 BDT monthly, insufficient living costs, and additionally face logistical issues, including lack of skilled typists and high workload such as 30 cases a month becomes extremely burdensome. There are also gaps in systematic support - such as in proper case management systems, subject matter training, and also the issue of judges being moved to courts which they are not experienced in, which can lead to a higher burden of work as the judges have to then spend time reading and studying and regaining expertise in the given area.

The author then asked how to effectively reduce the load of the courts, what role arbitration could play and what kind of reform in the law would be needed. The advocates pointed out that there was a lack of proper studies on the courts, and that in order to answer that question there should be studies on what cases are most commonly presented in courts, what issues arise, what complications arise and so on. He noted that at this time most sexual abuse related cases are cases filed under the Pornography Act, where the investigation is not competently done,

investigation officers are sparse and are forced to engage in various work.

The Evidence Act, they noted, has not adopted any relevant standard in conjunction with digital offences, and the lack of forensic labs, for technological videos, and the lack of specifically trained lawyer and judicial officers in digital crimes along with the lack of present in regard to such crimes makes the cases harder to prosecute. As there are no dedicated resources for these specific crimes, and no specialisations, there are gaps in logistics as well as in trained empathetic resources. It was also noted that victims are likely unhappy because the lack of sincerity and genuine concern on part of resources leads the victim to feeling the environment is unfriendly and isolating. Both advocates strongly made recommendations for training needs and also considered options such as class actions/grouped actions for similar cases such as S. 138 NI Act cases, which could reduce the courts load.

When asked about available support for IBSA victims, advocates noted that even with Pornography Act as the closest relevant legislation and base, there would need to be an amendment broadening the scope and definition, encapsulating IBSA as a specific crime, with a fixed scope.

The advocates both referred back to the concept of a sex offence register that would be open to the public, noted the need of a special investigation team with proper training, and also noted that there needed to be mass awareness programs at a grassroots level through NGOs where the judiciary is deeply engaged. They also noted that a similarly widespread act of VAW was the use of acid, which involved impactful legislation led change due to evidentiary ease, lack of false cases, high visual impact of the injuries and high value victim testimony. In regard to cultural factors of honour and dignity, the subjectivity of the definition was not held to be much of a roadblock, however both advocates did agree that it is perhaps time to modify the definition to focus more on dignity than modesty.

Recommendations for legislative reforms included development of a specific definition and inclusion of the same in the Pornography Act, which has its own tribunals. It was also mentioned that there was need for extensive reforms at grassroots levels to properly combat IBSA, the use of Meena Cartoon which has been successfully used as a tool to educate on rights and development⁹⁷. Both advocates noted awareness of IBSA crimes, special police units, and one stop service police stations, as mitigating factors. Victim protection is also an issue that was raised although they were unable to provide feedback on ways forward.

⁹⁷ UNICEF Bangladesh, 'Meena and UNICEF' (UNICEF Bangladesh) <https://www.unicef.org/bangladesh/en/mee-na-and-unicef> accessed 28 October 2024.

For recommendations and future directions, advocates acknowledged the law being a barrier to justice. Regarding the change of rape punishment to death in specific cases, they acknowledged that without a clear breakdown of offense to punishment, as exists in case of homicide, such as self-defence, involuntary manslaughter etc. judges struggle with subjective sentencing. They did not find death too harsh a penalty for rape, but reiterated need for clarity.

Major Issues Identified in Discussion 2 with the Public Prosecutor:

The second interview was conducted with a public prosecutor who had specialised and worked in the SVWC Tribunals for 16+ years. The interview in this case was less structured, as the prosecutor preferred to provide his own structure of the conversation, and the author adapted.

In terms of Background and Legal context, unlike the former interview, where a heavy emphasis was put on the Pornography Act, the public prosecutor (PP) did focus on the crime of Rape as defined in both the Penal Code and the SVWC Act. He noted that in his experience the most common crime was rape, but as defined in the SVWC Act through coercion rather than by force. He talked about how the predominant age group impacted was the under 18, most 13-17 age group. He also talked about how as a result of the nature of this crime, where people are coerced in sexual relations by way of promises of marriage or other similar false assurances, in most cases the case does not go to a trial stage, and instead there is a tendency to either marry the respective parties to each other, or to make a cash settlement.

Turning to effectiveness of both laws and enforcement mechanisms, the interviewee explained why he blamed law enforcement for most cases not coming to fruition. He talked about the primary duty of the investigation officer (IO) being to ensure that upon incident occurrence a medical examination is conducted, and then that a statement is taken of both the victim and perpetrator if possible.

He opined strongly that in most cases there was a delay in terms of medical exams, which in case of DNA evidence is a critical delay and referenced witnesses' issues where they are pressured to recant, or change addresses, which led to procedural delays. Courts themselves were known to induce delay, and incomplete cases on dockets of judges prior to transfer enhanced the same.

In terms of victim support, and experiences, the PP described the prosecution of a schoolteacher who had continuously raped a young student highlighting, victim confidence, statement stability, lack of intimidation impact on witnesses and victims (this particular case dealt with a more affluent segment of society) making this easier to prosecute.

Regarding Law Reform, the PP’s position aligned with the former interview noting the need for IBSA specific definition incorporated within the Pornography Act. He also referenced India in terms of the depth of the definition and felt that the definition as expanded after the Nirbhaya case was better suited to cover most sexual abuse crimes.

He also went on to make the following recommendations –

Segment/Issue	Action/Change
Transfer Terms for Judges	<ul style="list-style-type: none"> • Current 3-year terms are too short to complete cases. • Propose fixed 5-year terms. • Judges should clear dockets before transfer for efficiency and expediency.
Investigation Officers	<ul style="list-style-type: none"> • Suggest fixed 10-year terms. • Similar requirements to clear dockets before transfer.
Legal Reforms for Rape Cases	<ul style="list-style-type: none"> • Clear categorization based on the crime's intensity. • Offer life imprisonment as an alternative to the death penalty due to judicial reluctance to implement the latter.

Major Findings and Common Themes:

Overall, there seemed to be some commonalities between the interviews, listed as noted below

Category	Findings/Themes
Legal Framework	IBSA lacks a clear definition, complicating prosecution.
	Recommendation to define IBSA within the Pornography Act.
Procedural Gaps	Evidence preservation is a key issue.
	Socio-cultural factors lead to evidence removal by victims.
	Law enforcement fails to properly preserve evidence.
Cultural Barriers	Taboos towards sexual crimes lead to evidence destruction and reporting reluctance.
	Lack of awareness presents significant challenges.
Judicial System	High caseloads, inadequate training, lack of resources, and political influences cause delays.
	IBSA not recognized as a specific crime.
	Need for clear definitions and standardisation for better legal recognition and sentencing.
Training and Resources	Improved training for law enforcement and judiciary needed.
	Training should include empathy and technological capability growth.
	Specialised labs for digital forensic analysis recommended.
Tenure and	Longer terms for judges and officers suggested for continuity and efficiency.
	Fixed dockets and mandate to clear prior to transfers.
Future Directions	NGO-led awareness programs to help garner empathy, change cultural perceptions and reduce victim blame
	Consider public registries to deter and manage offenders.
Overall Emphases	Bangladesh needs legislative changes to tackle cultural norms and systemic inefficiencies.
	Coordinated reform and public awareness initiatives are crucial for addressing IBSA effectively.

IV. RECOMMENDATIONS FOR THE EVOLUTION OF LEGAL FRAMEWORKS IN BANGLADESH

The need for reform within Bangladesh's justice system is clear, particularly in light of how IBSA is currently addressed. As laws are inherently time-bound⁹⁸, their evolution is necessary—especially when digital crimes like IBSA emerge faster than legislative responses. Routine Activity Theory (RAT) highlights that crimes occur when motivated offenders encounter suitable targets in the absence of capable guardianship. The current framework fails to provide that guardianship—neither the law, courts, nor society adequately deters offenders or protects victims.

IBSA needs clear legal classification, akin to how homicide is graded (e.g., murder, manslaughter)⁹⁹, allowing proportional sentencing and a shared understanding of the offence's gravity. Without this, courts—often led by male judges reluctant to reinterpret gendered harm—struggle to administer justice consistently.

This lack of specificity not only weakens deterrence but undermines public trust and societal condemnation, which are key in strengthening informal guardianship. A more structured legal framework would support judges in applying consistent sentencing, and possibly even allow for consolidated hearings¹⁰⁰ in specific IBSA categories to improve efficiency.

Revising outdated terms like "indecent" or "modesty" to "dignity," in line with international norms¹⁰¹, would help shift societal narratives and reduce victim-blaming, strengthening the third RAT pillar, capable guardianship, through both institutional reform and cultural shift.

The proposed definition and gradation are as follows:

⁹⁸ Kyla Bishop 'A Reflection on the History of Sexual Assault Laws in the United States' (2018) *The Arkansas Journal of Social Change and Public Service* <https://ualr.edu/socialchange/2018/04/15/reflection-history-sexual-assault-laws-united-states/> accessed 29 October 2024

⁹⁹ Crown Prosecution Service, 'Homicide: Murder, Manslaughter, Infanticide, and Causing or Allowing Death or Serious' (2023) <https://www.cps.gov.uk/legal-guidance/homicide-murder-manslaughter-infanticide-and-causing-or-allowing-death-or-serious> accessed 28 October 2024.

¹⁰⁰ Electronic Code of Federal Regulations, '28 CFR § 68.16 Service of complaints, written orders, and other documents' <https://www.ecfr.gov/current/title-28/chapter-I/part-68/section-68.16> accessed 29 October 2024.

¹⁰¹ Universal Declaration of Human Rights, Preamble, Art.1, 22, 23

Degree	Definition	Examples	Potential Penalties
First-Degree IBSA	Intentional and malicious distribution of intimate images or videos without consent, aiming to cause severe harm to the victim's reputation and mental health.	Non-consensual dissemination with intent to blackmail, punish, harass, or humiliate the victim.	<ul style="list-style-type: none"> - Lengthy prison sentences, minimum 10+ years, eligible for life if incident led to death by suicide/honor killing. - significant percentage based/ standalone fines [similar to tax laws amount would be determined on whatever is higher, a set percentage of 25% of the annual income of the perpetrator or in the case that the perpetrator is dependent on the family, the financial load bearer of the family of first blood or where these fall under taxable standards, a set sum of 10,00,000 BDT] - Mandatory counselling and rehabilitation programs. - Separate civil liability possible.
Second-Degree IBSA	Unauthorised sharing of intimate images or videos without intent to cause severe harm, resulting in significant psychological trauma	Sharing images without consent among a limited group, such as friends or acquaintances.	<ul style="list-style-type: none"> - Moderate prison sentences, minimum 5+ years, [eligible for life sentence same as 1st Degree] - Pecuniary punishment conditions same as 1st Degree, percentage changing to 20% and set sum 5,00,000 BDT - Mandatory counselling and educational programs on digital ethics.
Third-Degree IBSA	Lesser offences involving unauthorised viewing or minor sharing, of intimate images or videos, causing	Unauthorised recording or sharing that did not reach a broad audience or lacks malicious intent.	<ul style="list-style-type: none"> - Mandatory sentence of 3 months imprisonment. - Pecuniary punishment conditions same as 1st Degree, percentage changing to 10% and set sum 2,50,000 BDT - Mandatory community service and participation in digital literacy and ethics workshops.

The proposed additional reforms are as follows:

Category	Initiative	Description
Procedural Changes	<i>Evidence Collection</i>	<ul style="list-style-type: none"> - Clear laws requiring investigation officers to collect evidence within a set period. - IO's failing to act may be charged as accessories, with disciplinary action for repeated failures.
	<i>Judicial Timelines</i>	<ul style="list-style-type: none"> - Strict timelines for judges to dispose of IBSA cases. - Delays could affect subsequent promotion terms or dates
Social Reforms	<i>National Registry</i>	<ul style="list-style-type: none"> - Establish a national registry of sex offenders.
	<i>Awareness and Training</i>	<ul style="list-style-type: none"> - Evidence preservation awareness - Training for judicial officers & first responders.
	<i>Media Campaigns</i>	<ul style="list-style-type: none"> - Targeting perpetrators to raise awareness and deter offences.

V. CONCLUSION

Bangladesh stands at a critical crossroads. With an interim government unbound from partisan politics, the conditions for meaningful legal reform exist, but remain unmet. Despite the capacity to address rising harms like IBSA and domestic violence, the state has not only failed to Act but has acted in ignorance. The Legal Aid Services (Amendment) Ordinance 2025 reflects this by, placing greater burdens on victims instead of expanding access to justice. This study clearly shows that IBSA stems predominantly from legal and institutional failure or rather the absence of a ‘capable guardian’, due to the structural inability of the State to prevent harm due to vague laws, fragmented statutes, weak digital capacity, and entrenched stigma.

Reform therefore must begin with structure. A clear definition of IBSA as a standalone offence with graded severity, akin to homicide categories, to ensure judicial clarity and consistency. Existing protections such as, registries¹⁰³, tribunals, procedures, unified and extended to digital abuse, law enforcement trained in cyber evidence, and courts with better resources and infrastructure. Beyond legal reform, it is imperative that the cultural framing shifts, to start replacing “modesty” with “dignity” in alignment with international human rights norms and shifts accountability from victims to institutions. And finally, the widespread reluctance to engage with the legal system requires survivor-centred research and action future reform must begin by listening to those most affected.

¹⁰² United States Department of Justice, ‘National Sex Offender Public Website’ <https://www.nsopw.gov> accessed 28 October 2024

¹⁰³ Office of Justice Programs, *Evaluating the Effectiveness of Sex Offender Registration and Notification Policies for Reducing Sexual Violence against Women, Final Report* (ojp.gov) <https://ojp.gov> accessed 28 October 2024