

Legal questionnaire completed by Khossain • April 2024

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1. What laws and regulations contain legal definitions of the following terms or corresponding terms in your local jurisdiction (links to existing U.S. legal definitions are included, where relevant, as background for comparison – please include definitions of any corresponding terms in your country):

a. child or minor (18 U.S.C. 2256(1), <https://www.law.cornell.edu/uscode/text/18/2256>)

The following laws contain the definition of a “minor” or a “child” or an “adolescent”:

- Section 3 of the Christian Marriage Act, 1872 defines a “minor” as a person who has not completed the age of twenty-one years and who is not a widower or a widow.
- Section 2 of the Special Marriage Act, 1872 provides that in marriages under this Act involving a man and a woman who do not profess Christianity, Judaism, Hinduism, Islam, Zoroastrianism, Buddhism, Sikhism, or Jainism, or who follow Hinduism, Buddhism, Sikhism, or Jainism, the man must be eighteen years old and the woman must be fourteen years old. If either party is under twenty-one, they must obtain the consent of their father or guardian.
- Section 3 of the Majority Act, 1875 states that individuals for whom a court appoints a guardian, and of whose property the Court of Wards takes charge before they reach the age of eighteen, will be considered to have reached majority at the age of twenty one, while all other individuals will be considered to have reached majority at eighteen.
- Section 4(1) of the Guardians and Wards Act, 1890 defines a “minor” as any person who has not attained majority under the Majority Act.
- Section 2(e) of the Succession Act, 1925 defines “minors” as any person subject to the Majority Act, 1875, who has not attained his majority within the meaning of that Act, and any other person who has not completed the age of eighteen years; and “minority” means the status of any such person.
- Section 2(k) of the Suppression of Violence against Women and Children Act, 2000 defines a “child” as any person below the age of sixteen.



- Section 2(63) of the Bangladesh Labour Act, 2006 defines a “child” as “a person who has not completed the fourteenth year of age”, while Section 2(8) defines an “adolescent” as “a person who has completed the fourteenth year but has not completed the eighteenth year of age”.
 - Section 2(4) of the Domestic Violence (Prevention and Protection) Act, 2010 defines a “child” as a person below the age of eighteen years.
 - Section 2(e) of the Pornography Control Act, 2012 states that a child is defined as in the Children Act 1974. Section 2(f) of the 1974 Act had defined a child as “a person under the age of sixteen years, and when used with reference to a child sent to a certified institute or approved home or committed by a Court to the custody of a relative or other fit person means that child during the whole period of his detention notwithstanding that he may have attained the age of sixteen years during that period”. However, the 1974 Act was repealed by the Children Act 2013. As such, it is not clear if the definition in the 1974 Act will apply for the purposes of the Pornography Control Act.
 - Section 2(14) of the Prevention and Suppression of Human Trafficking Act, 2012 defines a “child” as a person who has not completed the age of eighteen years.
 - Section 4 read with Section 2(17) of the Children Act, 2013 defines “children” as “all persons up to the age of 18 (eighteen) years”.
 - Section 2(1) of the Child Marriage Restraint Act, 2017 defines a “minor” as a female under the age of eighteen and a male under the age of twenty one for the purpose of marriage.
 - Section 12(a) of the Personal Data Protection Act, 2023 (Draft) (approved by the Cabinet on 27 November 2023 but not yet enacted by Parliament) defines a child as any person below the age of eighteen.
- b. child sexual exploitation (Missing Children’s Assistance Act of 2023, Section 2, (a)(1)(9), <https://www.congress.gov/118/bills/s2051/BILLS-118s2051es.pdf>)**
- Section 3(1) of the Prevention and Suppression of Human Trafficking Act, 2012 defines human trafficking as the selling, buying, recruiting, confining etc. of any person for the purpose of sexual exploitation among others, and Section 3(2) read with Sections 2(10) and 2(13) of the said Act provides that a victim of trafficking could be a child. Exploitation is defined in Section 2(15) as “actions done against a person with or without their consent” including “exploitation through sexual exploitation or oppression”.
 - Section 8(1) of the Pornography Control Act, 2012 criminalises compelling children to participate in producing pornography or capturing images of them with or without their knowledge while making them participate in any enticement (See 1(g) below).
- c. sexually explicit conduct (18 U.S.C. 2256(2), <https://www.law.cornell.edu/uscode/text/18/2256>)**



The term sexually explicit conduct is not expressly defined under Bangladeshi law. However, related terms and corresponding provisions exist in various laws as stated below:

- Section 509 of the Bangladesh Penal Code, 1860 criminalises the actions of any person in making any sounds or gestures or uttering words, or exhibiting objects with the intent to insult the modesty of a woman and intrude upon her privacy.
- Section 10 of the Suppression of Violence against Women and Children Act, 2000 defines sexual assault as the unlawful touching of the genitals or any other part of a woman or child with any part of the body or any object, or the molestation of a woman with the intention of gratifying sexual desire. (unofficial translation)
- Section 2(6) of the Domestic Violence (Prevention and Protection) Act, 2010 read with Section 3 defines “domestic violence” which includes sexual abuse “against a child of a family by any other person of that family with whom the victim is, or has been, in family relationship”. Sexual abuse for the purposes of domestic violence is defined in Section 3(c) of the Domestic Violence (Prevention and Protection) Act, 2010 as “any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of the victim”. Rule 2 (g) of the Domestic Violence (Prevention and Protection) Rules 2013 defines a “victim” as “a child or a woman who is or has been or is at risk of being subjected to domestic violence by any other member of the family to whom a family relationship exists”.
- Section 2(c)(1-2) of the Pornography Control Act, 2012 defines pornography as any “sexually arousing dialogues, acts, gestures, nude or semi-nude dances” which are captured and displayed in various media forms such as films, video images, audio visual images, still images, graphics, including “soft versions” of these (Section 2(c)(3) of the said Act).

The High Court Division of the Supreme Court of Bangladesh in the case of *BNWLA v Bangladesh and others* reported at 31 BLD (HCD) (2011) 324 issued guidelines defining sexual harassment in places including educational institutions, workplaces, all private and public places, railway and bus stations, public and private transports, streets, shops, markets, cinema halls, and parks. This definition includes inter alia stalking through blogging, tweeting, email, and other electronic communication. This judgment is binding on all courts subordinate to the High Court of the Supreme Court of Bangladesh in accordance with Article 111 of the Constitution of the People’s Republic of Bangladesh which provides that, “[t]he law declared by either division of the Supreme Court shall be binding on all courts subordinate to it”. The term “sexual harassment” is defined in the above judgment as follows:

- i. Unwelcome sexually determined behaviour (whether directly or by implication) as physical contact and advances;
- ii. Attempts or efforts to establish physical relations having sexual implications by the abuse of administrative authority or professional powers;
- iii. Insult through letters, telephone calls, cell phone calls, SMS, pottering [sic], notices, cartoon, writing on the bench, chair, table, notice boards, walls of office, factory, classroom, washroom having sexual implications;
- iv. Preventing participation in sports, cultural, organizational, and academic activities on the ground of sex and/or for the purpose of sexual harassment;
- v. Sexually coloured verbal representation;



- vi. Demand or request for sexual favours;
- vii. Showing pornography;
- viii. Taking still or video photographs for the purpose of blackmailing and character assassination;
- ix. Sexually coloured remark or gesture;
- x. Indecent gestures, teasing through abusive language, stalking, joking having sexual implications;
- xi. Making love proposal and exerting pressure or posing threats in case of refusal to love proposal; and
- xii. Attempt to establish sexual relation by intimidation, deception, or false assurance.

Rule 361KA of the Bangladesh Labour Rules 2015 (amended in 2022), framed under the Bangladesh Labour Act 2006, defines and prohibits sexual harassment and obscene or indecent behavior against women employed in any “establishment” (comprising any shop, commercial establishment, transport, industrial establishment or premises or precincts where workers are employed for the purpose of carrying on any industry in accordance with Section 2(31) of the Labour Act). This provision applies to adolescents aged 14-18 since they are permitted to work following a certification process under Section 34(2) the Labour Act.

d. child sexual abuse (18 U.S.C. 2243(a), <https://www.law.cornell.edu/uscode/text/18/2243>)

See 1(b-c) above.

e. child pornography or child sexual abuse material (CSAM) (18 U.S.C. 2256(8), <https://www.law.cornell.edu/uscode/text/18/2256>)

The terms child pornography or child sexual abuse material (CSAM) are not expressly defined in any law or regulation, but pornography and child are separately defined under Sections 2(e) and 2(c) of the Pornography Control Act, 2012 (see 1(a and c) above) respectively, while child pornography is criminalised under Sections 8(1) and 8(6) of the law.

f. computer-generated images or videos of child pornography or CSAM (created by artificial intelligence or morphed) (18 U.S.C. 2256(8) & (9), <https://www.law.cornell.edu/uscode/text/18/2256>)

These terms are not defined. However, Section 23 of the Cyber Security Act, 2023 broadly covers actions such as creating morphed images or videos in the definition of Digital or Electronic Fraud which means “to change or delete any information of, or add new information to, or tamper any information of, any computer programme, computer system, computer network, digital device, digital system, digital network or social media by a person, intentionally or knowingly or without permission, and doing so, to diminish the value or utility thereof, or try to get any benefit for himself or any other person, or to cause harm to, or deceive, any other person”.

g. enticement or grooming (encouraging, persuading, or coercing a child to engage in sexual activity or to create child pornography or CSAM) (18 U.S.C. 2422(b), <https://www.law.cornell.edu/uscode/text/18/2422>)



Section 8(1) of the Pornography Control Act, 2012 makes it an offence for any person to compel any woman, man, or child to participate in producing pornography or capture still images, video images, or films with or without their knowledge while making them participate in any enticement (unofficial translation).

h. legal age of consent for sexual activity – are there laws and regulations, if so, what ages are specified?

In Bangladesh, there is no specified age of consent for sexual activity. There is also no age of consent for any form of sex for men. However, Section 375 of the Bangladesh Penal Code, 1860 provides the age of consent for penetrative sex through intercourse as fourteen for unmarried women and thirteen for married women; while Section 9(1) read with Section 2(e) of the Suppression of Violence against Women and Children Act, 2000 sets the age of consent for both married and unmarried women at sixteen for penetrative sex through intercourse.

i. Sextortion (extorting money or sexual favors from a child by threatening to share sexually explicit, child pornography or CSAM images of the child) (Missing Children’s Assistance Act of 2023, Section 2, (a)(1)(8), <https://www.congress.gov/118/bills/s2051/BILLS-118s2051es.pdf>)

Sextortion is not a defined term under Bangladesh laws. However, since sextortion (as per the definition provided above) involves elements of extortion (extorting money or sexual favours), it may be considered to fall under the purview of various laws as discussed below.

Section 383 of the Penal Code, 1860 defines extortion as intentionally putting any person in fear of injury to dishonestly induce them for obtaining donations, property, or other valuables. This can include the threat to publish defamatory libel unless monetary demands are met.

Section 8(2) of the Pornography Control Act, 2012 criminalises individuals for using pornography to intimidate another for extorting money or any other benefit.

Moreover, Section 7 of the Prevention and Suppression of Human Trafficking Act, 2012 criminalises organised human trafficking, specifically by members of groups that engage in human trafficking for financial or other material or immaterial benefits.

2. Please explain any legal or regulatory requirement or recommendation for Online Platforms to undertake any of the following activities on their systems to protect children online from sexual exploitation:

a. review, screen, moderate, or detect content to identify child pornography or CSAM content

There is currently no express legal requirement for Online Platforms to review, screen, moderate, or detect content to identify child pornography or CSAM content.

However, under Section 37 of the Cyber Security Act, 2023, in order to avoid liability under the law (including for publication of images without lawful authority or identity fraud or



impersonation or electronic fraud (comprising tampering with information) under sections 23, 24, and 26), service providers must prove that they have exercised all due diligence to prevent an offence and had no knowledge of the breach.

Similarly, under Section 79 of the Information and Communication Technology Act, 2006 (ICTA), to avoid liability under the law including under Section 63 for making any third-party information available which may involve a person breaching confidentiality and privacy of any other person who grants access to their data under the ICTA, intermediaries must prove that they have exercised all due diligence to prevent the offence and had no knowledge of the breach.

Moreover, according to paragraph 3.6.2 of the Broadcasting Policy, 2014 broadcasting online content relating to violence against children is prohibited.

Section 25 of the Personal Data Protection Act, 2023 (Draft) (approved by the Cabinet on 27 November 2023), if enacted by Parliament, will make “data fiduciaries” responsible for permanently destroying any personal data after the completion of a prescribed period necessary for the purpose of processing. Section 9 of the Act also prohibits them from holding data in a manner ‘which infringes the privacy of the data subject’, and Section 32 requires them to protect a data subject’s legal interests and privacy during data processing, including from data collection to deletion.

An Online Platform appears to be considered a data fiduciary as Section 2(d) of the draft law defines a data fiduciary as a person, government authority, company, or juridical personality who alone or with another, ‘determines the purpose and means of processing any data or has control over or authorizes the processing of any data, however, it shall not include any processor’. According to Section 2(l) of the draft law ‘Processor’ means any person who processes the data on behalf of the Data-fiduciary, but does not include an employee of the Data-fiduciary;

Furthermore, as per Section 2(d) of the Personal Data Protection Act 2023 (Draft), a service provider / social media company would fall under the definition of a “data fiduciary” if it processes data on its own terms, decides the purpose and means of processing and has the authority to allow others to process the data. On the other hand, such entity would not fall under the definition of “data fiduciary” if it acts as a “processor” within the meaning of Section 2(l) and processes data strictly on behalf of another entity.

b. review, screen, moderate, or detect content to identify enticement, grooming, or sextortion of a child

Please see 2 (a) above and 2 (d) below.

c. report child pornography, CSAM, enticement, grooming, or sextortion that they become aware of or are notified about on their systems to a law enforcement or government agency or nongovernmental organization

The platforms are not required to report any such content.

d. remove or take down any child pornography, CSAM, enticement, grooming, or sextortion



that they identify, become aware of, or are notified about

Online platforms do not currently have obligations to remove online content relating to child pornography, CSAM, enticement, grooming, or sextortion under current laws in Bangladesh. However, the Bangladesh Telecommunication Regulatory Commission (BTRC - the telecoms regulator in Bangladesh), and other government agencies have the authority to block or remove content on certain grounds.

The BTRC may block or remove data information/content based on requests from the Cyber Security Agency, if the content ‘threatens cyber security or is ‘contrary to national unity and solidarity’, seditious, causes hatred, division, and unrest among public, is harmful to friendly relations with foreign states, or likely to cause fear or panic among the public or any community, or prejudicial to the economic or financial condition of the State. According to Sections 8(1-3) and 2(u) of the Cyber Security Act, 2023, ‘cyber security’ is defined as “the security of any digital device, computer, or digital system”.

In accordance with Section 66A of the Bangladesh Telecommunication Regulation Act, 2001 the BTRC may instruct telecom service providers to stop any communication which goes against national unity, is seditious, or causes hatred or public unrest among others, and non-compliance may lead to penalties such as imprisonment for up to five years and/or a fine of up to BDT 300 crore (three billion).

Additionally, under Section 97A of the Bangladesh Telecommunication Regulation Act, 2001, the Ministry of Home Affairs’ (MOHA) authorised-security, law enforcement or government agency can intercept communications.

However, the BTRC or the other authorities do not have express powers related to blocking or removing content relating to child pornography, CSAM, enticement, grooming, or sextortion.

In practice, the BTRC blocks websites directly, or upon requests from other agencies, or on receiving complaints, instructing International Internet Gateway (IIG) and the Internet Service Providers (ISPs) to restrict access, including on issues relating to pornography. BTRC has used its powers to block websites in multiple occasions. For instance, in February 2019, BTRC directed the International Internet Gateway (IIG) to shut down 244 pornographic websites, with immediate action taken to comply with this directive (<https://www.dhakatribune.com/bangladesh/laws-rights/168118/btrc-instructs-to-shut-down-244-porn-sites>).

The Draft Personal Data Protection Act, 2023 may place some obligations on Online Platforms if enacted, (see 2(a) above).

e. review content by human moderators to screen or moderate for child pornography or CSAM

No, there are no such requirements currently in place.

f. remove child pornography, CSAM, enticement, grooming, or sextortion from their systems when notified of its presence by a victim, nongovernmental organization, law



enforcement, or government agency

No, there are no such requirements currently in place. However, the BTRC and other government agencies have the authority to block or remove content in certain cases (see 2(d) above).

- g. use any specific technology to detect, remove, block, or take down any child pornography, CSAM, enticement, grooming, or sextortion, including:**
- i. “Hashing technology”** (<https://www.thorn.org/blog/hashing-detect-child-sex-abuse-imagery/>). Many Online Platforms hash and tag images and videos of child pornography or CSAM and then use hashing technology to scan content on their systems to detect the distribution of child pornography or CSAM online so it can be removed.
 - ii. Artificial intelligence or machine learning tools to detect the presence of child pornography, CSAM, enticement, grooming, or sextortion.**

There are no such requirements under any laws in Bangladesh.

- h. if the applicable laws or regulations require some, but not all, Online Platforms to perform any of the above activities, describe how the differing requirements apply. For example, are differences based on the number of online users, types of services offered, etc.?**

There are currently no such requirements under Bangladesh law.

3. Are Online Platforms legally required or recommended to implement any method to verify the age of a user before allowing access to an online platform?

In Bangladesh, there are no express laws or regulations in place that require online platforms to implement age verification mechanisms before allowing user access. However, there are regulations that contain provisions regarding verification of users, parental control, and child safety on the internet. These are discussed below.

- The Regulatory and Licensing Guidelines for Internet Service Providers, 2020 (“Guidelines”), issued by the Bangladesh Telecommunication Regulatory Commission (the Bangladesh telecoms regulator), imposes obligations on Internet Service Providers (“ISPs”) regarding user verification, parental control, and child safety. Regulation 33 of the Guidelines requires ISPs’ systems to support lawful interception, and connect exclusively with lawful interception monitoring systems in a law enforcement agency’s premises. ISPs are required to ensure lawful interception compliance through identification, verification, authorization and monitoring the internet usage of its Wi-Fi subscriber.

Regulation 22.9 of the Guidelines requires ISPs to maintain defence systems against cyber threats, including implementing child protection systems in compliance with government-issued Cyber Security Guidelines.

Regulation 39.17 explicitly requires ISPs to block and stop all pornography-related websites, in collaboration with bandwidth providers like International Internet Gateway (IIG) and National Internet Exchange (NIX).



Regulation 34 of the Guidelines obliges ISPs to ensure free parental control services, such as blocking websites, chat rooms, services like instant messaging, and filtering contents. Clause 32 of Appendix 1 of the Guidelines define Parental Controls as features in digital and electronic services that allow parents to restrict their children's access to harmful content, placing emphasis on parental responsibility rather than platform-based age verification.

- The Personal Data Protection Act, 2023 (Draft) (approved by the Cabinet on 27 November 2023) if enacted, will introduce a new legal framework requiring age verification and data protection of minors. The requirement for age verification (under Section 12 of the current draft of the Personal Data Protection Act, 2023), will be applicable to 'Data-Fiduciaries' as defined under the Act. According to Section 2(d) of the Personal Data Protection Act, 2023 (Draft), a Data-Fiduciary is defined as any public authority, a company, or legal entity that processes data for a specific purpose, either individually or jointly, and is authorized to grant such authorization to other individuals or entities. If the Act is enacted and a rule for the verification of age is adopted under the Act, all online platforms, which fall under this definition, will be liable to comply with these age verification requirements.

4. Are Online Platforms legally required or recommended to implement any method to obtain parental consent before a child uses the services of such Online Platforms?

In Bangladesh, there are no express laws or regulations that require online platforms to implement any method to obtain parental consent before a child uses the services of such Online Platforms. However, there are regulations that contain provisions regarding age verification, parental control, and child safety on the internet. These laws are set out below.

- The Regulatory and Licensing Guidelines for Internet Service Provider ("Guidelines"), issued by the Bangladesh Telecommunication Regulatory Commission (the Bangladesh telecoms regulator), impose certain obligations on Internet Service Providers (ISPs) in relation to parental control, and child safety.

Article 34 of the Guidelines requires ISPs to ensure free parental control services, such as website blocking and content filtering. Article 32 defines Parental Controls as features in digital and electronic services that allow parents to restrict their children's access to harmful content, placing emphasis on parental responsibility rather than platform-based age verification.

- The Personal Data Protection Act, 2023 (Draft) (approved by the Cabinet on 27 November 2023) if enacted, will introduce requirements regarding parental consent and data protection of minors. Section 12 of this Draft provides that the collection and processing of a child's data, will require the prior consent of the child's parent, guardian, or a person authorized to make decisions on the child's behalf, unless it is for research or statistical purposes authorized by the government, in which case consent is not required.

5. Are there legal remedies for children who have been victimized by online child sexual exploitation? This may include children who are victimized by the distribution of child pornography or CSAM imagery in which they are depicted, or children victimized by enticement, grooming or sextortion. If such legal remedies exist, do they include:

- a. The ability to stop the publication of the pornography or CSAM imagery by the Online**



Platform?

The BTRC may block content, under its powers pursuant to Section 8 of the Cyber Security Act, 2023 and direct service providers to block content under Section 66A of the Bangladesh Telecommunication Regulatory Act, 2001.

However, these laws do not require removal or blocking of content which is pornographic or contains CSAM.

The High Court Division of the Supreme Court of Bangladesh has in a number of instances issued orders directing the BTRC to remove pornographic sites and other content involving sexual violence on online platforms. These orders have been made in writ petitions filed in the public interest by various individuals, including lawyers, seeking removal of websites containing 'obscene' content, and also at the Court's own accord (*suo motu*) relating to a viral video containing visuals of rape on a woman.

However, these judgments or orders of the High Court Division have not been officially reported in law reports or databases. Our understanding is primarily based on media reports such as Deutsche Welle and Bdnews24.com. Therefore, we are not aware whether the order provides any specific definition of 'obscene' contents. However, from the outset of the news reports, it appears that the term 'obscene' has been applied by the Court in a broad and context-driven manner, reflecting a general understanding of the word as content that is offensive or inappropriate due to its sexual nature.

- Ashraf Islam, 'Bangladesh 'anti-porn war' bans blogs and Google books', Deutsche Welle, 25 February 2019. <https://www.dw.com/cda/en/bangladesh-anti-porn-war-bans-blogs-and-google-books/a-47684058>
- Ahamed Shamim, 'BTRC taking down Noakhali woman's assault video as home minister vows action', Bdnews24.com, 7 October 2020. <https://bdnews24.com/bangladesh/2020/10/06/btrc-taking-down-noakhali-womans-assault-video-as-home-minister-vows-action>

As noted in 2 (d) above, the BTRC blocks websites directly, or upon requests from other agencies, or on receiving complaints, instructing IIG and ISPs to restrict access, including on issues relating to pornography.

b. An obligation on the part of the Online Platform to take active steps to remove the pornography or other imagery from their servers?

No, as noted in 2 (d) above, Online Platforms are not under any obligation to actively remove any content, including pornography or other imagery.

However, as noted in 2(a) above, to avoid liability, they may be under an obligation to prove due diligence and lack of knowledge of any breach relating to certain offences under the Cyber Security Act, 2023, and the ICTA, 2006.

c. An ability to get an injunction or other court order against the Online Platform to stop them from publishing the pornography or imagery?

If a person believes that any photo or video containing their imagery has been or will be



unlawfully disclosed or used, they may file a civil suit in court to prohibit the disclosure or use. In accordance with Section 83 of the Bangladesh Telecommunication Regulation Act, 2001 the court may issue an injunction. Section 83 of the 2001 Act provides as follows:

- "(1) If a person, on reasonable grounds, believes that a message sent or received by him has been or will be unlawfully disclosed, or that it has been or will be used in violation of the provisions of section 67(1) or 68(1), he may, for prohibiting such disclosure or use or for realizing compensation from the person liable for such disclosure or use, file a civil suit in appropriate civil court against the person so disclosing or using; and in such a suit the court may pass on order of injunction or award compensation or other relief as it considers appropriate.
- (2) If a person has been found guilty of an offence under section 67(1) or 68(1) and if, on the basis of the same occurrence, a civil suit is filed under sub-section (1), of this section, the certified copies of the evidence admitted in the criminal proceedings may be presented for admission in the civil suit to prove the alleged unlawful disclosure or use of a message; and the decision by which that person was found guilty shall, in relation to the relief prayed for, be deemed to be sufficient proof.
- (3) A civil suit under sub-section (1) shall be filed within 3 (three) years from the date on which the cause of action for the suit arose.
- (4) Filing of a civil suit by a person under this section shall not affect the exercise of his other rights including his right to seek other remedies."

There are no reported cases where this law has been used for any such injunction.

In practice, the Supreme Court has in response to petitions filed before it, or in suo motu orders directed the BTRC and other authorities to take steps for removing online content, which included pornography and also violence against women. The BTRC subsequently requested the IIG and the ISPs to remove such contents (see 2(d) above).

- Ashraf Islam, 'Bangladesh 'anti-porn war' bans blogs and Google books', Deutsche Welle, 25 February 2019. <https://www.dw.com/cda/en/bangladesh-anti-porn-war-bans-blogs-and-google-books/a-47684058>
- Ahamed Shamim, 'BTRC taking down Noakhali woman's assault video as home minister vows action', Bdnews24.com, 7 October 2020. <https://bdnews24.com/bangladesh/2020/10/06/btrc-taking-down-noakhali-womans-assault-video-as-home-minister-vows-action>

d. A protective order or other court order that prohibits the person who posts the pornography or imagery from doing so in the future on the same or other Online Platform?

There are no laws in Bangladesh which provide for a protective order to prohibit a person who posts the image from doing so in the future on the same or on any other Online Platform.

However, if a family member of the victim posts content that is considered to constitute domestic violence, including psychological or sexual abuse as defined by the Domestic Violence (Prevention and Protection) Act 2010, the court may issue a Protection Order in favour of the victim. According to Section 14 read with Section 3 of the Domestic Violence (Prevention and Protection) Act, 2010, this Order could impose restrictions on the perpetrator, such as prohibiting any form of communication with the victim or further acts of domestic violence.



There are no reported judgments regarding Protection Orders made in cases relating to domestic violence through online content.

- e. the ability to seek financial damages or any sort of monetary recovery from an offender who has shared the child's image or video, either in a civil or a criminal proceeding?**

A Cyber Tribunal may issue an order of compensation under the Cyber Security Act, 2023. According to Section 36, read with Sections 23 and 24, of the Cyber Security Act, 2023, this would be applicable if the sharing of a child victim's image or video involves impersonation, or electronic fraud which encompasses altering or tampering information on a computer or digital device among others.

As noted above, if a family member of a child shares the child's image or video, and this action is considered to amount to domestic violence against the child under Section 16 read with Section 3 of the DV Act, the victim may seek compensation for any resulting trauma or psychological damage, among other forms of harm.

If a person reasonably believes that a message sent or received by them has been unlawfully disclosed, they may file a civil suit to seek compensation from the responsible party under the Bangladesh Telecommunication Regulation Act, 2001. According to § 83 of the 2001 Act the Court may then order payment of compensation. This provision may be particularly relevant in cases involving the unlawful disclosure of messages containing a child's image or video.

There are no reported cases where this law has been used to seek or secure compensation.

- f. the ability to seek any other forms of victim compensation/recovery/services provided for under the law and/or by a government-funded source?**

Compensation is payable under the Suppression of Violence against Women and Children Act. There are victim support services run by the Bangladesh Police providing support women and children who are victims of violence. According to Section 10 of the Suppression of Violence against Women and Children Act, if a person commits sexual assault, such person shall be liable to imprisonment for a term of three to ten years and shall also be subject to a fine in addition thereto. According to Section 15 of the Act, the court may consider the fine, if it thinks necessary, as damages for the victim of the offence. This fine, imposed for offences under the provisions of the Act, can be realized from the convict's existing property or from any property they may own or possess in the future if the fine cannot be realized immediately. Furthermore, the claim of such fine or damage shall have precedence over any other claims on that property.

- g. notification to a victim when an offender is arrested for distributing child pornography or CSAM in which the child is depicted?**

There are no such requirements under the law in Bangladesh.

- 6. "Safety by Design" is defined as tools or processes that are built into an Online Platform to protect children by making it easier for the relevant Online Platform to detect or prevent the distribution of child pornography or CSAM.**



a. Are Online Platforms legally required to incorporate “Safety by Design” into their systems?

No, there are currently no such requirements under Bangladesh laws. However, Section 32 of the Personal Data Protection Act, 2023 (Draft) (approved by the Cabinet on 27 November 2023) if enacted will require Data Fiduciaries to ensure data protection by design, i.e., designing to establish appropriate standards of technical systems to avoid harm in compliance with institutional norms following prescribed standards on technology used in processing data under the Rules to be framed under the law after it is enacted by the Parliament. A Data Fiduciary is defined as any public authority, a company, or legal entity that processes data for a specific purpose, either individually or jointly, and is authorised to grant such authorisation to other individuals or entities.

- i. **If so, must these steps be taken before the launch of an Online Platform?**
- ii. **If so, if an Online Platform has already been in public use, when must they have incorporated “Safety by Design” measures?**
- iii. **For each of 6(a)(i) or (ii) above, please describe the legal requirement or recommendation.**

b. Please include information about the parameters for monitoring, management, and enforcement of any legal or regulatory requirements for the Online Platform’s incorporation of “Safety by Design”?