Recommendations provided by the Bangladesh Legal Aid and Services Trust regarding the Draft Cyber Protection (Amendment) Act, 2026

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Section	Proposed Amendment	Concern/ Comment	Recommendation
25(1) + Explanation 2	**Defamatory Information** The draft proposes to add **new offences** of online "**defamation" "maligning" and "bullying" to the list of offences set out in s. 25, on "online sexual harassment", "revenge porn", "child sexual abuse material", "sextortion", and "blackmail".** The draft **refers in a new 'Explanation 2' to the definition** of defamation in s.499 of the Penal Code, and **proposes to add** to that "AI-generated and other content disseminated with the intention of damaging a person's reputation, dignity or character, where the content is false, distorted, misleading, insulting or harmful."	• **Adding speech offences to online SGBV offences**: Adding the offence of online **criminal defamation** to a provision which addresses technology facilitated gender-based violence is concerning because it would bring a wide range of online speech under a provision intended to address serious forms of abuse. The existing offences deal with serious online conduct-based harms, involving sexual or gender-based abuse, such as **"online sexual harassment", "revenge porn", "child sexual abuse material", "sextortion", and "blackmail"**. The proposed offences by contrast cover speech – i.e. what a person says or posts - even where there is no sexual or gender-based abuse. • **Vague language/ Risk of Abuse**: Significantly expanding the definition of defamation in the Penal Code by reference to vague language such as 'false' or 'insulting', appears to be a return to the position under the widely criticised ICTA 2006 (s.57) and DSA 2018 (ss.25 and 29)/ CSA 2023 (ss.25 and 29). The Government removed the provision on online defamation from the CPA 2026 (as did the Interim Government in the Cyber Protection Ordinance 2025), precisely because of the history of abuse of this provision, resulting in arbitrary arrest and prolonged pre-trial detention of journalists, political figures, and general members of the public, including	**Delete** the proposed reference to 'defamation' from s.25.

		women and children simply for making statements or posting content that would be considered fair comment.[1] • **Chilling effect on complaints by victims of abuse and violence**: Criminal defamation laws have a chilling effect on victims/ survivors, including women and children, if they fear that by simply speaking out about violence and abuse they may face lengthy terms in jail. • **Chilling effect on public interest reporting:** Criminal defamation laws may have a chilling effect on reporting on rights, or in the public interest as any reporter or commentator will fear facing arrest and imprisonment or huge fines just for doing so. • **Legal certainty:** The broad and subjective definitions of these offences raise serious concerns about legal certainty (laws must be clear and predictable). Our courts have held that any law that violates this principle can be struck down as unconstitutional (See *Afzalul Abedin and Ors. Vs. Government of Bangladesh* and Ors. 8 BLC (2003) 601). • **Arbitrariness:** There is no guidance on when or why any speech or content should be prosecuted as defamation under the Penal Code or the CPA, and there is a risk of selective and arbitrary application of the law, with far	

[1] Centre for Governance Studies and Clooney Foundation for Justice, TrialWatch, Press Freedom in Bangladesh: Lessons from the Digital Security Act (November 2025). https://cfj.org/wp-content/uploads/2025/11/2025-November-Bangladesh-CGS-DSA-Report.pdf.

		higher offences being imposed on those convicted under the latter. • **Resource constraints:** Victims of serious online harms under this provision, particularly women and children, already face barriers to redress due to limited police capacity for complaint handling, investigation and digital forensics. Adding the proposed offence of defamation, which is open to abuse, would further divert these scarce resources while granting police broad powers to arrest individuals over speech. **Contradicts international human rights law:** The UN Human Rights Committee in General Comment No. 34 (2011), para 47 has recommended that States consider decriminalising defamation, and stated that imprisonment is never an appropriate penalty for defamation. The former UN Special Rapporteur on freedom of expression has also stated, "criminal libel laws are a legacy of the colonial past and have no place in modern democratic societies. They should be repealed". The United Kingdom abolished criminal defamation in 2009.[2]	
25(2-3)	The draft further proposes **raising** the **maximum penalty** for conviction of s.25 offences - to **5 years'** imprisonment (from 2 years) and/or a fine of **BDT 20 lakhs** (from 10 lakhs);	• **Disproportionate penalties**: The proposed penalties are significantly higher than those for criminal defamation under the Penal Code (maximum 2 years' imprisonment and/or fine). The vague definition of the proposed offence and the severity of the proposed penalties for this speech-related offence raise concerns about	**Delete** the proposed reference to 'defamation' from s.25.

[2] Section 73, Coroners and Justice Act 2009. https://www.legislation.gov.uk/ukpga/2009/25/section/73

	where the victim is a woman or child to **10 years (**from 5 years) and/or **a fine of BDT 40 lakhs** (from 20 lakhs).	proportionality (actions must not be more severe than necessary).	
Section	**Proposed Amendment**	**Concern/ Comment**	**Recommendation**
25(1) + Explanation 3	**Maligning** The draft proposes a **new offence** of **"maligning",** defined in Explanation 3 as damaging a person's dignity, honour, reputation or social standing, through statement, conduct, publication, gestures or activity because of which such person appears to others as humiliated, insignificant, inferior or dishonourable, or their social status or reputation is adversely affected. The proposed penalty is - **5 years'** imprisonment and/or **BDT 20 lakhs** fine; - where the victim is a woman or child, the maximum penalty is proposed to be doubled to **10 years and/or BDT 40 lakhs** fine.	• **Vague and overbroad/ Lack of legal certainty**: The terms 'dignity', 'honour', 'social standing', 'humiliated', 'insignificant', 'inferior', and 'dishonourable' are vague and lack any clear objective threshold. They therefore raise serious concerns about legal certainty (if laws are not clear and predictable, then they cannot be understood either by the rights holder or duty bearer). • **Risk of abuse**: The offence of "maligning" which was in s. 25 of the DSA/CSA had resulted in widespread abuse. • **Proportionality:** The vague definition of the proposed offence of maligning and the severity of the proposed penalties for this speech-related offence raise concerns about proportionality (actions must not be more severe than necessary). • **Lack of exemptions**: While the offence of s. 499, Penal Code cannot be invoked in a number of cases (as set out in the explanation to s. 499 itself, for example in respect of any statement regarding "the conduct of any person touching any public question", or "public conduct of public servants"), these restrictions do not apply for the proposed offence of "maligning".	**Delete** the proposed offence of 'maligning' from s.25.

		• **No safeguards against third party cases:** It is also not clear if the provisions of S. 198 of the CrPC – which clearly states that third parties cannot make complaints of defamation under s.499 of the Penal Code except in very limited circumstances - will apply in case of "maligning". This could result in third party complaints again being entertained by the Courts, a pattern of abuse from the past.[3] • **Resource constraints:** Victims of serious online harms under this provision, particularly women and children, already face barriers to redress due to limited police capacity for complaint handling, investigation and digital forensics. Adding the proposed offence of maligning, which is open to abuse, would further divert these scarce resources while granting police broad powers to arrest individuals over speech.	
Section	**Proposed Amendment**	**Concern/ Comment**	**Recommendation**
25 (1) + Explanation 4	**Bullying** The draft proposes a **new** standalone "**bullying"** offence, that is defined in Explanation 4 as "intentional, planned and repeated act or conduct by a person or group against another person or group using their actual or perceived power, influence or dominance, through physical, verbal, social, digital or any other means, and which causes the person or group to suffer physical or	• **Vague and overbroad:** Terms such as "actual or perceived influence," "dominance," "fear/intimidation," "isolation," and "loneliness," are vague and without clear objective thresholds. This could cover even for example, satire, parody, or criticism of a public figure. • **Lack of legal certainty:** The broad and subjective definitions make it difficult to distinguish serious	**Delete the proposed offence of "bullying"** from s.25.

[3] Centre for Governance Studies and Clooney Foundation for Justice, TrialWatch, Press Freedom in Bangladesh: Lessons from the Digital Security Act (November 2025), pp 26 and 30. https://cfj.org/wp-content/uploads/2025/11/2025-November-Bangladesh-CGS-DSA-Report.pdf.

	mental harm, or distress, become fear or intimidated, or results in social exclusion, isolation, or loneliness. The proposed maximum penalty is - **5 years'** imprisonment and/or **BDT 20 lakhs** fine; - where the victim is a woman or child, **10 years and/or BDT 40 lakhs** fine.	cyberbullying from lawful expression, and raise serious concerns about legal certainty (laws must be clear and predictable) ● **Lack of exemptions**: While the offence of s. 499, Penal Code cannot be invoked in a number of cases (as set out in the explanation to s. 499 itself, for example in respect of any statement regarding "the conduct of any person touching any public question", or "public conduct of public servants"), these restrictions do not apply for the proposed offence of "bullying". ● **No safeguards against third party cases:** It is also not clear if the provisions of S. 198 of the CrPC – which clearly states that third parties cannot make complaints of defamation under s.499 of the Penal Code except in very limited circumstances - will apply in case of "bullying". This could result in third party complaints again being entertained by the Courts, a pattern of abuse from the past.[4] ● **Proportionality:** The vague definition of the proposed offence of bullying and the severity of the proposed penalties for this speech-related offence raise concerns about proportionality (actions must not be more severe than necessary).	

[4] Centre for Governance Studies and Clooney Foundation for Justice, TrialWatch, Press Freedom in Bangladesh: Lessons from the Digital Security Act (November 2025), pp 26 and 30. https://cfj.org/wp-content/uploads/2025/11/2025-November-Bangladesh-CGS-DSA-Report.pdf.

		• **Resource constraints:** Victims of serious online harms under this provision, particularly women and children, already face barriers to redress due to limited police capacity for complaint handling, investigation and digital forensics. Adding the proposed offence of bullying, which is open to abuse, would further divert these scarce resources while granting police broad powers to arrest individuals over speech.	
Section	**Proposed Amendment**	**Concern/ Comment**	**Recommendation**
26Ka	**Rumour in Cyber- Space** The draft proposes a new offence of **"Rumour"** defined to include any unsupported or unverified information, news, or claim that creates or could create confusion, fear, unrest, or social instability in the public. The draft proposes a maximum penalty of upto **10 years' imprisonment** and/or a **BDT 40 lakh** fine.	• **Vague and overbroad:** The term **"rumour"** is overly broad and risk subjective interpretation. • **Legal uncertainty:** The broad and subjective definition raises serious concerns about legal certainty (laws must be clear and predictable). • **Unverified information** is not necessarily false. Information may be reported before facts can be conclusively verified, for example, during emergencies or developing events. • **Proportionality:** The vague definition of the proposed offence of rumour and the severity of the proposed penalties for this speech-related offence raise concerns about proportionality (actions must not be more severe than necessary).	**Delete** the proposed s.26Ka.

26Ka	**Misinformation in Cyber- Space** The draft proposes a new offence of **"Misinformation"** defined as false, distorted or misleading information created, published, or disseminated intentionally to mislead, deceive, or cause harm to an individual, the public, an institution, or the State. The draft proposes a maximum penalty of upto **10 years' imprisonment** and/or a **BDT 40 lakh** fine.	• **Vague and overbroad:** The term **"misinformation" (including "false information")** is overly broad and risk subjective interpretation. • **Lack of legal certainty:** The broad and subjective definition raises serious concerns about legal certainty (laws must be clear and predictable). • **Proportionality:** The vague definition of the proposed offence of misinformation and the severity of the proposed penalties for this speech-related offence raise concerns about proportionality (actions must not be more severe than necessary). • **Risk of abuse**: False-information provisions were widely misused under S. 57 of the ICT Act and S. 25 of the DSA/CSA against journalists, cartoonists, political figures, and members of the public for expressing criticism and commentary. • The UN Secretary-General's 2022 report, noted that vague "fake news", "false news" and "misinformation" laws had	**Delete** the proposed s.26Ka.[5]

[5] Prioritise non-criminal responses to misinformation, including, (a) timely access to government information, (b) independent fact-checking, (c) media literacy initiatives, (d) support for responsible journalism, (e) platform transparency and accountability regarding systemic risks, including algorithmic practices, and (f) accessible mechanisms for correcting demonstrably incorrect information.

		been used to restrict freedom of expression in 83 countries. UN's 2024 Global Principles for Information Integrity reaffirm that responses to mis- and disinformation must comply with international human rights law, cautioning against criminalising lawful expression or disproportionate restrictions through vague speech controls. • The former **UN Special Rapporteur on freedom of opinion and expression** repeatedly raised concerns that vague "false news" and misinformation offences, including the "false information" provisions under Bangladesh's DSA and CSA, were incompatible with Article 19 of the ICCPR. • In 2026, **six UN Special Procedure mandate holders** urged Bangladesh Government to align its laws with international freedom of expression standards, and referred to the Human Rights Council Resolution 45/18 (2020) (adopted without a vote, with Bangladesh joining in the consensus) which warned against vague **misinformation laws being used to criminalise journalism and suppress legitimate expression**.	

Content Blocking and Removal

Section	Proposed Amendment	Concern/ Comment	Recommendation
8 (2)	**Authorities** The draft proposes adding the Information and Broadcasting Ministry and any specifically empowered government agencies to those already so empowered, i.e. the	The draft would expand the number of government bodies with broad discretion to make decisions to block content. There is no independent oversight for such decisions.	**Delete** the following proposed text from s.8(2) "the Ministry of Information and Broadcasting, or any other agency or force

	Director General of the Cyber Shurokkha Agency, and law enforcement agencies.		authorised by the Government" (তথ্য ও সম্প্রচার মন্ত্রণালয় কিংবা সরকারের নিকট হইতে ক্ষমতাপ্রাপ্ত অন্যান্য সংস্থা বা বাহিনী).
Section	**Proposed Amendment**	**Concern/ Comment**	**Recommendation**
8 (2)	**Grounds for blocking** The draft proposes expanding the already broad grounds for blocking to include 'rumours, misinformation (s. 8(2)), defamatory material (s.8(2)(gha)), material insulting/disrespectful to the State (s.8(2)(gha))', and a "likely to cause harm" threshold for the existing grounds of undermining integrity, security, defence, and public order of the country, and religious or ethnic hate (s. 8(2)(ka-ga)).	**Vague grounds:** The proposed grounds are broad and vague which would allow blocking based on subjective standards, and arbitrary action. This adds to the existing set of vague grounds such as "integrity of the country", "creates concern leading to violence", "defence of the country", and "provides instructions for disorder", which are undefined and confer broad scope for abuse. The existing grounds such as "national security", and "public order" are recognised as legitimate grounds for restricting expression under international human rights law, only if any such restrictions are clearly defined, necessary, and proportionate, with a direct and demonstrable connection between the expression and a specific harm. **Risk of disproportionate restrictions on lawful expression**.	• **Delete** the following proposed grounds for blocking/ removing content: • Rumours (s. 8(2)), • misinformation (s.8(2)), • defamatory material (s.8(2)(gha)), • material insulting/ disrespectful to the State (s. 8(2)(gha)), and • a "likely to cause harm" threshold for the existing grounds of undermining integrity, security, defence, and public order of the country, and religious or ethnic hate (s. 8(2)(ka-ga)).

			● **Review existing grounds** for clarity and to narrow definitions.
Section	**Proposed Amendment**	**Concern/ Comment**	**Recommendation**
8 (3-4)	**Safeguards for blocking** The draft proposes removing the requirements for the Government to disclose blocked content, obtain the Cyber Tribunal's approval within three days of blocking content, and restore content where approval is not granted.	● Removes transparency by no longer requiring disclosure of blocked content. ● Substantially weakens existing safeguards against arbitrary or prolonged blocking. ● Reduces timely judicial scrutiny / oversight of blocking decisions.	**Keep** the safeguards in ss.8(3) and 8(4) of the CPA.
Section	**Proposed Amendment**	**Comment**	**Recommendation**
8 (4)	**Judicial review of blocked content** The draft proposes a new remedy, namely for aggrieved persons, or their legal representatives, guardians, family members, and others with a legitimate interest, to **challenge blocking decisions** and **seek release of blocked content** from the Cyber Shurokkha Agency or the Cyber Tribunal.	● Useful to challenge blocking decisions. ● No clear definition of when applications should be made to the Cyber Shurokkha Agency or the Cyber Tribunal. ● Review by the Agency, as an executive body, does not provide the same independent oversight as the Tribunal. ● The lack of clear decision-making criteria and timeframes risks inconsistent decisions and prolonged blocking without redress.	● Retain the proposed mechanism in s. 8(4), but clearly define the roles of the Agency and the Tribunal regarding challenging blocking decisions. ● Introduce clear decision-making criteria and time limits for unblocking applications.

Section	Proposed Amendment	Concern	Recommendation
12	**National Cyber Protection Council** The draft proposes changes to the Council's composition by - removing the Chairperson of the National Human Rights Commission - adding 3 Ministers (Foreign Affairs, Home Affairs, Information and Broadcasting), the Cabinet Secretary, and the Secretary, Information and Broadcasting Ministry.	**Lack of Independence:** The draft increases executive dominance by removing the NHRC Chairperson, and proposing that there be 21 Government officials in the Council, 5 more than at present. It also reduces the scope for the Council to incorporate specialised expertise on issues affecting digital rights, freedom of expression, and surveillance.	**Delete** the reference in s.12 to inclusion of 3 Ministers (Foreign Affairs, Home Affairs, Information and Broadcasting), the Cabinet Secretary, and the Secretary, Information and Broadcasting Ministry **Keep** the reference to the Chairman, National Human Rights Commission, in s.12. **Add** or provide for co-option of members to the Commission with human rights, cybersecurity and technology expertise.

Power to arrest without warrant

Section	Proposed Amendment	Concern	Recommendation
46	**Cognisable Offences** S.25 offences continue to remain cognisable (i.e. enabling police to arrest w/o warrant). This would mean the proposed speech-related offences set out in s. 25, including "defamation", "maligning", and "bullying" would also be cognisable.	**Arbitrary arrest/ Climate of fear:** This would give police broad powers to arrest individuals for speech offences, risking a repeat of the misuse of s.57, ICT Act, the DSA, and the CSA, under which journalists and other commentators, including women and children, faced arbitrary arrest and pre-trial detention. Such powers could create a climate of fear, encourage self-censorship, and undermine freedom of expression and the free flow of information.	**Delete the proposed offences relating to** "defamation", "maligning", and "bullying" from s.25, and do not make those cognisable under s.46.

		S.25 covers serious online harms, including those suffered by women and children, for which making offences cognisable is appropriate. Yet these victims already struggle to obtain redress because of limited police resources for receiving complaints, investigation and digital forensics. Making the proposed speech offences of defamation, maligning, and bullying cognisable would further strain these limited resources, while giving police unfettered powers to arrest without warrant for speech offences.	

Court Jurisdiction

Section	Proposed amendment	Comments	Recommendation
41	**Jurisdiction of Courts** The draft proposes that some offences shall be triable by the Cyber Tribunal and others by First Class Magistrates, or in some cases, a Mobile Court. **Cyber Tribunal**: Punishment for illegal entry into Critical Information Infrastructure or hacking (s.17), illegal entry into computers, digital devices, computer systems, etc. and punishment (s.18), offence of committing cyber terrorism and punishment (s.23), offence of e-transaction beyond lawful authority and punishment (s.24), offences relating to sexual harassment, blackmailing, or publication of obscene content and	• **Trial by a Mobile Court is particularly concerning for offences that require detailed examination of digital evidence.** Cyber offences including speech offences relating to religious, communal, or ethnic hate speech under s. 26 may require the court to examine electronic records, establish who created or shared material, and determine the person's intention and the context in which the material was communicated. These issues may not be well suited for on the spot summary proceedings by Executive Magistrates designed for comparatively straightforward offences. • **The proposed allocation does not appear to provide a clear or principled basis for determining which court should try a cyber offence.** For e.g., the reference to	**Delete** the Mobile Court's jurisdiction for cyber offences from the proposed amendment to s.41. **Delete** the provision in the proposed amendment to section 41 which allows First Class Magistrates to try offences under the CPA.

	defamatory information and punishment (s.25(3)), and dissemination of rumours, misinformation, etc. in cyberspace and punishment (s.26Ka), and related assistance or abetment offences (s. 27). **First Class Magistrate**: Offences under the CPA other than those triable by the Cyber Tribunal shall be triable by a First Class Magistrate. **Mobile Court**: Offences under the CPA other than those triable by the Cyber Tribunal, can also be tried by a Mobile Court if included in the Schedule of the Mobile Court Act, 2009.	s.25(3) which prescribes punishment for offences including online sexual harassment, child sexual abuse material, defamation, maligning, and bullying where the victim is a woman or child appears to mean that such offences would be tried by a Cyber Tribunal where the victim is a woman or child, but by a First Class Magistrate otherwise. The rationale for this distinction is unclear, particularly as Cyber Tribunals do not appear to have specific procedural safeguards in place for women and child victims that would justify this differential allocation. Consequently, similar offences involving digital evidence may be tried by courts with different levels of technical expertise and potentially different approaches to assessing such evidence. As a result, similar cases may be handled or decided differently, creating inconsistency in outcomes and potentially obstructing the fair administration of justice. ● Practitioners have previously raised similar concerns regarding the allocation of cases involving child accused to Nari O Shishu Nirjaton Domon Tribunals rather than Cyber Tribunals, given that the former's presiding judges may lack specialised training in cyber and technology-related issues.[6]	

[6] https://blast.org.bd/content/CSO/CSO_Recommendations_English.pdf

		• **The general rule for trying multiple offences together is to try all offences in the court where the most serious offence is tried.** Given the CPA is a special law, the proposed amendment should specify which Court has jurisdiction where a case involves offences that are triable both by the Cyber Tribunal and a First Class Magistrate.	

Offences by Companies

Section	Proposed amendment	Concern	Recommendation
29	**Cancellation of License/ Registration** The draft proposes imposing a penalty of suspending or cancelling a company or organisation's registration or license, or prohibiting its operations if it is convicted of any offence under the CPA, in addition to the existing penalties.	• **Disproportionate penalties**: Cancelling an organisation's registration, license, or operations would expose media houses and civil society organisations to disproportionate penalties for speech-related offences. • **Unreasonable restriction on freedom of expression and the press:** This could unduly restrict freedom of expression and the press by discouraging public-interest reporting, advocacy, criticism and the dissemination of information.	**Remove** the application of s.29 to any of the proposed speech-related offences in s.25 ("defamation", "maligning", and "bullying"), and s.26Ka ("rumour" and "misinformation"), and the existing speech offences in s.26 (religious, communal or ethnic hatred that creates violence, fear or anxiety, or disorder, or provides instructions for criminal activities).