



## EXAMINING THE ADEQUACY OF HUMAN TRAFFICKING LEGISLATION IN SRI LANKA TO COMBAT CYBERSEX TRAFFICKING

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This paper examines Sri Lanka's existing legal frameworks for addressing human trafficking, particularly cybersex trafficking, through an analysis of Penal Code Sections 360A, 360B, and 360C. While these provisions provide a foundation for prosecuting trafficking crimes, their ability to effectively combat cybersex trafficking remains limited due to the evolving nature of online exploitation. The study highlights the need for targeted legislation grounded in expressive law theory, which emphasizes the symbolic and communicative role of laws in shaping societal values and behavior. By enacting specific laws against cybersex trafficking, society can denounce this crime, reinforce cultural values opposing sexual exploitation, and validate the experiences of victims. Expressive legislation not only punishes offenders but also sends a clear message of condemnation, deterring future perpetrators and promoting greater public awareness. Furthermore, comprehensive laws should address the digital dimensions of cybersex trafficking, protect victims of all ages, and foster international cooperation in combatting this transnational crime.

Keywords: Sri Lanka, human trafficking, cybersex trafficking, legal frameworks, Penal Code, exploitation

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### INTRODUCTION

Sri Lanka has made substantial progress in addressing human trafficking by implementing various legal measures focused on the prevention, prosecution, and safeguarding of victims (Bandaranayake, 2023). The country's dedication to eliminating exploitation is evident through implementing general and specific constitutional protections and modifications. The Constitution of Sri Lanka provides general protection by recognizing fundamental rights such as the right to freedom from torture, the right to equality, and the right to freedom of movement, which are essential in protecting individuals from exploitation and trafficking. Additionally, there are specific protections aimed at vulnerable groups, such as women and children, who are often the most at risk of trafficking.

Moreover, Sri Lanka has introduced significant changes to the Penal Code to strengthen the legal framework against human trafficking. These changes include both modifications to existing provisions and the introduction of new provisions specifically targeting human trafficking. For instance, amendments to the Penal Code have expanded the definition of trafficking to encompass modern forms of exploitation, including cybersex trafficking. These legal modifications aim to enhance the capacity of law enforcement and judicial systems to effectively address and prosecute various forms of trafficking, reflecting the evolving nature of these crimes. Nevertheless, there are still ongoing difficulties, particularly in combating cybersex trafficking, which involves the exploitation of victims via digital networks. Conventional laws have shown effectiveness in addressing traditional forms of trafficking, as evidenced by successful prosecutions and the establishment of specialized anti-trafficking units within law enforcement agencies. For example, Sri Lanka's Penal Code amendments and the work of the National Anti-Human Trafficking Task Force have led to the prosecution and conviction of traffickers engaged in forced labour and sexual exploitation. However, these legal frameworks are not fully equipped to tackle the unique challenges posed by cybersex trafficking. The dynamic nature of this crime, characterized by the use of encrypted communication, anonymous online profiles, and the dark web, makes it difficult for law enforcement to track and apprehend offenders. Studies have shown that the lack of specific legislation addressing online exploitation, combined with insufficient technological resources and expertise, hinders the ability of authorities to pursue and prosecute cybersex traffickers effectively. As a result, there is an urgent need to update and adapt existing laws to address the complexities of digital exploitation more effectively.

Human trafficking is the act of violently exploiting persons for reasons such as forced labour, sexual exploitation, or organ harvesting (Columb, 2020). This typically occurs across borders or in different geographical locations in the same country. In contrast, cybersex trafficking involves the exploitation of victims via the use of technology, namely the internet, for sexual enjoyment (Prakash, 2022). Perpetrators entice, manipulate, or trick victims into participating in sexual acts via the internet, taking advantage of them on social media platforms, chat rooms, or websites. Cybersex trafficking, unlike conventional trafficking, goes across geographical bounds, presenting distinct difficulties in terms of identification and punishment (Raets & Jasnsens, 2021).

The existing legal frameworks have been developed over time to address general human trafficking crimes. These laws often focus on traditional forms of trafficking, such as forced labour, sexual exploitation, or trafficking across borders, and they may not account for modern forms of trafficking



that occur online, such as cybersex trafficking. Cybersex trafficking, where victims are exploited through online platforms, requires specific expertise and resources to track online activities and identify perpetrators. Traditional laws may not be equipped to deal with these crimes, as they are digital and international in nature. In countries like Sri Lanka, where cybersex trafficking may not be directly addressed by legislation, there is often a gap in the legal system's ability to fully prosecute offenders and provide sufficient support to victims (Moldovan, 2023). Hence, it is essential to evaluate and strengthen the legal frameworks in order to effectively address and fight this widespread exploitation.

## **METHODOLOGY**

This study uses both secondary and primary data to analyse the effectiveness of current legislative frameworks in combating cybersex trafficking in Sri Lanka. Doctrinal research is the most suitable approach for evaluating the efficacy of current legal frameworks in addressing cybersex trafficking in Sri Lanka. This method allows for a thorough analysis of legal texts, statutes, and judicial decisions. It draws from secondary sources, such as legal documents, government reports, and academic literature, which provide context and background information, and primary sources, like statutes, enabling a detailed examination of specific legal provisions. Ultimately, this approach facilitates a nuanced understanding and evidence-based assessment, which can inform policy recommendations to strengthen Sri Lanka's legal response against cybersex trafficking and safeguard vulnerable individuals.

## **RESULTS AND DISCUSSION**

Human trafficking is a grave and widespread problem involving the procurement and trade of individuals for purposes such as sexual enslavement, coerced labour, or other types of commercial exploitation. Essentially, it entails the use of force and manipulation to trap individuals in situations where they are unable to free themselves, resulting in their exploitation for the advantage of the trafficker or other parties. This process encompasses the recruitment, transportation, transfer, harbouring, or receipt of individuals through threats, force, coercion, abduction, fraud, deception, abuse of power, or exploitation of vulnerability.

The ultimate objective of human trafficking is to exploit the victim, encompassing various forms such as sexual enslavement, coerced labour, and diverse types of commercial exploitation. Although slavery was officially abolished in the 19th century, human trafficking continues to exist as a modern form of slavery, widely acknowledged as one of the most demeaning crimes against humanity. The prevalence of contemporary enslavement is facilitated by factors such as socioeconomic deprivation, limited access to education, political volatility, and pervasive corruption, impacting nearly all nations across the globe.

Human trafficking is widely regarded as a highly abhorrent crime because of its profound detrimental effects on the physical and psychological health of the victims, and it represents a grave infringement upon human rights. To tackle this problem effectively, synchronised endeavours are necessary at the local, national, and international scales. This should involve the participation of law enforcement agencies, establishing appropriate legal structures, providing assistance to victims, and implementing public awareness initiatives. Human trafficking is a complex and deeply rooted problem that persists in modern society. It requires coordinated and long-term efforts to address its different types and expressions.

Human trafficking is defined in the Palermo Protocol (2010) as: "(...) the recruitment, transportation, transfer, harbouring or receipt of persons, using the threat or use of force or other forms coercion, of abduction of fraud, of deception, of the abuse of power of a position of vulnerability or of the giving or receiving of payment or benefits to achieve the consent of a person having control over another person, for exploitation, Exploitation shall include, at a minimum, the exploitation of the prostitution



of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

Observing this, the definition of human trafficking consists of three primary components: the act, the means, and the purpose (Ranasinghe, 2019).

The “Act (recruitment)” encompasses the activities of recruiting, transporting, transferring, harbouring, or receiving individuals. In this instance, the first defendant recruited and harboured the victims. This procedure frequently involves the initial interaction with the victim and the coordination of their domestic and international transportation to a destination where they can be subjected to exploitation (Ranasinghe, 2019).

The “Means” employed to traffic victims encompass threats, force, coercion, abduction, fraud, deception, abuse of power, or exploitation of a position of vulnerability. Individuals who fall victim to human trafficking are often enticed by deceitful assurances of a highly profitable employment opportunity, stability, access to education, or a romantic partnership. These deceitful strategies manipulate and exert control over the victims, trapping them in circumstances where they perceive no feasible escape. The utilization of physical aggression or psychological coercion exacerbates their state of powerlessness (Ranasinghe, 2019).

The “Purpose” of trafficking is to exploit the victims. The first, second, and third defendants in this case engaged in the sexual exploitation of the victims by trafficking them for prostitution (Ranasinghe, 2019). This satisfies the third component of intention. Exploitation can manifest in different ways, such as sexual exploitation, coerced labour, servitude, and other manifestations of contemporary slavery. The proceeds generated from these activities were appropriated by either the second or third accused party, thus emphasising the financial gain obtained from the exploitation of trafficked individuals. The financial gain highlights the methodical and structured character of human trafficking, where the main goal is to make a profit from the pain and abuse of others.

When examining cybersex trafficking, we can also categorise it into three primary components—act, means, and purpose—similar to conventional forms of trafficking. In cybersex trafficking, the exploitation often occurs in virtual environments, but the underlying dynamics of recruitment, deception, control, and exploitation mirror those seen in physical trafficking scenarios. The use of technology amplifies the reach and scale of trafficking operations, presenting unique challenges for law enforcement and victim support efforts. Understanding these elements is crucial for combating cybersex trafficking and protecting vulnerable individuals from exploitation in digital spaces.

The case of Valorie Moser, a former bookkeeper for the adult website GirlsDoPorn, exemplifies the successful use of human trafficking statutes in apprehending individuals involved in cybersex trafficking via online platforms.

Valorie Moser, pleaded guilty to sex trafficking conspiracy for colluding with the administrators of the website to manipulate and pressure young women into participating in sexually explicit videos by deceiving them (U.S. Attorney's Office Southern District of California, 2021). Moser confessed to her involvement in coordinating the models’ travel, arranging transportation, and providing updates to her co-defendants. She was aware that the women had been deceived with false information, specifically that the videos would be solely disseminated on DVDs within Australia and that their identities would be kept confidential. Moser additionally obstructed communications from women who wished to have their videos deleted and employed deceptive strategies to enlist new models.

This instance demonstrates the effective use of human trafficking legislation to apprehend and bring to justice those who engage in cybersex trafficking, therefore ensuring that persons who exploit vulnerable people for financial profit via online platforms are held responsible.



## **A. Laws about Human Trafficking in Sri Lanka**

Human trafficking in Sri Lanka is primarily defined and governed by the Penal Code, particularly under Section 360C. According to this provision, human trafficking is defined as the recruitment, transportation, transfer, harbouring, or receipt of persons by means of threat or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the removal of organs.

Cybersex trafficking shares similarities with this definition in that it involves the exploitation of individuals through digital platforms. While traditional human trafficking may involve physical transport or coercion, cybersex trafficking often utilises technology to recruit, deceive, and exploit victims remotely. Perpetrators may use online platforms to lure victims into sexual acts under false promises, manipulate them through deception or threats, and profit from their exploitation by distributing sexual content online. Both forms of trafficking involve the exploitation of vulnerable individuals for financial gain or other benefits, often with severe psychological, physical, and emotional consequences for the victims.

Sri Lanka has also implemented a range of legislation to address the issue of human trafficking, such as the Children and Young Persons Ordinance, No. 48 of 1939, Immigration and Emigration Act, No. 20 of 1948 (Section 45), The Women's Charter (1993), and the Sri Lanka Bureau of Foreign Employment Act number 21 of 1985 revised by Act number 4 of 1994. These legal frameworks have the objective of preventing, prosecuting, and safeguarding victims of human trafficking, including both conventional and contemporary types of exploitation. Nevertheless, the efficacy of these legislations in combating cybersex trafficking remains unknown owing to the dynamic nature of the crime and deficiencies in enforcement systems. This article only examines the Penal Code concerning solving cybersex trafficking in Sri Lanka since other legal frameworks are not relevant to this issue.

### **1. Potential Applicability of Existing Human Trafficking Laws in Sri Lanka**

This section offers a comprehensive examination of the existing legal structure in Sri Lanka for dealing with cybersex trafficking. The text mainly focuses on Sections 360A, 360B, and 360C of the penal code of Sri Lanka. While these laws purport to tackle various forms of trafficking, such as sex trafficking and the exploitation of kids, their ability to effectively combat cybersex trafficking is uncertain. This paper emphasises the need for legal reforms and enhancements to adequately address the intricacy and challenges posed by cybersex trafficking in contemporary digital landscapes.

The Penal Code of Sri Lanka establishes legal definitions and enforces legal actions against criminal offences, such as the trafficking of children and women. The amendments made in 1995 and 1998 were intended to tackle the increasing problem of trafficking fueled by exploitation.

Section 357 of the law deals with the act of kidnapping women to force them into marriage or engage in sexual actions against their will. This offence is penalised by a maximum jail sentence of 10 years and penalties. Section 358 addresses the act of abducting someone with the intention of causing serious injury or enslaving them and imposes corresponding punishments. Section 359 of the law makes it a crime to hide or confine someone who has been kidnapped, and it carries the same punishments as the act of kidnapping itself. These regulations apply to instances of cybersex trafficking, in which victims may be forcibly taken and coerced into participating in online sexual exploitation. It is particularly pertinent in cases of cybersex trafficking, when victims may be forcibly confined to engage in sexual activities via the internet.



Section 358 pertains to the act of forcibly taking someone to cause serious injury or subject them to slavery. This rule is applicable when persons are abducted to submit themselves to slavery, servitude, or severe exploitation. This category may include cybersex trafficking, which refers to the abduction and exploitation of persons for the purpose of commercial sexual activities.

Nevertheless, Sections 357, 358, and 359 may sometimes not be applicable. If there is no evidence suggesting that persons were kidnapped or forcefully taken without their consent, these prohibitions may not apply. These rules may not be applicable in situations when people actively participate in cybersex trafficking or join in marriage without duress.

Section 360A of the law outlaws the act of procuring anyone, irrespective of their gender or age, for engaging in prostitution or any kind of illegal sexual act, whether it is inside or beyond the borders of Sri Lanka. This includes activities such as luring persons who are under the age of sixteen to leave the nation to engage in illegal sexual activities, importing children into Sri Lanka for the same purpose, or unlawfully confining individuals to commit sexual abuse. A conviction results in a jail sentence ranging from 2 to 10 years, sometimes a monetary penalty.

Section 360A of the Sri Lankan Penal Code may be used to possibly prosecute some elements of cybersex trafficking, including those related to the recruitment of persons for illegal sexual acts, both inside and outside Sri Lanka. This rule may apply to instances in which persons are compelled, misled, or tricked into becoming prostitutes, leaving the nation to engage in illegal sexual activities, or visiting brothels in other locations.

For example, the clause that says, “Anyone who... obtains, or tries to obtain, any individual... to become... a sex worker” might be used in situations where people are forced to participate in cybersex activities in exchange for money. Nevertheless, there are constraints on its relevance when it comes to cybersex trafficking, especially in cases when the abuse takes place only via digital methods without any physical transportation. For instance, the clause may not explicitly include cases of cybersex trafficking, when victims are forced to engage in sexual activities online without physically leaving the country. Hence, while this rule may be relevant to certain parts of cybersex trafficking, its ability to effectively tackle the whole range of this criminal activity may be restricted.

However, this section can be used to prosecute those who recruit or coerce individuals into engaging in cybersex activities. For example, if someone lures a person under false pretences to engage in online sexual acts, they can be charged under this section. Moreover, consumers who solicit or engage with victims in these illicit sexual activities facilitated by traffickers can also face prosecution. This dual approach aims to address both the supply and demand sides of cybersex trafficking, thereby creating a comprehensive deterrent against such exploitation.

Section 360B specifically addresses the issue of sexual exploitation of children. It prohibits various actions, such as allowing a child to be sexually abused or involved in obscene activities, acting as a facilitator for child sexual intercourse or abuse, enticing clients for child sexual activities, exploiting one's influence over a child for sexual purposes, using threats or violence, or offering benefits in order to obtain a child for sexual activities. A conviction leads to 5 to 20 years of incarceration, in addition to potential monetary penalties. The term "child" denotes an individual who is under the age of eighteen.

Section 360B of the Sri Lankan Penal Code may be effectively used to punish some aspects of cybersex trafficking. More precisely, this law encompasses situations in which individuals willingly allow a child to engage in sexual activities or explicit displays, act as facilitators for children to engage in sexual intercourse or abuse, persuade others to engage in sexual activities with children through advertisements or other methods, exploit their authority over children, or employ violence or threats to obtain children for sexual exploitation.



An example of this is the clause that states, “Anyone who...serves as a facilitator of a minor for the intent of engaging in sexual intercourse or any kind of sexual exploitation.” This provision might be used in situations where people exploit minors for the goal of cybersex trafficking. Furthermore, the clause that forbids the act of persuading people to participate in sexual activities with children via ads or other forms of communication might also apply to instances of cybersex trafficking, namely those involving the online solicitation of kids for sexual reasons.

Under relevant legal provisions, traffickers who exploit children for cybersex activities can be prosecuted. This encompasses the use of online platforms to facilitate or promote the sexual exploitation of minors. Additionally, consumers who knowingly participate in or solicit sexual activities with children online can also be prosecuted. The law criminalises the act of enticing clients for child sexual activities, which directly applies to consumers engaging in cybersex acts with minors. This dual prosecution strategy aims to comprehensively tackle the exploitation by targeting both the suppliers and the demand side of cybersex trafficking.

Nevertheless, there are constraints on its relevance when it comes to cybersex trafficking, especially in instances when the exploitation takes place only via digital methods without any physical involvement. The legislation mainly focuses on cases where minors are physically present on-premises or if physical force, manipulation, violence, or financial incentives are utilised to get children for sexual exploitation. Consequently, it may not comprehensively capture the intricate dynamics of cybersex trafficking, which often includes coercion, manipulation, and exploitation only via digital platforms, without any physical contact or presence. For instance, the section that deals with the intentional permitting of a child to stay in a location for the purpose of sexual abuse may not explicitly include cases of cybersex trafficking, when victims are compelled to engage in sexual activities online without being physically present.

In addition, the legal terminology may not clearly address online interactions and communications that are essential to cybersex trafficking. While the clause effectively forbids the act of enticing people to participate in sexual activities with minors via marketing or media, it does not explicitly include online grooming strategies or the utilisation of social media platforms to recruit and exploit victims for the purpose of cybersex trafficking.

Moreover, the current legal definition of “child” as an individual under the age of eighteen may not sufficiently consider the susceptibility of young adults who might potentially become victims of cybersex trafficking and exploitation. This specific age requirement may fail to include persons older than eighteen but are nonetheless susceptible to being manipulated and taken advantage of on the internet.

In general, although Section 360B of the Penal Code can be utilised to bring charges against certain aspects of cybersex trafficking, its inadequacies in dealing with the intricacies of exploitation in the online domain emphasise the necessity for comprehensive legal frameworks specifically designed to combat trafficking facilitated by technology.

Section 360C, which was ultimately included to conform to international standards and the Palermo Protocol, makes it illegal to engage in numerous activities connected to trafficking, such as purchasing, selling, or organising the adoption of a person in exchange for money or other benefits. This includes activities such as facilitating a child’s international travel without the permission of their parents, getting approval for adoption by offering money, recruiting women for childbearing, faking birth papers, or acquiring children from other institutions. Individuals found guilty will be subject to incarceration for 2 to 20 years, with more severe consequences if the victim is a minor, in addition to monetary penalties. A kid is defined in this section as an individual who is below the age of eighteen.



Legal provisions can be utilized to prosecute individuals engaged in the broader trafficking network that facilitates cybersex trafficking, particularly when there are elements of cross-border trafficking or financial transactions aimed at exploitation. Additionally, consumers who purchase trafficked individuals for sexual purposes, including through online platforms, can also be prosecuted under these laws. This comprehensive approach targets both the facilitators and the consumers of cybersex trafficking, thereby aiming to disrupt the entire network and reduce the incidence of such exploitation.

The lack of targeted regulations within current legal systems is a significant obstacle in prosecuting those involved in cybersex trafficking, who exploit victims only via digital methods. Perpetrators might use several online channels, such as social media, messaging apps, or websites, to seek customers and exploit victims from a distance. Section 360C primarily focuses on offences pertaining to physical acts, such as organising trips or participating in purchases from physical establishments. As a result, the law may not successfully punish those who exploit victims only via online transactions, revealing a significant deficiency in the scope of the legal framework.

Furthermore, the insufficient provision of sufficient protection for virtual exploitation strategies used in cybersex trafficking intensifies the difficulties in convicting wrongdoers under Section 360C. Perpetrators often use misleading tactics or psychological manipulation to exploit victims on the internet, forcing them to engage in sexual activities on webcams via false pretences or threats. Section 360C primarily focuses on physical acts or transactions and fails to consider the intricate dynamics of virtual exploitation strategies used in cybersex trafficking operations. Consequently, the law may fail to fully comprehend the intricacies of these offences, impeding the effectiveness of prosecution and deterrent measures.

In addition, the age restriction specified in Section 360C poses an additional obstacle in successfully combating cybersex trafficking, especially when it comes to safeguarding vulnerable persons. Although the legal definition of a "child" includes those under the age of eighteen, it is essential to note that cybersex trafficking may also harm young people who are over this age limit. For example, an adult who is susceptible to harm and is older than eighteen years old may be manipulated into participating in sexual activities via the internet through the use of threats or offers of cash benefits. Nevertheless, the specific age limit specified in the statute may not provide sufficient legal protection to these victims, highlighting the need for a more inclusive strategy to protect persons from exploitation, regardless of their age.

Furthermore, the emphasis placed on physical institutions in Section 360C highlights the existing legal framework's shortcomings in addressing cybersex trafficking. Although specific sections of the legislation refer to acquiring goods or services from brick-and-mortar facilities like hospitals or shelters, offenders often enlist and abuse victims using internet platforms without engaging in direct physical interaction. For example, criminals may focus on susceptible people on social networking platforms and manipulate them into participating in cybersex activities, bypassing the need for physical locations mentioned in the legislation. Hence, the law's focus on physical establishments may not sufficiently tackle the changing techniques used by offenders in cybersex trafficking, requiring revisions to include online transactions and virtual exploitation strategies.

The current legislation on trafficking, intended initially to address physical transportation and force, may not be enough to address the intricate nature of cybersex trafficking. Consequently, these restrictions might impede efforts to prosecute perpetrators and deter future instances of exploitation.

While Sections 360A, 360B, and 360C of the criminal code provide safeguards for the rights of trafficking victims, they may not sufficiently address the specific needs of those who have been victimised by cybersex trafficking. The Penal Code of Sri Lanka has many sections designed to address and prevent exploitation, abuse, and trafficking.





The consequences for kidnapping or abduction differ depending on the particular circumstances, mainly whether the victim is an adult or a child. Adult victims of kidnapping or abduction (as defined in Section 354) may face a maximum punishment of imprisonment for seven years and a fine. In instances involving murder (as defined in Section 355), the punishment is harsh imprisonment for up to twenty years, in addition to a fine. Engaging in the act of forcibly confining someone (as defined in Section 356), coercing a woman into marriage or engaging in illegal sexual activity (as defined in Section 357), and inflicting severe injury or subjecting someone to slavery (as defined in Section 358) may result in a jail sentence of up to 10 years and a monetary penalty. Engaging in the act of obtaining a child (as stated in Section 360A) is punishable by imprisonment for a period ranging from two to ten years, along with a monetary penalty. Furthermore, there are further consequences for encouraging or promoting illegal conduct. The act of sexually exploiting minors, as defined in Section 360B, is subject to a jail sentence ranging from five to twenty years, as well as a monetary penalty. Engaging in trafficking, as defined in Section 360C, carries a jail sentence ranging from two to twenty years, along with a monetary penalty. If the trafficking involves a child, the consequences are more severe, with a prison sentence ranging from five to twenty years and an additional fine.

However, some nations enforce stricter punishments for human trafficking and associated crimes. Under Section 3 of the Modern Slavery Act of the United Kingdom (UK), if someone is convicted of human trafficking in a summary trial, which is a less severe offence, heard by a magistrate or judge without a jury, they may be sentenced to a maximum of 12 months in jail and/or an unlimited fine. However, if the situation becomes more severe and results in a conviction on indictment, which entails a trial by jury in a superior court, the possible penalty increases considerably. Under these circumstances, the individual's participation in human trafficking might result in a maximum term of life imprisonment, meaning that they may be incarcerated for the remainder of their life.

Given the profound and enduring impact of cybersex trafficking on its victims, it is imperative to enforce stricter punishments to deter perpetrators and ensure that justice is served for those who have been harmed. The disparity between the authorised penalties and the severity of cybersex trafficking offences undermines the deterrent effect of the legal framework and diminishes the probability of holding those responsible.

As discussed above, the legal framework under Sri Lankan law provides a broad definition of human trafficking that encompasses various forms of exploitation, including sexual exploitation, which can be relevant to prosecuting cybersex trafficking. The focus on coercion, deceit, and exploitation in the definition aligns with the elements of cybersex trafficking, where individuals are often manipulated or forced into participating in exploitative online activities. Below are some illustrations that depict instances where the current law can be utilized.

**Illustration A:** A woman was kidnapped and forced into cybersex trafficking. Her abductors used threats and physical force to coerce her into participating in live-streamed sexual activities. They also created and distributed explicit videos of her online. Sections 357, 358, and 359 of the Sri Lankan Penal Code could be applied here. Section 357 addresses kidnapping women for sexual exploitation, which carries a maximum jail sentence of 10 years and penalties. Section 358 deals with abducting someone for serious injury or enslavement, and Section 359 penalizes hiding or confining a kidnapped person.

**Illustration B:** A minor was lured by a trafficker through social media under the pretence of modelling opportunities. She was coerced into performing sexual acts on webcams for paying customers, with the trafficker profiting from the exploitation. Section 360A could be relevant here, as it criminalizes procuring individuals for prostitution or illegal sexual acts. This includes recruiting minors for such purposes, whether within or outside Sri Lanka. A conviction results in a jail sentence ranging from 2 to 10 years and potentially a monetary penalty.



**Illustration C:** A child was manipulated by an adult through an online gaming platform to engage in sexually explicit acts via a webcam. The adult used threats and promises of virtual rewards to exploit the child. Section 360B, which prohibits various forms of child sexual exploitation, could be applied. This section covers allowing a child to be sexually abused, acting as a facilitator for child sexual activities, and using threats or violence for sexual exploitation. Conviction leads to incarceration for 5 to 20 years and potential monetary penalties.

**Illustration D:** An international trafficking ring used social media to recruit young women, promising them jobs abroad. Once recruited, the women were coerced into performing sexual acts on live streams for a global audience. The traffickers profited from these live streams, accessed by paying customers worldwide. Section 360C, which aligns with international standards and the Palermo Protocol, could be used to prosecute such cases. It criminalizes various trafficking activities, including the sale and purchase of persons, organizing illegal adoptions, and facilitating travel for exploitation purposes. Penalties range from 2 to 20 years in prison, with harsher sentences for child victims.

However, while these statutes provide a foundation for addressing traditional forms of trafficking, there is a need for more explicit provisions or amendments to address the nuances of cybersex trafficking directly. This includes recognising digital recruitment and exploitation methods, providing specific guidelines for law enforcement, and ensuring adequate victim protection and support mechanisms. By doing so, Sri Lanka can strengthen its legal framework to combat cybersex trafficking more effectively in the digital age.

## CONCLUSIONS

In conclusion, Sri Lanka has established legal frameworks to combat human trafficking, including the Penal Code and related acts. However, the effectiveness of these laws in addressing cybersex trafficking, a modern form of exploitation, remains uncertain due to evolving crime dynamics and enforcement gaps. This analysis focused on Penal Code Sections 360A, 360B, and 360C, highlighting their limitations in tackling cybersex trafficking.

Even though the current laws can be broadly interpreted to prosecute cybersex trafficking, we encourage making targeted laws under expressive law theory. The expressive law theory offers a persuasive framework for comprehending the significance of specific laws in combatting cybersex trafficking. It highlights the legal system's symbolic and communicative roles. Expressive law theory may be used to justify the needs for these laws. Cybersex trafficking is an extremely severe kind of exploitation in which people are trafficked for sexual reasons via internet platforms. By implementing precise legislation that expressly targets cybersex trafficking, society may symbolically denounce this detestable crime. These laws indicate that cybersex trafficking is not only unlawful but also morally condemnable, demonstrating society's strong condemnation of such abuse.

Cybersex trafficking laws aim to strengthen cultural values that oppose the exploitation and objectification of persons for sexual reasons. Targeted legislation, by unambiguous prohibition and punishment, conveys a resolute message that such behaviour is not accepted in society. This contributes to reinforcing societal standards that prioritise the importance of human worth, the need for permission, and the regard for personal independence.

The implementation of expressive legislation may be vital in acknowledging and validating the experiences of those who have been victimised by cybersex trafficking. Targeted laws recognize the unique vulnerabilities and damages experienced by victims of cybersex trafficking by addressing this particular kind of abuse within the legal system. This acknowledgement has the potential to validate the experiences of victims, diminish social disapproval, and enhance their ability to regain control and heal.



The idea of expressive law posits that legal norms can shape behaviour not only by means of punishment but also by the messages they convey. Enacting specific legislation to address cybersex trafficking effectively conveys a powerful message of discouragement to prospective perpetrators, deterring them from participating in this illegal activity. Moreover, via the promotion of consciousness and the cultivation of a shared obligation, these legislations may effectively aid in the prevention of cybersex trafficking and the safeguarding of susceptible persons from exploitation.

To successfully address the issue of cybersex trafficking, it is crucial to have comprehensive legislation that focuses explicitly on the digital aspects of this kind of abuse. The laws should protect victims of all age groups and promote international cooperation among law enforcement authorities, thereby enhancing efforts to fight this widespread and complex transnational crime.

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