al-Rasīkh: Jurnal Hukum Islam
P-ISSN: 2089-1857 | E-ISSN: 2580-2755
Vol. 15 No. 02, November 2026, 300-324
DOI: https://doi.org/10.38073/rasikh.4630

Islamic Criminal Law Analysis of Cybersex Trafficking

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Submitted: 4 April 2026 Revision: 11 July 2026 Accepted: 9 August 2026 Published: 18 October 2026

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Abstract

This article discusses the emergence of cybersex trafficking as a modern form of human trafficking that exploits cyberspace, thereby creating a legal vacuum or ambiguity in its regulation. The purpose of this study is to analyze the forms of cybersex trafficking and to review Islamic criminal law regarding criminal sanctions for cybersex trafficking. This study employs a normative juridical method with a conceptual approach, based on secondary data collected through a literature review. The data were then analyzed qualitatively by systematically describing, interpreting, and evaluating the legal materials gathered. The results of the study indicate that although cybersex trafficking is not explicitly recognized in classical fiqh literature, the substance of the act involves conduct that violates the maqashid of Sharia. From the perspective of Islamic criminal law, cybersex trafficking—as a form of human trafficking—is classified as a jarimah ta'zir because there is no specific textual provision (nash) governing it; thus, the determination of its penalty is left to the ulil amri. However, if in practice it is accompanied by other criminal acts, such as forced sexual intercourse, then the act must be analyzed separately in accordance with the provisions of fiqh jinayah governing that specific crime. The novelty of this study lies in the integration of classical Islamic criminal law concepts with modern cyberlaw mechanisms, a topic that has not yet been systematically examined in the context of digital-based human trafficking. This study contributes by providing a normative and moral framework for the development of Islamic and national legal policies to address increasingly sophisticated cybercrimes, as well as by strengthening the ethical foundation for protecting human honor and dignity in the digital age.

Keywords: Criminal Acts, Cybersex Trafficking, Islamic Criminal Law, Ta'zir.

INTRODUCTION

The digital age has given rise to a paradox; on the one hand, it offers boundless convenience, yet on the other, it has become a new breeding ground for increasingly complex and transnational crimes. However, behind this progress, various new forms of crime rooted in human exploitation have emerged, expanding the spectrum of sexual exploitation from the physical realm to the cyber realm. This phenomenon not only expands the modus operandi of crime but also challenges the conceptual boundaries of human trafficking within the cyber dimension. In light of these developments, a new term has emerged that is crucial to understand: human trafficking for the purpose of sexual

How to Cite this Article
Rahmawati, Sopi Laeli Fitri, Yayan Muhammad Royani, and Muhammad Fauzan Januri. "Islamic Criminal Law Analysis of Cybersex Trafficking." *Al-Rasīkh: Jurnal Hukum Islam* 15, no. 2 (2026): 300–324. https://doi.org/10.38073/rasikh.4630.

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exploitation in cyberspace, known as cybersex trafficking.[1] One of the most horrific crimes resulting from technological advancements in this context is cyber sex trafficking—a form of sexual exploitation carried out through online networks that treats victims as economic commodities. It is noted that cybersex trafficking is a recent dreadful expression of human trafficking where these divisive strategies and selfish actions have become particularly problematic. Cybersex trafficking is an insidious criminal activity that corrupts innocent victims and generates profit and pleasure for its perpetrators.[2]

This phenomenon occurs through digital platforms, websites, social media, and streaming apps that virtually commodify the human body for economic gain, with children often serving as victims—exploited online to record, direct, or orchestrate forms of exploitation in real time.[3] It is not limited to the production of sexual content such as digital pornography, live-streaming of forced sexual acts, and the creation and distribution of child sexual abuse material (CSAM).[4]

The crime of cybersex trafficking not only involves elements of sexual crime but also constitutes a modern form of exploitation and reflects organized human exploitation. Although it does not always involve the physical movement of victims, this crime essentially treats human beings as objects of exploitation, negating individual dignity and freedom, and reducing the human body to an economic commodity. Thus, cybersex trafficking is essentially a form of "digital exploitation" that contradicts human values and universal justice. Data from international organizations such as the United Nations Office on Drugs and Crime (UNODC) and Interpol indicate a significant increase in cases of online human trafficking (online sexual exploitation), particularly targeting women and children, including in Indonesia.[5]

Indonesia has the third-highest number of child sexual exploitation cases in the world. The threat of child sexual exploitation in the digital space is becoming increasingly alarming. In 2024, Indonesia ranked third globally in cases of child sexual exploitation (CSE), with a total of 1,450,403 cases recorded.[6] The term "cybersex trafficking" is relatively new in Indonesia, but it has garnered attention. Although this term is not yet widely used or recognized within the national legal framework, various forms of sexual exploitation crimes encompass the practice of cybersex trafficking. Online sexual exploitation in Indonesia is still categorized as part of Electronic-Based Sexual Violence (KSBE) and/or Online Gender-Based Violence (KBGO). In early February 2025, a 14-

[1] Audrey K. and Asry M, *Cybersex Trafficking: Penelitian Awal Perkembangan Tindak Pidana Perdagangan Orang Kontemporer Di Indonesia*, in *Institute for Criminal Justice Reform* (Institute for Criminal Justice Reform, 2025), h, 1, https://doi.org/10.4018/978-1-7998-9282-3.ch023.
[2] P. Flanagan, *Cybersex Trafficking: The Insidious Side of the Internet. In Handbook of Research on Present and Future Paradigms in Human Trafficking* (IGI Global, 2022), h. 363.
[3] J. Raines, "Trafficking Without Borders: Why It Is Time for the Law to Properly Address Cybersex Trafficking in the Livestreaming Context," *In Chatholic University Law Review* 71, no. 1 (2022): h. 199.
[4] United Nations Office on Drugs and Crime, *Global Report on Trafficking in Persons: 2022* (United Nations, 2022), h. 70-72.
[5] Crime, *Global Report on Trafficking in Persons: 2022*, h. xii.
[6] Admin, "Indonesia Peringkat 3 Dunia Kasus Eksploitasi Seksual Anak Di Ruang Digial, Wamenkomdig Tekankan Kolaborasi Nasional," Suarana.Com, 2025, https://www.suarana.com/2025/10/indonesia-peringkat-3-dunia-kasus.html.

year-old girl became a victim of sexual exploitation by a man who forced her to engage in sexual activities through a dating app. The money earned by the victim was taken by the perpetrator for his own personal gain.[7] It is important to determine whether all forms of online sexual exploitation fall under the category of sexual exploitation or could develop into cybersex trafficking.

This situation poses serious challenges for the legal, moral, and social systems. On the one hand, Indonesia has established legal frameworks such as Law No. 21 of 2007 on the Eradication of Human Trafficking and Law No. 11 of 2008 on Information and Electronic Transactions, which are intended to prosecute perpetrators. However, in practice, law enforcement against cybersex trafficking still frequently faces obstacles, whether in terms of evidence, law enforcement officials' understanding of online methods, or victim recovery. As a result, many perpetrators escape punishment or are charged with offenses that do not fit the severity of their crimes.

The gap described above highlights a disparity between the ideal conditions we hope to achieve—namely, the realization of justice, the protection of human dignity, and the eradication of sexual exploitation—and the actual conditions on the ground, where technological advancements are instead being exploited to expand the practice of slavery in new forms. This phenomenon demands a more in-depth examination, not only from a positive-legal perspective but also from the perspective of Islamic Criminal Law, which encompasses moral, spiritual, and humanitarian dimensions.

Forms of human exploitation under Islamic criminal law, including sexual abuse and harassment, constitute acts that contradict the *maqâshid syarî'ah*—the objectives of Islamic law aimed at safeguarding five fundamental principles.[8] Cybersex trafficking clearly violates at least three primary maqâshid: it damages honor and lineage (*hifzh an-nasl*), degrades the dignity and humanity of the victim (*hifzh an-nafs*), and leads both the perpetrator and the victim into moral and intellectual corruption (*hifzh al-'aql*). In the Qur'an, Allah the Almighty explicitly prohibits all forms of sexual coercion and slavery, as stated in Surah An-Nur [24]: 33.[9] When viewed through the lens of the theory of *maqâshid al-sharî'ah*, it provides an epistemological framework for assessing crimes not only from the perspective of outward actions *(fi'liyah*) but also from the moral, social, and humanitarian impacts they entail. Thus, the relevance of Islamic Criminal Law to cybersex trafficking lies not merely in the nature of its punishments, but also in the values of protection and preservation of humanity that form the core of the *maqâshid* themselves. In the modern context, cybercrimes rooted in sexual exploitation must be understood as

[7] Stefani Yulindriani Ria S. R, "Anak Perempuan 14 Tahun Di Bantul Jadi Korban Perdagangan Orang Bermodus Prostitusi Daring," Jogjapolitan.Harianjogja, 2025, https://jogjapolitan.harianjogja.com/read/2025/02/14/511/1204169/anak-perempuan-14-tahun-di-bantul-jadi-korban-perdagangan-orang-bermodus-prostitusi-online.

[8] Netti Herawati et al., "Perlindungan Hak Anak Akibat Kekerasan Seksual Di Pondok Pesantren Perspektif Maqasid Syariah Dan Hukum Positif," *MAQASID : Jurnal Studi Hukum Islam* 12, no. 2 (2024): h. 28-31.

[9] Rasyid Media, *Al-Qur'an Dan Terjemahnya Mushaf Ar-Rasyid Qs. An-Nur Ayat 33* (Maktabah Al-Fatih Rasyid Media, 2017), h. 354.

a challenge to the principle of *ta'zim al-insan* (respect for human dignity), which forms the basis of Islamic teachings.[10]

Several previous studies relevant to this topic indicate that human trafficking based on cybersex trafficking is a modern form of sexual exploitation that takes advantage of advances in digital technology, particularly social media and messaging apps. Previous research conducted by Noval et al. (2022) indicates that crimes exploiting technological advancements (the internet)—specifically online sexual trafficking—have seen a significant increase, particularly since the onset of the COVID-19 pandemic.[11] Furthermore, research conducted by Aprilia and Zainsyah (2025) aimed to analyze positive legal regulations in Indonesia regarding online sex trafficking and forms of legal protection for children as victims. The methods used included a judicial-normative approach combined with legislative, conceptual, case-based, and comparative legal analyses.[12]

A study by Natashya and Eddyono (2021) examines the comparison of legal protections against cybersex trafficking in Indonesia and the Philippines. This study indicates that the current laws in both countries are not entirely sufficient to prevent and eradicate cybersex trafficking.[13] Additionally, research conducted by Nufus et al. (2025) focuses on cyber sexual harassment against women on social media from the perspectives of positive criminal law and Islamic criminal law.[14] Based on the aforementioned prior studies, what distinguishes this research is that, given the factual conditions, normative urgency, and research gaps identified above, this study aims to explore the Islamic criminal law perspective on the phenomenon of cybersex trafficking and to offer relevant legal recommendations for its prevention and the protection of victims in Indonesia.

METHOD

This study employs a normative legal methodology,[15] which is a legal research method that focuses on applicable legal norms as well as the principles of Islamic law derived from the Qur'an, hadith, and the literature of fiqh jinayah. Based on the subject matter, this study does not examine behavior or empirical data in the field, but rather analyzes legal concepts through literature to identify their relevance and normative value regarding the phenomenon of cybersex trafficking. The approaches employed include the

[10] Nurhayati Nurhayati et al., "Human Trafficking In The Perspective Of Maqashid Al-Sharia," *Jurnal Ilmiah Islam Futura* 22, no. 2 (2022): h. 160, https://doi.org/10.22373/jiif.v22i2.12304.
[11] Sayid Muhammad Rifqi Noval et al., "Modus Operandi Dan Strategi Pencegahan Kejahatan Perdagangan Seksual Anak Secara Daring," *Undang: Jurnal Hukum* 5, no. 2 (2022): 419–51, https://doi.org/10.22437/ujh.5.2.419-451.
[12] Ananda Eka Aprilia and Luthfillah Arrizqi Zainsyah, "The Cybersex Trafficking: Legal Protection Against Child Sexual Exploitation Through Digital Platforms," *Vetera Law Review* 8, no. 2 (2025): 232–51.
[13] Gabriella Natashya H and Sri Wiyanti E, "Laws Covering Cybersex Trafficking in Indonesia and the Philippines" (Universitas Gadjah Mada, 2021).
[14] Tsulis Zakiyyatun Nufus et al., "Cyber Seksual Harassment Terhadap Perempuan Di Media Sosial Perspektif Hukum Pidana Positif Dan Hukum Pidana Islam," *Asas Wa Tandhim Jurnal Hukum, Pendidikan & Sosial Keagamaan* 4, no. 2 (2025): 131–48.
[15] Gunardi, *Buku Ajar Metode Penelitian Hukum* (Damera Press, 2022), h. 44.

conceptual approach, which aims to examine concepts of Islamic criminal law and positive law regarding online human trafficking. Through this approach, the researcher analyzes how crime, punishment, and the protection of human dignity are regulated within both legal systems. Additionally, a philosophical-normative approach is employed to explore the fundamental values and objectives of Islamic law (*maqâshid syariah*) in providing protection for life, honor, and religion. This approach aids in understanding the philosophical relevance of Islamic criminal law to the phenomenon of cybersex trafficking.

The type of data used in this study is secondary data, as the research was conducted through a review of existing legal materials.[16] The data sources used include: a) primary legal materials, namely the primary binding legal sources, including: the Quran and hadith, books on criminal fiqh, Law No. 21 of 2007 on the Eradication of the Crime of Trafficking in Persons, Law No. 11 of 2008 as amended by Law No. 19 of 2016 on Information and Electronic Transactions, as well as international legal instruments such as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol). b) Secondary legal materials, namely materials that explain and interpret primary legal materials, such as books, scholarly journals, research findings, theses, academic articles, and the views of scholars and legal experts. c) Tertiary legal materials, namely supporting materials such as legal dictionaries, Islamic encyclopedias, and reliable online sources that strengthen data analysis.

Data collection was conducted through library research, involving the search, collection, and examination of legal materials from various sources, both print and electronic. [17] This process involved the identification, classification, and documentation of data in accordance with the research focus, namely the relevance of Islamic criminal law to cybersex trafficking. Data analysis was conducted qualitatively, specifically by systematically describing, interpreting, and evaluating the collected legal materials.[18]

The steps of the analysis include: a) Data reduction, which involves selecting and filtering legal materials relevant to the research question; b) Data classification, by grouping legal materials based on themes: Islamic criminal law, positive law, and maqâshid syarî'ah; c) Interpretation and drawing conclusions, namely analyzing the content of Islamic legal norms and positive law to identify their relevance and suitability regarding the phenomenon of cybersex trafficking as a form of modern slavery.

RESULTS AND DISCUSSION

Cybersex Trafficking

One of the contemporary issues in Islamic criminal law is cybercrime. Cybercrime refers to any use of computer networks for criminal and/or high-tech criminal purposes by exploiting the capabilities of digital technology.[19] Cybercrime is a term that refers to

[16] Nur Solikin, *Pengantar Metodologi Penelitian Hukum* (CV. Penerbit Qiara Media, 2019), h. 119.
[17] Muhaimin, *Metode Penelitian Hukum* (Mataram University Press, n.d.), h. 124.
[18] Abdul Fattah Nasution, *Metode Penelitian Kualitatif* (CV. Harfa Creative, 2023), h. 185.
[19] Nurul Irfan and Masyrofah, *Fiqih Jinayah* (Paragonatama Jaya, 2013), h. 185.

criminal activities in which computers or computer networks serve as tools, means, or venues for the commission of crimes. Technological advancements have provided a platform for sexual exploitation. One form of cybercrime is cybersex trafficking.

Cybersex trafficking constitutes a form of human trafficking and represents a new form of human rights violation. This is because human trafficking encompasses and overlaps with other crimes such as forced labor, commercial sexual exploitation of children, or the illegal removal of body organs. The international community has adopted the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol) as part of a set of agreements addressing transnational organized crime and its various manifestations.

The Protocol on Trafficking in Persons establishes an initial definition of trafficking in persons, namely: "Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of 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 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."[20] Cybersex trafficking is a term referring to online sex trafficking, often involves the sexual exploitation of children and women.[21] Cybersex trafficking is a form of human trafficking that leverages internet technology to sexually exploit victims. The modus operandi often involves forced live streaming, recordings, or photographs. In other words, it is a form of modern slavery that takes place online.[22]

The Organization for Security and Co-operation in Europe (OSCE) broadly defines all live-streamed sexual activities, including the sexual abuse of children, to a global audience.[23] The Trafficking Victims Protection Act, a federal law in the United States, contains restrictions on the sex trade that address human trafficking, defining it as a form of commercial sex involving coercion, fraud, and the enticement of individuals under the age of 18 to engage in such acts. This definition clarifies, first, that commercial sexual acts can include prostitution, the production of pornography, striptease, and live sex performances. Second, it applies to pimps who exploit victims and individuals who purchase the victims' services. Third, if the victim is an adult, the act must involve coercion and deception. Therefore, prostitution carried out by adults voluntarily and

[20] Anne Gallagher and Klara Skrivankova, *Human Rights and Trafficking in Persons 15th Informal ASEM Seminar on Human Rights* (Asia-Europe Meeting, 2015), h. 3.
[21] Raines, "Trafficking Without Borders: Why It Is Time for the Law to Properly Address Cybersex Trafficking in the Livestreaming Context," h. 198-199.
[22] Bintoro Wisnu Prasojo, "Cybersex Traffciking: Wajah Baru Perdagangan Manusia Di Era Digital," MariNews.Mahkamahagung.Go.Id., 2025, https://marinews.mahkamahagung.go.id/artikel/cybersex-trafficking-wajah-baru-perdagangan-manusia-di-era-0wm.
[23] Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings and Tech Against Trafficking, *Leveraging Innovation to Fight Trafficking in Human Beings: A Comprehensive Analysis of Technology Tools* (OSCE, 2020), h. 12.

without coercion is not considered sex trafficking; however, if there are elements of coercion and deception involved, it can be categorized as sex trafficking. Specifically regarding children, even if there is coercion or deception, any form of commercial sexual activity is considered a form of sex trafficking.[24]

Cybersex trafficking in Indonesia is a relatively new phenomenon but has already garnered attention. Although it is not yet widely recognized or addressed within the national legal framework, various forms of sexual exploitation crimes point to the existence of cybersex trafficking. In Indonesia, online sexual exploitation is still categorized as part of electronic-based sexual violence and/or online gender-based violence.[25] Under Indonesian law, Article 4(1)(g) of the Law on Sexual Violence Crimes No. 12 of 2022 defines electronic-based sexual exploitation as a form of sexual violence. There are several forms, such as recording, taking screenshots, transmitting electronic information, stalking, or tracking individuals—for sexual purposes.[26]

Pursuant to other provisions of Article 12 of Law No. 12 on Sexual Violence Crimes, sexual violence may be deemed sexual exploitation if committed with the intent to obtain a benefit.[27] The term "benefit" can be broadly interpreted to include profits derived from transactions involving the online sexual exploitation of an individual. Meanwhile, the regulations on human trafficking, including for the purpose of sexual exploitation, currently in place in Indonesia remain focused on human trafficking within physical spaces with territorial boundaries.[28] These regulations may not adequately address human trafficking practices in a digital context (where the entire or part of the process occurs in cyberspace).

The term "cyber" is widely used to describe matters related to computers, the internet, and networks.[29] In his research, Sykiotou also uses the term "cyber trafficking," which refers to the use of cyberspace to recruit victims; this includes advertising victims, their services, or their body parts with the aim of attracting clients. According to him, human trafficking can occur through the use of the internet; such crimes are facilitated by information and communication technology (cyber-enabled crimes).[30]

Cybersex refers to sexual activity that takes place in cyberspace or occurs through the use of computers, networks, or the internet. In some contexts, cybersex is sometimes associated with the term "virtual sex." However, these two terms are not interchangeable. The term "virtual sex" is used to distinguish non-physical sexual activity (in the virtual

[24] Noval et al., "Modus Operandi Dan Strategi Pencegahan Kejahatan Perdagangan Seksual Anak Secara Daring," h. 425.
[25] Fawwas Aufaa Taqiyyah Prastiwi and Aroma Elmina Martha, "Perlindungan Hukum Terhadap Anak Sebagai Korban Eksploitasi Seksual Melalui Media Online," *Prosiding Seminar Hukum Aktual* 1, no. 1 (2023): h. 41.
[26] Pasal 4 Ayat (1) Huruf g UU No. 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual (2022).
[27] Pasal 12 UU No. 12 Tahun 2022 Tentang Tindak Pidana Kekerasan Seksual (2022).
[28] Pemerintah RI, *KUHP 2023: Pasal 455 Ayat (1) UU No. 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana* (Redaksi Sinar Grafika, 2023), h. 148.
[29] V. Greiman and C. Bain, "The Emergence of Cyber Activity as a Gateway to Human Trafficking," *Journal of Information Warfare* 12, no. 2 (2013): 41–49.
[30] Athanassia P. Sykiotou, "Cyber Trafficking: Recruiting Victims of Human Trafficking Through The Net" (2017).

world) from sexual activity that occurs in person (real sex). In the context of human trafficking, the word "virtual" can obscure the reality of exploitation. "Virtual trafficking" implies a "virtual" nature that suggests a lesser degree of criminality. In reality, however, in the context of human trafficking, even though the activities take place via the internet, the victims are very real, and there are tangible consequences of exploitation.[31]

Advances in digital and internet technology have transformed the modus operandi of human trafficking, resulting in trafficking patterns that can occur without borders in cyberspace. The transformation in how human trafficking and sexual exploitation are carried out has led to the evolution of trafficking methods to align with the nature of activities in cyberspace.[32] ***First,*** the elements of the offense. Conventional human trafficking involves the recruitment, transportation, transfer, harboring, or receipt of persons. In conventional human trafficking, recruitment is more often done in person or through known intermediaries; however, with the rise of digital platforms—such as social media, instant messaging apps, and other digital platforms—these have become new and effective tools for recruiting victims. This situation enables individuals to become victims of human trafficking entirely within the digital realm, through websites or other internet services.[33]

Online trading or recruitment through advertising services is one method used to recruit victims via the internet. In the advertising process, the recruitment of victims in cyberspace is often carried out using "hunting" or "fishing" strategies. There are specific characteristics in the targeting of human trafficking victims, such as economic, emotional, or other vulnerabilities.[34] The ICJR study notes that other actions involved in human trafficking are not always carried out entirely in cyberspace. However, in certain contexts, they can be understood as functionally occurring in cyberspace. For instance, the act of transportation in the context of human trafficking implies the physical movement of victims to another location (the physical aspect). In the digital context (cyberspace), the physical movement of victims across regions is often not carried out due to the ease of access to cyberspace, which can serve as a bridge. Based on the evolution of existing sexual exploitation methods, this act of movement is functionally interpreted as the transfer of access and control over the victim into an online exploitation system. While there is no physical movement, control over the victim's person shifts to another individual, thereby binding the victim to comply with the circumstances within cyberspace.[35]

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[31] Sykiotou, "Cyber Trafficking: Recruiting Victims of Human Trafficking Through The Net," h. 1549-1551.
[32] K. and M, *Cybersex Trafficking: Penelitian Awal Perkembangan Tindak Pidana Perdagangan Orang Kontemporer Di Indonesia*, h. 32.
[33] Sykiotou, "Cyber Trafficking: Recruiting Victims of Human Trafficking Through The Net," h. 1557-1558.
[34] United Nations Office on Drugs and Crime, *Global Report on Trafficking in Persons: 2024* (United Nations, 2024), h. 128.
[35] K. and M, *Cybersex Trafficking: Penelitian Awal Perkembangan Tindak Pidana Perdagangan Orang Kontemporer Di Indonesia*, h. 13.

Second, human trafficking can occur directly in cyberspace. In conventional human trafficking, perpetrators may use direct methods against victims, such as threats, violence, or even abduction. Indirect methods are also common; victims are often lured with the promise of employment in a specific region, only to face various forms of exploitation in reality. This is similar to the case in Bogor where a child was forced to live-stream pornographic content. The perpetrator sold this pornographic content for personal gain.[36] Such methods can be carried out in cyberspace by psychologically manipulating the victim into trusting the perpetrator's promises, even though this method is not carried out directly in a physical space.[37]

Third, sexual exploitation as the objective of human trafficking can occur in cyberspace. The internet can be exploited to disseminate sexual exploitation content that reaches consumers on a global scale. Victims may be forced to perform in live streams, and such content can be easily accessed by consumers. This form of exploitation demonstrates that sexual exploitation occurs entirely in cyberspace, and the production or consumption of such content can still be fulfilled even without direct contact between the perpetrator and the victim.[38]

On the other hand, forms of sexual exploitation in cyberspace can occur partially, where some exploitation takes place online while other forms occur in the real world. Human trafficking for the purpose of sexual exploitation can occur through a combination of conventional methods involving physical spaces and digital platforms (cyberspace).[39] Consequently, the use of internet technology has shifted the patterns or methods of human trafficking from primarily physical means to occurring within cyberspace. However, not all cases take place in cyberspace, so human trafficking can still involve a combination of both physical and digital elements simultaneously.[40]

The evolution of sexual exploitation practices indicates a significant expansion of modus operandi alongside the development of information and communication technology. One such transformation is the emergence of cybersex trafficking—the trafficking of persons that exploits digital media for the purpose of sexual exploitation. In practice, victims do not always have to be physically moved; rather, they can be exploited from their current location through threats, coercion, deception, or the abuse of their vulnerable position, and these exploitative activities are then broadcast or distributed to consumers via cyberspace. This phenomenon makes cybersex trafficking more complex, covert, and difficult for law enforcement to detect because it exploits the borderless nature of the internet.

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[36] Wildan Noviansah, "Ulah Duo Germo Di Bogor Paksa Anak Live Aksi Porno," News.Detik.Com, 2025, https://news.detik.com/berita/d-7961780/ulah-duo-germo-di-bogor-paksa-anak-live-aksi-porno.

[37] K. and M, *Cybersex Trafficking: Penelitian Awal Perkembangan Tindak Pidana Perdagangan Orang Kontemporer Di Indonesia*, h. 14.

[38] K. and M, *Cybersex Trafficking: Penelitian Awal Perkembangan Tindak Pidana Perdagangan Orang Kontemporer Di Indonesia*, h. 14.

[39] Mr. Pranay Prakash and Namita Singh Malik, "Cyber Sex Trafficking- a New Way of Exploitation," *Journal of Positive School Psychology* 6, no. 6 (2022): h. 106.

[40] K. and M, *Cybersex Trafficking: Penelitian Awal Perkembangan Tindak Pidana Perdagangan Orang Kontemporer Di Indonesia*, h. 14.

Cybersex trafficking does not always take place entirely in cyberspace. Based on evolving modus operandi, this crime can occur in two forms. First, fully online cybersex trafficking, which occurs when the entire process of sexual exploitation takes place through digital media, such as live streaming, webcam abuse, or the production of paid sexual content. Second, hybrid cybersex trafficking, which occurs when sexual exploitation takes place in person in a physical space, and the activity is then recorded, streamed live, or sold through digital platforms for financial gain. Therefore, digital media does not replace physical exploitation but rather serves as a means to expand the reach, distribution, and commercialization of sexual exploitation.

Thus, the difference between conventional human trafficking for the purpose of sexual exploitation and cybersex trafficking does not lie solely in the location where the exploitation occurs, but rather in the use of digital technology as a means of recruitment, control of victims, broadcasting, distribution, and commercialization of sexual exploitation. Although they differ in their modus operandi, both still contain the elements of the crime of human trafficking—namely, the act, the means, and the purpose of exploitation—whether they take place entirely or partially in cyberspace.

Table 1. Differences Between Sexual Exploitation and Cybersex Trafficking[41]

Aspects	Trafficking for Sexual Exploitation (Conventional)	Cybersex Trafficking
Space	Physical – Limited to a specific territory	Digital – Not limited to a specific geographic area
The Role of Technology	Facilitated entirely or partially by digital technology	Facilitated entirely or partially by digital technology
Sexual Exploitation	Sexual activity involves physical contact between the victim and the perpetrator or client.	Sexual activity can take place entirely in cyberspace (live streaming, webcam abuse, paid sexual content) or in a hybrid format, in which sexual activity occurs in person but is recorded, broadcast, or commercialized through digital media.
Control Over Victims	Involves direct acts such as confinement, physical violence, etc.	It can occur in person. However, it can also occur digitally through psychological manipulation.

The most striking aspect of cybersex trafficking is not merely the absence of physical contact, but rather the use of digital technology as a means of sexual exploitation and the commercialization of victims. Cybersex trafficking can take place entirely in cyberspace (fully online cybersex trafficking), for example through live streaming, webcam abuse, or the production of paid sexual content. However, this practice can also take the form of hybrid cybersex trafficking, which occurs when sexual exploitation happens in person in a physical space, and the activity is then recorded, streamed live, or sold through digital platforms to generate economic profit. Thus, digital media does not replace physical exploitation but rather expands the reach, distribution, and commercialization of sexual exploitation, making it accessible to consumers across

[41] K. and M, *Cybersex Trafficking: Penelitian Awal Perkembangan Tindak Pidana Perdagangan Orang Kontemporer Di Indonesia*, h. 16-17.

regions and even across national borders. This trafficking can also be carried out by a single human trafficker—without the need for a large network—who is capable of selling a single victim to more than a hundred people within 60 days simply by using online advertisements. This demonstrates that sexual exploitation trafficking can occur on a massive scale in the digital world. The ease of dissemination results in increased consumption of exploitation on a larger scale compared to human trafficking that occurs through conventional means. Given that exploitation via livestreaming allows various forms of exploitation to be easily broadcast to viewers over the internet, making them accessible globally in real time.[42]

The root causes of cybersex trafficking are structural and multidimensional, such as poverty and economic inequality, unemployment, limited job opportunities, and other issues. The impact of cybersex trafficking is extremely destructive. Victims not only experience sexual violence but also suffer deep psychological trauma as a result of being repeatedly exploited in front of a camera. Many of them lose their self-confidence, sense of identity, and sense of the future. This trauma will leave a lifelong mark, especially for children trapped in this network. Addressing cybersex trafficking requires a comprehensive approach. This includes strict law enforcement through a six-pronged collaboration involving the government, law enforcement, civil society, and others.[43]

A Review of Islamic Criminal Law in Prosecuting Perpetrators of Cybersex Trafficking

In the discourse of Islamic Criminal Law (*Fiqh Jinayah*), the crime of cybersex trafficking is viewed as a highly complex form of contemporary sin because it involves the exploitation of human beings through advanced technology. Descriptively, the legal review of this issue can be outlined through two main aspects: the qualification of the act and the classification of the type of criminal offense. In Islamic legal studies, the term "cybersex trafficking" is not found literally in classical fiqh texts.

The purpose of Islamic criminal law (*Sharia*) is to preserve the public interest while preventing harm, both in this world and in the hereafter. This aligns with the principle of Islamic law: **جَلْبُ الْمَصَالِحِ وَدَرْءُ الْمَفَاسِدِ** (promoting benefits and preventing harm).[44] In all matters of Islamic law, Islam always prioritizes public interest over harm (mafsadat). Izzudin bin Abdul as-Salam states in *Qawaid al-Ahkam fi Musholih al-Anam* that the entire Sharia is about public interest, whether by preventing harm or by achieving public interest. Public interest can be realized anywhere, so efforts must be made to realize and preserve it. Likewise, if harm is likely to occur, efforts must be made to prevent it and block its path, even if there is no specific text.[45] For instance, the

[42] K. and M, *Cybersex Trafficking: Penelitian Awal Perkembangan Tindak Pidana Perdagangan Orang Kontemporer Di Indonesia*, h. 17.
[43] Rindrasari, "Perdagangan Orang Di Era Digital: Modus Baru, Korban Rentan, Dan Solusi Indonesia," Ykpindonesia.Org, 2025, https://ykpindonesia.org/id/perdagangan-orang-di-era-digital-modus-baru-korban-rentan-dan-solusi-indonesia/.
[44] A. Djazuli, *Kaidah-Kaidah Fikih: Kaidah-Kaidah Hukum Islam* (Kencana, 2011), h. 8.
[45] Ahmad al-Raisuni, *Nadariyât Al-Maqâshid „Inda al-Imâm al-Shâthibi* (Muassasah al-Jami'ah, 1992), h. 304.

phenomenon of cybersex trafficking, which has not been fully addressed in legal terms, is an act that causes harm; therefore, efforts must be made to prevent it and shut down the channels through which such crimes are committed.

Islamic law encompasses both the relationship between humans and God (*hablun minallah*) and the relationship between humans and their fellow humans (*hablun minannas*); its laws have been clearly and precisely defined to ensure equitable well-being for all people.[46] From the perspective of Islamic criminal law (*fiqh jinayah*), the phenomenon of cybersex trafficking must be analyzed through the universal principles of Sharia that protect the public interest (*maqashid al-shari'ah*), in order to provide protection and prevent harm. Imam as-Syathibi explains that the true purpose of legal obligations is to safeguard the maqashid (objectives) of the law within human beings. According to Imam as-Syathibi, there are three categories of *maqashid al-shari'ah*: *daruriyat, hajiyat,* and *tahsiniyat*. There are five daruriyat maqasid: protection of religion (*hifz al-din*), protection of life (*hifz al-anfs*), protection of reason (*hifz al-aql*), protection of honor/progeny (*hifz al-nasl*), and protection of property (*hifz al-mal*).[47]

Based on the above discussion, the rapid advancement of technology and digital media has made it easier for people to commit immoral acts and crimes. In this context, there are forms of crime in the digital realm (cyberspace), such as cybersex trafficking. From the perspective of Islamic law, all forms of vile acts (*al-Fawahisy*) are prohibited in the religion. *Al-Fawahisy*, or what can be called fahisah, means vileness, wickedness, or evil. In the Qur'an, *al-Fawahisy* is used to describe vile behavior and refers to major sins that violate Islamic law and carry serious consequences. Those who commit *fahisyah* in this world will be punished according to Islamic law depending on the severity of their actions, while in the hereafter they will receive a painful retribution from Allah SWT.[48]

Cybersex trafficking is a form of human trafficking committed through information technology for the purpose of sexual exploitation. This practice includes online prostitution, coercing women or children into engaging in sexual activities via live streaming, sextortion, and the distribution of paid sexual content involving coercion and financial gain.[49] Although the term "cybersex trafficking" is not recognized and is not specifically mentioned in classical fiqh literature, the substance of the act can be analyzed through the framework of *fiqh jinayah* as a form of modern crime that contradicts the principles of *Islamic sharia*.

Cybersex trafficking is classified as a crime involving multiple criminal elements (a multifaceted crime). Essentially, this act constitutes a form of modern slavery. In Islam, humans are born free (*al-hurriyah*); therefore, the act of trafficking people for the purpose

[46] Nufus et al., "Cyber Seksual Harassment Terhadap Perempuan Di Media Sosial Perspektif Hukum Pidana Positif Dan Hukum Pidana Islam," h. 141.
[47] Moh Toriquddin, "Teori Maqashid Syariah Perspektif Al-Syatibi," *De Jure, Jurnal Syariah Dan Hukum* 6, no. 1 (2014): h. 35, https://doi.org/10.18860/j-fsh.v6i1.3190.
[48] Ramadhani et al., "Tinjauan Hukum Islam Terhadap Kekerasan Seksual Berbasis Elektronik (Telaah Pasal 14 UU No. 12 Tahun 2022)," *Al-Qiblah: Jurnal Studi Islam Dan Bahasa Arab* 3, no. 4 (2022): 494–513, https://doi.org/10.36701/qiblah.v3i4.1634.
[49] Sykiotou, "Cyber Trafficking: Recruiting Victims of Human Trafficking Through The Net," h. 1549.

of sexual exploitation constitutes a grave violation of the human dignity bestowed by Allah (*karamah al-Insan*). Cybersex trafficking falls under the category of spreading obscenity (*fahisyah*) within society. Such acts are threatened with severe punishment, as indicated in Surah An-Nur (24), verse 19:

اِنَّ الَّذِيْنَ يُحِبُّوْنَ اَنْ تَشِيْعَ الْفَاحِشَةُ فِى الَّذِيْنَ اٰمَنُوْا لَهُمْ عَذَابٌ اَلِيْمٌۙ فِى الدُّنْيَا وَالْاٰخِرَةِۗ وَاللّٰهُ يَعْلَمُ وَاَنْتُمْ لَا تَعْلَمُوْنَ

Meaning: "*Indeed, those who take pleasure in the spread of such vile falsehoods among the believers will receive a most painful punishment in this world and in the Hereafter. Allah knows, while you do not know*."[50]

Cybersex trafficking violates several protective principles within the maqasid al-sharia (the objectives of Islamic law), particularly *hifdz an-Nafs* (protection of life and dignity) and *hifdz al-Din* (protection of religion). Islam highly values human dignity (*Karamah Insaniyah*). Turning the human body into a digital commodity is a form of modern slavery that is strictly prohibited because it strips away human dignity and honor.[51] Honor (*al-'Ird*) is one of the matters safeguarded by Islam; it is granted protection and held in a lofty and noble position.[52] Furthermore, such actions in the cyber realm are classified as a means (*wasilah*) or a conduit leading to adultery (*muqadimmah zina*). Although the interactions occur virtually, the commercial display of sexual activity is considered a conduit to moral corruption equivalent to approaching adultery. This is based on the fiqh principle stating, "*al-wasilah ila al-haram haram*" (any means leading to the forbidden is also forbidden).[53]

Cybersex trafficking is substantively equivalent to the term *al-bagha'* (prostitution) as prohibited in Quran 24:33, which condemns forced sexual exploitation in any form, particularly when such exploitation is carried out for profit.

...وَلَا تُكْرِهُوْا فَتَيٰتِكُمْ عَلَى الْبِغَاۤءِ اِنْ اَرَدْنَ تَحَصُّنًا لِّتَبْتَغُوْا عَرَضَ الْحَيٰوةِ الدُّنْيَاۗ وَمَنْ يُّكْرِهْهُّنَّ فَاِنَّ اللّٰهَ مِنْۢ بَعْدِ اِكْرَاهِهِنَّ غَفُوْرٌ رَّحِيْمٌ

Meaning: "*... Do not force your female slaves into prostitution if they themselves desire chastity, merely because you seek the benefits of this worldly life. Whoever forces them—indeed, Allah is Forgiving and Merciful (toward them) after they have been forced*."

Historically, the enforcement of laws against sexual exploitation has been affirmed in the Asbabun Nuzul of Surah An-Nur, verse 33, in which Allah SWT

[50] Rasyid Media, *Al-Qur'an Dan Terjemahnya Mushaf Ar-Rasyid Qs. An-Nur Ayat 19* (Maktabah Al-Fatih Rasyid Media, 2017).
[51] Sharifah Norshah Bani binti Syed Bidin and Ahmed S. A. Al-Qodsi, "Manifestasi Karamah Insaniah Dan Ciri-Ciri Keistimewaannya Dalam al-Qur'an al-Karim [Manifestation of Insaniah Karamah and Its Special Features in The Qur'an Al-Karim]," *Jurnal Islam Dan Masyarakat Kontemprari* 11, no. 1 (2015): 75–98.
[52] Berian Muntaqo Fatkhuri, "Perlindungan Kehormatan Dalam Islam," Markazinayah.Com, 2025, https://markazinayah.com/perlindungan-kehormatan-dalam-islam/.
[53] Taqiyuddin An-Nabhani, *Asy-Syakhshiyyah Al-Islamiyah*, Juz III (Dar al-'amah, 2005), h. 440.

condemns the actions of Abdullah bin Ubay bin Salul, who forced his female slaves into prostitution for financial gain. It is narrated by Muslim and Abu Daud from Jabir (may Allah be pleased with him) that Abdullah bin Ubay bin Salul had two female slaves, namely Musaikah and Umaimah. He forced them into prostitution, and they complained about this to the Messenger of Allah, whereupon this verse was revealed.[54] In the context of this verse, it not only absolutely prohibits sexual exploitation but also provides legal protection for victims through the concept of Ikrah (coercion), which affirms that victims who are under the threat and control of others are exempt from all legal liability, while criminal responsibility is transferred entirely to the perpetrator (trafficker).

Furthermore, cybersex trafficking involves elements of *al-ikrah* (coercion), whether physical, psychological, or economic. Abdul Qadir 'Audah states that coercion is a factor that can aggravate the perpetrator's criminal liability while simultaneously absolving the victim of fault.[55] The modus operandi of cybersex trafficking is often accompanied by coercion, involving psychological pressure exerted by the perpetrator on the victim, forcing the victim to comply with the perpetrator's orders to engage in sexual activities in cyberspace.[56] In the cyber context, identity manipulation or job scam schemes frequently occur.[57] Perpetrators often use deception (*ghurur*) to ensnare victims. This qualifies such acts as a violation of trust and honesty in *muamalah*.

Islam prohibits human trafficking (*al-tijarah bi bashar*), just as it prohibits modern forms of slavery. Cybersex trafficking is a contemporary form of human trafficking in cyberspace for the purpose of sexual exploitation. Allah has honored humanity by granting it a uniqueness not bestowed upon other creatures as a mark of respect for humanity. This implies that a human being must not be degraded by being equated with merchandise, such as animals or other items that can be bought and sold.[58] Allah the Almighty states in Surah Al-Isra' [17], verse 70

۞ وَلَقَدْ كَرَّمْنَا بَنِيْٓ اٰدَمَ وَحَمَلْنٰهُمْ فِى الْبَرِّ وَالْبَحْرِ وَرَزَقْنٰهُمْ مِّنَ الطَّيِّبٰتِ وَفَضَّلْنٰهُمْ عَلٰى كَثِيْرٍ مِّمَّنْ خَلَقْنَا تَفْضِيْلًا

Meaning: "*Indeed, We have honored the children of Adam and carried them on land and sea. We have also provided them with sustenance from the best of things, and We have exalted them above many of the creatures We have created with perfect excellence*."[59]

Furthermore, in a *hadith qudsi*, Allah severely warns those who sell human beings, threatening them with enmity on the Day of Judgment. Imam al-Bukhari and Imam Ahmad narrated the hadith of Abu Hurairah Ra:

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[54] Rasyid Media, *Al-Qur'an Dan Terjemahnya Mushaf Ar-Rasyid Qs. An-Nur Ayat 33*, h. 354.
[55] Abdul Qadir Audah, *Al-Tashrī' al-Jinā'ī al-Islāmī* (Mu'assasah al-Risālah, 2011), h. 234.
[56] K. and M, *Cybersex Trafficking: Penelitian Awal Perkembangan Tindak Pidana Perdagangan Orang Kontemporer Di Indonesia*, h. 14.
[57] K. and M, *Cybersex Trafficking: Penelitian Awal Perkembangan Tindak Pidana Perdagangan Orang Kontemporer Di Indonesia*, h. 12.
[58] Nurkholis Abu Riyal bin Mursidi, "Perdagangan Manusia (Human Trafficking)," Almanhaj.or.Id, 2011, https://almanhaj.or.id/3113-perdagangan-manusia-human-trafficking.html.
[59] Rasyid Media, *Al-Qur'an Dan Terjemahnya Mushaf Ar-Rasyid Qs. Al-Isra': 70* (Maktabah Al-Fatih Rasyid Media, 2017).

عَنْ أَبِيْ هُرَيْرَةَ رَضِيَ الله عنه عَنْ النَّبِيِّ صلىالله عليه وسلم قَالَ : قَالَ الله : ثَلاَثَةٌ أَنَا خَصْمُهُمْ يَومَ الْقِيَا مَةِ رَجُلٌ أَعْطَى بِي ثُمَّ غَدَرَ وَرَجُلٌ بَا عَ حُرًّافَأَكَلَ ثَمَنَهُ وَرَجُلٌ اسْتَأ جَرَ أَ جِيرًا فَسْتَوْ فَمِنْهُ وَلَمْ يُعْطِ أَجْرَهُ

Meaning: "*From Abu Hurairah, may Allah be pleased with him, from the Prophet, peace and blessings be upon him, who said: Allah, the Almighty and Exalted, says: 'There are three groups whom I will be the enemy of on the Day of Resurrection; first: one who swears by My name and then does not fulfill his oath; second: one who sells a free person and consumes the proceeds of the sale; and third: one who hires a worker to do a job, and when the worker has completed the work, he does not pay his wages*."[60]

On this matter, the scholars are in agreement that the sale of a free person (*baiul hur*) is prohibited, and any transaction leading to such a sale is invalid, and the perpetrator is sinful. Ibn Abidin, may Allah have mercy on him, said, "The children of Adam are honored according to the Shari'ah, even if they are disbelievers (unless they are prisoners of war); therefore, contracts, sales, and equating them with objects constitute a degradation of human dignity, and this is not permitted."[61] Cybersex trafficking constitutes a prohibited economic transaction (*bay'al-haram*). Any transaction involving a prohibited object (sexual services) is haram and invalid (*batil*). Money obtained from this activity is haram wealth (*mal khabits*). This principle is based on the fiqh maxim: "What is haram to take is also haram to give."

In terms of the classification of criminal offenses (jarimah) from the perspective of Islamic criminal law, cybersex trafficking does not meet the elements of a hudud offense if no physical sexual intercourse takes place and the requirements for proving adultery, as established by Sharia law, are not met. However, in practice, even though this category of activity is non-physical and occurs only in cyberspace. One legal principle states: "Whatever leads to the forbidden is itself forbidden" (**ما أدى إلى الحرام فهو حرام**).[62] After examining the nature of the offense, this crime is classified as a *jarīmah ta'zīr*. The primary reason is that the Qur'an and *Hadith* do not specifically mention a penalty for human trafficking via the internet. Therefore, the authority to determine the type and severity of punishment and sanctions lies entirely with the ruler (*ulil amri* or *qadi*). However, although the authority and power to determine *ta'zir* punishments granted to the judge/*ulil amri* has limitations and rules that must be observed and fulfilled. Among these are: selecting from among the forms of *ta'zir* punishments recognized by Islamic law that, in their judgment, are appropriate and fitting to be imposed on cases of reported offenses, provided such offenses fall under the category of sinful acts. This is because,

[60] Imam Al-bukhari, "Sahih Al Bukhari 1: Chapter 35, Hadith 2227 (The Sin of a Person Who Sells a Free Man (Knowingly and Intentionally)," Islamicfinder.Org, 1934, https://www.islamicfinder.org/hadith/bukhari/sales-bargains/2227/#google_vignette.

[61] Muh. Amin Ibn Abidin, *Raddul Mukhtâr Alâ Durrill Mukhtâr Syarh Tanwîril Abshar-Khasyiah Ibnu Abidîn* (Dârul Kutub, 1423), h. 4/110.

[62] Gefita Rahmawati, "Pengharaman Zina Dalam Tafsir Baidhawi Dan Relevansinya Dengan Virtual Sex (Analisis Qs. Al-Isra': 32 Dengan Pendekatan Tafsir Maqashid)" (UIN Raden Intan Lampung, 2025), h. 24.

according to the Maliki, Shafi'i, and Hanbali scholars, a judge must be someone who has attained the level of a *mujtahid*.[63]

Based on this classification, it can be seen that cybersex trafficking constitutes a sinful act subject to *ta'zir* punishment. When imposing a *ta'zir* punishment, the authorities or judge must take into account the fundamental principles of Sharia and the general rules of Islamic criminal law, so that the form and severity of the punishment can be tailored to the circumstances of the perpetrator, the victim, the severity of the crime, and the impact caused by the crime. Unlike hadd punishments, which are fixed and definite because they are explicitly stipulated in the text of the Quran and *Hadith*, t*a'zir* sanctions offer the flexibility to be adjusted in accordance with the demands of the public interest.[64] Furthermore, the imposition of *ta'zir* may also be based on *al-jazā' min jins al-'amal* (**الجزاء من جنس العمل**), which holds that retribution or punishment is meted out in accordance with the nature and character of the act committed. Since Islamic law always takes into account the causes and characteristics that influence legal rulings.[65] Offenders who exploit digital technology to commit sexual exploitation and obtain illegal economic gains may be subject to sanctions related to both the means and the results of their crimes, such as restrictions on digital access, the seizure of digital assets, or the obligation to provide restitution to the victims. Thus, the punishment imposed is not only intended to serve as a deterrent but also to ensure proportionality between the nature of the crime committed and the legal consequences faced by the perpetrator, while simultaneously promoting the public interest and preventing the recurrence of similar criminal acts.

The confiscation of digital assets derived from criminal activity as a form of punishment under Islamic criminal law relates to the concept of *ta'zir* bi al-mal, which involves imposing punishment through measures that target the offender's wealth. Scholars differ in their opinions regarding the permissibility of applying this sanction. Some scholars, particularly within the Hanafi and Shafi'i schools of thought, tend to limit or reject the confiscation of property as a form of punishment out of concern that it could open the door to arbitrary abuse of power by authorities against individual property rights. According to this view, a person's property is fundamentally protected (*ma'shum al-mal*) and may not be taken except in accordance with clear provisions of Islamic law.[66]

Conversely, some scholars permit the application of *ta'zir bil al-mal* under certain conditions in order to promote the public interest and prevent the recurrence of criminal acts. This opinion is attributed to Imam Malik in a well-known narration from him, and is supported by Ibn Taymiyyah and his student, Ibn al-Qayyim. They argue that the ruler has the authority to impose financial sanctions when necessary to serve as a deterrent and protect the public interest. Furthermore, it is also narrated from Abu Yusuf that a judge or leader may impose a *ta'zir* punishment involving action against the offender's property

[63] Wahbah Az-Zuhaili, *Fiqh Islam Wa Adillatuhu Jilid 7* (Gema Insani Darul Fikir, 2011), h. 242.
[64] Az-Zuhaili, *Fiqh Islam Wa Adillatuhu Jilid 7*, h. 245.
[65] Shams al-Din Abi 'Abd Allah Muhammad Ibn Bakr al-Jawziyyah, *I'lam al-Muwaqqi'n 'an Rabb al-'Alamin Juz 1* (Dar al-Kurut al-'ilmiyyah, 1996), h. 150.
[66] Ahmad bin 'Abd al-Halim bin Taymiyyah, *Al-Hisbah Fi al-Islam Aw Wazifat al-Hukumah al-Islamiyyah* (Dar al-Kutub al-'ilmiyyah, 1992), h. 49-50.

as a means of education and crime prevention; however, in cases where the property was acquired through unlawful means contrary to *Sharia*, the ruler has the authority to permanently confiscate it.[67] In the view of Ibn Taymiyyah, who asserts that penalties related to property (*ta'zir maliyyah*) have not been abrogated and may still be applied as long as they aim to achieve the public good and prevent harm, one such form is *at-tamlik*—the transfer of ownership of the offender's property to the competent authority or to the party entitled to receive it.[68]

This study adopts the legal opinion permitting *ta'zir bil al-mal* as the conceptual basis for imposing sanctions on perpetrators of cybersex trafficking. This opinion is deemed relevant to the characteristics of contemporary crimes, which are driven by economic gain and rely on digital technology as the primary means of commission. Therefore, depriving offenders of the economic benefits derived from their criminal acts constitutes an essential component of the objectives of criminal punishment. In practice, such confiscation includes electronic money, digital account balances, and various other forms of digital assets proven to have been obtained through cybersex trafficking. Contrary to the prevailing understanding that confiscated assets become the property of the state, some jurists who permit *ta'zir bil al-mal* explain that confiscation is fundamentally intended to deter perpetrators and deprive them of the benefits derived from their actions. However, in the context of crimes that generate illegal profits and cause harm to victims, assets derived from criminal acts are forfeited for the purpose of restoring victims' rights, compensating for losses, or serving the public interest in accordance with the policies of the authorities. Thus, the confiscation of digital assets serves not only as a means of punishment but also as an instrument to eliminate the economic motives behind crime and restore justice to those who have been wronged.

In addition to asset forfeiture, punishment may also take the form of permanent revocation of digital access. The permanent revocation of digital access for offenders can be viewed as a modern form of *ta'zir* grounded in the principles of *siyasah syar'iyyah* and *sadd al-dzari'ah*—that is, a state policy to block the means used to commit and repeat criminal acts so that the public interest remains safeguarded.[69] Hanafi scholars state that *ta'zir* punishment, when the case involves an individual's personal rights (*hak adami*), is obligatory and must be enforced; it must not be neglected. This is because a judge has absolutely no authority to nullify *hak adami*. *Ta'zir* punishment may take the form of a financial fine intended to provide financial compensation to the victim (*mustadha'fini*).[70]

According to Ibnul Qayyim, one form of monetary penalty is the *ghairu madhbuuth* penalty (one whose amount is not fixed), the determination of which is left to the discretion and ijtihad of the imams in accordance with the public interest.[71] Therefore, Islamic law does not provide a general explanation or command, nor does it specify the

[67] Az-Zuhaili, *Fiqh Islam Wa Adillatuhu Jilid 7*, h. 529.
[68] Az-Zuhaili, *Fiqh Islam Wa Adillatuhu Jilid 7*, h. 530.
[69] Meidine Maulida et al., "Sadd Al-Dzari'ah: Prinsip-Prinsip Pencegahan Dalam Hukum Islam," *Jurnal Cendikian ISNU-SU (JCISNU)* 1, no. 3 (2024): 221–26.
[70] Az-Zuhaili, *Fiqh Islam Wa Adillatuhu Jilid 7*, h. 535.
[71] Az-Zuhaili, *Fiqh Islam Wa Adillatuhu Jilid 7*, h. 531.

amount. Fines in cases of cybersex trafficking are left to the judge's discretion or determined by the discretion and ijtihad of the scholars in each specific context and time, in accordance with the public interest. Financial fines accompanied by a restitution mechanism for victims align with the principle of *al-dharar yuzal* (harm must be eliminated) and the objectives of maqasid al-sharia in protecting the honor, life, and property of victims. Therefore, financial sanctions serve not only as an instrument of punishment but also as a means of restoring the rights of victims who have been wronged.

Ta'zīr punishment is a form of punishment designed to prevent and ward off harm; thus, in *ta'zīr*, the punishment or sanction is determined based on the discretion of the ruler or judge.[72] In determining the punishment for perpetrators of *ta'zīr* crimes (cybersex trafficking), the primary principle guiding the authorities or judges is to safeguard the public interest and protect every member of society from harm. Such punishment may take the form of physical or material penalties, imprisonment, or measures deemed in the public interest at the judge's discretion.[73]

Cybersex trafficking is essentially a form of human trafficking for the purpose of sexual exploitation that is classified as a *jarīmah ta'zīr* because there is no specific textual provision governing this particular crime. However, in practice, cybersex trafficking can evolve into a series of more complex criminal acts. One such form occurs when victims are recruited through deception or the exploitation of their vulnerable position, then forced to engage in sexual acts that are recorded and sold via digital media for financial gain. In such circumstances, the perpetrator's actions not only involve human trafficking for the purpose of sexual exploitation but also constitute coercion into sexual relations (*ikrāh 'ala al-zinā*). In fiqh jinayah, a victim who is coerced is not subject to the ḥadd punishment because the element of free will (*ikhtiyār)* is not present, as per the opinion of Imam Abu Hanifah.[74] Scholars agree that a woman who is forced to commit adultery is not subject to the ḥadd punishment. This is based on the saying of the Prophet Muhammad (peace be upon him),

رُفِعَ عَنْ أُمَّتِي الْخَطَأَ وَالنِّسْيَانَ وَمَا اسْتُكْرِهُوا عَلَيْهِ

"*Forgiven from my people (not recorded) are their wrongdoings, their lapses, and the actions they were forced to commit*."[75]

As for the classification and penalties for perpetrators of forced sexual intercourse, the fuqaha differ in their opinions. Some classify it as *zina* committed under duress, which is subject to the ḥadd punishment if the evidentiary requirements are met, while others

[72] Syahdila Nur Rahmawati, "Tindak Pidana Human Trafficking Perspektif Hukum Pidana Islam," *Ma'mal Jurnal Laboratorium Syariah Dan Hukum* 4, no. 3 (2023).
[73] Imam Al-Mawardi, *Al-Ahkam Ash-Shulthaniyyah* (Qisthi Press, 2014), h. 400-402.
[74] Az-Zuhaili, *Fiqh Islam Wa Adillatuhu Jilid 7*, h. 305.
[75] Az-Zuhaili, *Fiqh Islam Wa Adillatuhu Jilid 7*, h. 304.

view it as a *jarīmah* punishable by *ta'zīr* or even *ḥirābah* if accompanied by violence and causing terror.[76]

Table 2. Matrix of Islamic Criminal Liability (Fiqh Jinayah) for Perpetrators of Cybersex Trafficking

Criminal Actors	Factual Roles in the Case	Criminal Offenses (*Jarimah*)	Forms of Islamic Criminal Sanctions	*Hudud/ Ta'zir*	Doctrinal Basis & Legal Rationale
Trafficker (Non-Fisik)	Limited to recruiting, promoting online, threatening or coercing victims, and deriving financial gain without engaging in direct sexual contact.	Compound *Ta'zir* Offense (*Mutasabbib* / Indirect Perpetrator).	1. Severe imprisonment. 2. Confiscation of digital assets obtained through exploitation (*Ta'zir bil Mal).* 3. Revocation of digital access.	*Ta'zir*	It does not meet the material elements of the hudud for adultery (there was no physical penetration between the two individuals). However, the judge may impose a harsher *ta'zir* penalty than the hadd penalty in the interest of the public good (*maslahah mursalah).*
Trafficker (and Perpetrator)	He recruited victims online, blackmailed or coerced them, and also forced them to have sexual intercourse with him.	Accumulation of Offenses (*Al-Jam'u baina al-Jarimah*): A *Hudud* offense combined with a *Ta'zir* offense.	1. *Hudud* Punishment: Stoning (if married) or 100 lashes (if unmarried). 2. *Ta'zir* Punishment: Confiscation of assets and revocation of internet access. 3. Mandatory payment of a mitsil dowry to the victim.	*Hudud*	Acting as a direct participant (*mubashir*) in sexual relations outside of a valid marriage under duress (*ikrah 'ala al-zina*/rape) and selling the recorded video.
Consumers/ Service Users	Purchasing access from a pimp, knowing that the victim is being coerced or exploited, and engaging in physical sexual relations with the victim.	*Hudud* Offense of Adultery / Rape *(Mubashir /* Direct Perpetrator).	1. Hudud punishment: Stoning or 100 lashes, depending on the perpetrator's marital status. 2. The perpetrator must pay a mitsil dowry to the victim.	*Hudud*	Consciously and intentionally fulfilling all the material elements of adultery by depriving the victim of their right to sexual autonomy through the exploitation of a situation involving the trafficking of persons for the purpose of sexual exploitation.

Source: *Data compiled based on an analysis of Abdul Qadir Audah (Al-Tasyrī' Al-Jinā'ī Al-Islāmī, 2011);[77] Ibn Qudamah (Al-Mughni, 2016);[78] Wahbah Az-Zuhaili (Fiqh Islam Wa Adillatuhu, 2011);[79] and the Institute for Criminal Justice Reform (Audrey K. & Asry M., 2025).*

[76] Zainal Abidin et al., "Jarimah Zina, Pelecehan Seksual Dan Pemerkosaan Dalam Pidana Islam, Hudud, Kedudukan Saksi Dalam Perkara Zina: Perbandingan Antara Qonun No. 4 Tahun 2024 Tentang Jinayah Dan UU No. 21 Tahun 2023 Tentang KUHP," *QANUN: Journal of Islamic Laws and Studies* 5, no. 1 (2026): 434–50, https://doi.org/10.58738/qanun.v5i1.1440.

[77] 'Abd. al-Qadir 'Awdah, *Al-Tasyrī' Al-Jinā'ī Al-Islāmī* (Mu'assasah al-Risālah, 2000), h. 185.

[78] Ibnu Qudamah, *Al-Mughni Jilid 13* (Pustaka Azzam, 2011), h. 137-138.

[79] Az-Zuhaili, *Fiqh Islam Wa Adillatuhu Jilid 7*, h. 304-310.

Therefore, in cases of online sex trafficking involving forced sexual intercourse, a separate analysis must be conducted for each criminal act committed by the perpetrator, so that the legal classification is not limited solely to a *ta'zir* offense as a crime of human trafficking, but also takes into account the provisions of *fiqh al-jinayah* regarding forced sexual intercourse based on the facts and proven elements.

Compared to previous studies, this research presents a more comprehensive perspective on cybersex trafficking. The study by Sayid Muhammad Rifqi Noval et al. (2022) focuses on the evolution of modus operandi in online child sex trafficking, as well as the importance of prevention strategies and the strengthening of positive law instruments. Furthermore, the study by Ananda Eka Aprilia and Luthfillah Arrizqi Zainsyah (2025) emphasizes that the absence of specific regulations regarding cybersex trafficking in Indonesia has resulted in suboptimal legal protection for victims, particularly children. This study reinforces those findings by demonstrating that this regulatory gap exists not only in positive law but also necessitates a normative framework within the perspective of Islamic criminal law to address the evolution of technology-based crimes.

In contrast to the study by Gabriella Natashya H. and Sri Wiyanti Eddyono (2021), which focused on a comparison of regulations on cybersex trafficking in Indonesia and the Philippines, and the study by Audrey K. and Asry M. (2025), which developed a conceptualization of cybersex trafficking as a contemporary form of human trafficking. This study integrates the concept of cybersex trafficking into the framework of *fiqh jinayah* and *maqāṣid al-syarī'ah*. This study demonstrates that cybersex trafficking—as a form of human trafficking for the purpose of sexual exploitation that utilizes digital technology—can essentially be classified as a *jarīmah ta'zīr*, since there is no specific textual provision (*nash*) governing it; consequently, the determination of its form and punishment falls under the authority of ulil amri based on the principle of public interest (*maslahah)*. However, if in practice cybersex trafficking is accompanied by other criminal acts, such as forced sexual intercourse (*zinā bi al-ikrāh*), then such acts must be analyzed separately in accordance with the provisions of *fiqh jinayah* governing those crimes. Thus, this study not only offers a legal classification of cybersex trafficking but also emphasizes that a single sequence of events may constitute more than one criminal offense depending on the nature of the acts committed by the perpetrator. These findings demonstrate that the principles of Islamic criminal law possess the flexibility to address the evolution of modern technology-based crimes. Through the application of the principle of *dar'u al-mafāsid muqaddam 'alā jalb al-maṣāliḥ* (preventing harm takes precedence over seeking benefit), as well as the *maqāṣid al-sharī'ah* approach, Islamic criminal law provides a normative foundation for classifying cybersex trafficking as a form of contemporary crime while also allowing the state to formulate criminal policies that adapt to technological developments without neglecting the protection of victims' dignity, lives, and rights.

CONCLUSION

Cybersex trafficking is a contemporary form of crime that exploits digital technology to engage in human trafficking for the purpose of sexual exploitation. This practice can take place entirely in cyberspace or combine the physical and cyberspaces through the recording, broadcasting, or commercialization of the victims' sexual activities to obtain economic gain. Although not explicitly addressed in classical fiqh literature, the essence of this act contradicts the principles of Islamic law because it involves sexual exploitation, coercion, human trafficking, and violations of human honor and dignity. Based on the *maqāṣid al-sharī'ah* approach, cybersex trafficking contradicts the objectives of protecting life (*ḥifẓ al-nafs*), honor and lineage (*ḥifẓ al-'ird/ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*). From the perspective of Islamic criminal law, cybersex trafficking—as a form of human trafficking for the purpose of sexual exploitation—is classified as a *jarīmah ta'zīr*, since there is no specific textual provision (*nash*) governing this form of crime; therefore, the determination of the type and severity of the penalty is left to those in authority (*ulil amri*) based on the principles of public interest (*maṣlaḥah*) and the prevention of harm (*dar'u al-mafāsid*). However, if in practice cybersex trafficking is accompanied by other criminal acts, such as forced sexual intercourse (*zinā bi al-ikrāh*), then such acts must be analyzed separately in accordance with the provisions of fiqh jinayah governing those crimes. Thus, a single series of events involving cybersex trafficking may constitute more than one criminal offense, depending on the nature of the acts committed by the perpetrator. This study still has several limitations. First, the study employs a normative approach and therefore has not examined the application of this concept in court rulings or law enforcement practices regarding cybersex trafficking in Indonesia. Second, studies on Islamic criminal law remain focused on the construction of cybersex trafficking as a *jarīmah ta'zīr*, and thus have not thoroughly discussed the classification and criminal liability for other offenses that may accompany it, such as forced sexual intercourse (*zinā bi al-ikrāh*). Third, this study has not comprehensively examined the liability of digital platforms and corporations from the perspective of Islamic criminal law. Therefore, future research is recommended to adopt an empirical-normative approach through the analysis of court rulings and to develop a study on the application of the concepts of *ta'zīr, ikrāh*, and other forms of jarimah that may arise in the practice of cybersex trafficking.

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