

## THE APPLICATION OF SYARIAH LAW IN NAVIGATING THE CHALLENGES OF TECHNOLOGY-FACILITATED SEX TRAFFICKING

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### Article history:

Submission date: 31 December 2024  
Received in revised form: 26 April 2025  
Acceptance date: 25 June 2025  
Available online: 31 August 2025

### Keywords:

Technology, sex trafficking, Islamic law, legal framework, Islamic principles

### Funding:

This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

### Competing interest:

The author(s) have declared that no competing interests exist.

### Cite as:

Dahli, N. H., & Saripan, H. (2025). The application of Syariah law in navigating the challenges of technology-facilitated sex trafficking. *Malaysian Journal of Syariah and Law*, 13(2), 445–455.  
<https://doi.org/10.33102/mjssl.vol13no2.1165>



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### ABSTRACT

This article examines the phenomenon of Technology-Facilitated Sex Trafficking (TFST) in Malaysia, with focusing on the application of Syariah Law. TFST utilises digital platforms to exploit victims, presenting significant challenges for law enforcement and victim protection efforts. This study aims to analyse how Malaysia's current civil and Syariah legal frameworks respond to the complexities of TFST and to propose a more ethically grounded solution based on Islamic legal principles. This article adopts a doctrinal methodology to assess the synergy and limitations between current statutory laws and Islamic legal thought. The discussion highlights how Syariah law can inform and enhance legal responses to TFST, ensuring alignment with both ethical considerations and the protection of human rights in Malaysia. The research highlights gaps in enforcement, including limitations in detecting technology-driven crimes, inter-agency coordination challenges, and insufficient victim-centred protections. Drawing on Islamic principles such as justice (*al-adl*), human dignity (*karamah insaniyyah*), and the prohibition of exploitation (*zulm*), the study provides an ethical perspective on the issue. This article contributes to existing literature by offering a comparative lens between Islamic and statutory law, proposing integrated legal reform to address TFST more holistically. The findings emphasise the need for Malaysia to strengthen its enforcement mechanisms and enhance legal processes to address TFST effectively. This study proposes reforms to Malaysia's legal response to TFST by grounding it in Syariah values that uphold dignity and ensure justice within the country's dual legal system.

## Introduction

Technology-facilitated sex trafficking (TFST) represents one of the darkest facets of technological advancement. While technology has brought significant benefits to society, it has also created avenues for exploitation, particularly in the form of human trafficking (United Nations Office on Drugs and Crime, 2004). The integration of digital platforms and communication technologies into everyday life has transformed how traffickers operate, allowing them to exploit vulnerable individuals with unprecedented efficiency and anonymity (Alsemairi, 2022). TFST encompasses a range of practices where technology is used to facilitate the recruitment, control, and exploitation of victims for sexual purposes (Antonopoulos et al., 2020).

Traffickers often employ various online strategies to lure potential victims, including deceptive job advertisements on social media platforms and dating applications. A prevalent method is the "lover boy" technique, where traffickers establish relationships with their targets through online interactions, gaining their trust before manipulating them into exploitative situations. This approach capitalises on emotional vulnerabilities and allows traffickers to gather personal information that can later be used for blackmail or coercion (Council of Europe, 2022). Once victims are recruited, technology continues to play a crucial role in their exploitation. Traffickers utilise online marketplaces and social media to advertise sexual services, often disguising their operations under legitimate business fronts. The anonymity of online platforms enables traffickers to reach a broader audience while maintaining geographical mobility, making it increasingly difficult for law enforcement agencies to track and apprehend them (Council of Europe, 2021). Moreover, technological tools facilitate the monitoring and control of victims during exploitation, allowing traffickers to exert power from a distance and further entrench the victims in cycles of abuse (Human Trafficking Front, 2022).

Traffickers post fake job offers promising high pay or travel benefits, often leading potential victims to unusual interview locations (Office to Monitor and Combat Trafficking in Persons, 2023). Active recruitment involves traffickers proactively pursuing victims via direct messages on social media, while passive recruitment relies on victims responding to enticing advertisements (Council of Europe, 2021). Traffickers often target individuals displaying signs of emotional or economic vulnerability, using this information to build trust and manipulate them into exploitative situations (Polaris, 2018). Reports indicate a substantial increase in online recruitment tactics, particularly during the COVID-19 pandemic when many individuals were more isolated and vulnerable (Human Trafficking Front, 2022). Some traffickers leverage AI technologies to automate their operations and target vulnerable individuals more effectively through tailored advertisements (Bhattacharya & Das, 2023).

Evidence shows that traffickers utilise various methods, including blackmail and coercion, to maintain control over their victims, often employing technology to monitor their activities and communications (Carback, 2018). For instance, traffickers can use spyware to track victims' locations or access their personal data remotely, creating a "virtual control" environment that complicates investigations (UNODC, 2019). Additionally, the anonymity provided by digital platforms enables traffickers to operate without face-to-face interactions, reducing the risk of detection by law enforcement (Thomson Reuters, 2022). This technological advantage allows traffickers to exploit vulnerabilities more effectively, utilising threats of sharing compromising images or information to manipulate victims into compliance (Council of Europe, 2021). As a result, technology not only aids in the recruitment process but also plays a crucial role in the ongoing exploitation and control of victims throughout their ordeal (UNODC, 2022). Technology-facilitated sex trafficking (TFST) in Malaysia continues to evolve rapidly, yet legal responses remain inconsistent and often overlook the potential contribution of Syariah law. This article aims to analyse Malaysia's civil and Syariah legal frameworks in addressing TFST and explores how principles such as *ta'zir*, *al-'adl* (justice), and *karamah insaniyyah* (human dignity) can be integrated to strengthen enforcement and victim protection. By offering a framework that blends statutory law with Islamic values, this research contributes to a more holistic and culturally grounded response to TFST. The article is structured as follows: the next section reviews the literature and identifies current legal and ethical gaps. This is followed by a discussion of key Syariah principles, an overview of Malaysia's legal framework, and an analysis of findings. The article concludes with proposed legal and policy recommendations.

## Literature Review

Technology-facilitated sex trafficking (TFST) refers to the use of digital technologies to facilitate or enhance various activities associated with sex trafficking, including recruitment, exploitation, and payment processes. This modern form of trafficking exploits the pervasive nature of technology in everyday life, allowing traffickers to operate with increased efficiency and anonymity (Alsemairi, 2022). Key characteristics of TFST include the use of online platforms for advertising sexual services, social media for recruiting victims, and encrypted communication tools for coordinating trafficking activities (Europol, 2022).

A growing body of research emphasises the role of digital infrastructure in fuelling TFST. Social media, encrypted platforms, and online financial systems enable traffickers to operate in secrecy and reach a wider pool of victims with minimal physical interaction (NatCen, 2024; Kjellgren, 2022). These tools also allow traffickers to exercise coercive control through surveillance, blackmail, or the threat of exposure. Internationally, there is a pressing need to address technology-facilitated sex trafficking (TFST) through robust legal frameworks, such as the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol). This protocol defines human trafficking as the recruitment, transportation, transfer, harbouring, or receipt of persons through means such as threat or use of force, coercion, abduction, fraud, deception, or abuse of power for exploitation (UNDOC, 2022). The Palermo Protocol emphasises that the consent of the victim is irrelevant when any of these means are employed. Moreover, the role of technology in facilitating human trafficking has become increasingly evident. Research indicates that traffickers utilise various digital platforms for recruitment, exploitation, and control of victims. For instance, a study by the (Council of Europe, 2021) highlights how traffickers employ social media and online marketplaces to advertise sexual services and recruit victims through deceptive job advertisements. Additionally, technology enables traffickers to maintain control over victims through monitoring tools and coercive tactics such as blackmail (Council of Europe, 2021; Tan et al., 2022).

However, most of these frameworks—while comprehensive—are rooted in Western or secular legal traditions and often overlook alternative legal systems like Islamic law. The systematic review conducted by Hossain et al. (2022) further elucidates the connection between technology and sex trafficking, revealing that digital tools complicate prevention efforts and present challenges for law enforcement agencies. As technology continues to evolve, it is imperative for legal frameworks to adapt accordingly to effectively combat TFST and protect vulnerable populations (CALiO, 2022; Hossain et al., 2022).

Despite a strong foundation in recognising technological enablers, the literature reveals limited engagement with culturally or religiously grounded responses to TFST. There is a clear gap in examining how Syariah law principles may contribute to addressing this modern crime, particularly in countries with dual legal systems such as Malaysia. This article seeks to fill that gap by analysing how Islamic legal doctrines—such as *ta'zir*, *al-'adl*, and *karamah insaniyyah*—can be incorporated into Malaysia's anti-trafficking framework to produce a more holistic and contextually relevant response.

### *Islamic Law Perspective*

#### *Principles of Human Dignity (Karamah Insaniyyah) and Prohibition of Exploitation (Zulm)*

In Arabic, the term "trafficking" refers to the act of buying and selling for profit, with its legality determined by the nature of the trade. Lawful trade involves permissible items like goods and merchandise, while trading in prohibited subjects, such as drugs and humans, is unequivocally illegal (Muhammad Eid, 2005).

The concept of "humans" in Arabic underscores their unique attributes, encompassing both men and women as equal yet distinct beings. The Quran highlights the inherent dignity, rationality, and capacity for moral excellence that distinguish humanity. Verses within the Quran emphasise equality among individuals while recognising their unique characteristics, portraying humans as honoured creations. This Islamic recognition of human dignity (*karamah insaniyyah*) serves as a foundation for rights, mirroring the principles articulated in the Universal Declaration of Human Rights, which asserts the inherent dignity and equality of all people as the cornerstone of freedom, justice, and peace as stated in the Quran. This

framework underscores Islam's alignment with universal human rights principles while preserving the distinct theological emphasis on the sanctity of human life.

In other words, Islam unequivocally prohibits all forms of exploitation, including human trafficking. While the term 'human trafficking' was not explicitly stated in the Islamic texts, the prohibition of this crime is evident in the condemnation of various exploitations that have persisted over generations (Hamid, 2016). The prohibition of human trafficking is embedded in the four main sources of Islamic legal principles: the Quran, the Sunnah (Prophet Muhammad's traditions), the practices of his companions, and the consensus of scholars (*ijma'*). These sources collectively underscore Islam's commitment to addressing exploitation and set the foundation for its opposition to human trafficking and related injustices. Abu Hurairah narrated Prophet Muhammad's (PBUH) saying, which translates as:

Translation: Allah said I will be an opponent to three types of people on the Day of Resurrection: One who makes a covenant in My name but proves treacherous; One who sells a free person (as a slave) and eats his price; and One who employs a labourer and takes full work from him but does not pay him for his labour.

(Al-Bukhari, Hadith No. 2270)

Moreover, the Quran explicitly upholds the sanctity of human life and dignity, condemning actions that harm others as severe violations of divine law. For instance, Surah An-Nisa (4:29) warns against the unjust consumption of others' wealth and emphasises the obligation to protect individuals from harm. Human trafficking, including its modern manifestations such as technology-facilitated sex trafficking, stands in stark opposition to these divine principles. This form of trafficking, wherein technology is misused to exploit and commodify individuals for sexual purposes, represents a grave violation of both ethical and legal imperatives in Islam (Basri, 2022).

Islamic law (*Sharia*), derived from the Quran and Hadith, enshrines compassion, justice, and equality as core values. It provides a comprehensive moral and legal framework that categorically denounces exploitation and abuse, emphasising the ethical obligations inherent in human interactions (Insani & Karimullah, 2023; Nor et al., 2024). In the context of technology-facilitated trafficking, these principles demand proactive measures to counteract such practices, ensuring that technological advancements serve to protect rather than exploit human dignity (Besenyő, 2016; Nurhayati et al., 2022). Islamic teachings have long rejected practices of slavery and exploitation, emphasising principles of liberation and justice. Sharia law actively seeks to dismantle oppressive structures by fostering equality, promoting the emancipation of the oppressed, and addressing systemic injustices within society (Gilani et al., 2021; Hamid, 2016). This commitment extends to combating contemporary challenges, such as cyber-enabled exploitation, by reaffirming the sanctity of human dignity.

Just as the Palermo Protocol prohibits the exploitation of individuals, Islamic principles similarly emphasise preventative measures by prohibiting unjust enrichment and exploitation while safeguarding human dignity (Almogbel & Mohamed Elrashidy, 2024). These principles, embedded within *Sharia's* ethical framework, categorically reject any act—whether physically or facilitated by technology—that treats human beings as mere objects of profit or manipulation. By addressing both traditional and modern forms of exploitation, Islamic law reinforces its timeless commitment to justice and humanity.

#### *Principles of Al-Adl and Accountability under the Islamic Perspectives*

Islamic law further emphasises justice (*al-'adl*) and accountability as core principles. The Quran unequivocally mandates that those who commit injustices must face accountability, aligning divine commandments with practical enforcement. For instance, Surah Al-Ma'idah (5:8) states:

Translation: O you who have believed, be persistently standing firm in justice, witnesses for Allah, even if it be against yourselves or parents and relatives. Whether one is rich or poor, Allah is more worthy of both.

(Surah Al-Ma'idah, 5:8)

This verse underscores the necessity of upholding justice impartially, making it a cornerstone of Islamic governance and jurisprudence. Within the context of TFST, traffickers are considered perpetrators of grave injustice (*zulm*), which demands decisive intervention and accountability.

Since TFST is not explicitly defined in the Quran or Sunnah, it may be categorised as a *ta'zir* offence. This classification grants authorities the discretion to prescribe penalties for such crimes, ensuring that the severity of the punishment corresponds appropriately to the gravity of the offence (Institut Kefahaman Islam Malaysia (IKIM), 2024). The flexibility inherent in *ta'zir* allows for a tailored response to the complexities of modern trafficking scenarios, particularly those involving technology. Islamic law emphasises justice and the protection of human dignity, which aligns with contemporary legal frameworks addressing TFST (Insani et al., 2023). By categorising TFST as a *ta'zir* offence, Islamic legal principles can be harmonised with modern law enforcement strategies, allowing for appropriate penalties that reflect the seriousness of these crimes (UNODC, 2021).

The Quran explicitly grants governing authorities the mandate to establish justice and safeguard societal welfare. For instance, Surah An-Nisa (4:59) instructs believers to obey those in authority (*uli al-amr*), thereby enabling the formulation of legal frameworks to address contemporary issues like TFST. Historical Islamic legal practices provide clear examples of the application of *ta'zir*. During the Ottoman era, judges utilised *ta'zir* punishments to address crimes such as human trafficking and slavery, focusing on upholding justice and deterring future offences. These punishments were tailored to reflect the severity of the crime while prioritising the protection of public interests and the dignity of victims (Mohammed Kamali, 2017).

Beyond merely penalising offenders, *ta'zir* embodies a holistic approach that prioritises societal reform through the rehabilitation and reintegration of offenders while ensuring victim protection. This reflects the *maqasid shariah* objective of safeguarding human dignity and security. This perspective is supported by Nurhayati et al., (2022), who affirm that TFST constitutes a direct violation of the right to personal security, one of the core objectives of *maqasid shariah*. Such acts threaten human security and represent a grave crime against the State. Consequently, authorities must prioritise the enactment of robust legislation to address human trafficking effectively. This legislative framework would not only uphold the principles of Islamic legal tradition but also fulfil obligations under international law, as highlighted by the United Nations Office on Drugs and Crime (2010).

Proponents of approaches based on *hudud* and *qisas* argue that punishments for traffickers should encompass *hudud* (fixed punishments), *qisas* (retaliation), and *ta'zir* (discretionary punishment), depending on the specific consequences of the crime for the victim. It is crucial to note that *hudud* refers to violations of God's boundaries, which are linked to punishments explicitly specified in the Quran and, in some instances, inferred from hadith (Rudolph, 2005). While there is ongoing scholarly debate about whether apostasy qualifies as a *hudud* crime, once *hudud* penalties are established, they are traditionally not subject to waiver or mitigation (Mashood 2003).

Highlighting the severity of *hudud* laws in addressing theft and brigandage, Al-Hageel emphasises the potential of these crimes to threaten human dignity, safety, and life (Barbara, 2012). This reasoning can be analogised to human trafficking, which poses similar risks to societal security and individual well-being. Supporting this view, Abu Al-Basal (2022) suggests that large-scale, organised human trafficking could be classified as brigandage, warranting *hudud* punishment. Similarly, aspects of human trafficking, such as child abduction, may invoke *hudud* penalties for theft, as Al-Basri (642-728) posits. For more egregious forms of trafficking, *hudud* provisions may also apply, emphasising the need for proportional punishments (Sukirno et al., 2018).

Meanwhile, Al-Murad reinforces the notion that penalties must be intrinsically tied to the offender's actions. For instance, if victims are killed during or after transit, the principle of *qisas* (retribution) should be enforced (Mohammed, 2005). The Quran supports this principle, stating:

Translation: We ordained for them: life for life, eye for eye, nose for nose, ear for ear, tooth for tooth, and wounds equal for equal.

(Surah Al-Maidah, 5:45)

Al-Qurtubi (1964) explains that this verse underscores the prohibition against physical harm, affirming that any assault resulting in injury is subject to reciprocal justice. The verse further implies that any violation of human integrity must be met with proportional retribution, underscoring the sanctity of human life and dignity.

As discussed above, in modern applications, *ta'zir* is implemented in Islamic legal systems, such as in Saudi Arabia, where strict penalties for human trafficking reflect the principles of justice and human dignity. Unlike hudud, which prescribes fixed punishments, *ta'zir* allows for judicial discretion, enabling punishments to be tailored to the severity of the crime and its impact on society. This flexibility is particularly relevant for addressing complex crimes like TFST, where the nature of offences often transcends traditional categories.

In considering the application of *ta'zir* to TFST, the principle allows for a more nuanced approach—where the punishment can be tailored not only to the severity of the offence but also to the individual wrongdoer's circumstances. For instance, traffickers using digital platforms may face harsher sanctions, while vulnerable individuals coerced into facilitating such crimes could be subjected to alternative penalties such as mandatory rehabilitation, education, or social reintegration programmes. This is aligned with *maqasid al-shariah*, especially in preserving human dignity (*karamah insaniyyah*) (Mohamed Adil & Omar, 2024).

Historically, *ta'zir* has been applied to crimes that fall outside the scope of *hudud* and *qisas*, including moral and social misconduct, which could be analogous to elements in TFST cases. For example, classical jurists have endorsed punishments such as public censure, fines, or exile for offences like exploitation, deceit, or abuse of authority—elements commonly found in trafficking networks. These precedents could serve as a conceptual basis for modern Islamic jurisdictions to adapt *ta'zir* to TFST, especially in contexts where digital exploitation is involved (Nurhayati et al., 2022).

In Malaysia, while the jurisdiction of Syariah Courts is limited, the principle of *ta'zir* complements the civil legal framework (Soh, 2020). It bridges the gap between moral accountability and legal enforcement within the dual legal system, allowing a nuanced approach to combating crimes like human trafficking. This framework not only punishes offenders but also fosters long-term societal rehabilitation and victim support, consistent with both Islamic principles and international human rights standards.

#### *Integration of Islamic Principles with Malaysian Civil Laws*

The integration of Islamic principles with Malaysian civil laws is a significant aspect of the country's legal framework, particularly in addressing contemporary issues such as Technology-Facilitated Sex Trafficking (TFST). Malaysia's legal system incorporates elements akin to *ta'zir*, which refers to discretionary punishment in Islamic law, to enhance the effectiveness of its statutes against TFST (Soh, 2020). Key legislation, including the Penal Code, the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (ATIPSOM), the Communications and Multimedia Act 1998 (CMA), the Malaysian Communications and Multimedia Commission Act 1998 (MCMC), and the Prevention of Crime Act 1959 (POCA), collectively establish a robust framework for combating TFST as discussed by Ab Hamid et al., (2018) and Skrine (2022). The Penal Code specifically targets acts of procurement and exploitation for immoral purposes, addressing the fundamental elements of human trafficking crimes. This ensures that individuals who exploit technology for TFST are held accountable under Malaysian law (Chevallier-Govers, 2022). Complementing these efforts, ATIPSOM criminalises trafficking activities such as recruitment, transfer, or harbouring individuals for exploitation. Recognising the role of technology in facilitating such crimes, ATIPSOM empowers authorities to investigate and prosecute offenders who utilise online platforms for trafficking, imposing severe penalties that include imprisonment and substantial fines (Nordin & Jeyabalan, 2019).

Furthermore, the Communications and Multimedia Act 1998 strengthens these measures by criminalising the misuse of network facilities under Section 233, which targets the creation or distribution of exploitative materials. This act is crucial for addressing activities on social media and encrypted communication platforms commonly employed in TFST. The Malaysian Communications and Multimedia Commission Act 1998 establish the mandate of the MCMC to oversee and regulate digital activities. By collaborating with law enforcement agencies, the MCMC plays a critical role in detecting

and dismantling online trafficking networks, thereby ensuring justice and accountability through technological interventions (Hashim Mehat, 2023). Additionally, the Prevention of Crime Act 1959 serves as a preventive mechanism against organised criminal activities linked to human trafficking networks. By enabling the detention and monitoring of individuals suspected of involvement in such crimes, POCA significantly curtails the operations of syndicates that exploit technology for TFST. This proactive approach aligns with Islamic principles aimed at safeguarding societal harmony and preempting harm (Soh, 2020). Collectively, these statutes reflect Malaysia's commitment to addressing TFST by harmonizing justice principles inherent in *ta'zir* with modern challenges posed by technology-driven crimes. The integration of Islamic legal principles within this framework not only enhances legal efficacy but also underscores Malaysia's unique position in navigating its dual legal system while upholding societal values.

## Methodology

This article employs a doctrinal methodology, using primary legal sources, such as Malaysia's anti-trafficking and cybercrime laws, to analyze the existing legal framework addressing TFST. The doctrinal approach involves a detailed examination of both statutory laws and Syariah legal sources to evaluate their relevance and application to TFST. Malaysian statutes such as ATIPSOM, the Penal Code, and the Communications and Multimedia Act are analysed for their enforcement mechanisms, while relevant Islamic principles are derived from the Quran, Sunnah, classical juristic opinions, and modern Islamic legal scholarship. In addition to primary sources, the study incorporates secondary research, reviewing academic articles and international reports, and employs an interpretative approach to assess the applicability of Islamic law in modern legal systems, identifying the challenges posed by technological advancements and the limitations of current enforcement practices. Islamic legal sources were selected based on their relevance to key themes of justice (*al-'adl*), protection from exploitation (*zulm*), and human dignity (*karamah insaniyyah*). Interpretative analysis was guided by principles of *usul al-fiqh* (Islamic legal theory), with emphasis on contemporary scholarly discourse and alignment with *maqasid al-shariah* (objectives of Islamic law). This methodological approach allows the study to bridge the normative guidance of Syariah with modern legal needs in combating TFST, particularly in Malaysia's dual legal context.

## Findings

This section presents current statistics and trends on TFST in Malaysia, focusing on enforcement outcomes and victim protection. These empirical findings provide context for evaluating the effectiveness of Malaysia's legal framework.

**Table 1.** Statistics of human trafficking cases in Malaysia (Malay Mail, 2024)

Category	Statistics/Details
Rescued Victims (2022–2023)	A total of 992 victims, including individuals trafficked for sexual exploitation
Sex Trafficking Victims (2023)	Approximately 30% of rescued victims were identified as being exploited for sex
Prosecuted Cases (2022–2023)	280 cases recorded, leading to 526 arrests for trafficking-related offences.
Convicted Traffickers (2023)	54 convictions, of which 20 were for sex trafficking and the rest for forced labour offences

The statistics for 2022–2024 reveal concerted efforts by Malaysian authorities to combat human trafficking, particularly sex trafficking. Approximately 30% of rescued victims were identified as being exploited for sex (Malay Mail, 2024). While 280 cases of human trafficking were prosecuted, resulting in 54 convictions, the conviction rate for sex trafficking remains significantly lower than the total number of cases brought to court. Only 20 of the convicted traffickers were involved in sex trafficking, reflecting both progress and persistent challenges in effectively addressing this issue (Malaysian Anti-Trafficking Council, 2024; UNODC, 2024). This low conviction rate highlights persistent enforcement gaps. Malaysia's Tier 2 ranking in the 2024 U.S. Trafficking in Persons (TIP) Report reflects that, despite progress, the country has yet to fully meet the minimum standards for eliminating trafficking. The findings suggest key ongoing challenges, including the limited use of digital evidence in court proceedings,

inconsistent victim identification and protection mechanisms, and the difficulty of keeping pace with traffickers' use of encrypted and transnational digital platforms.

## Discussion

The findings point to structural weaknesses in Malaysia's response to TFST, particularly in adapting to the digital nature of the crime. The challenges include the rapid pace of technological advancement, which traffickers exploit to recruit and exploit victims, often outpacing the capacity of legal frameworks to respond effectively. Encrypted messaging apps, social media platforms, and the dark web are frequently used to facilitate trafficking activities, creating additional layers of complexity for law enforcement (Mattar, 2003; Ali, 2020). Moreover, jurisdictional issues further complicate enforcement. The dual legal system in Malaysia, which operates through both civil and Shariah law, presents challenges in addressing the digital dimensions of trafficking—particularly in cross-border cases or those involving online platforms beyond current legal frameworks. Civil law governs criminal offences, including trafficking and cybercrimes, while Shariah law primarily regulates personal and moral conduct among Muslims (Sani, 2021). These overlapping jurisdictions create fragmentation, particularly in cases involving digital platforms that blur the lines between moral offences and criminal acts. There is a need to harmonise both legal systems through a *ta'zir*-based approach that allows Syariah law to complement existing statutory measures.

Another significant challenge is the inconsistent victim identification and protection mechanisms. While the Malaysian government has established shelters and support services for victims, there are still reports of inadequate screening, which leads to wrongful detentions and deportations, ultimately discouraging victims from cooperating with authorities (StateNewswire, 2023). Furthermore, the slow legal processes, lack of victim-centred approaches, and corruption in some law enforcement agencies hinder the prosecution of traffickers, contributing to Malaysia's Tier 2 ranking despite progress in certain areas (Sinar Daily, 2024; Malay Mail, 2024).

The low conviction rate for sex trafficking, with only 20 convicted traffickers out of 280 cases, highlights these persistent enforcement challenges. This reflects not only structural weaknesses but also a failure to fully realise the Islamic legal objectives of *adl* (justice) and *maqasid al-shariah* principles such as the preservation of dignity and protection from harm (Kamali, 2008; Mohd Nor et al., 2024).

Moreover, the misuse of technology in technology-facilitated sex trafficking (TFST) significantly increases the risk of revictimization. Victims are often subjected to ongoing threats, blackmail, and public shaming through the repeated circulation of exploitative images or videos online, even after they have been rescued (Stephenson et al., 2023). This digital footprint traps victims in a continuous cycle of trauma, fear, and social stigma, making recovery and reintegration into society extremely difficult. From an Islamic and civil law perspective, this prolongation of harm contravenes the duty to safeguard human dignity (*karamah insaniyyah*) and ensure the well-being of those who have already suffered exploitation (Kamali, 2008). The current legal mechanisms have yet to adequately address this dimension, underscoring the need for stronger data protection laws, mandatory removal of illegal content, and support systems that help survivors reclaim their privacy and rebuild their lives (International Centre for Missing & Exploited Children, 2018). The gap between the legal protections available to victims and the real-world enforcement of those protections reflects an urgent need for legal reform. Malaysia must prioritise revising and harmonising its anti-trafficking laws to better address the complexities of technology-facilitated sex trafficking (TFST), including provisions that recognise online grooming, encrypted communication, and digital financial trails.

Practical implementation of these reforms could involve clearer legal definitions of TFST-related offences, improved digital forensics capacity, mandatory cross-agency protocols (e.g., between police, cybercrime units, and welfare departments), and specialised training for judges and prosecutors on digital trafficking patterns. Additionally, establishing a centralised anti-TFST task force with jurisdiction across civil and cyber domains could ensure more coordinated and effective responses. Beyond these measures, greater integration of Syariah ethical principles in sentencing—such as introducing *ta'zir*-based rehabilitation programmes or digital literacy penalties for offenders—could help align legal outcomes with Malaysia's dual legal identity while enhancing deterrence.



Given these challenges, Malaysia should also strengthen regional collaboration within ASEAN frameworks through joint operations, intelligence sharing, and harmonisation of laws on digital sex trafficking. Public-private partnerships with tech companies could help improve online monitoring and reporting of trafficking activities. Beyond enforcement, continuous research and updated data on TFST trends are essential to guide future policies and ensure responses remain relevant and effective.

## Conclusion

In conclusion, this study highlights how the integration of Islamic principles—particularly the concepts of *ta'zir*, *al-'adl* (justice), and *karamah insaniyyah* (human dignity)—with Malaysia's civil legal framework provides a strong foundation for addressing the challenges of Technology-Facilitated Sex Trafficking (TFST). The key findings reveal that while Malaysia has established robust laws, including ATIPSOM and the Communications and Multimedia Act, enforcement gaps persist due to jurisdictional challenges, rapid technological developments, and insufficient victim-centred protections. This article contributes to existing literature by proposing a framework where Islamic legal principles can actively complement statutory enforcement, particularly in areas involving digital crime and victim dignity.

Classifying TFST as a *ta'zir* offence gives the authorities the flexibility to set punishments that suit the seriousness of the crime and fit today's enforcement needs. This ensures that Malaysia's dual legal system remains relevant and consistent with Islamic principles. Moving forward, legal reforms should focus on harmonising Syariah and civil provisions through clearer definitions of TFST, stronger digital forensic capacity, and incorporation of victim redress mechanisms grounded in *maqasid al-shariah*. Specific recommendations include establishing a national anti-TFST task force, introducing Syariah-compliant digital privacy protections, and forming public-private partnerships with tech platforms for automated monitoring and takedown of exploitative content. While this study offers doctrinal insights into the integration of Syariah principles within contemporary anti-trafficking discourse, its scope is limited by the absence of empirical validation. Future research should undertake grounded case studies from Syariah courts and conduct qualitative engagements with enforcement actors, survivors, and scholars to critically assess the operationalisation of Islamic legal responses to TFST within Malaysia's dual legal system.

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