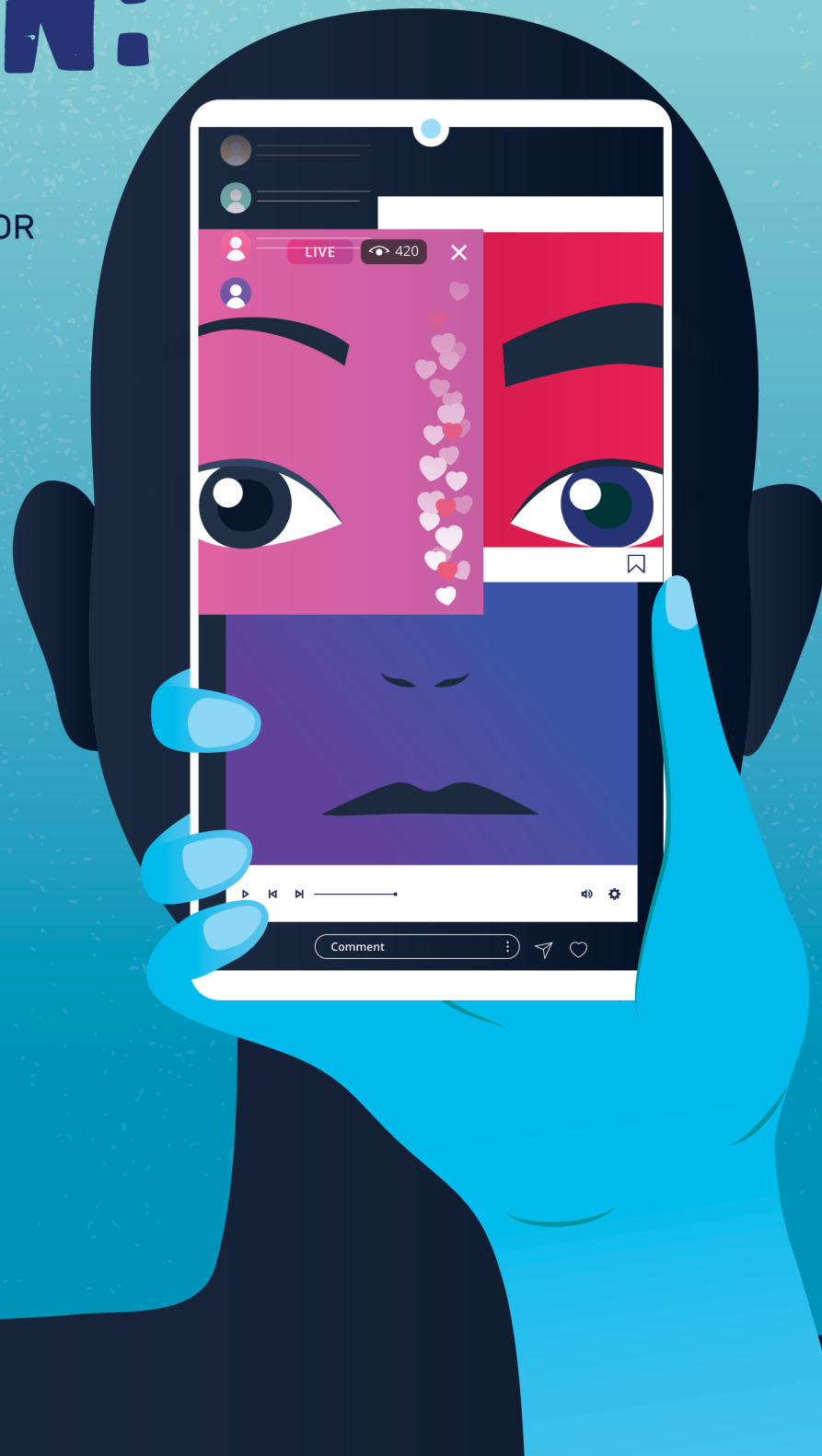


# BEYOND THE SCREEN:

PERCEPTIONS OF LAWYERS  
ON RESPONSE MECHANISMS FOR  
CYBER SEXUAL AND  
GENDER-BASED VIOLENCE  
IN SRI LANKA



**Caught in the Web:**  
Tackling Gendered Drivers  
of Conflict and Exclusion  
in Cyberspace.



## **Beyond the Screen:**

Perceptions of Lawyers on Response  
Mechanisms for Cyber Sexual and  
Gender-Based Violence in Sri Lanka

November 2023

Study commissioned by

**Search for Common Ground Sri Lanka**

Conducted by:

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## EXECUTIVE SUMMARY

The pervasive issue of Cyber Sexual and Gender-Based Violence (CSGBV) has emerged in Sri Lanka alongside the increase in digital penetration and internet accessibility. This study, conducted in 2023 as part of the project “Caught in the Web - Tackling Gendered Drivers of the Conflict and Exclusion in Cyberspace”, commissioned by Search for Common Ground Sri Lanka (SFCG), is aimed at assessing the perceptions and experiences of lawyers in Sri Lanka regarding existing response mechanisms relevant to CSGBV. This executive summary provides an overview of the research methodology and the key findings.

## METHODOLOGY

This study employed a ‘mixed methods’ approach, combining both quantitative and qualitative research methods, to provide a comprehensive understanding of lawyers’ perceptions of response mechanisms to address CSGBV. The quantitative survey reached 92 lawyers, although there were some challenges in achieving complete gender parity in the responses. The majority of respondents were from the Western Province, and age-wise, the study primarily represents perceptions of young lawyers. The qualitative aspect of the research aimed to provide a more nuanced understanding of lawyers’ perceptions of CSGBV response mechanisms. Data was collected through desk reviews, Key Person Interviews (KPIs) and Focus Group Discussions (FGDs). KPIs involved seven experts in the field, including civil society actors and senior lawyers. FGDs included a total of 9 participants, primarily based in Colombo.

## KEY FINDINGS

The study reveals a diversity of understandings among Sri Lankan lawyers concerning Cyber Sexual and Gender-Based Violence (CSGBV). Those with limited experience in CSGBV cases

tend to view it broadly as any form of violence occurring in online spaces, whereas more experienced lawyers recognise the intricate gendered aspects of the issue. Participants in the study acknowledged the correlation between offline and online Gender-Based Violence (GBV), and an overwhelming 83% of survey respondents agreed with this correlation. Furthermore, the research points to younger age groups being more susceptible to CSGBV. Lawyers also agreed that women and girls are at a higher risk of experiencing harassment, violence and hate speech on social media platforms when compared to their male counterparts, with 86% of survey respondents in agreement. The study also emphasised that the LGBTQIA+ community faces significant harassment, violence and hate speech in digital spaces, a sentiment supported by 88% of survey respondents.

In terms of legal provisions, lawyers believe that existing laws can be applied to address CSGBV cases, although there is a divergence of opinions on the adequacy of these laws. The study highlights that 50% of survey respondents agree that the existing legal framework is sufficient to support victims of CSGBV but that it is not implemented efficiently. A substantial 86% of survey respondents concur that legal reforms are essential for effectively addressing CSGBV, while some lawyers interviewed cautioned against the enactment of new laws that might infringe on freedom of expression. Notably, lawyers identified several limitations discouraging CSGBV victims/survivors from pursuing cases in court, including a lack of privacy, lengthy court procedures (87% of survey respondents agree), and various practical challenges. In terms of state response mechanisms, lawyers pointed out several challenges in the response to CSGBV cases by the Police and the Computer Crimes Investigation Division (CCID). These challenges include a lack of knowledge, capacity, resources and accessibility, as well as sensitivity in handling CSGBV cases. The study further reveals that patriarchal notions of gender roles and societal biases prevalent in the Police and CCID can lead to the revictimisation of victims of CSGBV.

Notably, 80% of survey respondents agreed that victims of CSGBV face revictimisation through shaming and judgment by Sri Lanka Police during the process of filing a complaint. In contrast, the Women's and Children's Bureau was perceived as the most effective response mechanism for CSGBV, primarily due to its sensitivity in handling cases, albeit with resource limitations.

Although Civil Society Organisations (CSOs) and private organisations play a crucial role in providing services and support to victims/survivors of CSGBV, the study reveals that some lawyers express concerns about inaccuracies in the legal information shared by CSOs online. Nonetheless, the research findings show that 72% of survey respondents agreed that victims of CSGBV prefer to seek support from private organisations rather than government institutions. Some lawyers argue that specific CSOs have earned trust and legitimacy over time, making them reliable sources of assistance for victims/survivors, particularly when the state may be unable to provide adequate support.

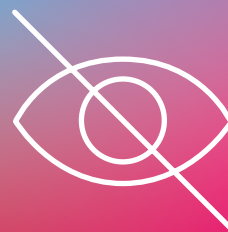
In the context of social media platforms and websites, there is a growing trend among victims/survivors to report CSGBV online before approaching law enforcement, with 75% of survey respondents in agreement. However, the study acknowledges limitations, including the inefficiency and lack of timely support from social media platforms in responding to complaints regarding CSGBV and removing harmful content. Interestingly, lawyers perceived that pornographic sites and dating sites/apps are more responsive. Nevertheless, most lawyers emphasised that reporting to online platforms/websites alone is insufficient to prevent repeat offences.

Furthermore, the study underscores that lawyers' ability to assist victims/survivors is contingent on their knowledge and awareness of the applicability of existing laws to address CSGBV. The research revealed that most lawyers in Sri Lanka may lack adequate knowledge about existing laws and legal avenues for justice and redress or may lack the necessary sensitivity in dealing with victims/survivors. Another significant factor deterring victims/survivors from seeking legal assistance is their lack of financial capacity, which may be due to unawareness of legal aid and organisations providing pro bono legal services.

## RECOMMENDATIONS

The study offers recommendations to improve legal responses to Cyber Sexual and Gender-Based Violence (CSGBV) and support victims and survivors. It suggests prioritising specific legislation for CSGBV in collaboration with relevant stakeholders and incorporating CSGBV-related training into the formal legal curriculum. Lawyers are encouraged to engage in awareness campaigns, provide pro bono legal services, and enhance their knowledge of CSGBV. Collaborations between legal professionals, CSOs and women's rights groups are advised to ensure comprehensive support networks and allocate resources to hire legal experts. Donors and development partners should direct funding toward legal support initiatives. Academic institutions should conduct further research in partnership with CSOs. Implementing these recommendations will empower lawyers to respond effectively to CSGBV and provide vital support to victims and survivors, fostering a more informed and supportive legal environment.

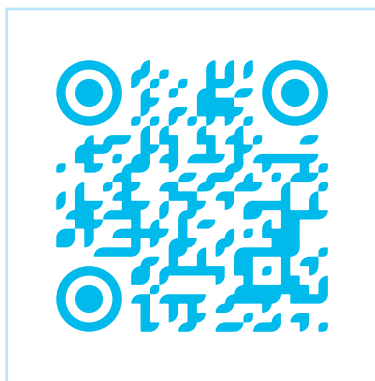
This study delves into the complex and sensitive subject of CSGBV. The findings and discussions within this research may include descriptions of CSGBV cases, the experiences of victims and survivors, and the challenges they face. Reader discretion is advised. If you or someone you know is affected by these issues, please reach out to relevant support services.



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Thank you for being integral parts of this journey towards a more informed and compassionate response to the challenges posed by this growing social threat in Sri Lanka.

# ABBREVIATIONS

Abbreviations	Full Description
BASL	Bar Association of Sri Lanka
CCID	Computer Crime Investigation Division
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CID	Criminal Investigation Department
CPA	Centre for Policy Alternatives
CPS	Child Protection Society
CSGBV	Cyber Sexual and Gender-Based Violence, also referred to as Online Gender-Based Violence (OGBV) and Technology-Facilitated Gender-Based Violence (TFGBV)
CSO	Civil Society Organisation
FGDs	Focus Group Discussions
GBV	Gender-Based Violence
GOHS	Gendered Online Hate Speech
ICT	Information and Communication Technology
ICRW	International Centre for Research on Women
ICRC	International Committee of the Red Cross
IP	Internet Protocol address
IPID	Institute for Participatory Interaction in Development
KPIs	Key Person Interviews
LBTI	Lesbian, Bisexual, Transgender or Intersex women
LGBTIQ+	Lesbian, Gay, Bisexual, Transgender, Intersex, Queer, Asexual and other identities
NAPVCW	National Authority for the Protection of Victims of Crime and Witnesses
NCII	Non-Consensual Intimate Image Sharing
NCPA	National Child Protection Authority
NGOs	Non-Governmental Organisations
OIC	Officer in Charge
OSB	Online Safety Bill
SDGs	Sustainable Development Goals
SFCG	Search For Common Ground
SLCERT	Sri Lanka Computer Emergency Readiness Team
SM	Social Media
TCA	Thematic Content Analysis
UN	United Nations
UNHRC	United Nations Human Rights Council
UNSG	United Nations Secretary-General
UNICEF	United Nations Children's Fund
VIP	Very Important Person
WIN	Women-in-Need

## INTRODUCTION

Cyber Sexual and Gender Based Violence (CSGBV) has been a prevalent and consistent issue in Sri Lanka. Despite a high number of incidents being recorded in Sri Lanka, not all victims and survivors of CSGBV report such incidents or avail themselves of legal provisions available for justice and redress. Whilst Sri Lanka has state response mechanisms in place, there are many limitations and challenges that make these ineffective and inaccessible to victims/survivors. Some of the main barriers to accessing justice vis-à-vis response mechanisms include the lack of knowledge and awareness of available response mechanisms and applicable laws at all layers of society (including citizens, civil society, legal actors and law enforcement agents). Among such barriers are preconceived biases and stereotypes that affect how victims/survivors are treated, and a lack of sensitivity in how cases are handled. Whilst existing laws can and have been applied to cases of CSGBV, a lack of direct and specific laws can cause challenges in how the said laws are interpreted by legal actors and law enforcement authorities. Similarly, the overall lack of knowledge, experience and awareness leads to inefficiencies and ineffectiveness in police investigation of CSGBV cases, which ultimately deprives the victims/survivors of justice, and contributes to a culture of impunity where perpetrators continue their harmful behaviours and actions in the online space. Additionally, even with legal instruments/response mechanisms in place to combat CSGBV there is a general dissatisfaction amongst victims/survivors on how the police, internet companies, and social media platforms respond to addressing injustice and violence. The general experience of women and girls in reporting is that it is more stressful and retraumatising than the abuse itself, possibly leading to revictimisation (Storry and Poppleton, 2022).

It is in this backdrop that this research was conducted as part of the project 'Caught in the Web - Tackling Gendered Drivers of the Conflict and Exclusion in Cyberspace'. The project aims to advance effective responses to gendered online

hate speech and cyber sexual and gender-based violence in Sri Lanka. In 2022, as a part of the project, Search for Common Ground Sri Lanka (SFCG) conducted consultative workshops with key affected groups, revealing a common problem of limited access to legal support. Many workshop participants perceived lawyers as expensive and unaffordable, while also lacking knowledge of how to access legal help.

Recognising the role of lawyers in improving the response to CSGBV, SFCG Sri Lanka commissioned this pilot study to understand the perceptions of lawyers on CSGBV and the existing response mechanisms to it. Understanding the perceptions and attitudes of legal practitioners on this matter is paramount for delivering effective legal assistance, safeguarding victims' rights and enhancing access to justice. By understanding the perspectives of the lawyers, addressing gaps in knowledge and fostering better sensitivity, a more supportive, empathetic and informed legal community can be fashioned that could contribute to a safer and more equitable online environment for all.

### **Objective of the study:**

The objective of this study is to measure and understand the perceptions and experiences of lawyers in Sri Lanka regarding the existing response mechanisms relevant to Cyber Sexual and Gender-Based Violence (CSGBV). This research aims to address lawyers' perceptions about the adequacy of existing laws and legal frameworks in addressing cases of CSGBV in Sri Lanka. It also explores their views on law enforcement's role and effectiveness in responding to cases of CSGBV, as well as their perspectives on the roles of Civil Society Organisations (CSOs) and private website/social media companies in responding to CSGBV in the country. Additionally, the study seeks to uncover lawyers' perceptions of their own limitations in providing legal assistance to victims and survivors of CSGBV.

## DEFINING CONCEPTS AND CONTEXT ANALYSIS

With the rise in usage of the internet, social media and online telecommunication methods, CSGBV has become a global phenomenon. Most offences committed in the online space are similar to offences that are committed offline (and physical attacks), the difference being that the former are perpetrated through a different medium. Perpetrators of CSGBV can access victims more easily online than in the physical world because they are not limited by geographical (physical) restrictions (Henry and Powell, 2015). In this section, we delve into the concepts of CSGBV by examining its relevance within both the global and local contexts. This examination is drawn from existing literature, and serves as the foundation for the subsequent discussion of findings in this report.

### 2.1. DEFINING CSGBV

The United Nations Human Rights Council defines CSGBV as:

*“Any act of gender-based violence against women that is committed, assisted or aggravated in part or fully by the use of ICT, such as mobile phones and smartphones, the Internet, social media platforms or email, against a woman because she is a woman, or affects women disproportionately”*

*(Human Rights Council, 2018).*

Whilst this definition has a limited focus – as it only refers to offences against women – the definition put forth by the International Centre for Research on Women (ICRW) is more comprehensive. It is as follows:

*“Technology-facilitated GBV is action by one or more people that harms others based on their sexual or gender identity or by enforcing harmful gender norms. This action is carried out using the internet and/or mobile technology and includes stalking, bullying, sexual harassment, defamation, hate speech and exploitation”*

*(Hinson et al, 2018).*

For the purposes of this study, the ICRW definition will be used due to its comprehensiveness. This definition does not merely recognise offences against women but also encompasses a broader spectrum of harmful actions online, rooted in sexual or gender identity. By adopting this definition, we strive for a thorough understanding and assessment of CSGBV and the relevant response mechanisms in Sri Lanka.

To define the parameters of this study, Search for Common Ground (SFCG) has identified four categories to streamline the different types of CSGBV offences, through the Legal Gap Analysis of Laws relating to CSGBV in Sri Lanka (SFCG, 2023). These are as follows:

1. Non-consensual creation, dissemination, distribution, or digital sharing of photographs, videos or audio clips of a sexual or intimate nature, unauthorised access, sharing or publication of private information and personal data, use, control, manipulation/doxing.
2. Impersonation and identity theft
3. Cyber harassment: cyber stalking/surveillance and monitoring/cyber bullying/online gendered hate speech
4. Sextortion, exploitation and or trafficking of

women and girls using technology/online child sexual exploitation.

## 2.2. GLOBAL CONTEXT

Global research shows that during the pandemic online gender-based violence has increased exponentially as many used online platforms during the lockdowns to transcend the barriers posed to work, education and active citizenship (Biswas, 2023). Whilst people of all genders have been affected by CSGBV, it has particularly affected women and girls across the globe (EIGE, 2022; Biswas, 2023). Amongst the women who are most susceptible to CSGBV, women of colour, women of ethnic or religious minorities, women with disabilities, and lesbian, bisexual, transgender, or intersex women (LBTI) are facing the most harassment, especially on social media platforms (Biswas, 2023; EIGE, 2023). Young women have also faced the brunt of the harassment, given also that youth have been using social media more than other age groups in general, and young females are seen to dominate social media more than young males (Gencer and Koc, 2012; Webb and Temple, 2015).

Social media, a platform where performance of gender is carried out across different mediums, also plays a positive role in helping men and women shift gender roles, and challenges gender stereotypes (Miller et al. 2016; Webb and Temple 2015). However, with this empowerment, transformation of gender roles and disruption of patriarchal structures also comes gender-based violence carried out on the same platform. The imprudent use of social media has seen it being increasingly used for harmful acts across the globe (Bialy, 2017). Whilst women and young girls are generally the targets of these harmful acts carried out online, the consequences they face go beyond the online space and can cause serious physical, sexual, psychological or economic harm and suffering (EIGE, 2022; Perera et al, 2021; UNHRC, 2018).

### 2.2.1. GLOBAL RESPONSE MECHANISMS AND INTERNATIONAL CONVENTIONS

The risk of harm arising from online content (i.e., sexist, misogynistic, degrading and stereotyped portrayals of women, and non-consensual online pornography) and behaviours (i.e., bullying, stalking, harassment, intimidation facilitated

and perpetrated via social media, tracking applications, and profiling technology) (UNHRC, 2018) are prevalent globally. Therefore, global governance mechanisms and international conventions have paid attention to and prioritised the prevention and protection of victims against CSGBV. Some of the key international legislations applicable to cyber violence are:

- the Istanbul Convention on preventing and combating violence against women, and domestic violence
- the Budapest Convention on cybercrime, and additional protocol
- the Lanzarote Convention on protection of children against sexual exploitation and sexual abuse

The United Nations (UN) has addressed the issues of CSGBV through various Resolutions. For example, the UNHRC Resolution 29/14 of 2015 identified cyberbullying and cyberstalking as actions that constitute domestic violence in (UNHRC, 2015). This reinforces the idea that offline violence can translate to online violence. The Resolution further urged member states to prevent such violence against women and girls. Similarly, in 2019 United Nations Secretary-General (UNSG) António Guterres launched the United Nations Strategy and Plan of Action on Hate Speech (United Nations, 2019) due to the growing trends of xenophobia, racism and intolerance, violent misogyny, antisemitism and anti-Muslim hatred around the world (SFCG, 2023). The UNSG emphasised a multi-sectoral approach where all governments, societies, the private sector, and individual women and men should take responsibility for tackling hate speech (United Nations, 2019; SFCG, 2023).

Additionally, Sustainable Development Goals (SDG) 5 and 16 refer to all forms of violence, including online forms of violence (EIGE, 2022).

Furthermore, another International Convention addressing the issue of CSGBV is the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). CEDAW provides the legal basis to address online discrimination and violence against women, and also holds countries accountable with general recommendation No. 35 (Perera et al, 2021) which reads:



*“Gender-based violence against women occurs in all spaces and spheres of human interaction, whether public or private, including in the contexts of the family, the community, public spaces, the workplace, leisure, politics, sport, health services and educational settings, and the redefinition of public and private through technology-mediated environments, such as contemporary forms of violence occurring online and in other digital environments”*

*(United Nations, 2017).*

Sri Lanka too falls under the purview of this Convention as the country has ratified it in 1981 (Perera et al, 2021).

Whilst there is no consistent definition for Online Child Sexual Exploitation and may vary based on the cultural, social and political needs of different contexts, this issue has nevertheless become a growing concern with the increasing rate of minors (under the age of eighteen years of age) subjected to online harassment and sexual exploitation. However, there is a specific focus and attention given to child sexual exploitation vis-a-vis various multilateral instruments (SFCG, 2023). However, the definition set forth by the Luxembourg Guidelines, which were adopted by the Inter-agency Working Group in Luxembourg in 2016 can be considered here: “where a child (under the age of eighteen years of age) takes part in sexual activity in exchange for something, either a benefit, promise, or gain” (Inter-agency Working Group on Sexual Exploitation of Children, 2016).

Whilst multilateral instruments and international Conventions guide and urge the implementation of laws in various legal contexts, there are still challenges in prosecuting such crimes. This is because CSGBV can transcend national boundaries, which may lead to problems of jurisdiction. Similarly, the perpetrator of an offence can reach more third parties when operating on the internet, which can exacerbate the harm caused in offences in which the victim’s privacy is violated (Henry and Powell, 2015). Moreover, detecting an anonymous perpetrator (which is more often than not the case) is far more difficult on the internet and may require technical skills and resources (CPA, 2020) that most state

authorities may lack. In most legal contexts, laws that exist to punish perpetrators of traditional forms of sexual violence are extended to punishing perpetrators of CSGBV. However, when CSGBV is covered by general offences, as is the case in most countries, the legal provisions also tend to be gender-neutral and overlook the digital dimension of violence (EIGE, 2022). Therefore, the effectiveness of prosecuting CSGBV-related crimes depends on the interpretation of the laws by different Courts (CPA, 2020). This underscores the importance of having specific and direct laws to address CSGBV.

## 2.3 THE SRI LANKAN CONTEXT

In Sri Lanka, as of the beginning of 2023 there are 14.58 million internet users, and internet penetration is at 66.7%. Digital literacy in Sri Lanka, which is measured based on the number of users who could use a smart device on his/her own, is 57.2% (Department of Census and Statistics [DCS] 2021). These high levels of internet penetration and lower levels of digital literacy have contributed to increased vulnerability on online platforms and increased incidences of CSGBV cases. With 36.18 million mobile phone connections active in Sri Lanka as of early 2023, and with over 30% of the population active on social media platforms (Data Reportal, 2023), Sri Lanka is no stranger to the dangers, consequences and effects of CSGBV. Facebook has been identified as the platform with the highest volume of content that instigates CSGBV in Sri Lanka. Similar content is also shared and/or generated through WhatsApp, TikTok and YouTube (Samarakoon et al, 2021). A study done by the British Council and the Sarvodaya Institute for Higher Learning in 2021 found that youth in Sri Lanka mostly used Facebook (81%), WhatsApp (96%) and YouTube (67.3%), and also experienced violence the most on these platforms (Perera et al. 2021).

In 2019, there were 3,566 incidents reported to the Sri Lanka Computer Emergency Readiness Team (SLCERT). There was a drastic increase in incidents reported to SLCERT during the pandemic, with 16,376 incidents reported in the year 2020 (SLCERT, 2020; Samarakoon et al, 2021). In fact, the study done by the British Council and Sarvodaya Institute for Higher Learning in 2021 showed that due to mobility restrictions and social distancing during the COVID-19 pandemic, there was an exponential increase in the use of social media, with 74% of youth in Sri Lanka

agreeing that they spent more time online and on social media during the pandemic. This could explain the drastic increase in incidents reported to SLCERT in that period.

In 2021, 182 out of 18,214 incidents reported to SLCERT were related to abuse/hate/privacy violations, whilst a staggering 16,975 incidents were related to social media (SLCERT, 2021). A study conducted by #Generation, tracking social media content during the economic crisis and citizen uprisings in 2022, found that 60.25% of online gender-based violence (OGBV) content (recorded between January to August 2022) was harassment against women, specifically targeting activists and female politicians (#Generation, 2023). Thus, indicating the continued increase in CSGBV content that objectifies, discredits, insults and doxes women and LGBTQIA+ persons.

In a society upheld by patriarchal structures, one of the root causes of CSGBV is the patriarchal notion of gender and sexuality (Samarakoon et al., 2021). Consequently, women are mostly affected, whilst some men have had to deal with CSGBV attacks. The groups that are mostly targeted are women in politics, female social and human/gender rights activists, female artists, female journalists, young girls, children, transgender women, men who advocate for gender rights, gay men, non-binary individuals, and women belonging to ethnic minorities (Samarakoon et al., 2021; Perera and Wickramatunge, 2019). What is most concerning is that the increasing digital penetration and increased access to the internet have resulted in more and more children being vulnerable to cyber/online violence (Samarakoon et al., 2021) when compared to a decade ago. The British Council and Sarvodaya Institute for Higher Learning conducted a study in 2021 on the pandemic restrictions, which revealed that children who were not allowed to use mobile phones had to use these instruments to avail themselves of digital tools that allowed them to engage in educational activities as schools moved the learning process to online platforms (Perera et al., 2021). In fact, a study commissioned by Save the Children and World Vision in 2021 revealed that over 28% of the Sri Lankan children participating in the study had experienced some kind of online violence. Whilst there is a slightly higher rate for girls experiencing online violence (29%), boys too

have experienced it (27%) (Fernando et al, 2021).

### 2.3.1 LOCAL LAWS AND LEGAL FRAMEWORK

Sri Lanka has no clear or specific laws to address CSGBV (SFCG, 2023; Samarakoon et al, 2021; CPA, 2020). As it stands, law enforcement authorities and legal actors depend on the wider interpretation of existing provisions to address forms of CSGBV (Samarakoon et al, 2021). The legal provisions that are currently being used to handle cases of CSGBV include:

- The Constitution of Sri Lanka
- The Penal Code Ordinance No. 11 of 1887 (as amended)
- The Assistance for and Protection of Victims and Witnesses Act No. 4 of 2015
- The Obscene Publications Ordinance No. 04 of 1927 (as amended)
- The Evidence Ordinance No. 14 of 1895
- The Evidence Special Provisions Act No.14 of 1995
- The Electronic Transactions Act No. 19 of 2006
- The Computer Crimes Act No. 24 of 2007
- Children and Young Persons (Harmful Publications) Act No. 48 of 1956
- Convention on Preventing and Combating Trafficking in Women and Children for prostitution No. 30 of 2005
- Personal Data Protection Act No. 09 of 2022

(Standard Operating Procedure for the Sri Lanka Police, 2020; Samarakoon et al, 2021; SFCG, 2023)

A full analysis of existing laws and their applicability is available in 'The Legal Gap Analysis of Laws relating to CSGBV in Sri Lanka' (SFCG, 2023). The interpretation of some of these laws from the perspective of lawyers interviewed is discussed in the 'Findings' section of this study.

Whilst these laws may be adequate to respond to cases of CSGBV within the Sri Lankan jurisdiction, it is not as straightforward to identify what



laws are applicable to each offence “as some of the listed offences can be open to many interpretations” (SFCG, 2023). Moreover, since there are no special crimes identified as CSGBV, the gendered elements of such crimes can be easily disregarded whilst aspects such as threat, blackmailing and intimidation may be focused on (Samarakoon et al, 2021). As Samarakoon et al (2021) emphasise: “All of these offences are gender-neutral in definition and have not limited their application to offline modes” as also is the case in many other countries (see section 2.2.1 above on Global Context). However, since the online medium in which SGBV offences are committed has also not been excluded from the law, its wider application is possible to prosecute crimes of CSGBV (Samarakoon et al, 2021).

The extract below from the report ‘Legal Reform to Combat Sexual and Gender-Based Violence: PART II - Online Sexual Violence’ by the Centre for Policy Alternatives (2020) aptly emphasises the need for law reforms in this regard:

*“Sri Lanka’s antiquated criminal law requires reform in order to bring it in conformity with the principles of equality, bodily autonomy and non-discrimination between genders, and there is as pressing a need for law reforms to meet developments and advances in technology which have a growing impact on people’s lives”*

*(CPA, 2020).*

Whilst there have been attempts by successive Sri Lankan governments to amend laws and introduce new laws that are relevant to online violence, these have been flagged by civil society as bordering on restricting freedom of expression and the right to dissent (CPA, 2023). The most recent attempt by the government of Sri Lanka has been opposed for the same reason, i.e., the Online Safety Bill (OSB) which was published on the 15th of September 2023, tabled in Parliament on the 3rd of October 2023 and since then been retracted due to the widespread opposition to it.

According to the Gazette notification, the OSB aims to:

*“...establish an online Safety Commission to: make provisions to prohibit online communication of certain statements of fact in Sri Lanka; prevent the use of online accounts and inauthentic online accounts for prohibited purposes; make provisions to identify and declare online locations used for prohibited purposes in Sri Lanka; and to suppress the financing and other support of communication of false statements of fact”*

*(The Gazette of the Democratic Socialist Republic of Sri Lanka, 2023)*

While there are some positive aspects in the Bill, such as the inclusion of child abuse through online means (HRCSL, 2023), most of the provisions have been criticised mainly for the broad and vague terminology of what constitutes online offences, the Online Safety Commission with “expansive powers” (CPA, 2023), and restrictions placed on freedom of expression (CPA, 2023; Rajapakse, 2023; ICJ, 2023). Whilst the OSB was introduced during the period of the study, it was published just after the completion of data collection, and therefore the study does not delve into the perceptions of lawyers regarding this Bill. Moreover, as the OSB has since been withdrawn, to be “enhanced and refined” (Mohan, 2023), the study will not discuss it in the analysis of the findings.

### 2.3.2 STATE RESPONSE MECHANISMS

The state response mechanisms to investigate cases of CSGBV prior to these reaching legal recourse are as follows:

- Sri Lanka Police
- Cyber Crime Investigation Division (CCID) under the Criminal Investigation Department (CID)
- Bureau for the Prevention of Abuse of Children and Women (Women and Children’s Bureau)
- The National Authority for the Protection of Victims of Crime and Witnesses (NAPVCW)
- National Child Protection Authority (NCPA)

- National Commission on Women
- Sri Lanka Cyber Emergency Readiness Team (SLCERT)

For a detailed description of the functions of these state response mechanisms and more, please see the 'Context Assessment of Gendered Online Hate Speech and Cyber- Sexual-and-Gender Based Violence in Sri Lanka' (Samarakoon et al, 2021: pp 65-82). An analysis of lawyers' perceptions about these response mechanisms will follow in section 4.3.

Despite the multitude of laws and response mechanisms available to address cases of CSGBV, there is a general trend of victims' reluctance to report such incidents to law enforcement. The nationally representative study conducted by Sarvodaya and British Council in 2021 found that only 14% of respondents (youth aged 18-29) made a complaint to the police or relevant authority (Perera et al, 2021). One reason for this reluctance could be a lack of awareness about the law and response mechanisms, and the lack of confidence in existing laws. Further, victims' experiences of dealing with law enforcement may have negative consequences as the possibility of revictimisation is high due to the patriarchal and sexist attitudes of law enforcement agents (Perera and Wickramatunge, 2019), a lack of a victim-centric incident/case handling approach, and a general lack of awareness about gender identities and rights among law enforcement agencies/officers (Samarakoon et al, 2021; Perera and Wickramatunge, 2019). LGBTQIA+ persons also face a unique set of challenges that prevents them from reporting incidents of CSGBV to law enforcement. These include shaming and violence based on gender identity and sexual orientation, arbitrary arrest of persons whose appearance does not conform to gender norms, and the use of the Section 365 of the Penal Code that criminalises same-sex relationships (Perera and Wickramatunge, 2019).

Despite these challenges in approaching response mechanisms, victims/survivors generally prefer not to pursue the case in court even when choosing to report incidents to law enforcement since legal proceedings can be time-consuming, infringing on their privacy, and costly. This has led to many victims/survivors seeking quick solutions such as the removal of content and warnings to perpetrators (Samarakoon et al, 2021).

Whilst there are multiple avenues provided by the State for victims/survivors of GBV and domestic violence to receive shelter, legal support, or legal aid (though needing many improvements) (CEPA, 2021; UNFPA, 2019) it is unclear if these services extend to victims/survivors of CSGBV.

## CONCLUSION

The above review shows that there is research done on the nature of online violence, and the experiences of women, children, youth, and LGBTQIA+ persons, as well as analyses about the applicable laws and the legal framework. This research has been conducted by organisations working on addressing CSGBV in Sri Lanka. However, a study of this nature, namely, understanding what lawyers perceive about the existing response mechanisms including the applicable laws, state response mechanisms, and private response mechanisms, is a first of its kind as it aims to present the limitations faced by the very actors who provide legal assistance to victims of CSGBV. The study was commissioned due to this gap in the existing literature of a holistic overview of response mechanisms in the Sri Lankan context, specially focusing on the gaps and limitations as understood by lawyers, so as to channel targeted efforts in future programming towards advancing effective responses to CSGBV.

## METHODOLOGY

The study employs a ‘mixed methods’ approach where quantitative and qualitative research methods were used to give a holistic understanding of the perceptions of lawyers in Sri Lanka regarding response mechanisms to address CSGBV. The qualitative data collection for this study was conducted between 1st and 20th September 2023, whereas the quantitative data collection was conducted between February – September 2023. This section outlines in detail the quantitative and qualitative research methods utilised to complete this study.

### 3.1 QUANTITATIVE RESEARCH COMPONENT

#### 3.1.1. QUANTITATIVE SAMPLING FRAME

For the analysis to be statistically significant, a minimum of 380 respondents should be captured via the quantitative survey. The minimum sample of 380 was arrived at based on the population size of 25,000, a confidence interval of 95% and a margin of error of 5%.

The sample was expected to be distributed equally across male and female Attorneys-at-law of the nine Provinces in order to ensure that the data is nationally representative and is not skewed to a limited number of geographical locations (an equal number per Province and per gender has been suggested due to lack of data on the actual gender and Provincial breakdowns). Therefore, reaching out to a minimum of 44 Attorneys-at-law per Province was advised to ensure that the sample is equitably distributed. Of the 44 Attorneys-at-law reached per Province, 50% were expected to be female lawyers in order to ensure gender parity in the responses generated. Therefore, the survey was expected to reach a minimum number of 22 female lawyers per Province. Anyone with a background in law was considered eligible for the survey. Therefore, differentiations were not made based on whether respondents were of a civil law or criminal law background.

For the quantitative data collection tool, see Annex 1 – Questionnaire

#### 3.1.2. DEMOGRAPHICS OF RESPONDENTS

The survey was completed by 60% of male respondents and 35% of female respondents. 5% of the respondents who completed the survey did not disclose their gender identity. Where possible, survey data is disaggregated by gender so as to identify gendered differences in how CSGBV is perceived.

However, it should be noted that since those who did not wish to disclose their gender constitute only a very limited portion of the sample when brought to a uniform statistical standard through percentage values, their perceptions may seem bolstered. Therefore, their perceptions cannot be used to draw gendered comparisons. For that reason, the quantitative analysis of this study only makes references to the perceptions of male and female respondents.

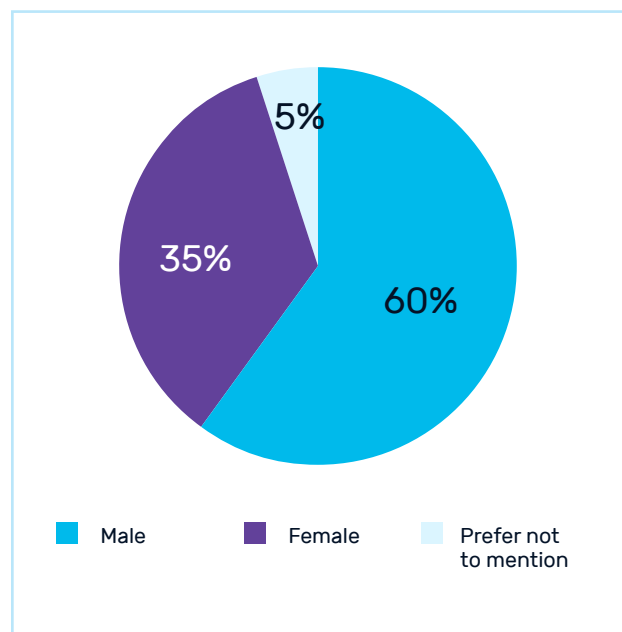


Figure 1: Disaggregation of respondents, by gender

The majority of the respondents are between the ages of 20-29, followed closely by ages between 30-39. Only 27% of the respondents are aged above 40. Therefore, these survey responses mainly reflect youth perceptions and may not be generalisable to all age categories.

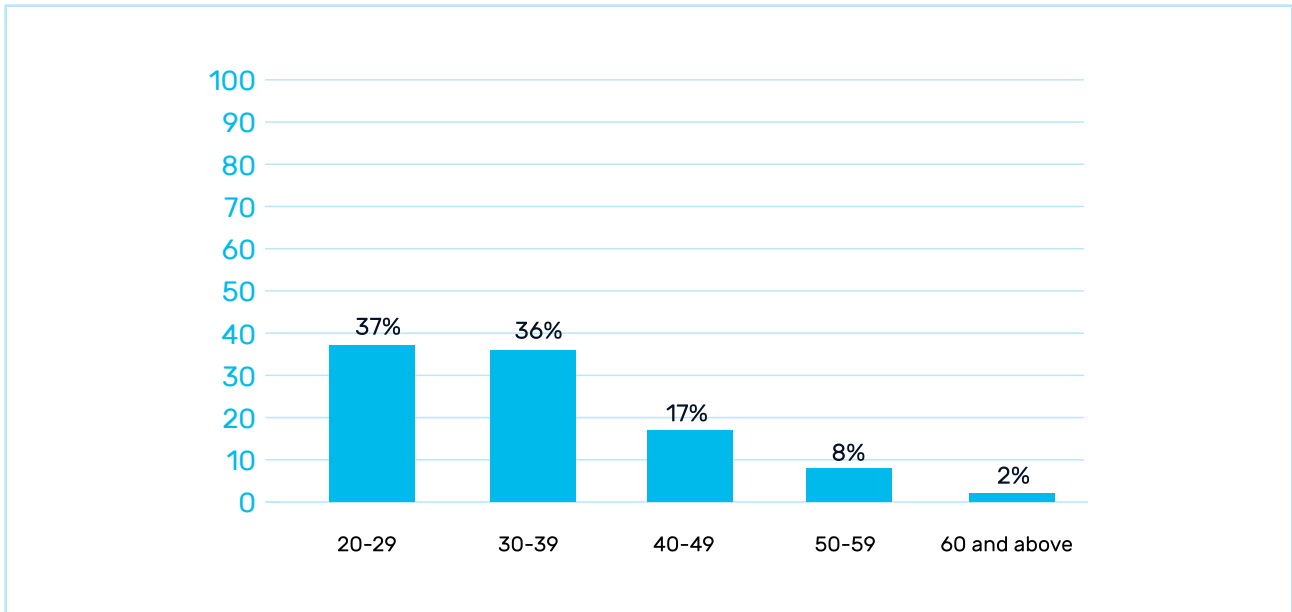


Figure 2: Disaggregation of respondents, by age

The majority of the survey respondents represent the Western Province of Sri Lanka. The survey has not generated any response from the Northern Province and has only generated limited responses from the remaining Provinces. Therefore, the survey results may exclusively represent perceptions of an urban community, which too is a visible limitation of this study.

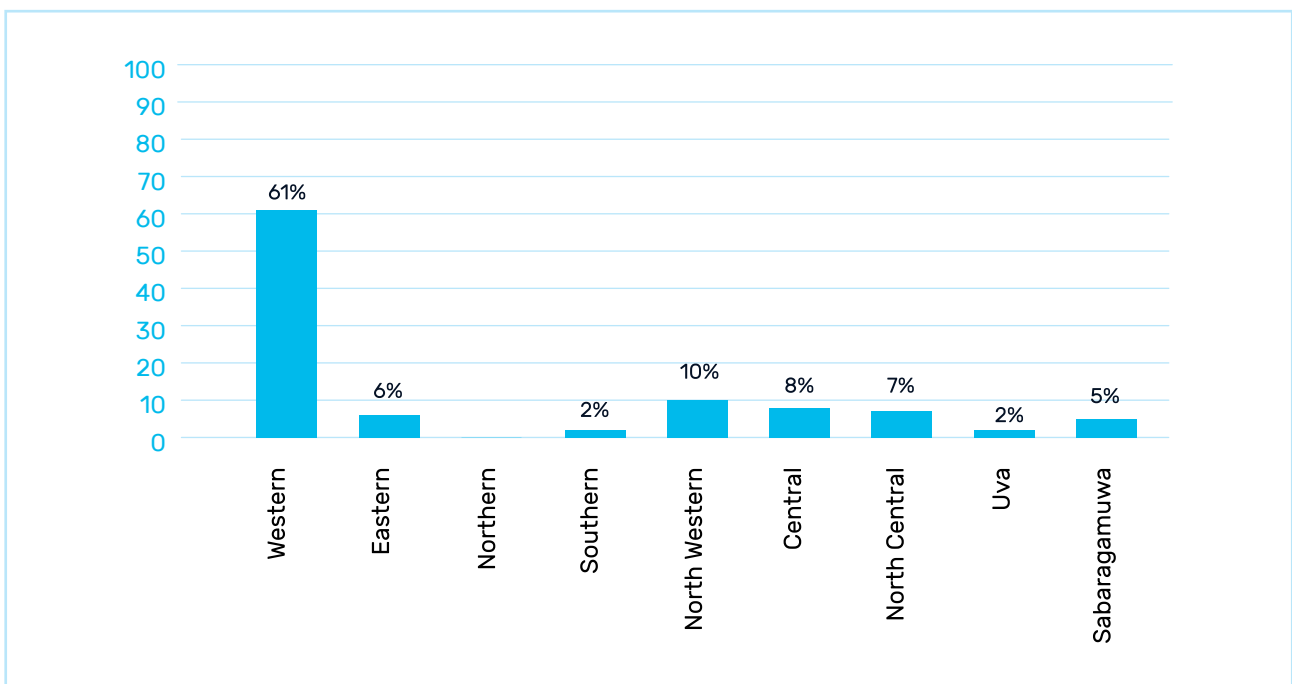


Figure 3: Disaggregation of respondents, by Province

The majority of the respondents (43%) have over 5 years of experience in the legal profession. Nearly a quarter of the sample are novice lawyers, having less than a year's experience in the profession. The remaining 33% have 1-5 years' experience in the field.

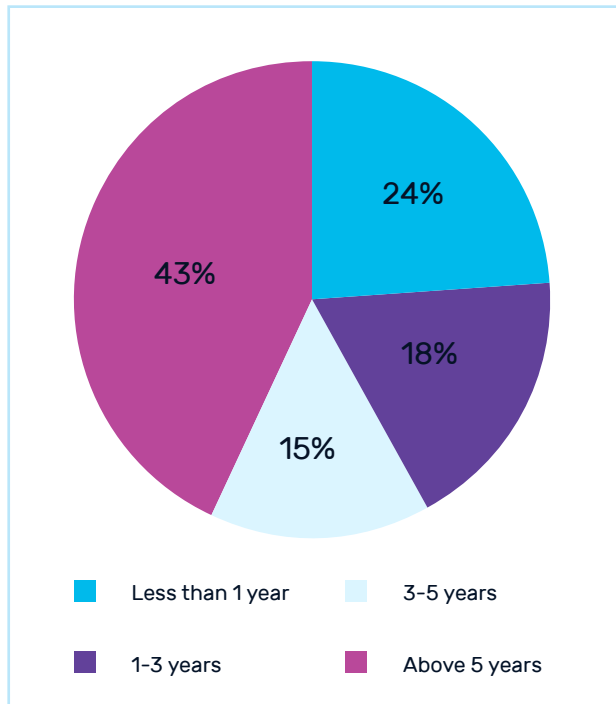


Figure 4: Years in the legal profession

### 3.1.3 QUANTITATIVE DATA ANALYSIS

The survey data gathered online via a Google Form was analysed using STATA statistical software. Tabulations and cross-tabulations were used to derive statistical inferences.

Although it was originally intended that the quantitative analysis would disaggregate the data geographically, district-disaggregated quantitative findings are not presented in the report owing to the limitations in data collection. Moreover, gender-disaggregated quantitative findings are reported only where the data complements qualitative findings.

With reference to gender-disaggregated quantitative data visualisation and presentation, responses from other categories or those who did not wish to disclose their gender are omitted as they constitute only a very limited portion of the sample and, therefore, when brought to a uniform statistical standard through percentage values,

their perceptions may seem bolstered. For that reason, the quantitative analysis of this study only makes references to the perceptions of male and female respondents.

## 3.2. QUALITATIVE RESEARCH COMPONENT

The qualitative aspect of the research gave insights into some of the core issues that were covered in the quantitative survey. Whilst quantitative surveys can cover a wider sample group and give an overview of issues substantiated by numerical data, adding a qualitative component can bring in a more nuanced understanding of what the numerical data is saying. Additionally, with no existing literature on lawyers' perceptions of CSGBV, qualitative research is vital to enable the collection of lawyers' perspectives, experiences and insights, creating the groundwork for future research, and ensuring a more comprehensive, evidence-based exploration of the subject. Therefore, the following methods were used to draw more insights from lawyers regarding the pertinent issues and their understanding and perceptions of CSGBV in Sri Lanka.

### 3.2.1. DATA COLLECTION METHODS

#### Desk Review

A rapid desk review was conducted of existing literature and reports on response mechanisms for CSGBV, not only in Sri Lanka but also internationally. Similarly, the legal gap analysis that was conducted by SFCG also contributed to this understanding and set the scene in the research report. See section 2 for the literature review and see the list of references for the material consulted in writing the literature review.

#### Key Person Interviews

KPIs were conducted with seven (7) experts in the field, including civil society actors and senior lawyers working on CSGBV in Sri Lanka (see Annex 2 for anonymised details of interviewees).

The interviews were semi-structured and gave a higher-level understanding of what response mechanisms are already available in Sri Lanka, and if/how they are implemented (see Annex 3 for a KPI Guide). The data collected from these interviews gave an understanding of the gaps in



the legal system and response mechanisms, and also the gaps in understanding and knowledge of lawyers in Sri Lanka. All interviews were conducted online, although in-person interviews were also given as an option to interviewees.

### Focus Group Discussions (FGDs)

The focus group discussions were conducted to understand the perceptions of lawyers who are not necessarily experts in CSGBV. The FGD guides were developed based on initial analysis of the quantitative data, as the quantitative findings gave indications as to what areas should be probed further in FGDs in order to give a more nuanced understanding of the responses given in the quantitative perception survey (see Annex 4 for the FGD Guide).

FGDs were conducted with a total of 9 participants. Table 1 gives a breakdown of the demographic details and specialised areas of work of FGD participants (see Annex 5 for an anonymised list of FGD participants).

<b>Sex</b>		
Male	3	33%
Female	6	67%
<b>District</b>		
Colombo	7	78%
Kurunegala	1	11%
Matale	1	11%
<b>Language Spoken</b>		
Sinhala	4	44%
Tamil (mixed with English)	1	11%
English	4	44%
<b>Years in Service</b>		
Less than 5 years	4	44%
5-10 years	2	22%
11-20 years	1	11%
More than 20 years	2	22%
<b>Experience with CSGBV cases</b>		
Have experience	6	67%
No experience	3	33%

Table 1: FGD participant demographics

The FGDs were conducted online, mainly in English and Sinhala although trilingual options were given to participants. The FGDs had a maximum of 4 in a group. Maintaining a smaller group ensured that each person was given the opportunity to share their opinions. Similarly, it was easier to manage time and participant engagement, especially in an online setting where it is advised to cap meetings at 60-90 minutes.

To source FGD participants, lawyers who have already engaged with SFCG through various training and discussion groups arranged through the Junior Bar Association of Sri Lanka (Junior BASL) were approached. However, due to the low response rate, an announcement was also shared publicly through social media, online messaging and email, inviting lawyers to participate in the FGD. Although the research team planned to have a balanced mix of participants based on gender, language group and the District in which they practise, the research was limited in the diversity of participants due to the low number of responses.

### 3.2.2. DATA ANALYSIS

All primary data collected through FGDs and KPIs were transcribed, translated (where necessary), and cleaned (i.e., double-checked for accuracy, gaps), and thereafter anonymised.

Thematic content analysis (TCA) method was used for data analysis, where major categories and themes for coding were developed in line with the themes captured in the quantitative survey. The text (from transcripts) was analysed by grouping and distilling a list of common themes that give “expression to the communality of voices across participants” (Anderson, 2007). The themes were grouped in a manner that directly reflects the texts as a whole. While sorting and naming themes requires some level of interpretation, the “interpretation” itself is kept to a minimum at the state of analysis so as to be as objective as possible. The lead researcher’s interpretation is only included in writing the discussion of the data.

The quantitative data that was analysed separately was used to substantiate the key findings derived from the qualitative data analysis.

In presenting the perceptions of lawyers through qualitative data, the term ‘most’ is used to depict that a majority of those interviewed mentioned

or agreed to the specific finding. The term 'few' is used to depict a minority of the group or a small number of participants who mentioned or agreed to the specific finding.

### 3.3. REPORT STRUCTURE

The report is structured in a traditional research report format, starting with a literature review that lays out the context and sets the scene for the findings and discussions of the report. It will then have a detailed section on the methodology of the study that evidences the robustness of the study for credibility and accuracy of the data presented. The 'findings and discussion' section is interlinked where qualitative findings will be presented alongside quantitative findings. Not all qualitative findings have corresponding quantitative findings and vice versa. Since a narrative has been derived from the qualitative findings, some quantitative findings may not be presented in this report if these do not complement any of the qualitative findings. However, the full data set can be made available upon request.

**Presentation of graphs** – the graphs present the findings from the survey. Each question in the survey was a statement that respondents could agree to or disagree with. In line with this, the title of the graph indicates the statement that each question entailed.

While data visualisation offers a comprehensive breakdown of the degree of (dis)agreement, we have opted to emphasise cumulative figures in the textual representation.

**Presentation of quotes** – direct quotes derived from the qualitative data have been used to illustrate the findings further. Each quote is followed by the type of interview (KPI/FGD), the sex of the participant (M/F), the designation of the participants (lawyer, CSO actor etc.) and the district of the respondent.

Terminology used in the report:

- CSGBV/GOHS - Whilst there are variations and nuances between CSGBV and GOHS, most lawyers interviewed discussed issues mainly pertaining to CSGBV, and therefore most of the discussions revolve around CSGBV but may include elements of GOHS. Due to this, the study has only used the term CSGBV in

analysing lawyers' perceptions about response mechanisms, which in most cases can also be applied to cases of GOHS (EIGE, 2022). Where findings are specifically referring to GOHS, this term will be used explicitly. Generally, CSGBV is also referred to as Online Gender-Based Violence (OGBV) and Technology Facilitated Gender-Based Violence (TFGBV).

- Victim/Survivor – In this study, the terms "victim" and "survivor" are both used to describe individuals who have experienced CSGBV. "Victim" is employed from a legal perspective to define those who have suffered harm due to offences or infringements of fundamental rights. Meanwhile, "survivor" is favoured in advocacy circles to avoid victimisation and to respect individual choices. This dual terminology is used to recognise the harm endured and the resilience of those affected, promoting empowerment, person-centred language, and reducing stigma.
- Participants vs. Respondents – When referring to participants in this study, it refers to those who have taken part in FGDs or been interviewed using semi-structured qualitative tools. When the term 'respondent' is used, it is specifically referring to those who responded to the quantitative survey.

### 3.4. LIMITATIONS OF RESEARCH

This study can contribute to existing knowledge regarding response mechanisms for CSGBV, as it is one of the first studies that delves deep into lawyers' perceptions about response mechanisms to address CSGBV. However, due to the limitations highlighted here, the study should be treated as only a starting point in understanding lawyers' perceptions about the existing legal framework and response mechanisms in Sri Lanka to combat CSGBV. The research should be expanded and built on, in order to gain an even more comprehensive understanding of the issue.

#### 3.4.1. REPRESENTATIVENESS

It was assumed that 25,000 Attorneys-at-Law are registered in Sri Lanka. This figure was gathered from unofficial sources since the research team was unable to obtain official information on the district-wise and gender-wise breakdown of lawyers registered with the Bar Association of Sri Lanka. While data pertaining to occupational



categories are available in the Labour Force Survey, lawyers are categorised under “Managers, Senior Officers, and Legislators”. Extracting the number of lawyers from this occupational category would have required statistical analysis that was beyond the scope of this exercise. With this assumption, the quantitative survey was expected to reach a minimum sample size of 380. However, it has only been able to capture the perceptions of 92 lawyers across the country despite SFCG and the research team trying various avenues to disseminate the survey, including through the BASL, social media channels and email campaigns to known networks. Therefore, the survey findings cannot be treated as nationally representative. As mentioned previously, the sample is skewed towards a relatively younger cohort from the Western Province, which too has diminished the degree of representativeness of the sample. Moreover, the sample has failed to reach an equal number of male and female lawyers, and has, therefore, failed to reach gender parity in responses. However, this limitation is minimised to a certain extent by converting absolute values to percentages.

Although the qualitative data does not have to be representative, the study intended to capture as many diverse perspectives as possible. What was limited was representation from outside of Colombo, especially with none from the Tamil/Muslim majority regions of the country. Whilst most respondents were based in Colombo, there were some that have worked in other Districts of the country and thus were able to give perspectives and insights from regions outside of Colombo. This, to some extent, helped to mitigate the issue of under-representation of views from across the country.

### 3.4.2. GENERALISABILITY

Qualitative data cannot usually be generalised to the view of all lawyers practising in Sri Lanka. This was mitigated by substantiating findings with existing literature, and findings from a larger sample in the quantitative survey. However, due to the low response rate of the survey, the quantitative findings too cannot be generalised to the entire population of lawyers in Sri Lanka. Besides, the skewed nature of quantitative data has further compromised its generalisability to a larger national population. Moreover, the perceptions of lawyers presented through the qualitative findings may differ based

on a lawyer’s experience working in either civil law or criminal law, and their direct experience working on CSGBV cases. Whilst those practicing criminal law would generally encounter cases of CSGBV, it was intentionally decided by SFCG to keep the group broad to collect as many varied perspectives as possible, since this was designed as a pilot study. More layers of analysis on the perceptions of criminal lawyers as against civil lawyers would warrant a deeper study.

### 3.4.3. ONLINE DATA COLLECTION

Due to time and resource limitations, online methods were found to be the most efficient way to conduct the study. However, online data collection, whilst ensuring that more people could be interviewed in a short period of time, also posed a unique set of challenges. This was mainly in relation to securing participants for FGDs and KPIs. Whilst 23 participants responded to taking part in the FGDs, only 9 ultimately committed and showed up. However, the deep insights and perspectives shared by the 16 participants (7 KPI + 9 FGD) were deemed adequate to draw key conclusions about existing response mechanisms to combat CSGBV in Sri Lanka.

## 3.5. ETHICAL CONSIDERATIONS

### 3.5.1. CONFIDENTIALITY

The importance of anonymity and confidentiality was emphasised before beginning the data collection process. Although the FGDs and KPIs were recorded, the data was anonymised. All raw notes and recordings are stored separately and securely, were not shared with external parties and the recordings were destroyed after the study was completed.

### 3.5.2. INFORMED VOLUNTARY CONSENT

Complete information on the purpose of the research and how the data will be used was explained to participants, and their verbal consent was obtained before going ahead with interviews and FGDs.

### 3.5.3. RIGHT TO REFUSE OR WITHDRAW AT ANY TIME

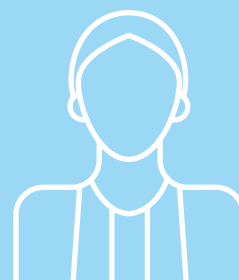
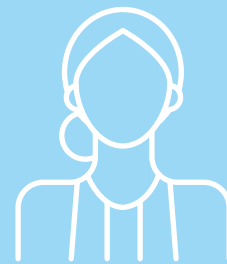
The participants were aware that they had the right to refuse or withdraw from participating in the research at any time.

### 3.5.4. QUALITY ASSURANCE

The Lead Researcher has extensive experience in conducting research and a successful track record of delivering high-quality research products for both local and international donor projects. Therefore, quality standards required by SFCG were ensured throughout the research process, and when drafting the report.

Regular check-ins were done with the SFCG team and the consultant in charge of the project to ensure that quality standards and proper processes were followed at all times.

This research report has been peer-reviewed by experts who work on CSGBV, thus adding another layer of quality assurance and accuracy to the findings presented therein.



## RESEARCH FINDINGS AND DISCUSSION

### 4.1. LAWYERS' UNDERSTANDING OF THE NATURE AND MANIFESTATIONS OF CSGBV

This section covers how lawyers understand the concept of CSGBV and how it manifests in online spaces and even extends to offline contexts, resulting in real-life consequences. The section also delves into groups that are most vulnerable to CSGBV, including young persons, women, girls and LGBTQIA+ persons, and the reasons why this may be the case according to lawyers' perceptions.

Although CSGBV is not a new phenomenon, albeit growing ones, it seems that the number of practicing lawyers who engage with CSGBV cases is limited, but even so, those who have had no prior experience handling CSGBV cases are keen to understand it because they see it as an issue that keeps manifesting and one that cannot easily be eradicated. Participants interviewed understand CSGBV as any form of violence that is happening in online spaces and involves the use of "abusive language and exploiting vulnerabilities, such as body-shaming or other forms of humiliation" (FGD, F, Lawyer, Colombo). Participants who have had more experience working on CSGBV cases understand the intricacies of the issue and the concept, specifically about how it intertwines with gender and especially relating to the patriarchal biases and stereotypical gender roles imposed on women and non-binary gender identities.

Those interviewed also understood CSGBV as a crime that transcends national boundaries because of the nature of the internet. As a result of the speed and spread in which information is transmitted through the internet, lawyers interviewed believe that CSGBV has far more dangerous consequences than traditional forms of violence (this is based on the view of one participant, and may be not as straightforward to compare in reality). For example, once a person's privacy is violated on the internet it is nearly impossible to trace and put an end to the personal and intimate material being shared. One lawyer gave an example of the consequences faced by women victims/survivors that she has worked with:

*"Increasingly, you see women coming up and saying this has been going on for years, but every few years it comes up, and they can't google themselves without this somehow appearing. And now they've had enough. They just want to move on with their lives, so they want it to be removed. That's the internet. It can never really be removed" -*

*FGD, F, Lawyer, Colombo*

#### 4.1.1. INTERCONNECTION BETWEEN OFFLINE AND ONLINE GENDER-BASED VIOLENCE

Researchers have recognised that technology-facilitated violence does not exist in isolation and is often an extension of violence experienced in the physical world (Perera and Wickramatunge, 2019). Similarly, as online and offline spaces become more integrated, CSGBV amplifies or is a precursor for violence and/or victimisation in the physical world (EIGE, 2022). Participants also acknowledged the correlation between offline and online gender-based violence. Some participants observed that most of the offences falling under CSGBV are not new as these have been taking place in the physical realm far longer in the

virtual realm, such as stalking or hate speech. One participant argued that CSGBV should not be treated differently from sexual and gender-based violence (SGBV) because the only aspect that is different is the medium in which it is committed.

This aspect was covered in the survey where the statement on the correlation between online and offline violence has respondents acknowledging that the “violence victims face online can have offline consequences, and offline incidents of harassment can be replicated in online platforms”, with 83% of respondents agreeing with the statement.<sup>1</sup> 12% of survey respondents remain neutral about the interconnection between

online and offline conflicts (see Figure 5). This was also reiterated by an expert interviewed, that what they increasingly see is physical domestic violence transforming into online abuse:

*“Increasingly (we’re) seeing a lot of domestic violence convert to more online violence, so it would happen on a digital platform rather than at home... It’s the same violence but a different manifestation of it” -*

*KPI, F, Lawyer, Colombo*

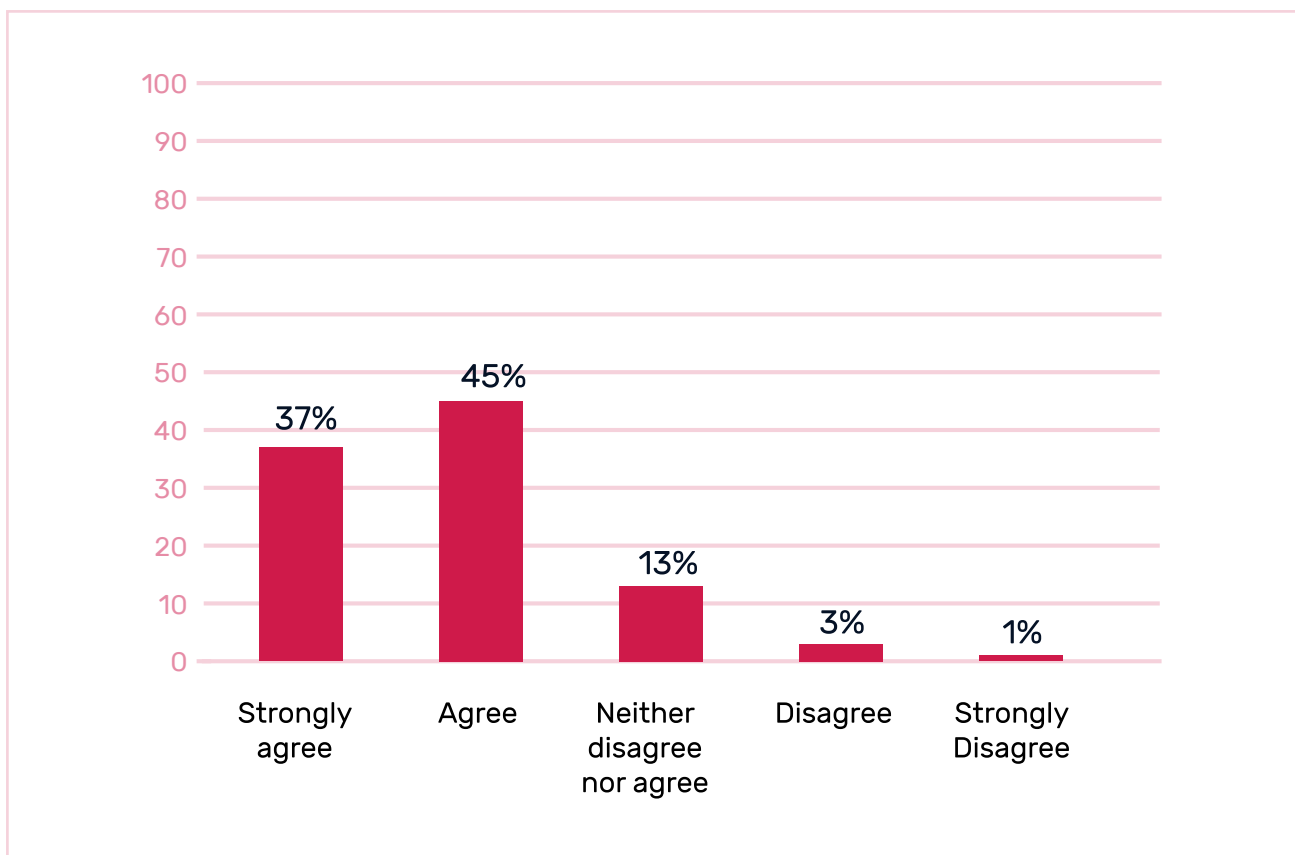


Figure 5: Online conflict and offline conflict are interconnected. The violence the victims face online can have offline consequences and offline incidents of harassment can be replicated in online platforms

<sup>1</sup> The percentage who responded to ‘strongly (dis)agree’ and ‘(dis)agree’ has been accumulated when presenting the findings in the text. For the breakdown see the corresponding graphs. This is applicable in all instances the survey findings have been presented.

#### 4.1.2. THE SUSCEPTIBILITY OF YOUNGER AGE GROUPS TO CSGBV

Participants also recognise that younger age groups are more likely to be susceptible to CSGBV (Fernando et al, 2021) due to a multitude of reasons. One is that there is more access to the internet and social media sites where online violence occurs. A study conducted by UNICEF and IPID in 2017 shows that Sri Lankan children access the internet at an average age of 13 years (IPID, 2017). However, although there is access it does not translate to digital literacy or awareness regarding online safety. Young children specifically can be more vulnerable due to the lack of understanding of the dangers and consequences of how they engage and interact online. Research on this 'net generation', who are also identified as 'digital natives', has shown that they are in fact 'digital naives' because they do not naturally develop the awareness regarding digital safety or the best practices in engaging in online spaces (Hargittai, 2010; Boyd, 2014). As the following quote illustrates, FGD participants also shared this view:

*“Even though people from diverse backgrounds and regions now have access to the internet issues like cyberbullying and harmful online behaviour persist, suggesting that the moral and ethical aspect of online*

*interactions is a separate challenge.”*  
 FGD, F, Lawyer, Colombo

This prevalent issue of young people being targets of CSGBV can be attributed to the lack of education on digital literacy and online safety. The study by the British Council and Sarvodaya Institute for Higher Education has shown that youth with higher digital literacy are less vulnerable to CSGBV (Perera et al, 2021). The survey findings show that the degree of agreement with the statement *“the current education curriculum in Sri Lanka, including ICT, is adequate to improve the digital literacy of the Sri Lanka population”* has generated mixed results, with 43% agreeing with the statement as opposed to the 45% who disagreed with it. 12% of survey respondents remain neutral about the adequacy of the education curriculum of Sri Lanka in improving digital literacy (see Figure 6). However, these results could also be skewed, based on whether the respondents are aware of the current ICT curriculum. Other studies have shown that students in Sri Lanka have better access to ICT infrastructure and resources compared to countries like Bangladesh and Nepal (ADB, 2017), and 50% of the schools have access to ICT facilities<sup>2</sup> (EDB, 2017). However, whether access to facilities translates to digital literacy can be questioned, as only 57.2% of the population is computer-literate (DCS, 2021).

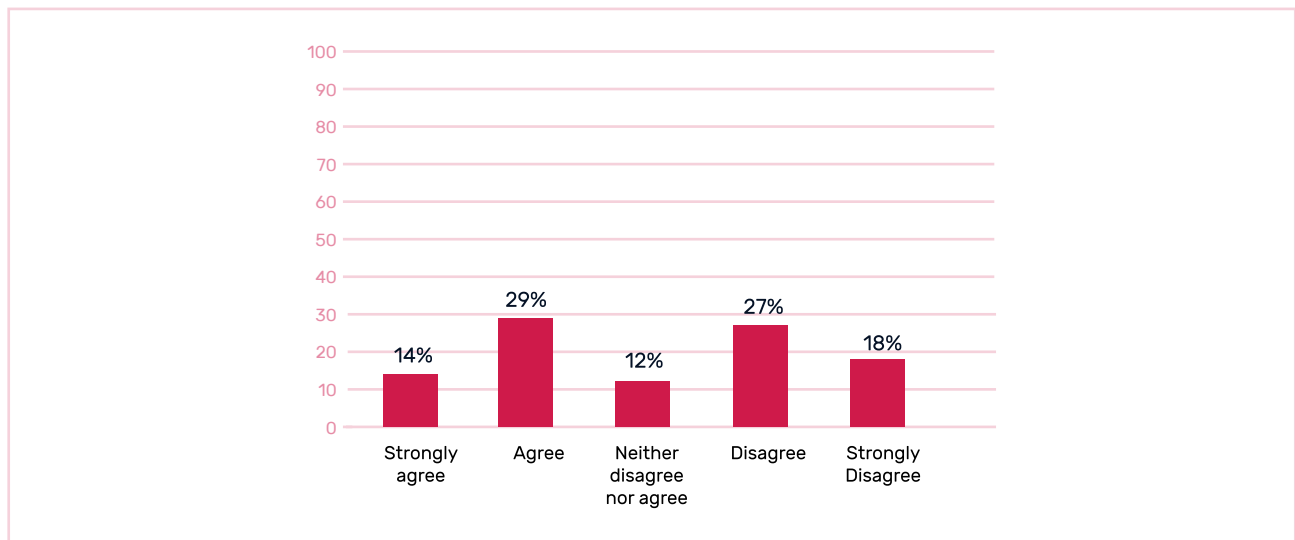


Figure 6: The current education curriculum of Sri Lanka, including ICT, is adequate to improve the digital and computer literacy of our population

<sup>2</sup> These numbers may have improved post-COVID as even provincial schools moved to technology-based learning. However, newer statistics have not been found.

### 4.1.3. VULNERABILITY TO CSGBV OF WOMEN, GIRLS AND LGBTQIA+ PERSONS

When discussing cases of CSGBV that lawyers have come across or been directly involved in solving, most lawyers interviewed mentioned cases involving women and girls. A few also mentioned cases involving LGBTQIA+ persons where such persons engage in consensual sexual activities that later lead to threats because videos are recorded or intimate content is leaked. A study conducted by #Generation in 2022 showed that 30% of online gender-based violence (OGBV) content recorded contained hate speech against women, LGBTQIA+ and gender-diverse people (#Generation, 2023). This is reiterated from the current survey findings where 86% of respondents agree with the statement that women and girls are more likely to face harassment, violence, and hate speech on social media platforms as

opposed to their male counterparts (see Figure 7); significantly more female respondents (90%) agree than male respondents (69%). In fact, global research by Doria (2015) has shown a direct proportionality of increase in women and girls' access to the internet and the increase in violence against women online. According to the Pew Research Centre, sexual harassment of American women in online spaces has doubled when compared to men in the last three years since 2020 (Anderson and Vogels, 2020). Similarly, 88% of respondents agree with the statement that the LGBTQIA+ community in Sri Lanka faces significant harassment, violence, and hate speech in digital spaces (see Figure 8). Similarly, more female respondents agree with this statement (92%) than male respondents (70%). Violence against women, girls and LGBTQIA+ communities, especially on platforms like Facebook, tends to be the norm in Sri Lanka (Perera and Wickramatunge, 2019), which corroborates the perceptions of lawyers shown from this study.

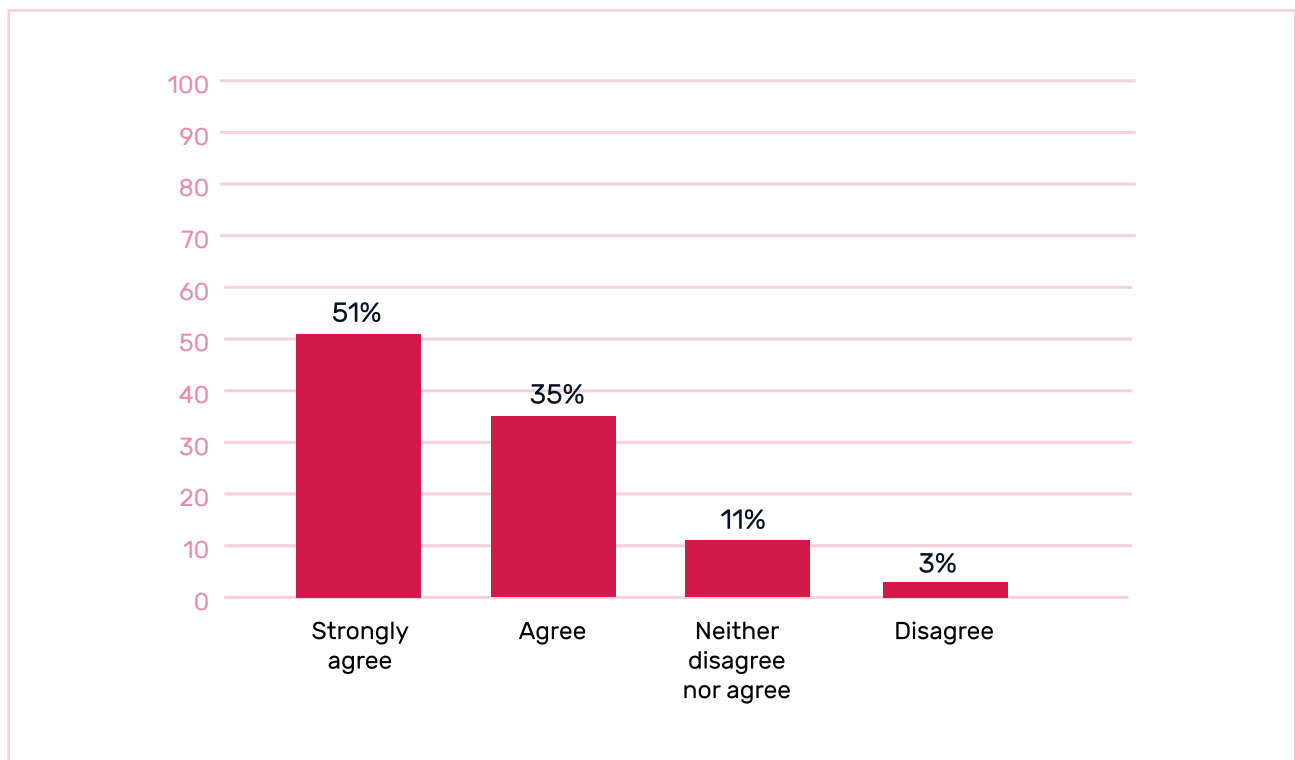


Figure 7: Women and girls are more likely to face harassment, violence and hate speech in digital spaces when compared to men and boys

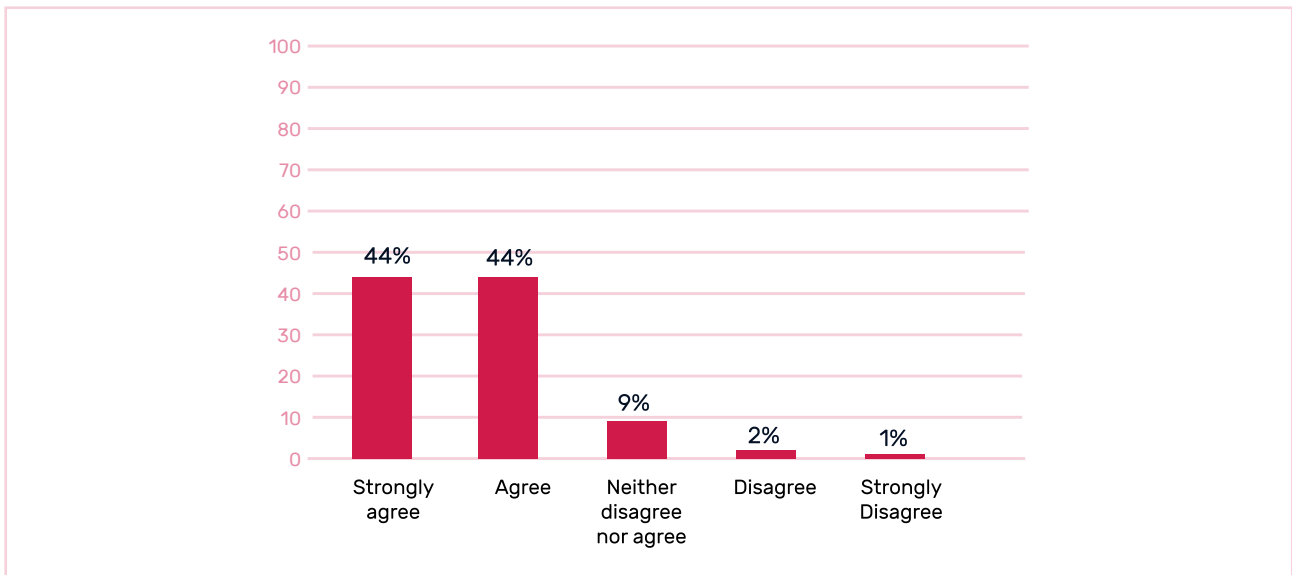


Figure 8: Individuals from LGBTIQ+ community in Sri Lanka face significant harassment, violence and hate speech in digital spaces

## 4.2 LAWYERS’ PERCEPTIONS ABOUT THE LEGAL FRAMEWORK AND EXISTING LAWS

This section encompasses an in-depth discussion about existing laws that can be applied to cases of CSGBV from lawyers’ understanding and interpretation of the laws. The main laws discussed were the Obscene Publications Act and the Computer Crimes Act. Following this are lawyers’ perceptions about the need for laws to be reformed so as to include more direct and specific provisions for online violence (section 4.2.1). Consequently, the section after explores why, despite having a legal framework in place, a few CSGBV cases proceed to court, which may well be resolved with the local police (section 4.2.2).

Just as existing literature (SFCG, 2023; Samarakoon et al, 2021; CPA, 2020) has shown, all lawyers interviewed recognise that there are

no direct or specific legal provisions to prosecute cases of CSGBV. However, almost all participants agreed that existing laws can be used to respond to cases of CSGBV. As one expert explained:

*“What we ended up doing was using whatever laws we had on hand which were mostly laws relating to sexual harassment, blackmail and extortion”*

*KPI, F, Lawyer, Colombo*

Whilst there are laws in place that can be used to prosecute perpetrators of CSGBV, there were mixed views about the adequacy of these laws. Some lawyers were of the view that the laws were not adequate, while some others believed that the existing laws were adequate but, the issue was in how the said laws were interpreted and implemented.

*“Our lawyers do their best to interpret the existing laws, but I don’t believe our current legal framework is sufficient to address these issues”*

*KPI, F, Lawyer, Colombo*

These mixed views on the adequacy of the laws were also evident from the survey findings.



Although the majority of the survey respondents (50%) agree that the laws are sufficient to support victims of CSGBV, but yet are not implemented efficiently, 36% of the sample disagree with this statement. 14% of the sample remain neutral on it (see Figure 9). The gender disaggregation of

survey responses for this statement shows more male lawyers agreeing with it (63%) than their female counterparts (42%). Among those who disagree with this statement, the majority are female lawyers (42%).

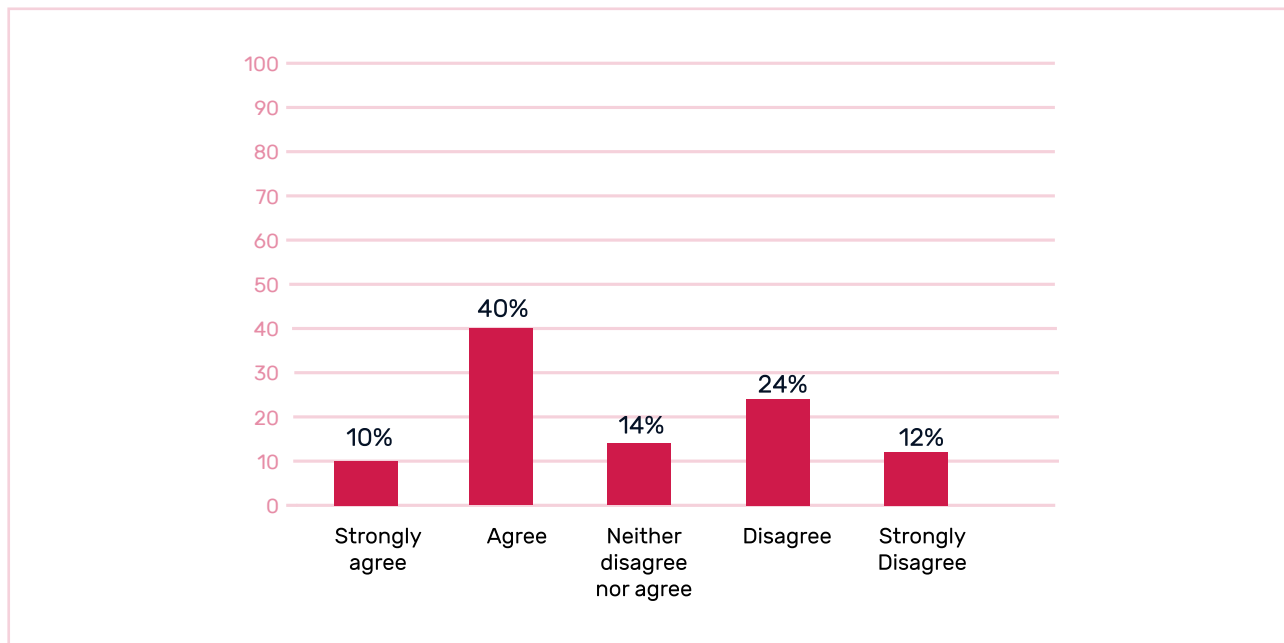


Figure 9: There are sufficient laws in our criminal justice system to protect and support victims of CSGBV, but they are not implemented efficiently

Amongst the existing laws that can be used to address CSGBV in Sri Lanka, the law that most lawyers admitted to applying in such cases is the Obscene Publications Act. The Act covers obscene matter or things kept in one’s possession for purposes of business (SFCG, 2023). Although the Obscene Publications Act was cited as the most commonly used law by participants, they also acknowledged there are major gaps in this law that prevent victims/survivors from taking forward cases to court in the instance that the victims/survivors shared explicit images/videos or are in possession of such explicit images/videos. This is because, depending on how the law is interpreted, the victim/survivors can also be prosecuted for having such material in their possession. One of the experts interviewed gave this example:

*“If a victim approaches us and reveals that they sent explicit videos to their ex-partner during their relationship, and now these videos have been shared on platforms like Telegram or Facebook, we often refer to*

*Section 2, subsection 2, which specifies that, for the purpose of trade, distribution, or public exhibition, making, producing, or having possession of such content is an offence. Even having a nude picture or video on your phone can be considered an offence”*

*KPI, F, CSO Actor/Lawyer, Colombo*

However, other lawyers also argue that merely having “obscene” material in one’s possession is not an offence unless and otherwise such is used for the purposes of “trade or for distribution or public exhibition to make or produce” (Section 2 (2) (a) of the Obscene Publications Act). This shows that the broad interpretation of the law by lawyers themselves may cause ambiguities and thereby result in arbitrary use of the law according to personal interpretations (Samarakoon et al, 2021).

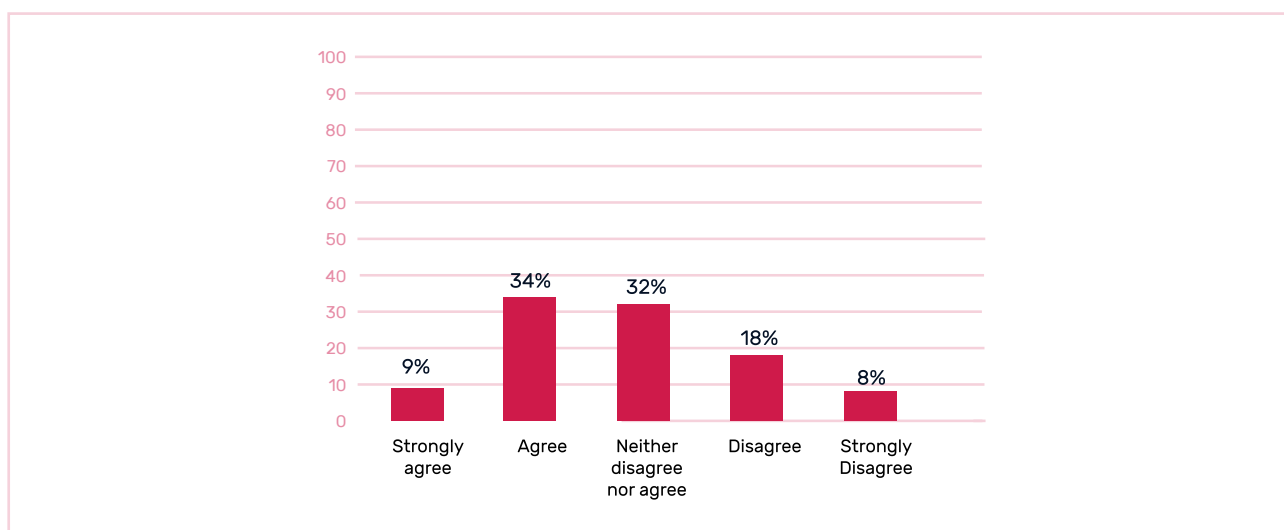
Additionally, as one expert explained, because the Act does not define the terms used, the

ambiguity and subjectivity of terms like “obscene” and “indecent” make it challenging to determine what constitutes an offence under such laws. For example, the Act suggests that having certain types of explicit images could potentially make someone liable under the law. This ambiguity leads to confusion and fear, as individuals may worry that even consensually sharing intimate images with trusted partners could be interpreted (considered) as an offence. The lack of clear definitions for terms like “obscene” further complicates matters. What one person considers obscene might be viewed as entirely acceptable or non-offensive by another. Flipped around, the issue also manifests when the pictures may not be “obscene” in nature, but the words and captions attached to the image disseminated may be derogatory and abusive, and cause harassment to the victim/survivor (Perera and Wickramatunge, 2019). Ultimately, therefore, the interpretation of what is obscene often relies heavily on the judges’ discretion in each case. Their views and perceptions become critical factors in deciding whether an offence has occurred. This issue of how judges interpret the law was also studied in the survey where respondents expressed mixed views about the judges’ level of understanding of applicable laws related to CSGBV. Whereas 53% of the sample agrees with the statement (strongly agree – 12%; somewhat agree – 41%), 22% of the sample disagrees (strongly disagree – 18%; disagree – 4%) and 25% remains neutral on this statement.

Perceptions regarding other existing laws were also shared by participants. For example, the

Computer Crimes Act No.24 of 2007 is considered the foremost law in Sri Lanka that guides investigations against online and social media platforms (Perera et al, 2021). While this Act deals primarily with computer-related crimes and hacking offences and does not explicitly deal with content-related offences such as non-consensual intimate image sharing (NCII), child pornography and harassment perpetrated via digital tools, it can be used in conjunction with other laws to prosecute cases of CSGBV (Samarakoon et al, 2021). One expert interviewed shared that this Act tends to be more applicable to cases involving distribution, unlike the Obscene Publications Act which applies to any situation where obscene materials are involved.

Additionally, survey respondents were asked about the adequacy of protective measures available to victims and survivors of CSGBV under the current Assistance to and Protection of Victims of Crime and Witnesses Act No.04 of 2015. The responses show mixed results, with 43% agreeing with the statement and 26% disagreeing with it, respectively. Unlike responses generated for any of the previous statements, 32% of the sample remained neutral to this statement (see Figure 10). An expert interviewed also agreed that though the Act, on paper, provides extensive protection for victims, there may however be challenges when it comes to implementing it. This could also explain why one-third of respondents neither agreed nor disagreed regarding the adequacy of the protective measures available under the current Assistance to and Protection of Victims of Crime and Witnesses Act.



10: The protective measures available to victims and survivors of CSGBV under the current Assistance to and Protection of Victims of Crime and Witnesses Act, No. 04 of 2015 is adequate

### 4.2.1 LAWYERS' PERCEPTIONS REGARDING LEGAL REFORMS

Despite agreeing that existing laws are sufficient to address CSGBV, many participants expressed the need for laws to be reformed in order to address cases of CSGBV directly and more effectively. 86% of survey respondents agree that legal reforms to existing laws are needed to protect, as well as to support, victims of CSGBV. 10% of respondents remain neutral about their perception of the need for legal reforms. More female lawyers agree with this statement (87%) than their male counterparts

(81%), and the majority of those who disagree with this statement are male lawyers (19%). Some lawyers interviewed expressed the view that until the laws are reformed they cannot fully support victims/survivors in cases related to CSGBV. As one expert interviewed stated:

*“Until the law changes, and only the person leaking the picture is held liable, it’s challenging to fully support victims”*

*KPI, CSO Actor/Lawyer, Colombo*

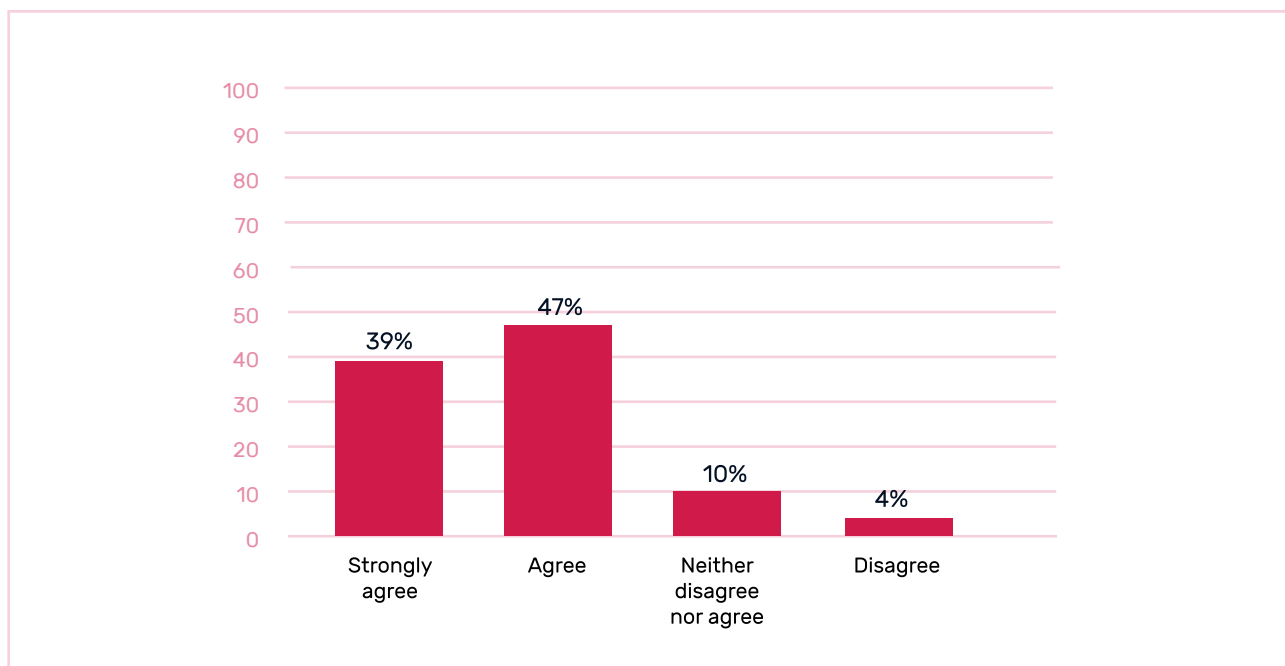


Figure 11: Legal reforms to existing laws are necessary to protect and support victims of CSGBV

In fact, many experts, NGOs and lawyers had sat in consultations to develop the proposal for reforms. The reforms suggested by civil society have also proposed new, direct laws to address specific issues such as doxing, online stalking and non-consensual intimate image sharing (NCII) (KPI, F, Lawyer/CSO Actor, Colombo). 93% of survey respondents consistently agree that new laws and legal provisions are needed to protect and support victims of CSGBV. 3% and 4% of respondents, respectively, disagree with and remain neutral to this statement (see Figure 12). The degree of agreement with this statement is more pronounced among female lawyers (93%) as opposed to their male counterparts (83%).

Whilst other online-related laws have been set forth by successive governments, some lawyers interviewed believe that these laws are bordering on curtailing freedom of expression. One such law that was put forth to parliament recently was the Online Safety Bill (OSB). Whilst lawyers were unable to comment on the OSB (as the data was collected prior to the OSB gazette), there has been serious pushback regarding aspects of the OSB that can jeopardise freedom of expression (CPA, 2023; Rajapakse, 2023; ICJ, 2023), and the OSB has since been withdrawn to be refined.

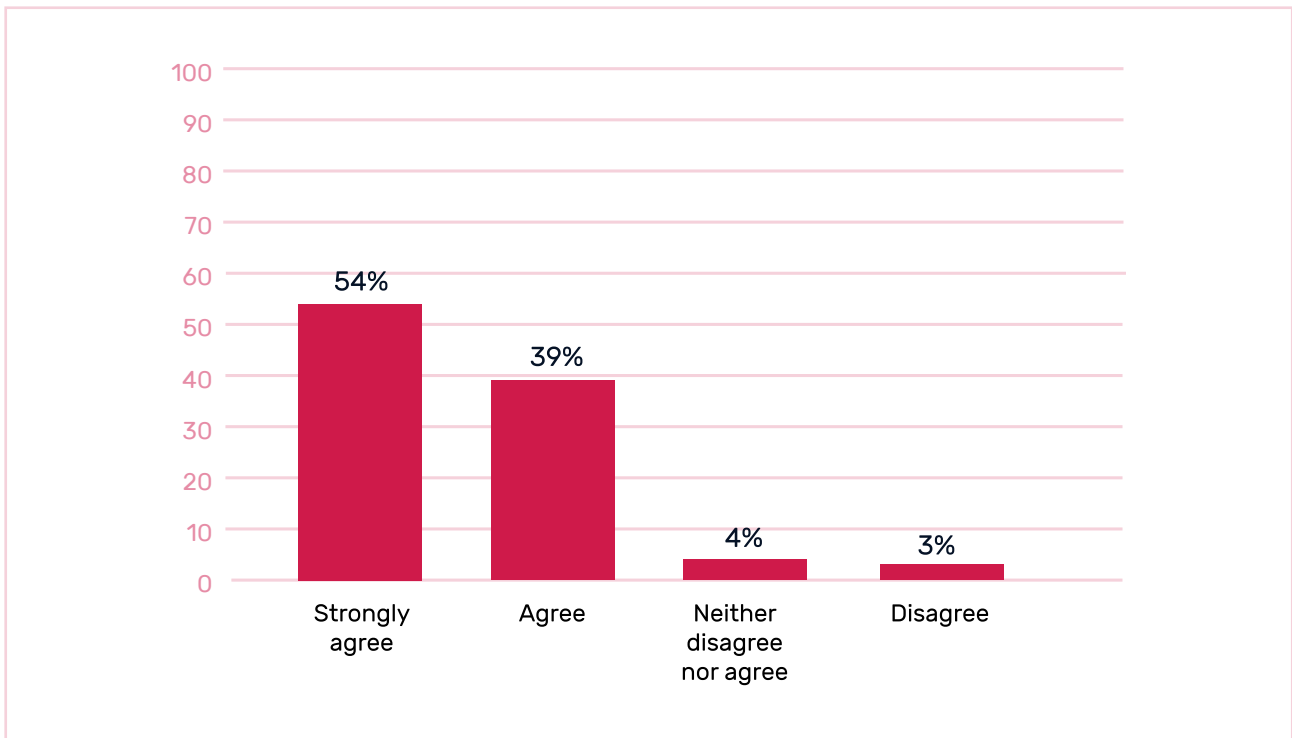


Figure 12: New laws and legal provisions are necessary to protect and support victims of CSGBV

#### 4.2.2 LIMITATIONS IN PURSUING CSGBV CASES IN COURT

Most lawyers interviewed suggested that very few cases proceed to court, and there may be several reasons for this. Firstly, lawyers perceive that a victim-centric approach is lacking in Sri Lanka, specifically when it comes to the procedural aspects that may create a non-conducive environment for victims in pursuing cases in court. For example, there is generally no privacy for the victims in a courtroom, where the images/material in evidence may be shared with the court, which can potentially lead to revictimisation. Even though provision does exist under Article 106 (1) of the Constitution for individuals unrelated to the case to leave the courthouse at the discretion of the judge, some lawyers perceived that even with these provisions the victims/survivors may still be uncomfortable. The following quote demonstrates this issue:

“The judge can ask others to leave the courtroom, but existing (attending) lawyers and personnel must remain. This lack of privacy can further traumatise the victim” - KPI, F, Lawyer, Colombo

Whilst some lawyers suggest *“more comfortable mechanisms, such as allowing victims to provide video statements to avoid the need to come to*

*court”* (FGD, M, Lawyer, Kurunegala), the victim/survivor not being present in court can violate some of the key fundamental rights provisions in the Constitution on Fair Trial (Article 13); being able to cross-examine the victim/witness is essential in a fair trial.

Additionally, the time taken to pursue a court case may prevent victims/survivors from taking cases to court. A general trend observed by most lawyers interviewed is that victims/survivors seek quick solutions to make harmful content disappear. A CSO actor who works closely with the police gave the example that sometimes the police do not take the cases to court because of the paperwork and time involved, but most often victims/survivors withdraw the complaint because it takes too long to resolve the issue. Therefore, they try to settle it outside of court. The survey findings also reiterate that 87% of survey respondents agree that the amount of time and effort spent to process a case through law enforcement agencies, such as the police and the courts, discourage victims from reporting cases of CSGBV (see Figure 13). However, according to an expert interviewed, settling the issue outside of court may also be the most cost-effective option for both victims/survivors and suspects, and is usually done with the consent of the victim/survivor.

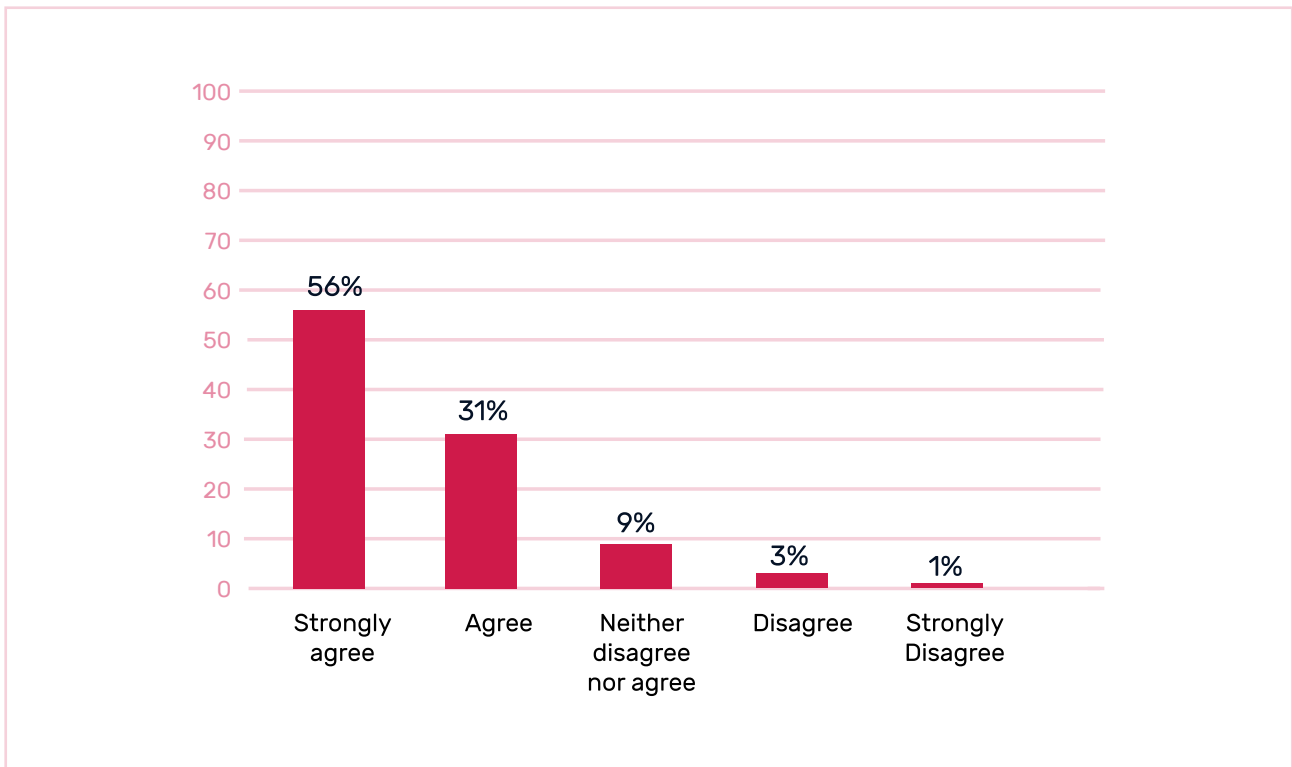


Figure 13: The amount of time and effort spent to process a case through the police and to the courts discourage victims from making a complaint about an incident of CSGBV

Similarly, there are some processes followed when it comes to CSGBV cases that are not practical. For example, the victim/survivor's phone will be taken away during the duration of the investigation and court proceedings. While this may not be an issue for some victims/survivors, for example when they are able to solicit a secondary phone, for others it is an obstruction. As one lawyer from Matale said:

*"In rural areas, victims often hesitate to file a case because they fear having their phones confiscated, and they face significant pressure"*

*FGD, F, Lawyer, Matale.*

Furthermore, lawyers interviewed perceived that there is a general lack of accountability for the perpetrators, and they are sometimes let off easy when it comes to CSGBV cases. One example was recounted by a lawyer interviewed as follows:

*"It (was) frustrating (for) the victim; she was working for a wedding planner and one of the vendors was harassing her by sending her unsolicited inappropriate images on WhatsApp/Viber. She went and complained, then it became a big sob story about him being the main breadwinner of the family and so on. And the judge was also [omitted - term suggesting judge was insensitive and biased], saying he only made one mistake"*

*FGD, F, Lawyer, Colombo*

This is one of many examples that suggest that there is a notable absence of accountability for those who commit CSGBV-related crimes.

*"It's often the victim who suffers the consequences, reinforcing the idea that men can act with impunity. We need a system that holds individuals accountable for their actions, particularly in cases of online harassment"*

*KPI, F, Lawyer, Colombo*

These practical challenges and the lack of a victim-centric approach may explain why victims/survivors sometimes look for a simpler solution than pursuing the case in court. In most cases, lawyers interviewed have noted that their clients only want the compromising material deleted. As one lawyer interviewed reiterated:

*“What they wanted wasn’t some grand intervention. It was often something like an apology or acknowledgment, but it varied from person to person”*

*KPI, F, Lawyer, Colombo*

Lawyers interviewed also recognised that the police can often achieve this by issuing a warning, which also explains why most CSGBV cases are settled outside of court. Whilst some lawyers agreed that taking the case to court may not be necessary and that finding alternative ways of solving it may be adequate, some participants strongly advocated for cases to be pursued in court, for real justice to prevail, and to ensure that the offences would not be repeated.

Having outlined the challenges, it is worth pointing out that whilst many CSGBV cases do not proceed to court for the reasons discussed above, lawyers interviewed did share instances (albeit very rarely) that there have been successful interventions through the court, but this comes with a lot of effort and perseverance from both lawyers and victims/survivors.

### 4.3. LAWYERS’ PERCEPTION OF LAW ENFORCEMENT RESPONSE TO CSGBV

This section covers how lawyers perceive the effectiveness of law enforcement response mechanisms, including the local police stations, Women’s and Children’s Bureau and the Computer Crimes Investigation Division (CCID). It delves into some of the key challenges that limit the effectiveness of law enforcement in addressing cases of CSGBV. Some of the challenges discussed include the lack of knowledge and awareness, the limited resources and capacities, and the risk of revictimisation. There is a separate discussion on how state response mechanisms are relatively more effective.

#### 4.3.1. LAWYERS’ PERCEPTIONS OF POLICE RESPONSE

With the legislation, discussed above, in place, it should be relatively easy for victims/survivors of CSGBV to access justice. However, the reason most victims/survivors do not pursue cases, much less report incidents of online violence, is because law enforcement has a long way to go in responding to cases of CSGBV and treating victims/survivors in “an empathetic and humane manner” (Perera and Wickramatunge, 2019). Therefore, the following section discusses findings related to lawyers’ perceptions about the effectiveness of the police in responding to cases of CSGBV.

Often the police are the first point of contact a victim/survivor would approach in cases of CSGBV. Whilst not all victims/survivors approach the police as a first resort, the police do play an integral role as first responders and in investigating the case prior to proceeding to court. Therefore, this study asked lawyers about their perceptions of the police response to such situations when victims/survivors are faced with CSGBV.

Lawyers interviewed shared experiences of successful interventions carried out by the police. The following experience was recounted by a participant:

*“This girl was being messaged and she was being blackmailed and then what the police did was... they said ‘from the conversation happening now from x time to x time, we will be the one messaging on behalf of her’. Then they told him to come to this public place. I think it was a public beach in Matara... they (had written in their record book) how they got that person to come and then captured him”*

*KPI, F, Lawyer, Colombo*

In situations where there is identifiable information about the perpetrators, some lawyers say that the police have been helpful and even successful in finding the perpetrator. They may then proceed to give a verbal warning and/or compel the perpetrator to delete the material. However, this approach may not guarantee that the case proceeds to court and that the offence



will not be repeated. The process may not be as efficient or straightforward in instances where the perpetrator uses fake accounts and is anonymous. Some of the reasons for these gaps in the police response mechanism will be discussed below.

### Limited knowledge of CSGBV

One of the persistent issues that many lawyers mentioned was the lack of knowledge and skills on the part of the police in effectively responding to cases involving CSGBV. It seems to be more so the case out of Colombo, as many lawyers who work with police officers outside of Colombo have also expressed this is a major issue.

*"It's quite revealing that during a training program in Kilinochchi, some police officers with decades of experience admitted that they had never dealt with a cyber sexual gender-based violence case in their entire careers"*

*KPI, F, Lawyer, Colombo*

The survey findings also reiterated this, with very little agreement with the statement that 'the Sri Lanka Police understand the definition, scope, and manifestations of CSGBV'. 62% of the survey respondents disagreed with this statement. 23% of the sample neither agrees nor disagrees (see Figure 14). Like the previous statement, more survey respondents (62%) disagree with the statement that Sri Lanka police possess the necessary and adequate legal knowledge to handle complaints regarding CSGBV. While 17% agree with this statement, 21% show neutrality (see Figure 15). This may not be surprising as the educational qualification required to become a police officer is a minimum completion of G.C.E Ordinary Level Examination with six passes, including four credit passes (Gazette, 2021). There is no requirement of any legal knowledge. Consequently, many lawyers and CSO actors interviewed have shared instances where they have had to step in and help the police in identifying legal avenues available to take forward a case.

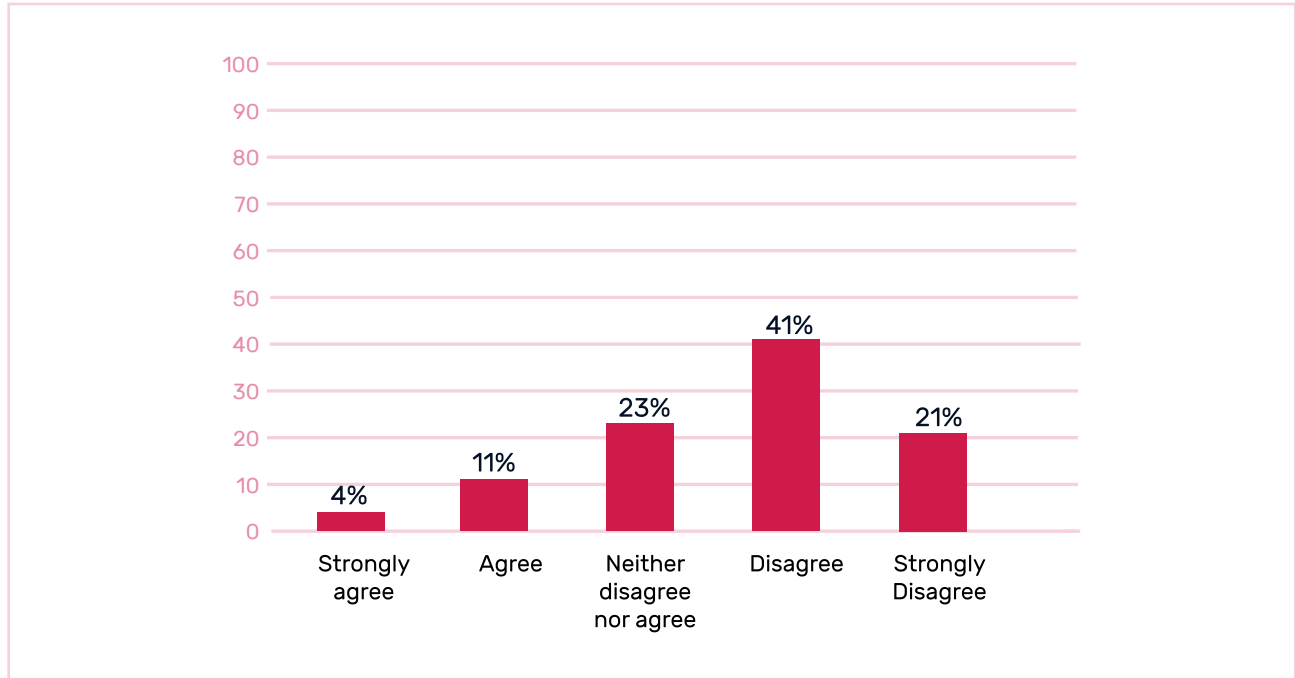


Figure 14: Sri Lanka Police understand the definition, scope and manifestations of CSGBV



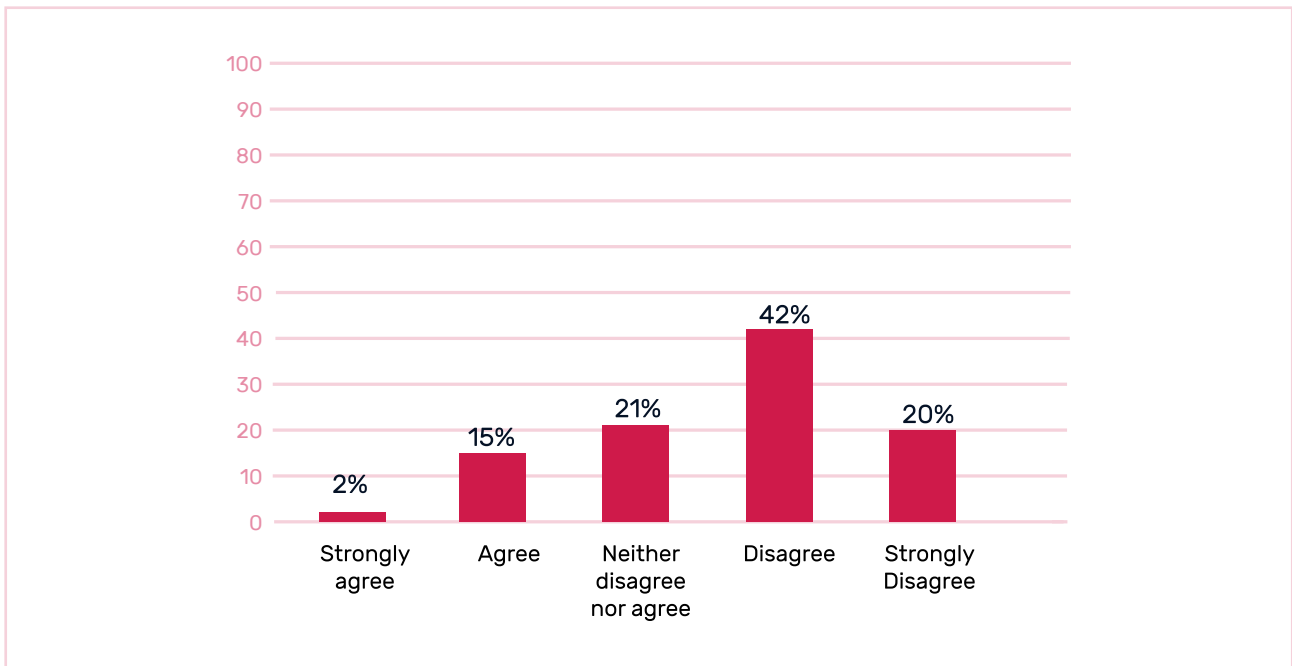


Figure 15: Sri Lanka Police possess the necessary and adequate legal knowledge to handle a complaint regarding CSGBV

### Limited resources and capacity

A study by CPA, Ghosha, #Generation (2019) has identified a general lack of resources and capacity within law enforcement and state institutions to address online violence (Perera and Wickramatunge, 2019). Some lawyers interviewed also expressed that limited resources and capacity of the police lead to significant delays in investigating cases. One of the reasons cited for this delay is that police stations are sometimes understaffed and officers may have to be diverted elsewhere, especially when there are protests or critical events (that have been common in the past few years). As some lawyers interviewed expressed, there is also no proactive action taken to investigate cases because of the lack of resources. This is when the services of lawyers become necessary to take the process forward. Delays can also be attributed to a lack of motivation, as identified by some lawyers interviewed. As well, this lack of motivation may be linked to the limited financial compensation that state employees get for their work. This, by extension, applies to the police too, and it can not only cause lack of motivation but also create issues of corruption.

The issue of limited resources and capacity at local police stations, coupled with the lack of knowledge and understanding on dealing with CSGBV cases, leads to victims/survivors and

lawyers approaching the CCID as a first resort. However, as some lawyers have explained, most cases do not need to be directed to the CCID, and the quote below illustrates this point:

*“Not all cybercrime cases necessarily need to be handled by the Criminal Investigation Department (CID). Many of these cases, especially those involving threats, blackmail, or similar offences, can be addressed at the local police station. However, the challenge lies in ensuring that local police are adequately trained and equipped to handle such cases effectively”*

*KPI, CSO Actor/Lawyer, Kurunegala*

This, then, causes delays and bottlenecks at the CCID, especially when it comes to more complex CSGBV-related crimes that may require their assistance. One expert who works closely with the police explained the situation further:

*“So if you’re going to take a victim to court, it will be difficult if you want to further the complaint essentially. It has to be filed with the CCID, and that then causes a bottleneck because you have cases from all over the country essentially ending up in one place,*

*and even though the CCID has 3 branches at the moment, it's not necessarily fast-moving and that's definitely a big issue"*

*KPI, F, CSO Actor, Colombo*

Some lawyers have experienced cases where the CCID has turned back victims/survivors and asked them to approach the police instead. The experiences of dealing with the CCID will be discussed in section 4.3.2.

Another side-effect of the lack of resources, capacity and motivation is that the police sometimes deprioritise CSGBV cases and place more importance on other cases, thus leading to complaints not being recorded, losing out on evidence, or victims/survivors being turned away. This also extends to the higher institutional and law enforcement levels where greater priority is given to other cases. This, then, trickles down to the first responder level.

*"At the higher criminal investigation level, you see someone spring to action the moment it's something important but not for (CS)GBV"*

*KPI, F, Lawyer, Colombo*

However, many lawyers have indicated that law enforcement is much more efficient, and that it prioritises CSGBV cases involving minors. This will be discussed further in section 4.3.4.

### **Risk of revictimisation at the hands of police officers**

Victims/survivors of CSGBV who try to seek justice and redress for online violence face many barriers, of which the patriarchal and sexist attitudes of law enforcement agents (Perera and Wickramatunge, 2019) are the main challenges. Almost all participants interviewed expressed the view that one of the main issues when dealing with the police regarding CSGBV cases is the victim-blaming/shaming that leads to the possibility of revictimisation. This has meant that victims are reluctant to approach the police when faced with CSGBV. The survey findings also show this trend as the majority of the survey respondents (80%) agree that victims of CSGBV are re-victimized through shaming and judging by Sri Lanka Police during the process of filing a complaint. Among the remaining one-fifth of the sample, the majority (12%) remains neutral to this statement. 7% of the sample disagree (see Figure 16).

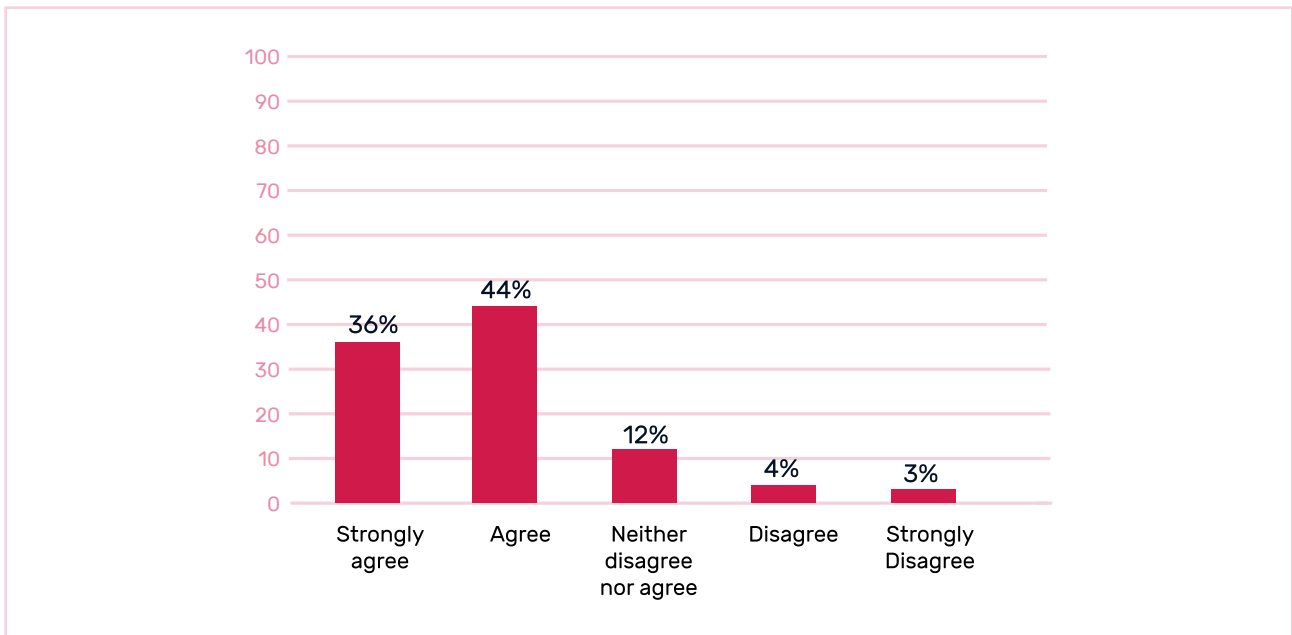


Figure 16: Victims of CSGBV are re-victimised through shaming and judging by Sri Lanka Police during the process of filing a complaint

Revictimisation happens due to several factors, one being that the police tend to judge women and girls based on their appearance, so they arrive at premature conclusions about the victim/survivor and about the case itself. As one lawyer explained:

*“The police often focus on factors like your attire, hairstyle or hair colour, and they may blame you for what happened, suggesting that you deserved it”*

*FGD, F, Lawyer, Colombo*

Victims/survivors often encounter judgmental attitudes during police interrogations, especially in cases involving leaked intimate images. Instead of delving into the crime itself, the police might question the victims about their motivations for sharing such images, implying that the victims themselves might be at fault. Such attitudes can be discouraging for the victims and may lead them to consider withdrawing the case due to the added emotional distress and perceived lack of support (Perera and Wickramatunge, 2019). As one lawyer interviewed highlighted:

*“In Sri Lanka, moral policing often takes precedence over proper law enforcement. This is evident when victims of image-based abuse are judged for their actions rather than being treated as victims”*

*KPI, F, Lawyer, Colombo*

The lawyers interviewed perceive that LGBTQIA+ persons are harassed more vehemently just because of their gender identity or sexual orientation. In fact, access to justice and remedies are even more difficult for LGBTQIA+ persons due to the criminalisation of homosexuality in Sri Lanka and the lack of full recognition of diversity of sexual orientation and gender identity and expression (SOGIE) (Perera and Wickramatunge, 2019). One lawyer interviewed explained this issue as follows:

*“Young gay boys and gay men can encounter extreme difficulties in reporting. In cases where they engage in consensual sexual activities that later become threats, videos*

*are recorded, or intimate content is leaked, they often find it extremely challenging to approach the police and disclose their experiences. Therefore, they struggle to use existing mechanisms”*

*KPI, F, CSO Actor/Lawyer, Kurunegala*

Revictimisation can also occur due to the lack of privacy and respect given to victims/survivors who approach the police to make a complaint. Most lawyers interviewed have encountered experiences where police officers tend to sensationalise the situation and invite many other police officers to see the material at hand. This is mostly common in cases involving the sharing of explicit images and in NCII cases. The following quote by a participant expresses this issue further:

*“This lack of sensitivity becomes a significant barrier for victims who may feel uncomfortable showing intimate images to random police officers. There’s a fear that these images could be mishandled or shared among officers”*

*KPI, F, Lawyer, Colombo*

In rural areas, the situation is even more dire since in close-knit communities the victim/survivors refuse to make a complaint because of the fear that their situation will be exposed to the entire community by the police. A lawyer who works with clients from rural areas across Sri Lanka narrated:

*“Clients from rural areas often raise concerns such as, ‘How can I tell the police? What will my family say?’. They are discouraged from going to the police due to the potential consequences. Even when we advise them to file a police complaint, they often hesitate because they fear that the situation will turn into a public spectacle”*

*FGD, F, Lawyer, Colombo*

These examples are only a handful from the plethora of experiences on revictimisation that were shared by lawyers interviewed. What is most

concerning is that the risk of revictimisation deters many victims/survivors from seeking help or justice, and this problem extends beyond CSGBV to various other forms of abuse. There may be many reasons for law enforcement's behaviours and attitudes that negatively affect the experience of victims/survivors when reporting cases relating to CSGBV and prevent victims/survivors from reporting cases. However, examining the psyche and behaviours of law enforcement is beyond the scope of this study, and warrants further study that can inform future interventions.

### 4.3.2. LAWYERS' EXPERIENCES OF DEALING WITH THE WOMEN'S AND CHILDREN'S BUREAU

Women's and Children's Bureau is a specialised unit within the police that handles cases related to the abuse of children and women (Samarakoon et al, 2021). Most lawyers interviewed advise their clients to approach the Women's and Children's Bureau or the Women and Children's Desk at local police stations as a first point of contact for CSGBV cases. But lawyers have noted that not many victims/survivors are aware of the existence of such a specialised unit, and this seems to be more common in rural areas. As some lawyers interviewed explained, the Women's and Children's Desk is usually at the far end of the police station premises, leading to victims/survivors having to recount their experience to countless other police officers before getting to the desk proper. However, once they get to the desk, the general feedback about how these specialised police officers handle CSGBV cases and help victims/survivors has been mostly positive because they often have more capacity to sensitively work with victims of violence (Perera and Wickramatunge, 2019). A lawyer gave an example of a case that, in her opinion, was handled well by the Women's and Children's Bureau:

*"The Bureau demonstrated impressive effectiveness by assisting in the arrest and remand of the perpetrator, following a plan they devised in collaboration with us and the client. The case is currently in the trial stage at the Magistrate Court, which is a rarity in my experience, as most cases are typically resolved at the police level"*

*FGD, F, Lawyer, Colombo*

Lawyers have also shared that the Women's and Children's Bureau usually charges the perpetrators with sexual harassment, which then leads to legal proceedings. However, the Bureau may generally redirect cases of online violence to the Computer Crimes Investigation Division (CCID) (Perera and Wickramatunge, 2019) which has its own challenges, especially in relation to access for victims/survivors who want to file a complaint. This will be discussed in detail in section 4.3.3.

Despite the positive feedback, it would seem that the Bureau too deals with challenges in relation to limited resources and staffing. Although every police station is supposed to have a permanent Women's and Children's Desk, lawyers have recounted experiences where the desk at police stations sometimes remains unmanned, or is manned by a male police officer who may not be trained to deal with CSGBV cases or may refer to a senior male officer to get advice on the matter. This may cause discomfort to the victim. One of the participants explained why referring the case to a male officer may be a challenge:

*"Unfortunately, male officers may not always be as sensitive or trained in handling these cases. Efforts have been made to make these desks exclusive for trained personnel, but there are still challenges"*

*FGD, M, Lawyer, Colombo*

However, most lawyers have expressed that even with the limited resources the Bureau is effectively handling cases, and they highly recommend that victims/survivors approach the Bureau to lodge complaints relating to CSGBV.

### 4.3.3. LAWYERS' EXPERIENCES IN DEALING WITH THE COMPUTER CRIME INVESTIGATION DIVISION (CCID)

The primary authority handling cases of CSGBV is CCID, which is a specialised department under the direct supervision of the Criminal Investigation Department (CID) (Perera and Wickramatunge, 2019; Perera et al, 2021). Whilst complaints can also be made to the local police station, if the case is to proceed to court, the complaint must ultimately be filed with the CCID. Whilst some lawyers interviewed expressed the view that the CCID is relatively proficient in conducting

investigations, there are challenges that may hinder an effective response. Some of these challenges and limitations are discussed below.

Apart from issues such as victim shaming/blaming that were discussed above, one of the main challenges is the inefficiency of the CCID in addressing the cases. This inefficiency was perceived in various ways. Some lawyers interviewed perceived that the CCID pays attention to and appears to play a more active role in the investigation of more significant cybercrimes like the distribution of sexually explicit content. This suggests that the CCID's involvement depends on the complexity and severity of the cybercrime reported. Some others suggested that the readiness or promptness to respond and proceed with cases depends on the connection the lawyer has to the CCID.

*"If you have the right connections, you can file a complaint, follow up and get results within 24 hours. However, if you lack those connections, it can take more than a month..."*

*FGD, M, Lawyer, Colombo*

Another reason for the delays in processing cases is due to the caseload the CCID has to deal with. Since all cases are ultimately filed with the CCID, a significant bottleneck is created. This could also be attributed to the limited resources of the CCID. Some lawyers expressed that some of the CSGBV cases they have to deal with require highly technical knowledge which not many at the CCID possess. For example, they may not have the tools to remove harmful content quickly, and may sometimes not have the authority to do so. This example was shared by one of the lawyers interviewed:

*"On Facebook, we can report the relevant posts containing intimate photos or videos as they often violate Facebook's rules and regulations. However, when it's just an image being shared around, people can't report it, and the content keeps circulating. Involving the CCID can be a lengthy process, and unless there's a compelling reason for expedited action, it can take two to three months, during which time the damage may*

*already be done"*

*FGD, M, Lawyer, Colombo*

Additionally, there are issues arising from Sri Lanka's non-ratification of certain international conventions, which prevent the CCID from accessing critical information required for an investigation. For example, one notable issue Sri Lanka faced was the absence of a reciprocal agreement, which meant that certain data from platforms like Facebook or Instagram, even when an IP address was traced, did not have to be shared with Sri Lankan authorities (FGD, M, Lawyer, Colombo).

### **Limitation in accessing the CCID**

Another limitation is the lack of accessibility to the CCID, especially for victims/survivors who reside outside of Colombo (Perera and Wickramatunge, 2019). The main branch of the CCID is in Colombo, with three other branches in Matara, Kandy and Ampara. Although the local police are accessible to victims/survivors, some prefer to go directly to the CCID to get a solution. However, this still poses issues for those from rural areas who may have to travel a long way if they have to resort to lodging a complaint at the CCID. Although complaints can be lodged via email, some lawyers suggested that processing times can still be lengthy, and not all victims/survivors may have the digital literacy to follow this process. Adding to this, a lawyer shared that she never received a response when she used this mechanism. As she narrated:

*"There was a case of homophobic content being spread around. We compiled evidence and details of the incidents in these emails. However, this approach has proven to be ineffective, because we sent numerous emails regarding that homophobic content, but we never received a response"*

*KPI, F, Lawyer, Colombo*

The survey findings also show that there seems to be a consensus that government response mechanisms available for reporting cases of CSGBV – such as the CCID – need to be better accessible for victims from districts outside of Colombo, with 85% of survey respondents



agreeing with this statement, whilst 12% remain neutral to the statement and a negligible 3% disagree. The gendered disaggregation of

responses to the statement shows more female lawyers agreeing with this statement (89%) than their male counterparts (75%) (see Figure 17).

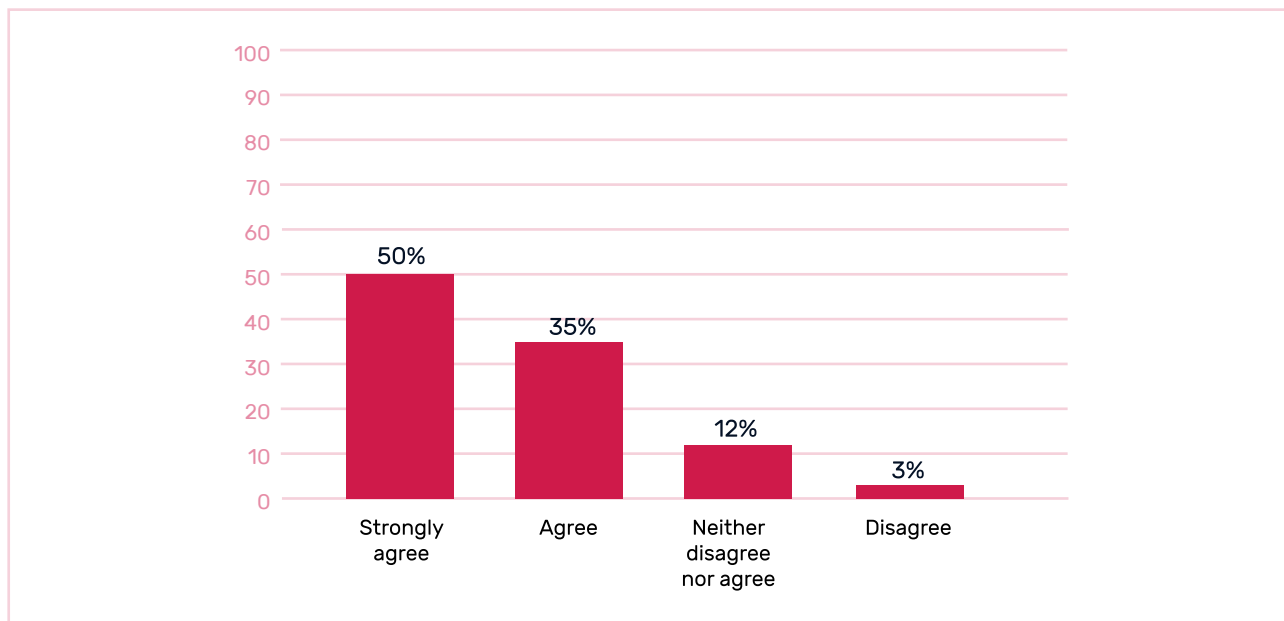


Figure 17: Government response mechanisms to CSGBV (such as the CID Cyber Crimes Branch) need to be better accessible for victims from districts outside of Colombo

#### 4.3.4. LAWYERS' PERCEPTIONS OF STATE RESPONSE MECHANISMS IN DEALING WITH MINORS

With rapidly increasing internet penetration levels in Sri Lanka (from 27.5% in 2017 to 66.7% in 2023), more young people have been engaging in online platforms, and are also more vulnerable to violence (Perera and Wickramatunge, 2019) (as discussed in detail in section 2.3). Therefore, lawyers were specifically asked about their experience dealing with cases involving minors.<sup>3</sup> Most lawyers approach the National Child Protection Authority (NCPA) which advises government on policies and laws on the prevention of child abuse and the protection and treatment of children who are victims of such abuse. The NCPA also monitors action against all forms of child abuse (Samarakoon et al, 2021). Lawyers perceived that NCPA has trained staff to deal with children, and that the NCPA has a police department and an

investigation unit that follows a separate process when it concerns minors. Some lawyers also lodge complaints at the Women and Children's Desk at local police stations or with the CCID (discussed in sections 4.3.2. and 4.3.3, respectively). Overall, most lawyers interviewed who have had experience dealing with cases involving minors indicated that the response system for dealing with minors is much more sensitive than when dealing with adults, and some lawyers perceived that higher priority is given to cases involving children.

Even so, there is space for improvement, especially in relation to protecting a child's mental wellbeing. As one lawyer explained, even though the Women and Children's Bureau may have a separate area for children it is not a child-friendly, comfortable, or private environment. Similarly, even though in court hearings a child's identity is largely protected it is still challenging, given the open-court system and the public nature of the

<sup>3</sup> There is no single legal definition of the state of being a child/minor under Sri Lankan law. The Children's Charter has defined the child as a person under 18 years of age. However, different laws interpret the age of minors differently. For the purpose of the administration of justice the Children and Young Persons Ordinance (1939) of Sri Lanka defines a "child" as a person under the age of 14 and "a young person" as a person between 14 and 16 years (UNICEF, 1994). For the purpose of this study, anyone under the age of 18 is considered a minor.



hearings. However, one lawyer gave the example of video testimonials/statements that have been used more commonly for children:

*“For example, the NCPA has facilities for recording a child’s statement as a video, which can be played in court to spare the child from appearing in person. However, this approach is less common for adults”*

*KPI, F, CSO Actor/Lawyer, Colombo*

However, the downside is that these protections and provisions that are available to children are not extended to adults. As one lawyer noted, most children who are victims of CSGBV come forward only after they have become adults, as either fear or unawareness prevents them from doing so earlier. As one lawyer explained:

*“But the problem is a lot of children come forward after they’ve become an adult, even if the pictures were circulating when they were 13 or 14... Probably because (they are) too scared because (they are) too young. Quite a bit of this happens in the post-O/L years. Sometimes you only find out much later... or it could be something that was circulating while you were in school but you can’t do anything about it and then it comes up again”*

*KPI, F, Lawyer, Sri Lanka*

Whilst there are other mechanisms also to deal with CSGBV cases involving minors, the findings presented here represent the mechanism that the lawyers interviewed discussed. This could indicate either that they are unaware of the other services available for minors, or that they do not have experience dealing with those.

#### **4.3.5. IMPROVEMENT IN POLICE RESPONSE TO CSGBV DUE TO EXTERNAL INTERVENTIONS**

Despite these challenging experiences shared by almost all lawyers interviewed, some have also acknowledged that, over time, the police have been demonstrating a better understanding of how to deal with CSGBV cases. Some lawyers

attributed this to the multiple interventions in the development sector to sensitise police in dealing with CSGBV and related cases using a more gender-sensitive approach. For example, a CSO Actor interviewed who has been involved in training the Women and Children’s Bureau narrated how the trained officers had already started reflecting on their actions and how they can make the process easier for victims/survivors:

*“Initially, for example, they didn’t really think about the importance of psychosocial support being provided to a victim-survivor when they came to file a complaint. However, afterward (after the training), we witnessed an officer going up to a mental health service provider and asking for their contact details and forming that relationship with the idea of getting that person down when they had another victim”*

*KPI, F, CSO Actor/Lawyer, Colombo*

Some lawyers interviewed suggested that the police need more training in handling the cases in a sensitive manner because most often the local police officers are the first point of contact for many victims/survivors. As one lawyer reiterated:

*“They need to have the knowledge and skills to provide counselling without demeaning the child or woman involved, handle the case appropriately and treat them with dignity, regardless of their actions”*

*FGD, M, Lawyer, Kurunegala*

There is a general consensus among survey respondents as well that Sri Lanka police require training on CSGBV and a gender-sensitive approach to handle CSGBV cases efficiently and sensitively, with 88% agreeing to this statement (see Figure 18).

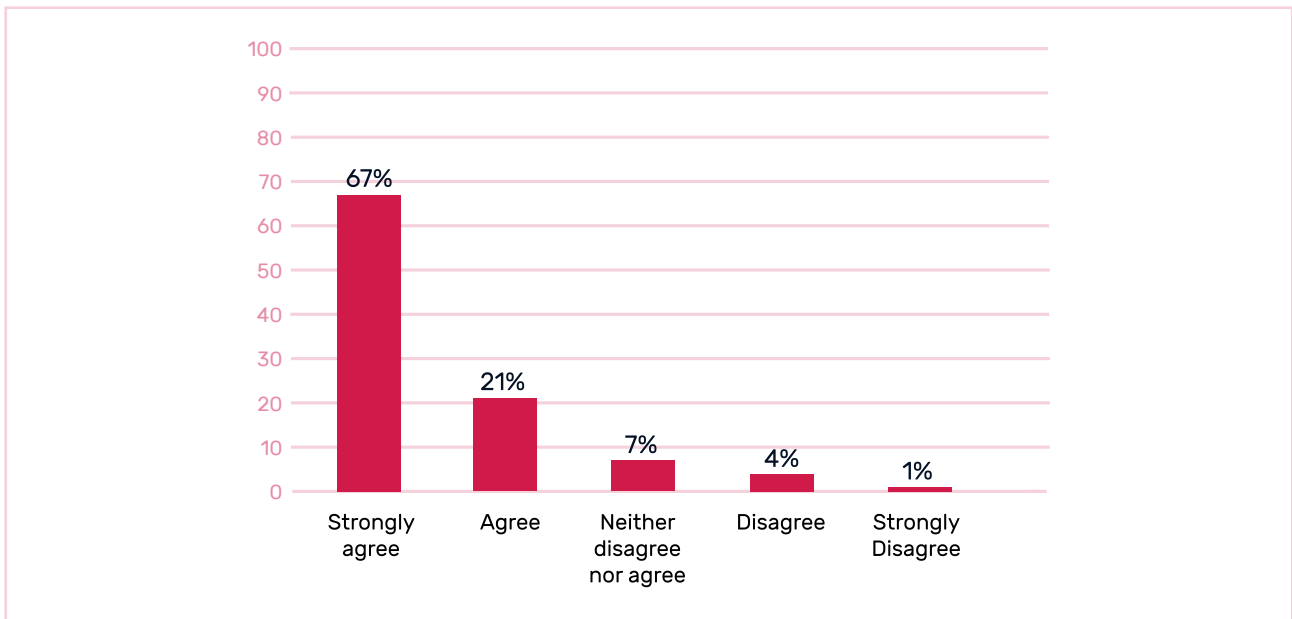


Figure 18: Sri Lanka Police require comprehensive training on CSGBV and a gender sensitive approach to handle CSGBV cases efficiently and sensitively

#### 4.4. LAWYERS' PERCEPTIONS OF PRIVATE RESPONSE SYSTEMS

This section discusses lawyers' opinions about the services given by private organisations and CSOs in addressing the issues of CSGBV, and what gaps they may perceive that need improvement.

More recently, civil society organisations have stepped in to set up private response systems and to provide support for victims/survivors of CSGBV. Some of these organisations and response mechanisms include Women in Need (WIN), Yeheliya, Delete Nothing, Prathya, #Generation, Grassrooted and iProbono amongst others. These organisations provide support in multiple ways, among which are creating awareness about dangers/consequences of CSGBV and about state response mechanisms; implementing helplines for victims/survivors to reach for psychosocial support; giving legal advice; providing legal support and pro bono legal services and accompanying victims/survivors to the local police station and/or CCID. Some lawyers emphasised the importance of the role played by CSOs in this regard:

*"In cases where the state falls short, it's essential for independent organisations and legal aid providers to step in and fill the gap, ensuring that individuals have access to legal resources and assistance"*

*FGD, F, Lawyer, Colombo*

The survey findings indicate that 72% of respondents agree that victims of CSGBV prefer to seek support through private organisations more than from government institutions such as the CID (see Figure 19). Female lawyers tend to agree with this statement more (73%) than their male counterparts (61%). As one participant stated:

*"Despite the existence of a complaint mechanism on the police website, it appears to be so ineffective that people often seek assistance from NGOs like ours"*

*KPI, F, CSO Actor/Lawyer, Colombo*

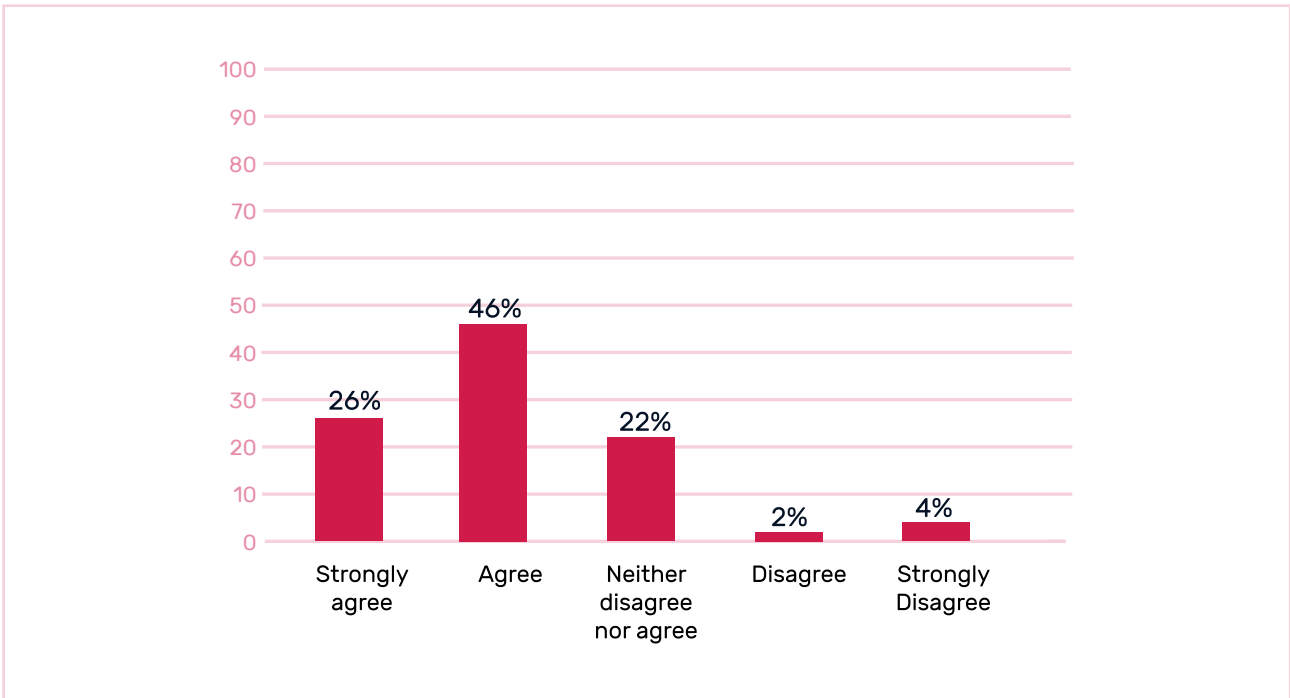


Figure 19: Victims of CSGBV prefer to seek support from private organisations (CSOs) more than from government institutions (CID)

Victims/survivors seek support from CSOs/ NGOs by either calling through helplines or by contacting them through social media pages. Sometimes, lawyers who are approached by victims/survivors but are unable to assist refer victims/survivors to CSOs as they believe they can provide reliable information and support. However, some others interviewed pointed out inaccuracies in what is sometimes shared by CSOs online. Some lawyers pointed out that there have been instances of misleading information when the law is not properly understood by CSOs/NGOs. The following example was given to illustrate this perception further:

*“This misconception has led to numerous posts made by NGOs on platforms like Instagram stating that it’s okay to send such pictures, but it really isn’t. We advise against it until the law is changed”*

*KPI, CSO Actor/Lawyer, Colombo*

Consequently, some lawyers also expressed that it is better to go to national authorities than to private response mechanisms because of issues relating to accountability and protection of privacy of victims/survivors.

However, other lawyers argued that, over time, NGOs/CSOs have built a level of trust and legitimacy and can be relied on to assist victims/survivors in the most genuine way possible. Others have also argued that for victims/survivors outside Colombo, CSO/NGO representatives might be their first point of contact. However, a lawyer from Kurunegala emphasised that apart from organisations in Colombo, most CSOs and community-based organisations outside of Colombo may not have the legal expertise in handling cases of CSGBV, or may lack awareness about response mechanisms. In fact, there has been overwhelming agreement regarding this in the survey where 92% of respondents agreed to the statement that ‘CSOs who work with gender issues, including CSGBV, require better legal support to assist victims who approach them’ (see Figure 20).

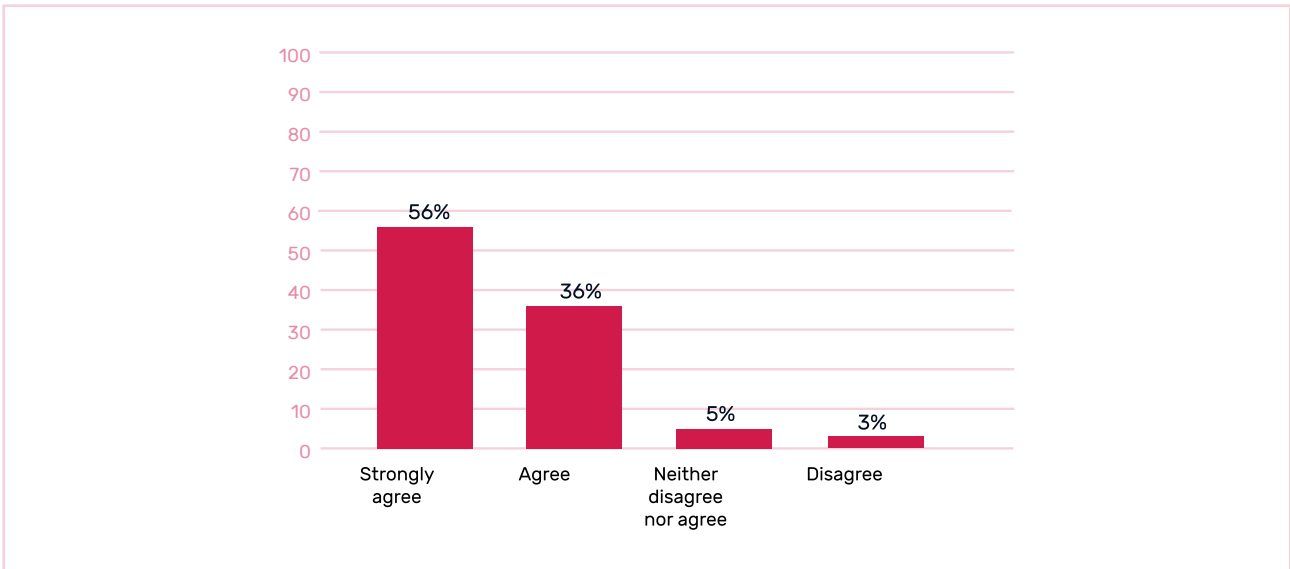


Figure 20: Civil Society Organisations who work with gender issues, including CSGBV, need better legal support to assist victims who approach them

As some lawyers perceived, what is most crucial is that CSOs have stepped up to give support to state authorities, especially with technical assistance and capacity building. In terms of technical assistance, some CSOs have built direct links to social media platforms such as Facebook, so they are able to assist the CID in taking material off the platforms. As one CSO actor interviewed explained:

*“For example, if someone is targeted on Facebook, the police may refer the victims to us so that we can write directly to Facebook and provide assistance”*

*KPI, CSO Actor/Lawyer, Kurunegala*

Similarly, lawyers also recognised that some organisations have been instrumental in increasing the knowledge, awareness and sensitivity of law enforcement officers in dealing with cases of CSGBV. As one lawyer shared:

*“Several organisations have put in significant effort... in educating the personnel at children’s and women’s desks in police stations about the nuances of the law and the importance of addressing these complaints”*

*FGD, M, Lawyer, Colombo*

## 4.5. LAWYERS’ PERCEPTIONS ABOUT THE RESPONSE FROM WEBSITES AND SOCIAL MEDIA PLATFORMS/COMPANIES

This section explores trends in how people engage with social media platforms for assistance in dealing with instances of CSGBV, as seen from the perspective of lawyers. The section also discusses the limitations of reporting to, and getting assistance from, social media platforms.

The general perception of lawyers is that victims/survivors are increasingly reporting cases of CSGBV to social media platforms as a first resort before they approach law enforcement. Three-quarters (75%) of survey respondents agree that victims of CSGBV prefer to report incidents online (to social media platforms) rather than offline (to the police). A negligible 4% disagree and 21% remain neutral (see Figure 21). The gendered disaggregation of survey data shows more female lawyers (78%) than male lawyers (64%) agreeing with this statement.

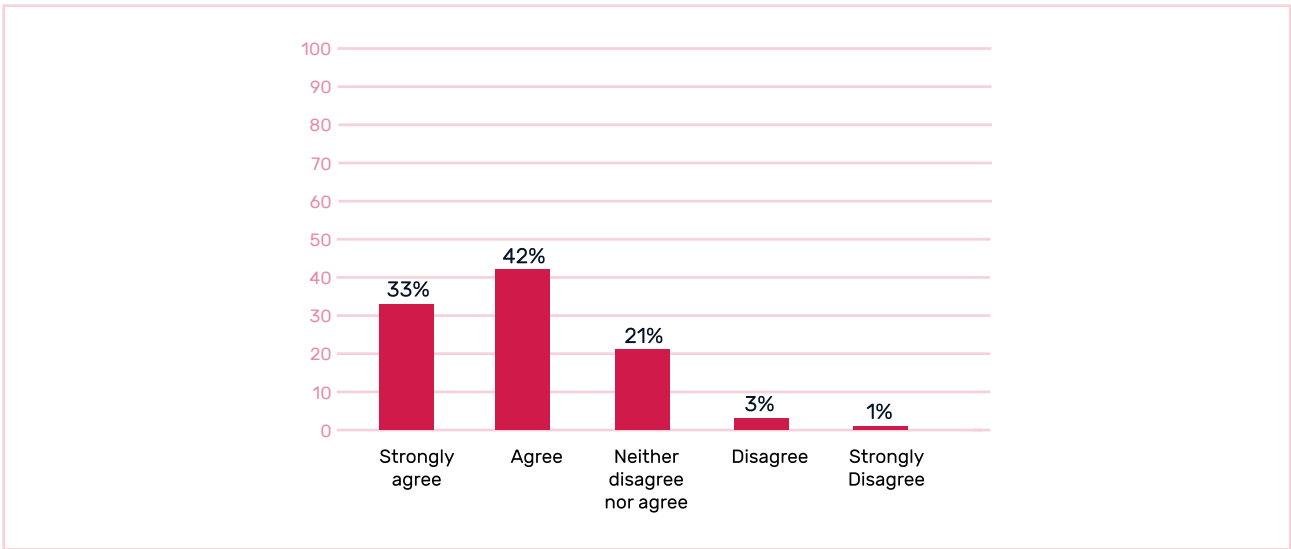


Figure 21: Victims of CSGBV prefer to report incidents online (to social media platforms) than offline (to the police)

But lawyers who practice outside of Colombo disagreed, as they perceived that most victims/survivors are unaware of the reporting mechanisms online. Although there is an increase in smartphone usage across the country, digital literacy is perceived to be very low. As one CSO actor mentioned, social media users outside of Colombo would know how to post a status, share an image, or use chat messaging services, but may not know the reporting mechanisms. Additionally, a lawyer who practices in Kurunegala explained that people will also not know the assistance available in situations where they are faced with CSGBV, and their first point of contact would be the local police.

Some lawyers interviewed also perceived that reporting the issue online first may be more effective in some cases, as it may be more effective for some incidents such as account hacking or removal of images that can be done in a more straightforward way. However, most lawyers interviewed pointed out various limitations when expecting social media platforms to respond to cases of CSGBV. One such limitation is the slow response time or, as in some cases, not receiving a response at all. The survey findings indicate that there are mixed reviews about social media platforms' efficiency and timely support in responding to complaints regarding CSGBV by eliminating the said content. While 42% agree, 31% disagree, and 27% remain neutral (see Figure 22).

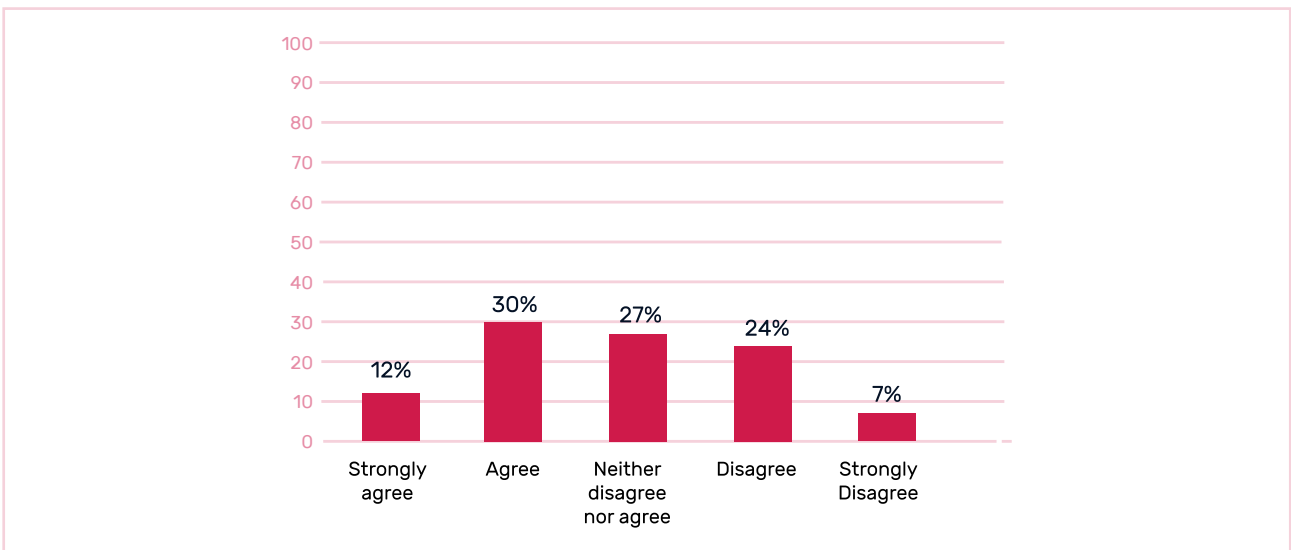


Figure 22: Social media platforms provide efficient and timely support and responses to complaints regarding CSGBV by removing and reporting the related content

However, there have been exceptions where a few lawyers have experienced quick responses to situations of CSGBV. One lawyer gave the following example to illustrate this further:

*“There was a case where a page contained doctored images of law students, including some of my students. We conducted a mass report to Instagram, and the content was taken down in less than an hour. So, platforms can be responsive at times, but it can vary”*

*KPI, F, Lawyer, Colombo*

Other lawyers have suggested that websites like pornographic websites and dating websites/apps are quicker to respond because they fear being compromised by hosting content that may violate their audiences. As one lawyers explained:

*“I have reported lots of people on dating sites that I know are predators and abusers and they remove them after an inquiry because they’d rather have women on it than a risk of a predatorial man”*

*KPI, F, Lawyer, Colombo*

Some lawyers also suggested that having a direct link to social media platforms/companies can solicit quicker responses. For example, some CSOs/NGOs have, over time, forged a direct link with social media hosting companies and can get quick responses and solutions to issues of CSGBV.

Another limitation in reporting to social media platforms is that the nuances of local languages and the interpretation of inappropriateness of certain content may be misunderstood. This leads to platforms such as Facebook responding that ‘content does not violate community standards’ (Perera and Wickramatunge, 2019). Even so, lawyers who have dealt with Facebook particularly acknowledged that this issue has been addressed to a certain extent with Facebook employing staff who know the local languages. The following quotes by lawyers explain this issue in more detail:

*“They (social media platforms) often struggle with addressing cases where humiliation or harm is inflicted through words or language. Language issues further complicate matters, as nuances and cultural context may not be understood by platform moderators. For example, if you were to translate ‘baduva’ from Sinhala to English, it would translate to ‘a good’ (commodity), which isn’t what it means in the context of CSGBV”*

*KPI, F, Lawyer, Colombo*

However, the limit to which social media platforms and websites can respond would be to take down/delete content or block users. Many lawyers interviewed emphasised that this may not be adequate to stop repeat offences and that reporting it to law enforcement is a necessary step. For example, the study done by CPA, Ghosha, and #Generation identified a strong culture of impunity on platforms such a Facebook, where some pages do not show who the administrators are, and some use pseudonyms or fake identities which are difficult to trace and identify. However, “Facebook has said that Pages and admins repeatedly violating Community Standards will reportedly have the Pages unpublished after a number of strikes. They have also made it easier to identify admins of Pages (although a level of anonymity is still possible)” (Perera and Wickramatunge, 2019). Additionally, the report by British Council and Sarvodaya Institute for Higher Learning emphasises that whilst Facebook removes a certain number of fake accounts every month, the situation has not been dealt with adequately (Perera et al, 2021), as the number of CSGBV cases keeps increasing year on year (SLCERT, 2021).



## 4.6. PERCEPTIONS ABOUT THE LEGAL FRATERNITY'S ABILITY AND CAPACITY TO ASSIST VICTIMS/SURVIVORS

Apart from the limitation in the law and challenges faced with state and private response mechanisms, lawyers perceived some of their own limitations that may deter them from helping victims/survivors of CSGBV. These issues are discussed here including lack of knowledge about legal provisions, victims/survivors not approaching lawyers due to lack of awareness of legal avenues for redress, fear that lawyers would be insensitive, and financial challenges faced by both victims/survivors and lawyers.

### 4.6.1. KNOWLEDGE ABOUT LEGAL PROVISIONS TO HANDLE CSGBV CASES

Many lawyers who participated in the FGD had only come across the concept of CSGBV and its legal applicability when they started working on related cases. Some of those who were interviewed have never worked on cases relating to CSGBV but were keen to know more about it. Therefore, there was a mixed range of expertise amongst the participants of FGDs. This also allowed the research team to observe the variations in the level of knowledge regarding CSGBV, specifically in relation to the legal aspects.

As discussed in section 4.2 above, since there are no direct and specific laws to address CSGBV, lawyers learn to interpret other laws in a way that can be applied to cases of CSGBV. With this comes the challenge of many lawyers not having the knowledge or awareness about how to apply existing laws to prosecute cases of CSGBV. As one expert interviewed explained:

*"There's a big difference between something like someone sharing a non-consensual intimate image, versus something like cyberstalking. Those are two vastly different crimes and would come under two different laws. Alongside that, cybercrime is such a new thing - especially the prosecution of it. Cybercrime is also always evolving. So, lawyers may not necessarily have that expertise"*

*KPI, F, CSO Actor, Colombo*

One of the other lawyers explained how lawyers, including herself, generally found it challenging to interpret existing laws, depending on the cases she had to work on:

*"In cases of (NCII) where private images are posted on platforms like Pornhub, the interpretation of existing laws often involves moral judgments. This approach may not be suitable for directly handling cyber sexual violence cases. Even instances of cyberbullying that take on a sexual angle can be challenging to address. We struggle to determine which laws to apply in such cases, whether it's criminal intimidation or something else"*

*KPI, F, Lawyer, Colombo*

This is also evident outside of Colombo, where very few lawyers specialise in CSGBV-related work and may not have the knowledge or not always have access to training etc. to improve their knowledge. The quotes below illustrate this further:

*"In rural areas finding a lawyer who specialises in specific fields like CSGBV can be extremely challenging. In such regions, lawyers often need to be generalists due to limited resources and the high volume of cases. This can result in a lack of specialisation and potentially lower-quality legal services"*

*FGD, F, Lawyer, Colombo*

This lack of knowledge can be attributed to the fact that CSGBV is not covered in the formal legal education curriculum in Sri Lanka. All lawyers interviewed said they did not learn about the applicable laws to address CSGBV through their legal education. Another compounding issue is that in Sri Lanka, unlike in some other countries, lawyers are not required to continue mandatory legal education to update their knowledge and retain their licenses. Thereby, once lawyers complete their formal legal education, they will not learn about topics such as CSGBV unless they work on cases directly related to CSGBV in their careers. Most lawyers interviewed suggested that they learnt about CSGBV through voluntary training offered by the Bar Association of Sri Lanka (BASL) and the training conducted by CSOs and NGOs, and a few through their legal education abroad.

#### 4.6.2. LIMITATIONS IN TAKING ON CSGBV CASES AND HELPING VICTIMS/SURVIVORS

##### Lack of awareness about the law

Most lawyers interviewed perceive that one of the main reasons they have not been able to handle many CSGBV cases is that victims/survivors do not proactively approach lawyers for help because of the lack of awareness about the legal avenues available for redress, or even their rights related to “freedom of expression, privacy, and gender discrimination” (Perera et al, 2021). Based on the nationally representative survey conducted by The British Council and Sarvodaya Institute for Higher Education in 2021, 46.5% of youth appear to be aware of the response mechanisms available and 21.1% did not know about these (Perera et al, 2021). The survey findings also speak to this by showing that 88% of survey respondents agree that victims and survivors of CSGBV lack the understanding of laws pertaining to CSGBV. 4% and 8% of respondents disagree with and remain neutral to this statement, respectively (see Figure 23).

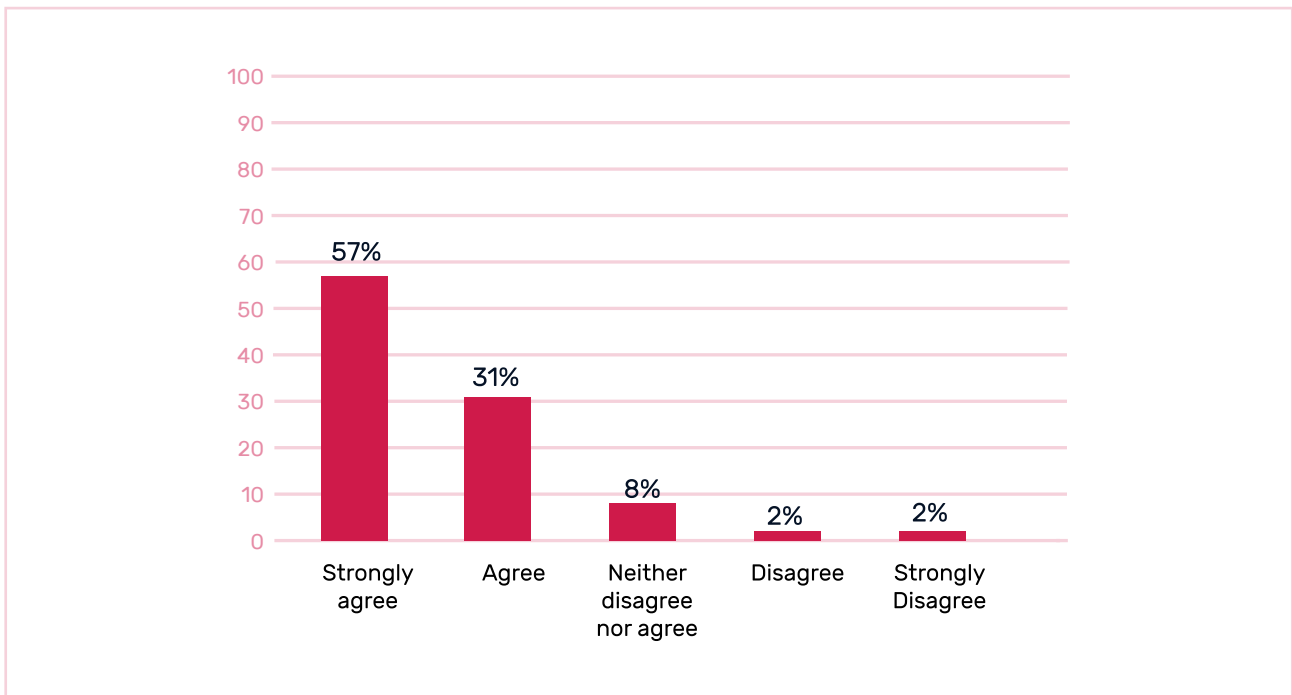


Figure 23: There is a lack of understanding among victims and survivors about laws concerning CSGBV

Apart from the lack of awareness about legal provisions, some lawyers perceive that victims/survivors may have already had negative experiences dealing with lawyers, which prevents them from seeking help. These negative experiences may stem from some lawyers not being sensitive to the issue and may also retain preconceived notions about gender that lead to victim-blame/shame. The quotes below highlight this further:

*“The legal profession in Sri Lanka is very male-dominated, and I believe they lack the understanding to be non-judgmental, and view themselves as service providers rather than individuals who can morally correct people”*

*KPI, F, CSO Actor/Lawyer, Kurunegala*

However, all lawyers interviewed seemed to be sensitive to the issue and acknowledged giving moral/emotional support to victims in the past. Most lawyers mentioned the importance of psychosocial support for victims/survivors.

### **Financial challenges in seeking legal assistance**

Another main factor preventing victims/survivors from coming forward to seek legal assistance is the lack of financial capacity to pursue cases in court and to pay for lawyers’ services. Although many lawyers interviewed indicated that there are legal aid services, organisations and lawyers who provide pro bono services, many victims/survivors who have approached the lawyers interviewed lack awareness about the availability of such services. However, there are also limitations if victims/survivors are eligible for legal aid, as the Legal Aid Commission (LAC) is meant to extend its services to ‘deserving persons’. However, since the term ‘deserving persons’ is not clearly defined in the Legal Aid Law (No. 27 of 1948), the LAC uses internationally recognised tests such as the ‘means test’ (an individual who receives a monthly income of Rs. 25,000 or less) and must be verified by the Grama Niladhari of the area (CEPA, 2021). Given these eligibility criteria, some ‘deserving persons’ may fall within the cracks and may not be eligible to receive funds for the expensive process of prosecuting CSGBV cases in court.

Additionally, some lawyers interviewed indicated

that when it comes to cases related to CSGBV they do their best within their capacity to take on clients’ pro bono. As one lawyer from Matale narrated:

*“My primary goal is to assist the victim because the consequences of these cases can be haunting, potentially leading to self-harm or even suicide, especially in younger victims aged 16 or 17. While I don’t promise to handle cases for free, I’m flexible with the fees I charge, taking into account what the client can afford” - FGD, F, Lawyer, Matale*

However, not all lawyers are able to provide pro bono services. Especially, lawyers just starting out in their careers find it financially challenging to do this.

## CONCLUSION

In summary, this study offers several noteworthy insights into the perceptions of lawyers regarding Cyber Sexual and Gender-Based Violence (CSGBV) within the Sri Lankan context. Firstly, the research underscores the variation in understanding levels of CSGBV among lawyers. This discrepancy is contingent on their legal backgrounds, either in criminal or civil law, and their practical experience with CSGBV cases. Lawyers with limited exposure to such cases typically exhibit a more superficial grasp of CSGBV, often viewing it as any form of online violence. Conversely, lawyers with direct experience in CSGBV cases demonstrate a nuanced understanding of the gendered intricacies involved.

Furthermore, the study highlights the recognition among lawyers that CSGBV knows no national or physical boundaries, making it challenging to trace and having far-reaching, detrimental effects on victims and survivors. Lawyers also acknowledge the interplay between online and offline violence, emphasising the potential for online harm to have offline repercussions and vice versa. Additionally, the study sheds light on the heightened vulnerability of youth and children to CSGBV due to their increased internet access but limited digital literacy and online safety awareness.

On the legal framework front, lawyers express an awareness of the absence of specific laws addressing CSGBV. However, they also perceive challenges related to interpreting existing laws and implementing them due to the absence of precise definitions for certain terms or acts. This gap, compounded by the lack of specific laws addressing the online dimension of gender-based violence, underscores the need for legal reforms. Nevertheless, there is a note of caution about potential reforms that could infringe upon freedom of expression in online spaces.

In terms of legal processes, the study reveals that victims' privacy concerns and the protracted legal process often discourage victims and survivors

from pursuing cases. These challenges, along with the general lack of accountability for perpetrators of CSGBV, result in few cases proceeding to court. The study also underscores the varying views on whether taking cases to court is necessary and effective. Regarding the response mechanisms, lawyers express diverse perspectives on the efficiency of the police and other relevant agencies. While some perceive responsiveness in investigating CSGBV cases, others point to instances where cases are closed with warnings, and proceedings to court are limited.

The study also highlights challenges when working with the Criminal Investigation Department (CID) and the Women and Children's Bureau of the police. Inadequate resources, staffing issues and the potential for revictimisation of victims by police officers, characterised by victim-blaming and inappropriate questioning, are noted concerns. In dealing with minors, lawyers perceive the response system, particularly through the National Child Protection Authority (NCPA) and Women's and Children's Bureau, as being more sensitive and efficient than when dealing with adults. However, they stress the need for further improvements, especially in protecting the mental well-being and privacy of children throughout the investigative and legal processes.

Private organisations and CSOs are recognised for their vital role in creating awareness about CSGBV, offering psychosocial support, legal advice and assistance to victims/survivors, and accompanying them to law enforcement agencies. However, there are concerns about the accuracy of information provided by private organisations, and the accountability and credibility of such entities. Lawyers also recognise the growing trend of victims/survivors reporting cases of CSGBV to social media platforms before seeking law enforcement involvement. While some lawyers see this as an effective initial step, they acknowledge limitations, including slow response times, language nuances and the need for local expertise to interpret the inappropriateness of content. Reporting to online platforms alone is deemed insufficient to prevent repeat offences.

Lastly, the study underscores the legal fraternity's capacity to assist victims/survivors. The lawyers' ability to help depends on their own knowledge of existing laws. However, the study reveals that most lawyers in Sri Lanka lack adequate knowledge about these laws and this knowledge gap is attributed to the absence of formal legal education on CSGBV in Sri Lanka. This deficiency, along with the broader societal issues of patriarchal attitudes and preconceived gender biases, may deter victims/survivors from seeking legal representation. Financial constraints also play a role, as many victims/survivors may be unaware of available free legal aid services.

In the light of these findings, the study underscores the need for comprehensive and coordinated efforts among various stakeholders, including legal professionals, law enforcement, private organisations, CSOs and social media companies to improve the efficiency and accessibility of justice-seeking avenues for victims/survivors of CSGBV. Capacity development, sensitisation and the allocation of resources, both human and financial, are necessary to fully address the identified challenges. The study concludes with specific recommendations aimed at bridging these gaps and ensuring a more effective response to CSGBV in Sri Lanka.



## RECOMMENDATIONS

### Recommendations to improve lawyers' responses to CSGBV and ensure victim and survivor support:

Upon understanding the unique perspective of lawyers in addressing Cyber Sexual and Gender-Based Violence (CSGBV), the following recommendations are made to enhance the effectiveness of legal professionals in responding to and supporting victims and survivors:

#### For State response mechanisms:

**Strengthen Legal Frameworks:** The Ministry of Justice should prioritise the development and enactment of specific legislation addressing CSGBV, providing legal clarity and guidance for lawyers. This should be done in consultation with relevant stakeholders, including CSOs, lawyers and women's rights organisations.

**Legal Education and Training:** Law College should incorporate CSGBV-related training into the formal legal curriculum. The Bar Association of Sri Lanka (BASL) should collaborate with academic institutions and civil society organisations to develop and implement specialised training programs and workshops for practicing lawyers. The Ministry of Justice should encourage mandatory continuing legal education to update lawyers' knowledge on emerging legal issues like CSGBV.

#### For individual legal actors, including lawyers practicing criminal law:

**Awareness Campaigns:** Lawyers should engage in awareness campaigns targeting victims and survivors. They should work with CSOs and women's rights organisations to create information and resource centres to educate individuals about their legal rights and avenues for redress.

**Pro Bono Services:** Individual lawyers should commit to providing pro bono legal services,

especially for cases involving CSGBV. Lawyers' associations and bar councils should establish mechanisms to incentivise pro bono work, such as recognising lawyers' contributions and allocating resources to support their efforts.

**Enhanced Training:** Lawyers practicing criminal law should seek opportunities to improve their knowledge and expertise regarding the interpretation and application of existing laws in CSGBV cases. They should engage in continuous professional development through training offered by the BASL and civil society organisations.

#### For civil society organisations and women's rights organisations:

**Collaborative Partnerships:** CSOs and women's rights organisations should establish partnerships with the legal community to ensure victims and survivors receive the necessary legal support. Collaborative efforts can include joint training sessions, resource-sharing and the establishment of legal support networks.

**Resource Allocation:** Donors and development partners should provide financial support to CSOs and women's rights organisations, enabling them to expand their legal aid programs. These resources should be directed toward hiring legal experts and lawyers to effectively address the legal dimensions of CSGBV.

#### For donors/development partners:

**Funding and Support:** Donors and development partners should prioritise funding initiatives that specifically aim to enhance legal support for CSGBV victims and survivors. Support should be directed towards developing legal awareness campaigns, training programs and establishing or strengthening legal aid services.



## Recommendations for further Research/ Academia:

**Research and Data Collection:** Academic institutions should conduct further research to explore the evolving nature of CSGBV and its legal aspects. Research should include assessing the effectiveness of legal responses and identifying emerging challenges and trends. Collaborations between academia and CSOs can help collect and analyse data comprehensively.



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