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The Permanent Mission of the Democratic Socialist Republic of Sri Lanka to the United Nations Office in Geneva and other International Organizations in Switzerland presents its compliments to the Special Procedures Branch of the United Nations Office of the High Commissioner for Human Rights (OHCHR) and has the honour to refer to the communication No. OL LKA 9/2023 on the 'Joint Urgent Appeal from Special Procedures' dated 20 November 2023 forwarding a letter addressed to the Permanent Representative of the Permanent Mission of Sri Lanka by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right to freedom of peaceful assembly and association and the Special Rapporteur on the right to privacy.

The Permanent Mission wishes to transmit herewith the comments of the Government of Sri Lanka on the above joint communication.

An acknowledgement of receipt of this Note and the attached comments would be appreciated.

The Permanent Mission of the Democratic Socialist Republic of Sri Lanka to the United Nations Office in Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Special Procedures Branch of the United Nations Office of the High Commissioner for Human Rights (OHCHR), the assurances of its highest consideration.

Geneva, 10 April 2024

Special Procedures Branch  
Office of the High Commissioner for Human Rights  
Geneva



## GoSL response to the Joint Communication received from Special Procedures Mandate Holders (OL/LKA 9/2023)

The Government of Sri Lanka (GoSL) wishes to refer to the Joint Communication (OL/LKA/9/2023) dated 20 November 2023, submitted by three Special Procedure Mandate Holders seeking clarifications and information concerning the draft Bills on ‘Online Safety’ and ‘Broadcasting Regulatory Commission’.

1. The alarming growth in crimes committed using digital technology and online platforms has necessitated the strengthening of measures to safeguard rights of individuals and the society against the misuse of such platforms.
2. In 2019, the UN General Assembly adopted a resolution on Right to Privacy in the Digital Age focusing in particular on women and children.<sup>1</sup> Several international instruments and fora have recognized the need for States to take appropriate action in this regard. For instance, the UN Child Rights Committee issued a General Comment to States in 2021 recommending that States take strong measures, including legislation, to protect children from harmful and misleading content, protecting them from all forms of violence in the digital environment including child trafficking, gender-based violence, cyber-aggression, cyber-attacks and information warfare.<sup>2</sup>
3. In 2023, over 8000 complaints were received regarding crimes committed using the internet and over 100,000 nude photographs of Sri Lankan women and children were circulated on social media.
4. The **Online Safety Bill** passed by the Parliament of Sri Lanka on 24<sup>th</sup> January 2024 is aimed at addressing this issue of growing public importance and thereby to protect the vulnerable sections of the society in line with international standards.
5. It is not the objective of the Act to restrict fundamental rights guaranteed to the people by the Constitution of Sri Lanka including the freedom of opinion and expression, and freedom of peaceful assembly and of association guaranteed by the Article 14 of the Constitution of Sri Lanka.
6. The Bill was passed in compliance with the procedure set out in the Constitution of Sri Lanka, including after publishing it in the Government gazette. As part of this process, several interested parties had the opportunity to petition the Supreme Court of Sri Lanka with regard to the constitutionality of the Bill. In its determination, the Supreme Court

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<sup>1</sup> The General Assembly noted that every individual, especially children and women are more vulnerable to have their privacy violated. It was also recognized that the right to privacy is important to prevent gender-based violence, abuse and sexual harassment cyber-bullying, cyber stalking, especially against women and children. The UNGA also emphasized the need to adopt preventive measures and remedies to protect the privacy and rights of all especially women and children.

<sup>2</sup> [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/GC/25&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/GC/25&Lang=en)

proposed certain amendments to be incorporated to the Bill before it was passed by Parliament. These proposed amendments were incorporated to the Bill by the Legal Draftsman and presented at the committee Stage in Parliament. Accordingly, in the Bill passed on 24 January, the suggestions of the Supreme Court have been incorporated.

7. The Hon. Attorney General has clarified to the Human Rights Commission of Sri Lanka that all the amendments made during Committee Stage to the Online Safety Bill have been in accordance with the provisions contained in the Constitution and the specific directions contained in the determination of the Supreme Court.
8. In addition, the Government also had extensive consultations with interested parties/stakeholders who shared their suggestions with regard to the provisions of the Bill. These included local institutions, civil society representatives and international stakeholders including the UN and the Asian Internet Coalition (AIC). A Government delegation visited Singapore and had discussions with AIC representatives and requested them to share their proposals to be incorporated into the Bill as appropriate. These proposals were given serious consideration by the Government and the stakeholder proposals to be incorporated to the Bill were agreed on at a discussion held on 12 January 2024.
9. While the Government recognizes the value of the proposals made by the experts in the field, there was no possibility as per Article 78 (3) of the Constitution to include additional amendments other than those based on the Supreme Court determination.
10. Therefore, the Minister of Public Security in his statement to the Parliament on 23 January 2024 undertook that additional proposals presented by civil society and other international organizations will be considered as amendments to the Act according to the Constitutional procedure stipulated in that regard.
11. As undertaken by the Minister, the Expert Drafting Committee reviewed the additional comments received from stakeholders immediately after the Bill was enacted into law, in the form of amendments to the Act.
12. On 8 February 2024, the Cabinet of Ministers granted approval to bring new amendments to the Online Safety Act, No. 09 of 2024. Accordingly, the draft amendments are currently being finalized by the Legal Draftsman.
13. On 20 November 2023, the Cabinet of Ministers has decided to direct the Legal Draftsman to prepare a draft Bill for the introduction of the **Broadcasting Regulatory Commission** for electronic media. Given that the said Bill is still in the process of being formulated and yet to be published in the Government Gazette, it is noted that the comments made by the Special Procedure Mandate Holders (SPMHs) appears to be based on a document that has not formally been issued by the Government of Sri Lanka.