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இலங்கை மனித உரிமைகள் ஆணைக்குழு
Human Rights Commission of Sri Lanka

Press Notice No: HRC/P/i/E/02/10/23

Press Notice

The Human Rights Commission of Sri Lanka (HRCSL) sent a letter on 2 October 2023 to Hon. Tiran Alles, Minister of Public Security containing the preliminary observations and recommendations of the HRCSL on the Online Safety Bill published in the Official Gazette on 18 September 2023.

The HRCSL acknowledges that making online spaces in Sri Lanka safer for its citizens is a valuable legislative objective. However, the HRCSL is of the opinion that strengthening the institutional capacity of law enforcement authorities to interpret and apply the existing criminal law in good faith should precede any proposals to introduce new legislation with criminal offences pertaining to online activity.

The HRCSL made preliminary observations and recommendations on the Online Safety Bill with a view to ensuring the Bill's compatibility with the fundamental rights chapter of the Sri Lankan Constitution. The key recommendations of the HRCSL are as follows:

1. The Bill should avoid criminalising statements deemed merely to be 'distressing' to persons, as feelings of 'distress' can vary in degree and can be highly subjective. Remedies for such injury are best left to civil proceedings wherein damages can be sought by the injured person.
2. The proposed Online Safety Commission should be appointed through an appointment mechanism that guarantees its political independence. This Commission should not be vested with quasi-judicial powers, nor with powers to designate online locations as 'declared online locations'.
3. The provisions in the Bill that set out procedures for adverse decisions to be made against persons should be consistently revised to ensure that such persons be afforded an opportunity to be heard in keeping with the rules of natural justice.
4. The various offences in the Bill that relate to 'prohibited statements', which incite others to commit offences, already found in the Penal Code Ordinance, No. 2 of 1883, need to be either removed due to such new offences in the Bill being superfluous, or substantially revised in terms of their precision, and the rationality, reasonableness, and proportionality of the penalties imposed.
5. Clear criteria for the classification of 'inauthentic online accounts' should be included in the Bill in a manner that preserves the freedom of online users to remain anonymous, and to engage in parody or satire.
6. Experts appointed to assist police investigations should not be vested with police powers, as they may be private actors who are not publicly accountable.

7. The HRCSL welcomes the introduction of a new offence on child abuse through online means and encourages the Ministry to work closely with the relevant ministries dealing with the subjects of Justice and Child Affairs to introduce such an offence through a separate enactment.

The HRCSL welcomes the observations of relevant stakeholders and the public on the Online Safety Bill, and requests that any comments and suggestions be forwarded in Sinhala, Tamil, or English on or before 17 October 2023.

Media Spokesperson
Human Rights Commission of Sri Lanka

02.10.2023