

President

Prof. Carlos Ayala, Venezuela

Vice-Presidents

Justice Radmila Dragicevic-Dicic, Serbia
Sir Nicolas Bratza, United Kingdom

Executive Committee

(Chair) Dame Silvia Cartwright, New Zealand
Ms Nahla Haidar El Addal, Lebanon
Mr Shawan Jabarin, Palestine
Justice Qinisile Mabuza, Eswatini
Ms Mikiko Otani, Japan
Prof. Marco Sassoli, Italy / Switzerland
Mr Wilder Tayler, Uruguay

Executive Committee Alternates

Justice Martine Comte, France
Ms Ambiga Sreenivasan, Malaysia

Other Commission Members

Ms Hadeel Abdel Aziz, Jordan
Prof. Kyong-Wahn Ahn, Republic of Korea
Justice Aruna Narain, Mauritius
Justice Chinara Aidarbekova, Kyrgyzstan
Justice Adolfo Azcuna, Philippines
Dr. Elizabeth Biok, Australia
Mr Reed Brody, United States
Ms Catalina Botero, Colombia
Prof. José Luis Caballero Ochoa, Mexico
Justice Azhar Cachalia, South Africa
Justice Moses Chinhengo, Zimbabwe
Justice Sanji Monageng, Botswana
Mr Mazen Darwish, Syria
Mr Gamal Eid, Egypt
Ms Gulnora Ishankhanova, Uzbekistan
Ms Asne Julsrud, Norway
Ms Jamesina Essie L. King, Sierra Leone
Justice Kalthoum Kennou, Tunisia
Prof. Juan Méndez, Argentina
Justice Charles Mkandawire, Malawi
Justice Tamara Morschakova, Russia
Justice Willy Mutunga, Kenya
Justice Egbert Myjer, Netherlands
Justice Fatsah Ouguergouz, Algeria
Dr Jarna Petman, Finland
Prof. Mónica Pinto, Argentina
Prof. Victor Rodriguez Rescia, Costa Rica
Mr Alejandro Salinas Rivera, Chile
Mr Michael Sfard, Israel
Justice Ajit Prakash Shah, India
Justice Kalyan Shrestha, Nepal
Justice Marwan Tashani, Libya
Justice Lillian Tibatemwa-Ekirikubinza, Uganda
Prof. Rodrigo Uprimny Yepes, Colombia
Patricia Schulz, Switzerland
Justice Claudia Paz y Paz, Guatemala
Lawrence Mute, Kenya
Miyeon Kim, South Korea
Roberta Clarke, Barbados
Eduardo Ferrer MacGregor, Mexico
Beth Van Schaack, US
Mona Rishmawi, Jordan/Palestine
Anne Ramberg, Sweden
Professor Laurence Burgorgue-Larsen, France

Committee to amend the Online Safety Act, No.09 of 2024,
The Secretary,
Ministry of Justice and National Integration,
Colombo,
Sri Lanka.

12 September 2025

Dear Committee,

**Re: Observations, Comments, and Recommendations on the
Online Safety Act, 2024**

The International Commission of Jurists (ICJ) is an international organization of leading judges and lawyers from all regions of the world, working to advance the rule of law and the legal protection of human rights.

We respectfully submit the following observations on the Online Safety Act ("the Act"), No. 09 of 2024, in response to the Sri Lankan [Government's call](#) for submissions of observations, comments, and recommendations, published on 13 August 2025.

1. Overview

In [a statement](#) issued on 29 September 2023, the ICJ expressed the view that an earlier draft version of the Act, if adopted, would serve to undermine human rights guarantees in the country and enable the shrinking of a vibrant civic space. The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and association, and the Special Rapporteur on the right to privacy expressed similar concerns. Although the 2024 Act has been somewhat modified, most of these concerns remain relevant. More recently, the UN High Commissioner for Human Rights, in his [report](#) on the situation of human rights in Sri Lanka of 8 August 2025, echoed some of these points in relation to the present Act.

The ICJ considers that the Act, as explained below, threatens the enjoyment of freedom of expression, opinion, and information guaranteed under Article 14(1)(a) of the Constitution of Sri Lanka and Article 19 of the International Covenant on Civil and Political Rights (ICCPR), to which Sri Lanka is a party. To the extent that the Act serves to restrict the right to freedom of expression, it fails to comply with the principles of legality, legitimate purpose, necessity, and proportionality, and is highly susceptible to misuse.

One key consequence is that the Act enables the arbitrary targeting of individuals in their exercise of expression, based on the content of their opinions. These include those who express dissenting views or who criticize government actions, including journalists, human rights defenders, and members of the political opposition. This threat has already materialized: the first arrest under the Act occurred in [February 2024](#), when a suspect was accused of conducting online smear campaigns against the Government under the alleged instructions of a politician. Public [authorities](#) and [parliamentarians](#) have also invoked the Act to accuse individuals of spreading allegedly “false information” or “defamatory and derogatory statements.” Such applications of the law create a chilling effect on public discourse and raise serious concerns about censorship of matters of public interest.

These concerns are further aggravated by the broader context of repressive legislation in Sri Lanka, including the [ICCPR Act of 2005](#), the Prevention of Terrorism Act, and the Bureau of Rehabilitation Act. Together, these laws are contributing to an environment that is stifling the exercise of human rights and fundamental freedoms and restricting the space of civil society.

2. Key Concerns on Certain Provisions of the Act

2.1 Online Safety Commission and Appointed Experts

Under the Act, the five-member Online Safety Commission, appointed by the President (section 5), is granted overly broad powers. These include the authority to issue notices or directives against any person, internet service provider (ISP), or internet intermediary alleged to have communicated a “prohibited statement” (see below); to remove online content; and to instruct ISPs to restrict access to online locations (section 11). Such powers, which can be exercised without judicial review, create undue risks of government overreach, censorship, and impermissible restrictions on freedom of expression under Article 14(1)(a) of the Constitution and international law.

The Act further empowers the Minister to appoint government officials and employees of State entities as “experts” to assist investigations. These individuals are given excessive and vaguely defined investigative powers with minimal safeguards, creating serious risks of abuse, including in respect of the right to privacy, guaranteed under Article 17 of the ICCPR. Their powers include accessing any information system, compelling disclosure of traffic data, conducting oral examinations, and broadly “doing such other things as may be reasonably required” (section 33(4)).

These threats are compounded by the Act’s provision of immunity from legal action to the Commission, its staff, and appointed experts for any act “in good faith” done or omitted under the Act (section 45). Such broad immunity, where they constitute a shield from liability for human rights violations, is inconsistent with international law, which obliges States to conduct prompt, effective, impartial, and independent investigations into human rights violations and to hold those responsible accountable.

2.2 Vague and Overbroad Offences

Article 19(3) of the ICCPR guarantees the right to freedom of expression and information and [permits restrictions](#) only under narrow and exceptional circumstances. These are when any measure that would restrict this right is strictly necessary to achieve one of the legitimate aims specified in article 19(3), namely, the protection of the rights or reputations of others, national security, public order, or public health or morals. In addition, the means of restriction must be proportionate, meaning it can only be used when a less restrictive measure is not possible. The law must also be “provided by law”, meaning that not only must it be contained in a legal provision, but it must also comply

with the principle of legality by being sufficiently precise to enable individuals to regulate their conduct accordingly.

There is one form of restriction on expression that is mandated under international human rights law. Article 20 of the ICCPR obliges States to prohibit “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.” The ICCPR sets a [high threshold](#) for such restrictions, recognizing that limitations on freedom of expression must remain exceptional. Expression that does not rise to the level of incitement must therefore be protected.

The prohibitions listed in Part III of the Act, however, extend far beyond what the ICCPR permits. For example, the Act criminalizes conduct that “poses a threat to national security, public health or public order or promotes feelings of ill-will and hostility between different classes of people, by communicating a false statement” (section 12). The inclusion of purposes such as “promoting feelings of ill-will and hostility between different classes of people” exceeds the legitimate grounds for restriction under international human rights law. In addition, they are overbroad and ill-defined, in contravention of the principle of legality.

The Act also defines a “false statement” as one that is “known or believed by its maker to be incorrect or untrue and is made especially with intent to deceive or mislead, but does not include a caution, an opinion or imputation made in good faith” (section 52). It remains unclear how the requirement that a statement be “known or believed by its maker to be incorrect” will be interpreted in practice. Such vagueness grants broad discretion to authorities and undermines the principle of legality. In addition, “false statements” are protected, unless they fall within one of the exceptional grounds for restriction.

Similarly, the Act makes it an offence to “maliciously or wantonly ... by communicating a false statement ... cause the offence of rioting” (section 14), and further criminalizes communicating a false statement “with deliberate and malicious intention of outraging the religious feelings of any class of persons” (section 16). The use of vague and overbroad terms such as “maliciously” and “wantonly,” together with the ambiguous reference to “outraging religious feelings,” renders these provisions highly susceptible to abuse. They enable selective enforcement against persons from minority and marginalized groups, contravene the principle of legality, and fail to protect expression that falls short of incitement under Article 20 of the ICCPR.

2.3 Disproportionate Sanctions and Punishment

The Act provides for criminal liability and prescribes unjustifiably severe penalties, including fines and imprisonment of up to three or five years for the above-noted overbroad and ill-defined offences. Such sanctions contravene the principle that penalties must be commensurate with the seriousness of an offense and have a significant chilling effect on freedom of expression. The use of the criminal law, and in particular the use of deprivation of liberty as a sanction, against the exercise of freedom of expression is generally inconsistent with the guarantees of freedom of expression.

The Act also imposes imprisonment of up to five years, or a fine not exceeding two million rupees (approx. USD 6,600), on any person who fails to comply with a takedown order within the time and manner specified by a Magistrate (section 24 (9)). These sanctions are excessive, particularly in light of the vague and imprecise nature of the offences, and risk deterring legitimate expression.

2.4 Lack of Adequate Judicial Oversight

The Act provides a channel for any person affected by the communication of a “prohibited statement” to petition the Magistrate’s Court for an order to prevent its circulation (section 24). In addition, it empowers the Online Safety Commission to consider complaints regarding prohibited statements and to order their takedown—directed at the person who communicated the statement, as well as at ISPs and internet intermediaries—while judicial oversight is merely an optional avenue the Commission may pursue to obtain an order, rather than a mandatory requirement (section 23). This is inconsistent with [international human rights law](#), which requires that restrictions on content be imposed only pursuant to an order by an independent and impartial judicial authority.

The provision fails to adhere to the rule of law principle and the [Manila Principles on Intermediary Liability](#), which hold that content should not be required to be restricted without a judicial order, and that requests for restriction of content must be clear, unambiguous, and follow due process.

The Act is also unclear regarding the right of affected persons to appeal against a notice issued by the Commission.

2.5 Disproportionate Impact on Transgender and Gender-Diverse Persons

The Act includes provisions that may reasonably be expected to disproportionately harm transgender and gender-diverse persons, particularly by criminalizing “online cheating by personation” (section 18). This is defined as the use of an online account to pretend to be another person or to represent oneself or others as someone they are not. Violations are punishable by imprisonment of up to three years, a fine not exceeding three hundred thousand rupees (approx. USD 990), or both.

When combined with existing provisions under section 399 of the Penal Code, this section could be misapplied to penalize individuals for expressing their gender identity, especially where authorities regard gender diversity as “misrepresentation.” Without robust safeguards, enforcement of these provisions risks further marginalizing and criminalizing transgender persons, exacerbating their vulnerability to harassment, discrimination, and arbitrary legal action.

3. Recommendations

In consideration of the above submissions, the ICJ urges the Government to:

1. Repeal the Act in its current form or substantially revise it to ensure compliance with international human rights law and standards, including Article 19 of the ICCPR, giving particular priority to amending sections 11, 12, 14, 16, 18, 23, 33, 45, and 52, which raise the greatest concerns as elaborated above.
2. Conduct inclusive and full consultations with stakeholders, including women’s rights organizations, LGBTQ+ groups, journalists, minority communities, and other civil society groups and human rights defenders, in the process of revising the Act, as currently there are no State-led consultations taking place and the process is limited to written public submissions.
3. Ensure that any future legislation addressing online harms is fully human rights-compliant, narrowly tailored, proportionate in its penalties, and includes safeguards for independence, effective judicial oversight, accountability, and effective remedies for victims.

4. Address certain offences that are the subject of legitimate criminal sanction, such as online sexual harassment under the regular Penal Code, which provides established safeguards, proportional penalties, and judicial oversight, rather than through a separate law granting excessive powers and broad discretion to a non-judicial body.

We remain at your disposal for any further questions or clarification.

Yours sincerely,

Ian Seiderman

Legal and Policy Director

International Commission of Jurists

Email: ian.seiderman@icj.org