

**Regulating Social Media in Sri Lanka:
An analysis of the legal and non-legal frameworks in the
context of hate speech and disinformation**

**Summary Report
December 2020 (Revised March 2021)**

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List of Abbreviations

AFP	Agence France-Presse
AI	Artificial Intelligence
BBS	Bodu Bala Sena
CID	Criminal Investigation Division
DRICSO	Democracy Reporting International Civil Society Organisation
ER	Emergency Regulation
HRCSL	Human Rights Commission of Sri Lanka
ICCPR Act	International Covenant on Civil and Political Rights Act, No. 56 of 2007
ICCPR	International Covenant on Civil and Political Rights
IGP	Inspector General of Police
NPCIHRL	National Police Commission International Human Rights Law
PSO	Public Security Ordinance, No. 25 of 1947
PTA	Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979
SLCERT	Sri Lanka Computer Emergency Readiness Team / Coordination Centre
SLPI	Sri Lanka Press Institute
SLTA	Sri Lanka Telecommunications Act, No. 25 of 1991
TRCSL	Telecommunications Regulatory Commission of Sri Lanka

Executive Summary

Regulation of social media in Sri Lanka encompasses both a formal and alternative non-legal framework. The study explores the existing legal and non-legal frameworks to regulate the spread of disinformation and hate speech on social media. Thereby, it presents potential implications of the spread of disinformation and hate speech on social media in the specific context of ethno-religious violence in Sri Lanka. Under the legal regulatory framework, the study outlines the domestic laws and regulations that cover hate speech and disinformation on social media. However, the study finds that the enforcement and implementation of these laws and regulations in physical and virtual spaces poses a risk of abuse, due to the 'over inclusive' application by law enforcement. This over- inclusive application is due in part to the ambiguous terminology in the legal framework which can then lead to the state interpreting the law broadly to cover expressions that may not constitute hate speech.

The study then discusses the alternative non-legal framework as a complementary mechanism to the formal regulatory framework. The alternative non-legal framework is discussed in terms of three mechanisms for the regulation of social media: (i) voluntary self-regulation by social media companies; (ii) independent international regulation; and (iii) counter-messaging by civil society and private institution initiatives¹. A combination of such mechanisms is needed to effectively combat hate speech and disinformation on social media in Sri Lanka, given the unique challenges posed by content in Sinhala and Tamil languages. While the study itself does not make recommendations for regulation, the study provides observations of eight key options that may be considered by stakeholders. Such stakeholders include the government, technology/service providing companies and civil society, who may explore these options to potentially mitigate the spread of disinformation and hate speech on social media.

Democracy Reporting International (DRI) commissioned Verité Research (Verité) to conduct research and provide an analysis on the existing legal and non-legal regulatory frameworks for social media in Sri Lanka relating to hate speech and disinformation. This study was conducted solely as a desk-based research analysis and was compiled from a review of publicly available secondary sources of information. The conclusion has been drawn based on the research analysis. Thereafter, the observations discussed by Verité focused on the possible avenues available in relation to online content moderation in Sri Lanka. Although the study was mainly a desk-based research, the research team also incorporated feedback following multiple outreach sessions held at the end of 2020. Five outreach sessions were held between September 2020 to December 2020, which comprised of representatives from civil society, mainstream and social media, legal professionals and other groups.¹

The contents of the report are updated as at July 2020 while the observations were updated as of December 2020 based on the outreach sessions. The final report was presented in February 2021 and the report was revised in March 2021. This is a summary report, for more detail and analysis see the full report in English.

Introduction

Over the past few years, there has been an increasing number of incidents of ethnic and religious violence in Sri Lanka. Many of these incidents involved the spread of hate speech and disinformation on social media, before and after they occurred.

The amount of hate speech and disinformation on social media has become a global challenge for states, regulatory bodies, private bodies, media, policymakers and civil society, especially as such online disinformation and hate speech can result in offline harm. An increased response to this challenge is the enactment of stricter regulation of discourse on social media. Such regulation focusing on ‘controlling’ social media must be carefully considered prior to adoption. Consideration must be given to ensuring that the freedom of speech is upheld so that expression that is merely dissent is not curtailed.

The study identifies four main challenges in countering hate speech and disinformation on social media. First, the rapid replication of content online constituting hate speech and disinformation proves to be challenging in relation to effectively moderating content within social media platforms.² Second, the existing body of law on moderation of speech and expression have inherent inadequacies. For instance, while international human rights law (IHRL) sets out several standards for legitimately restricting speech and expression, there is uncertainty in determining the type of content and online expressions constitute hate speech and disinformation. These inadequacies are problematic in ensuring that content, which does not fall within the ambit of hate speech and disinformation should not be restricted.

The third being that language poses a challenge when detecting content that should be prohibited. For instance, in Sri Lanka, when certain Sinhala and Tamil content is translated into English it may not constitute hate speech as defined and outlined in social media community guidelines as certain cultural/contextual references made are lost in translation. The final challenge is determining if legal models should be designed to hold different actors to account. These actors include internet intermediaries, individuals, the state, and the private sector. For instance, strengthening the legal framework relating to combatting hate speech and disinformation may have serious implications on the freedom of speech. One such implication is the potential misuse of laws to persecute speech that is merely dissent.

Brief introduction to hate speech and disinformation & the International Legal Framework

There is no universally accepted definition of hate speech.³ A common understanding of ‘hate speech’ might simply be ‘the advocacy of hatred’. Not all speech that is harmful or offensive should be restricted through criminal sanctions. However, article 20(2) of the International Covenant on Civil and Political Rights (ICCPR) stipulates that a particular type of harmful speech, i.e., speech that advocates national, racial, or religious hatred, and which incites discrimination, hostility or violence, must be prohibited by law. Many of the specific terms found in article 20(2) of the ICCPR are not defined in international law. However, non-binding “soft law” instruments such as the Camden Principles on Freedom of Expression and Equality offer guidance on interpreting the specific terms contained in article 20(2) of the ICCPR such as:⁴

- ‘Hatred’, ‘Hostility’ – intense and irrational emotions of opprobrium, enmity, and detestation towards the target group.
- ‘Advocacy’ – requiring an *intention* to promote hatred publicly towards the target group.
- ‘Incitement’ – statements (about national, racial or religious groups) that create an *imminent risk* of discrimination, hostility, or violence (against persons belonging to those groups).

The freedom of opinion and expression is expressly guaranteed by article 19 of the ICCPR.⁵ Sri Lanka ratified the ICCPR in 1980, and is thereby legally obligated to respect, protect and promote the rights recognised by the ICCPR.⁶ The ICCPR permits the restriction of freedom of expression as prescribed by law, when such restrictions are necessary: (a) to respect the rights or reputations of others, or b) for the protection of national security, public order, public health or morals.⁷ IHRL acknowledges that these standards and principles equally apply to expressions made online.⁸

The Rabat Plan of Action proposes a six-part test for states identifying expressions that constitute hate speech that must be prohibited.⁹ This threshold test for assessing speech was aimed at balancing the freedom of expression with the prohibition of speech that constitutes incitement: (i) the social and political context in which the expression is made; (ii) the speaker, for example, his or her status and influence; (iii) the intent of the expression; (iv) the content or form of the expression; (v) the extent or reach of the expression; and (vi) the likelihood that the expression would cause harm.

Disinformation on the other hand is broadly defined as false information that is knowingly or purposefully shared or disseminated with the intention of misleading or causing harm.¹⁰ If disinformation is part of the advocacy of national, racial, or religious hatred that constitutes incitement of discrimination, hostility, or violence, it would then fall within the scope of article 20(2) of the ICCPR and must be prohibited.

1. Formal Regulatory Framework

The section identifies the laws relating to the regulation of speech and expression, and its application in case law (if any) and provides recent examples of the implementation of these laws. This section will also briefly discuss other regulatory mechanisms that are available within the ‘formal’ regulatory framework in Sri Lanka.

Constitutional provisions on the freedom of speech and expression

The Constitution of Sri Lanka guarantees every citizen the freedom of speech and expression, including publication.¹¹ This right can be restricted, as prescribed by law in the interests of racial and religious harmony, or in relation to parliamentary privilege, contempt of court, defamation or incitement to an offence.¹² The freedom of expression can also be restricted in the interests of national security, public order and the protection of public health or morality, or to secure due recognition and respect for the rights and freedoms of others, or for meeting the just requirements of the general welfare of a democratic society.¹³

Statutory laws relevant in combatting hate speech and disinformation

Several laws could be applied in combatting hate speech and disinformation on social media in Sri Lanka. These include:

1. International Covenant on Civil and Political Rights Act, No. 56 of 2007
2. Penal Code, No. 2 of 1883
3. Police Ordinance, No. 16 of 1865
4. Public Security Ordinance, No. 25 of 1947
5. Prevention of Terrorism (Temporary Provisions) Act (PTA), No. 48 of 1979
6. Sri Lanka Telecommunications Act (SLTA), No. 25 of 1991
7. Computer Crimes Act, No. 24 of 2007

1.1. International Covenant on Civil and Political Rights (ICCPR) Act, No. 56 of 2007

On 16 November 2007, Sri Lanka enacted the ICCPR Act to give effect to certain articles of the ICCPR relating to human rights that had not previously been given domestic recognition by law.¹⁴

Section 3 of the Act gives effect to article 20 of the ICCPR, and criminalises the propagation of war or the advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. Furthermore, any person who attempts, or threatens to commit or aids or abets the commission of this offence is also guilty of an offence. The punishment for the offence is rigorous imprisonment for a maximum of ten years. The offence is 'cognisable and non-bailable', and bail can only be granted by the High Court under exceptional circumstances.¹⁵

This legal provision is problematic as it groups different types of incitement into a single offence. The Rabat Plan of Action states that only the most severe forms of incitement must be criminalised.¹⁶ An overbroad and ambiguously defined offense may be misapplied, thereby criminalising speech that does not necessarily warrant penal sanctions. For instance, under these provisions of the Act, the state may treat merely controversial or dissenting expression as 'hate speech' resulting in a punishable offence.

In August 2019 the Human Rights Commission of Sri Lanka (HRCSL), in a letter to the Acting Inspector General of Police (IGP), noted the general reluctance of law enforcement authorities to enforce the ICCPR Act and take decisive action to mitigate ethno-religious violence.¹⁷ The HRCSL further proposed the adoption of certain guidelines based predominantly on the Rabat Plan of Action and requested law enforcement authorities to follow the six-part test in its enforcement and implementation of the Act. There are two observations relating to the application of the ICCPR Act: (i) the absence of convictions or inadequate prosecutions under the ICCPR Act; and (ii) the overinclusive application of the ICCPR Act.

(i) Absence of convictions or inadequate prosecutions under the ICCPR Act

Since its enactment, the ICCPR Act has not been enforced to secure a single conviction of perpetrators responsible for inciting anti-minority violence.¹⁸ See Table 1 for case story examples of the absence of convictions or adequate prosecutions under the ICCPR Act.

Table 1: Case story examples of the absence of convictions or inadequate prosecutions under the ICCPR Act.

Case Story	Details of Incident	Application of ICCPR
<p>Aluthgama, Dharga Town, Valipanna and Beruwala Violence (2014)</p>	<ul style="list-style-type: none"> ▪ There was a clash between a Buddhist monk and three Muslim youth who allegedly assaulted the monk, creating a tense situation in the area. ▪ An inflammatory speech targeting Muslims was made by Bodu Bala Sena (BBS) General Secretary Ven. Galagoda Aththe Gnanasara Thera at a rally organised by BBS.¹⁹ ▪ Following which, anti-Muslim riots broke out and spanned for over two days. The violence reportedly resulted in the death of approximately three people, and the destruction of approximately 152 homes and businesses.²⁰ ▪ Consequentially with the declaration of police curfew, mob attacks were carried out in areas surrounding Aluthgama, affecting both Muslim-owned businesses and homes, and some Sinhala-owned houses.²¹ 	<ul style="list-style-type: none"> ▪ Reportedly no persons were convicted for the instigation of violence.²²
<p>Anti-Muslim Violence in Gintota (2017)</p>	<ul style="list-style-type: none"> ▪ A road accident escalated into a minor altercation which then escalated to violence. ▪ Following which a rumour was propagated that a local Muslim politician led a mob to attack Sinhalese residences in Gintota.²³ ▪ After this rumour, several Muslim homes, properties, businesses were attacked, and four persons were reported to be injured.²⁴ ▪ Curfew was imposed in the area and was later extended to the neighbouring areas of Kurunduwatta, Maha Hapugala, Welipitimodara, Ukwatta and Piyadigama.²⁵ 	<ul style="list-style-type: none"> ▪ News reports suggest that the ICCPR Act was used to initially arrest 22 persons allegedly involved in the violence.²⁶ ▪ However, there is no information on the actual prosecution of any perpetrators under the Act.

<p>Attacks in Ampara (2018)</p>	<ul style="list-style-type: none"> ▪ Inter-communal tensions arose in Ampara after a Sinhalese customer claimed that a Muslim-owned restaurant had mixed 'sterilisation pills' in his food.²⁷ ▪ Video footage of the alleged incident was widely shared on Facebook. The video falsely portrayed the owner of the restaurant supposedly admitting to the act by nodding his head when confronted by the customer. This video was used to confirm a fear of an alleged Muslim plot to 'sterilise' the Sinhala-Buddhist community.²⁸ The restaurant owner later claimed that he does not understand Sinhala and was nodding out of fear.²⁹ 	<ul style="list-style-type: none"> ▪ Government Analyst revealed that the alleged 'sterilisation pill' were clumps of flour.³⁰ ▪ Reportedly, no arrests were made under the ICCPR Act concerning the incident.
<p>Attacks in Digana and Teldeniya (2018)</p>	<ul style="list-style-type: none"> ▪ Violence was reportedly triggered as a response to an assault of a Sinhalese man by four Muslims after a traffic incident. The assault allegedly took place a week before the violence.³¹ ▪ During the violence, the government temporarily restricted access to certain social media platforms claiming that it was to curb organisational efforts of mobs and the spread of anti-Muslim rhetoric. It also claimed that several videos of the attacks, hate speech and inflammatory videos had spread at a rapid pace.³² ▪ New Emergency Regulations (ERs) were issued by former President Maithripala Sirisena.³³ (See section 1.4. for more information on ERs) ▪ Two deaths were reported during this time, including mobs attacking Muslim-owned businesses and places of worship.³⁴ 	<ul style="list-style-type: none"> ▪ Mahason Balakaya leader Amith Weerasinghe, and nine others were arrested.³⁵ The law used to arrest these individuals is unclear. ▪ Reportedly, no arrests were made under the ICCPR Act.³⁶

<p>Attacks in Chilaw, Gampaha and Kurunegala Districts subsequent to the 2019 Easter Sunday</p>	<ul style="list-style-type: none"> ▪ Following the Easter Sunday Attacks in April 2019, which were attributed to the National Thowheeth Jamaath, an Islamist militant group, several incidents of anti-Muslim riots took place in the country. ▪ The first spate of violence took place in Chilaw when several mosques and Muslim-owned stores were pelted with stones. Subsequently, mobs attacked several villages in the Kurunegala district in the North-Western Province, destroying houses, property, and mosques. A Police curfew, which was initially imposed in the area, was later extended to the whole country.³⁷ ▪ Prior to the violence, a Muslim doctor was accused of sterilising Buddhist women.³⁸ A speech delivered by the BBS's General Secretary in relation to this accusation stating that, such persons should be stoned, was alleged to have instigated the spate of violence after the 2019 Easter Sunday Attacks. ▪ After the Easter Sunday Attacks in April 2019, the former President declared a state of emergency and issued new ERs.³⁹ (See section 1.4 for more information on ERs) 	<ul style="list-style-type: none"> ▪ Mahason Balakaya Leader Amith Weerasinghe was arrested in connection with the violence on the grounds of 'breaching the peace' and was reportedly investigated under the provisions of the Public Security Ordinance and the ERs.⁴⁰ ▪ The director of the Nawa Sinhale National Organisation, Dan Priyasad was arrested in connection with the violence.⁴¹ ▪ It was reported that suspects were arrested under the ICCPR Act subsequent to the violence in the Minuwangoda and Gampaha areas.⁴² However, there is a lack of publicly available information on whether these perpetrators were prosecuted.
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(ii) Overinclusive application of the ICCPR Act

The ICCPR Act has been applied in an overinclusive manner in the recent past. Section 3 of the ICCPR Act can be used to regulate expressions and the spread of disinformation that advocates national, religious, or racial hatred constituting incitement to discrimination, violence and hostility on social media. However due to the ambiguous terminology used within the section (for instance the term 'hostility' or 'discrimination'), it can enable the state to abuse the law through an overbroad interpretation of these terms. See Table 2 below for case story examples where the section has been applied in an overinclusive manner.

Table 2: Case story examples of overinclusive application of the ICCPR Act.

Case Story	Details of Incident	Application of ICCPR
<p>Arrest of the author and poet Shakthika Sathkumara (April 2019)</p>	<ul style="list-style-type: none"> ▪ The author posted a short story named 'Ardha' on Facebook. The fictional short story alluded to sexual abuse involving a member of the Buddhist clergy.⁴³ ▪ Complaints were made by Buddhist clergy that the short story was 'derogatory and defamatory to Buddhism' and as having 'insulted the life of the Buddha and the Maha Sangha'.⁴⁴ 	<ul style="list-style-type: none"> ▪ Arrested under section 3 of the ICCPR Act and section 291 of the Penal Code. He was held in remand for 130 days.⁴⁵
<p>Arrest of Abdul Raheem Masaheena (May 2019)</p>	<ul style="list-style-type: none"> ▪ A Muslim woman was arrested by the police for wearing a dress decorated with the logo of a ship's helm on it, stating that the logo resembled a sacred Buddhist symbol ('Dharmachakraya').⁴⁶ 	<ul style="list-style-type: none"> ▪ Arrested under section 3 of the ICCPR Act.
<p>Arrest of Ramzy Razeek (April 2020)</p>	<ul style="list-style-type: none"> ▪ Razeek posed certain opinions on his private Facebook account.⁴⁷ ▪ The Facebook post allegedly emphasised the importance of an 'ideological jihad' in the context of hate propagated against Muslims.⁴⁸ 	<ul style="list-style-type: none"> ▪ Reportedly arrested under the ICCPR Act and Computer Crimes Act.⁴⁹

Section 3 of the ICCPR Act can be used to regulate expressions, including disinformation, that advocates national, religious, or racial hatred constituting incitement to discrimination, violence and hostility on social media. The issue, however, lies in the framing of section 3 of the ICCPR Act.

On the one hand, its scope is broad, and the precise parameters of key terms, such as 'hostility', remain undefined. The broad scope of section 3 is thus vulnerable to abuse. On the other hand, it combines several types of speech offences, such as, incitement to violence and incitement to discrimination, and potentially sets the same penalty for all the offences (a maximum of ten years rigorous imprisonment). Such conflation of different types of offences to one offence is problematic, as it combines significantly harmful forms of hate speech (such as incitement to violence) with comparatively less harmful forms of hate speech (for instance speech that calls for the boycott of Muslim businesses). While both types of offences ought to be dealt with, imposing a mandatory

penalty of incarceration for lesser offences is disproportionate. Therefore, the section has the potential to be disproportionately applied as seen in the case examples under overinclusive application.

1.2. Penal Code, No. 2 of 1883

Chapter XV of the Penal Code deals with offences relating to religion. Two specific provisions seek to restrict speech that ‘wounds’ the religious feelings of others, provided that malicious and deliberate intention is proved.

- Section 291A provides that uttering words deliberately intended to wound religious feelings is an offence punishable with imprisonment for a term up to one year, or a fine, or both.⁵⁰
- Section 291B provides that *deliberate and malicious* acts intended to outrage the religious feelings of any class, by insulting its religion or religious beliefs, is a punishable offence with imprisonment for a term up to two years, or a fine, or both.⁵¹

Arguably, both these provisions can be interpreted to cover expressions that may advocate religious hatred constituting incitement to discrimination, hostility, or violence.⁵² However, there is a lack of jurisprudence on both sections 291A and 291B of the Penal Code.⁵³

Section 120 of the Penal Code on ‘exciting or attempting to excite disaffection’ is of relevance to the regulation of hate speech and disinformation as well. There are a few documented instances in which this section has been used to make arrests.⁵⁴ The Supreme Court has held that the ‘essence’ of section 120 ‘is whether the words in question incite the people to commit acts of violence and disorder, and not whether the words are defamatory or not’.⁵⁵ Available news reportage suggest that section 120 has been used to stifle expression by journalists and media that evoked anti-government sentiments – similar to the common law offence of sedition.⁵⁶ See Table 3 for examples of applying the relevant sections of the Penal Code.

Table 3: Case story examples of the application of relevant sections under the Penal Code.

Relevant Section	Case Story	Application
Section 291B	<p>The Naomi Michelle Cokeman Case, 2017⁵⁷</p> <ul style="list-style-type: none"> ▪ The accused was a British citizen who had a tattoo of Lord Buddha on her arm ‘as an apt tribute to and as a personal expression of her devotion to Buddhist teachings’.⁵⁸ ▪ On arrival to Sri Lanka, she was arbitrarily arrested, detained, subjected to degrading treatment, and subsequently deported. 	<ul style="list-style-type: none"> ▪ The Supreme Court in the fundamental rights case observed that there was no reasonable basis for the arrest. ▪ Referring to the B report by the police, it was seen that the police themselves had acknowledged that the petitioner in the case had had no ‘intention’ to outrage religious feelings. ▪ The court held that the petitioner’s rights under articles 11, 12(1) and

		13(1) of the Constitution had been violated, and ordered the State and Respondents in the case to pay compensation to the Petitioner.
Applied Section Unclear	Spread of false information during COVID-19 <ul style="list-style-type: none"> ▪ Incident A: An individual was arrested for using his Facebook account to criticise the appointment of Basil Rajapaksa to the head of the Presidential Task Force on COVID-19.⁵⁹ ▪ Incident B: An individual was arrested for using Facebook to criticise a Divisional Secretariat for ‘injustices’ that had occurred during the pandemic eradication and quarantine programme.⁶⁰ ▪ Incident C: An individual was arrested for reportedly claiming that the president was infected with COVID-19 on Facebook.⁶¹ 	<ul style="list-style-type: none"> ▪ Respective news reports on these arrests noted that individuals were arrested under the Penal Code and Computer Crimes Act. ▪ However, it is unclear which provision(s) of the Penal Code were used to make these arrests.

Section 291B was reportedly used in relation to the recent arrest of Shakthika Sathkumara (See Table 2 under the ICCPR Act). From the relevant provisions mentioned, sections 291B and 120 of the Penal Code can, and have been, applied in the context of social media. However, the problem arises with the lack of clarity on the precise scope and interpretation of the terms within the provisions, such as ‘outrage religious feelings’, ‘discontent or disaffection’ and ‘promote feelings of ill-will’. Such ambiguity in defining the scope of how such penal offences may be applied can lead to the misapplication and arbitrary restriction of expression.

1.3. Police Ordinance, No. 16 of 1865

Section 98 of the Police Ordinance provides that any person who spreads false reports with the view of alarming the inhabitants of any place within Sri Lanka and creating ‘a panic’ will be guilty of an offence.⁶² Furthermore, the provision is broad enough to be interpreted to include false reports on social media. However, the publicly available information about the use of this section to make any arrests or charge perpetrators is limited. During the outbreak of the COVID-19 pandemic, a letter by the HRCSL to the Acting IGP did mention that section 98 of the Police Ordinance was cited in Police ‘B’ reports as the basis for certain arrests made concerning the spread of misinformation regarding the pandemic.⁶³ This communication by the HRCSL serves as evidence of section 98 being the basis for arrests for spreading misinformation.

1.4. Public Security Ordinance, No. 25 of 1947

The Public Security Ordinance (PSO) provides for the enactment of ERs or the adoption of other measures in the interests of public security and the preservation of public order and the maintenance of essential supplies and services.⁶⁴ Under the PSO, the president has the power to make ERs if it appears 'necessary or expedient in the interests of public security and the preservation of public order and the suppression of mutiny, riot or civil commotion, or for the maintenance of supplies and services essential to the life of the community'.⁶⁵ ERs can be issued for several purposes including the detention of people, entry and search, and the acquisition of private property.⁶⁶ An operational ER supersedes any other law, except the Constitution, and cannot be called into question by any court.⁶⁷

During past states of emergency, several ERs have been issued.⁶⁸ Most recent examples of ERs have included prohibitions on spreading false information. For instance, during the Digana violence in 2018, Regulation 15 of the ERs issued provided that the communication or spreading of any rumour or false statements or any information or image or message, which was likely to cause public alarm or public disorder, racial violence or incite the committing of an offence, was made an offence.⁶⁹ The provision explicitly refers to modes of communication, which include 'digital and or social media'. During the aftermath of the Easter Sunday Attacks in 2019, the ERs issued were similar to that of the ERs issued in 2018. Additionally, it provided for provisions to deal with terrorism.⁷⁰ Although the provision did not specifically mention social media, it stated 'by any other means whatsoever', which is broad enough to cover all forms of communication.

The recent ERs in response to violence and terrorist attacks have included broad language that can cover content on social media. While this broadness allows for social media to be regulated through the legal framework, it can be problematic given Sri Lanka's history of misusing emergency rules and regulations.⁷¹

1.5. Sri Lanka Telecommunications Act (SLTA), No. 25 of 1991

Section 58 of the Act provides that every person who by himself, or through an agent 'tenders for transmission at any telecommunication office any message of an indecent, obscene, seditious, scurrilous, threatening or grossly offensive character' is guilty of an offence.⁷² The provision can be interpreted to cover expression and disinformation that advocates national, religious or racial hatred constituting incitement to, hostility or violence in particular. Section 69 of the SLTA also provides for the power of the government to prohibit or restrict the transmission and reception of telecommunication messages due to the occurrence of 'any public emergency or in the interest of public safety and tranquillity'.⁷³

In terms of the application of the SLTA, as well as the powers exercised under the Act, there have been instances where the Telecommunications Regulatory Commission of Sri Lanka (TRCSL) has regulated or blocked content for multiple reasons. For instance, from 2015 to 2018 it was reported that several websites were blocked under the direction of the TRCSL (such as the Lankaenews website in 2017). Subsequently in response to a Right to Information request by Groundviews, the TRCSL disclosed that four other websites had been blocked for alleged 'publishing incorrect information and damaging the President's reputation', while two other websites had allegedly been blocked for 'publishing false information'. No further reasons or justification was given for blocking

these websites.⁷⁴ More recently temporary social media restrictions were enforced by the TRCSL in compliance with a request made by the Ministry of Defence in response to the violence in Digana in 2018 and the 2019 Easter Sunday Attacks.⁷⁵ Such restrictions were made on social media to ‘prevent the spread of misinformation’.⁷⁶

One of the key issues regarding the TRCSL has been the politicisation of this body. There have been instances when the President’s Secretary has also served as the Chairperson of the TRCSL, which raises questions of independence of the body.⁷⁷ In March 2019, the former President Sirisena brought the TRCSL under his control (under the purview of the Ministry of Defence).⁷⁸ Similarly, in December 2019 after the election of the new President Gotabaya Rajapaksa, the Secretary to the Ministry of Defence was appointed as the Chairperson of the TRCSL.⁷⁹ It is clear that its mandate extends to social media, however, the politicisation of the TRCSL, coupled with its overbroad mandate could lead to it disproportionately regulating social media.

1.6. Prevention of Terrorism (Temporary Provisions) Act (PTA), No. 48 of 1979

The PTA was enacted through Parliament as an ‘urgent bill’, which resulted in a lack of opportunity for public comment or opposition.⁸⁰ The PTA was a special law intended to make temporary provisions to deal with terrorism threats for three years, which was subsequently made permanent.⁸¹

Section 2(1)(h) makes it an offence for any person to cause or intend to cause the ‘commission of acts of violence or religious, racial or communal disharmony or feelings of ill-will or hostility between different communities or racial or religious group’, by words, signs, visible representations or otherwise. The Act also penalises persons who abet, conspire, or incite the commission of offences identified in section 2.⁸² This section appears to prohibit certain forms of hate speech, and can be extended to social media platforms as it is not restricted to specified modes of communication. Further, section 14 provides that, subject to certain conditions,⁸³ any person who should print or publish in any newspaper any matter relating to ‘incitement to violence, or which is likely to cause religious, racial or communal disharmony or feelings of ill-will or hostility between different communities or racial or religious groups’ without the approval of a competent authority, is guilty of an offence.⁸⁴

Concerning its application, the Act provides for broad powers for law enforcement officials in relation to the powers of entry, search, seizure, and arrest. The PTA further provides for detention and restriction orders. The provisions of this Act have been disproportionately used against several persons including journalists, human rights defenders, and political activists.⁸⁵ For example, the case of Tissanaiyagam in 2008 was an instance where section 2(1)(h) was misapplied. Tissanaiyagam was an editor of a magazine, who was arrested by the Terrorism Investigation Division for publishing articles that allegedly incited the commission of acts of violence or racial or communal disharmony. In 2009, he was sentenced to 20 years rigorous imprisonment. The case has been criticised for the use of a ‘tampered’ confession as evidence in the proceedings, and for the failure to prove that the respective articles could incite ethnic disharmony.⁸⁶

A draft bill titled the Counter Terrorism Act was proposed in 2018, to repeal and replace the PTA. However, on 3 January 2020, the Cabinet approved a decision to withdraw the draft bill.⁸⁷

1.7. Computer Crimes Act, No. 24 of 2007

Section 6 provides that it is an offence for a person to intentionally cause a computer to perform any function, knowing or having reason to believe that such a function will result in danger or imminent danger to (a) national security, (b) the national economy, or (c) public order.⁸⁸ In March 2020, the Act was used to arrest persons for spreading ‘misinformation via social media’ in relation to COVID-19.⁸⁹ As of July 2020, there are no reported cases of the Act being specifically used in respect of regulating hate speech on social media. Nonetheless, its application in 2020 indicates that the application of the section may cover forms of hate speech on social media.

1.8. Other regulatory mechanisms: Institutions

1.8.1. SLCERT – Sri Lanka Computer Emergency Readiness Team / Coordination Centre⁹⁰

SLCERT, established in 2006, is a state institution and currently functions under the purview of the Ministry of Defence.⁹¹ SLCERT provides advice on the latest threats and vulnerabilities affecting the country’s computer systems and networks. It also provides expertise in responding to and recovering from cyber-attacks. However, concerning incidents on social media, SLCERT *only* provides *technical assistance* to resolve social media incidents. According to its website, SLCERT does *not* provide support to trace or take legal action against perpetrators. Although it does not remove content on social media platforms or block websites, the institution may provide support for removing fake accounts, hacked accounts, and reporting content that violates the privacy policy/community standards of social media platforms and other websites.

1.8.2. Cyber Crimes Division of the Criminal Investigation Department

The Criminal Investigation Department (CID) of the Sri Lanka Police carries out special investigations into specific crimes. In 2015, it was reported that the CID had introduced ‘Hi-tech Crime Investigation Units’ across the country to fight cybercrimes and increase the expediency with which complaints are handled.⁹² It was reported that the units would focus on the sexual harassment of women on social media, threats to children, and financial crimes.⁹³ There is no follow up data available on the performance of these units. The mandate of the Cyber Crimes Division of the CID is unclear, and it does not appear to specifically deal with online hate speech.

2. Alternative Non-Legal Frameworks

Outside the state’s legal regulatory framework (formal), there are alternative means of combatting hate speech and disinformation on social media. Non-legal and social responses to hate speech can substitute or complement formal regulatory frameworks.⁹⁴ This section discusses the following alternative mechanisms: 1) voluntary self-regulation by social media companies; 2) independent international regulation; and 3) counter-messaging by civil society and private institution initiatives. The global and local experience suggests that relying solely on one mechanism within the alternative framework can be ineffective as it requires a cohesive response.

2.1. Voluntary self-regulation by social media companies

Among other regulatory mechanisms, voluntary self-regulation is one mechanism adopted by social media organisations.⁹⁵ This mechanism is not founded on a legal framework, but is motivated by the need to allow for the ‘development and credibility’ of the media industry.⁹⁶ Through such self-regulation, social media platforms routinely monitor and remove content from their platforms. Monitoring of content is conducted to ensure compliance with the terms of service or community standards that all users of a platform are bound to accept. Content is removed on the platform’s own initiative or based on the complaints of users in discovering that the content is in violation of the platform’s community guidelines.⁹⁷

2.1.1. Community standards: Definitions for hate speech and enforcement

Widely used social media platforms have community standards that define the types of content that constitute hate speech. The section outlines relevant community guidelines and its enforcement in relation to hate speech on Facebook, YouTube, Twitter, and Instagram. See Table 4 for definitions of hate speech and enforcement of community standards as of July 2020.

Social Media Platform	Relevant Community Guideline/Policy/Standard	Enforcement
<p data-bbox="71 411 212 443">Facebook</p> 	<ul style="list-style-type: none"> <li data-bbox="444 275 1011 583">▪ Under 'objectionable content', the community guidelines define hate speech as 'a direct attack on people' based on the 'protected characteristics' of - race, ethnicity, national origin, religious affiliation, sexual orientation, caste, sex, gender, gender identity, and serious disease or disability.⁹⁸ <li data-bbox="444 632 1011 779">▪ 'Attack' is defined as 'violent or dehumanising speech, statements of inferiority, or calls for exclusion or segregation'.⁹⁹ <li data-bbox="444 827 1011 1010">▪ The guidelines are categorised into three tiers based on the severity of content that targets a person or a group of people in relation to the protected characteristics.¹⁰⁰ 	<ul style="list-style-type: none"> <li data-bbox="1089 275 1539 369">▪ Facebook may remove content or cover content with a 'warning screen'.¹⁰¹ <li data-bbox="1089 411 1539 506">▪ The platform continues to develop detection technology to flag hate speech.¹⁰² <li data-bbox="1089 548 1539 779">▪ The platform mainly determines whether the content needs to be removed or not by either 'automatically' removing hate speech or by proactive detection of 'potentially violating content'.¹⁰³
<p data-bbox="71 1150 204 1182">YouTube</p> 	<ul style="list-style-type: none"> <li data-bbox="444 1100 1011 1199">▪ Under 'hateful content', the community guidelines specifically state that hate speech is not allowed. <li data-bbox="444 1241 1011 1535">▪ Promoting violence or hatred against individuals or groups based on certain attributes will be removed. These attributes are - age, caste, disability, ethnicity, gender identity and expression, nationality, race, immigration status, religion, sex/gender, sexual orientation, victims of a major violent event and their kin and veteran status.¹⁰⁴ 	<ul style="list-style-type: none"> <li data-bbox="1089 1100 1539 1331">▪ Guidelines range from a preliminary warning to restricting the content that can be uploaded. Access to other features on YouTube may be restricted or the user's channel may be removed.¹⁰⁵
<p data-bbox="71 1696 185 1728">Twitter</p>	<ul style="list-style-type: none"> <li data-bbox="444 1612 1011 1810">▪ Under the 'hateful conduct policy', promoting violence against or directly attacking or threatening other people based on race, ethnicity, national origin, caste, sexual orientation, gender, gender identity, religious affiliation, age, 	<ul style="list-style-type: none"> <li data-bbox="1089 1612 1539 1810">▪ Twitter has a range of enforcement options for content that violates its policies. These options include tweet-level enforcement, direct-message-level enforcement, account-level



	<p>disability, or serious disease is prohibited.¹⁰⁶</p> <ul style="list-style-type: none"> ▪ The policy provides examples of the types of content that would violate their standards.¹⁰⁷ 	<p>enforcement and action against non-violating content.¹⁰⁸</p>
<p>Instagram</p> 	<ul style="list-style-type: none"> ▪ Under ‘respect other members of the Instagram community’, the guidelines state that content that contains <i>inter alia</i> ‘credible threats or hate speech’ will be removed. ▪ It further states that encouraging violence or attacks based on race, ethnicity, national origin, sex, gender, gender identity, sexual orientation, religious affiliation, disabilities or diseases is not allowed.¹⁰⁹ 	<ul style="list-style-type: none"> ▪ Instagram may delete content, disable accounts or may work with law enforcement if there is a risk of physical harm or threat to public safety.¹¹⁰

Table 5: Community standards: Definitions for hate speech and enforcement

There appears to be consensus among social media companies that measures should be taken to combat hate speech on their platforms.¹¹¹ For instance, in Sri Lanka, steps have been taken by Facebook to respond to misinformation/disinformation and hate speech. In particular, it was reported that in early 2019, Facebook created a team to specifically work on issues in Sri Lanka and other countries where online content could lead to offline harm or violence.¹¹² As mentioned previously, language is a challenge in relation to voluntary content moderation, as artificial intelligence (AI) systems may not be effective in monitoring and detecting misinformation and hate speech in Sinhala and Tamil.¹¹³ Researcher Sanjana Hattotuwa expressed concerns over the platform’s ‘enduring unevenness’ in creating awareness and accessibility to reporting tools in Sinhala and Tamil—allowing time for harmful content to go viral.¹¹⁴

Nonetheless, past events such as the revelations of Russian interference in the lead up to the Brexit referendum, suggests that the sole reliance on voluntary self-regulation may not be adequate.¹¹⁵ Moreover, the lack of capacity to regulate hate speech propagated in local languages, and the lack of transparency in the enforcement of respective guidelines and standards further suggest that other non-legal mechanisms must be sought.

2.2. Independent international regulation

Many stakeholders recommend independent external mechanisms for social media as an effective option.¹¹⁶ They suggest the creation of a council at a national or international level or a combination of both.¹¹⁷ A report by ARTICLE 19 for example recommends that such a council can set elaborate ethical standards specific to the online distribution of content, and cover other areas such as community guidelines and content regulation practices of social media companies.¹¹⁸ It has been suggested that such a council can engage with the public through appropriate consultative processes, while relying on 'light sanctions' of transparency, and peer and public pressure.¹¹⁹

The only guide relating to self-regulation of social media in Sri Lanka, which is available as the time of publishing this report, is the Social Media Declaration (2019): Code of Conduct for Responsible Social Media Use. A similar model may be applied to social media companies that operate online platforms on which media content is shared. It recognises that the responsibilities of social media platforms are of a multi-stakeholder nature, which includes the government, media organisations and civil society. As such, appealing to internationally accepted norms, principles and ethics can be a powerful method of social media regulation. For this, an international independent council maybe set up to guide and advise on respective community standards, and hear serious complaints from individuals from a local context.

2.3. Counter-messaging and ethical engagement by civil society and private institution initiatives

Counter-speech means raising awareness, enhancing education and building the capacity to speak out against hate speech.¹²⁰ Counter-speech is often preferred to the suppression or restriction of free speech.¹²¹ Counter-messaging or speech can take place at two levels: (1) institutional, and (2) individual.

2.3.1. Institutional level: Counter-messaging initiatives by civil society, media actors and activists

Civil society plays a pivotal role in protecting and promoting the freedom of expression, and countering or responding to hate speech.¹²² Civil society initiatives are among the most innovative and effective means of countering hate speech and responding to incidents of violence.¹²³ For instance, in Sri Lanka, during the presidential elections in 2019, Hashtag Generation, a youth-led Civil Society Organisation (CSO),¹²⁴ monitored social media for dangerous speech, false information, and violations of electoral legislation.¹²⁵ Similarly, CSO co-operation has been evident in capacity-building to strengthen social media monitoring.¹²⁶

2.3.2. Institutional level: Fact-checking and ethical engagement by private or social institutions

Private or social institutions can play a vital role in ensuring the accuracy of information online. Disinformation that could constitute hate speech can be verified by online fact checking platforms. In

response to recent cases of online hate speech and disinformation, Facebook looked to ‘strengthen partnerships with local fact-checking organisations in Sri Lanka’ (AFP and Fact Crescendo).¹²⁷ Although there is an increase in capacity for content moderation, a recent report revealed that news stories confirmed to be false by these fact-checkers continue to remain on Facebook with no disclaimers.¹²⁸ Private institutions can also counter hate speech and disinformation by appealing to ethical media practices. For instance, Ethics Eye, a social media platform run by Verité Research, seeks to hold media organisations to account for publishing unethical content.

2.3.3. Individual level: Citizen driven initiatives

Primarily, citizens can be educated on the elements of hate speech and the types of content that should be prohibited. Information literacy can be improved, thereby enabling individuals to counteract hate speech on their own volition. In its 2018 report, ARTICLE 19 makes suggestions on the measures that states could take to promote counter-speech, and how members of the public can respond to hate speech. They suggest that investing in digital literacy skills, will result in the realisation of the benefits of engagement online, and the importance of such engagement.¹²⁹ Moreover, engagement of CSOs and other stakeholders to create awareness and enhance social media literacy among citizens is likely to have a positive impact in reducing the harm caused by problematic content as well as building social resistance in spread of such content.¹³⁰

Conclusion & Observations

In Sri Lanka legal provisions within the formal regulatory framework covers social media. However, such laws run the risk of abuse and overinclusive or selective application. The use of these laws to target critical and dissenting voices, and the lack of enforcement of laws against those inciting discrimination, hostility or violence against minority groups, point to the inherent risks in relying on legal mechanisms alone to effectively deal with online hate speech and disinformation. The alternative non-legal framework, which provides for direct content moderation includes three mechanisms: (i) voluntary self-regulation by social media companies; (ii) independent international regulation; and (iii) counter-messaging by civil society and private institution initiatives.

However, these mechanisms also have distinct challenges. For instance, the effectiveness of voluntary self-regulation by social media companies is still in doubt. Although social media companies, such as Facebook, have been responsive to issues of hate speech on Sri Lankan social media, concerns remain in relation to its transparency and ability to meaningfully regulate content. Individual and industry level counter-messaging on the other hand may be deemed to be more effective, however, the need for social media literacy is essential.

The study observes that such mechanisms within the alternative non-legal framework should operate complementary to the formal regulatory framework to effectively regulate hate speech and disinformation on social media.

Observations of Eight Key Options:

Given the challenges identified in the study, this section provides observations of eight key options to improve the complimentary formal and alternative non-legal frameworks that regulate online hate speech and disinformation in Sri Lanka. The eight key options for interventions are categorised according to the relevant category of implementation of each intervention: (i) legislative interventions; (ii) CSO-led interventions; and (iii) cross-cutting interventions. Table 5 provides a summary of the observations.

Table 6: Summary of the eight key options

Stakeholder	Frame work	No.	Recommendation								
Legislative Interventions	Formal Regulatory Framework	1.	<p>Amending the ICCPR Act to improve clarity</p> <ul style="list-style-type: none"> Consider amending section 3(1) of the ICCPR Act: terminology and interpretative framework can be clarified, and criminal sanctions involving incarceration under the section can be confined to instances of incitement to violence. 								
		2.	<p>Consider amending the provisions below in the Penal Code to provide clarity on the ambit and scope of the offences</p> <table border="1"> <thead> <tr> <th>Penal Code Section</th> <th>Phrases that lack clarity</th> </tr> </thead> <tbody> <tr> <td> <ul style="list-style-type: none"> Section 291A: Uttering words with deliberate intent to wound religious feelings. </td> <td> <ul style="list-style-type: none"> 'Wounding the religious feelings.' </td> </tr> <tr> <td> <ul style="list-style-type: none"> Section 291B: Deliberate and malicious acts intended to outrage the religious feelings of any class, by insulting its religion or religious beliefs. </td> <td> <ul style="list-style-type: none"> 'Outraging the religious feelings.' </td> </tr> <tr> <td> <ul style="list-style-type: none"> Section 120: Exciting or attempting to excite disaffection. </td> <td> <ul style="list-style-type: none"> 'Discontent or disaffection.' 'Promote feelings of ill-will.' </td> </tr> </tbody> </table>	Penal Code Section	Phrases that lack clarity	<ul style="list-style-type: none"> Section 291A: Uttering words with deliberate intent to wound religious feelings. 	<ul style="list-style-type: none"> 'Wounding the religious feelings.' 	<ul style="list-style-type: none"> Section 291B: Deliberate and malicious acts intended to outrage the religious feelings of any class, by insulting its religion or religious beliefs. 	<ul style="list-style-type: none"> 'Outraging the religious feelings.' 	<ul style="list-style-type: none"> Section 120: Exciting or attempting to excite disaffection. 	<ul style="list-style-type: none"> 'Discontent or disaffection.' 'Promote feelings of ill-will.'
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<ul style="list-style-type: none"> Section 120: Exciting or attempting to excite disaffection. 	<ul style="list-style-type: none"> 'Discontent or disaffection.' 'Promote feelings of ill-will.' 										
3.	<p>Extension of SLCERT's mandate</p>										

			<ul style="list-style-type: none"> ▪ Consider an extension of SLCERT’s mandate through a transparent and structured system to evaluate content on social media in relation to hate speech and disinformation, and request removal of harmful content. This extension of SLCERT’s mandate should be accompanied with adequate checks and balances to not only cover the protection of freedom of speech/expression but also gender and ethno-religious concerns. ▪ Furthermore, such an expansion of mandate requires capacity building of relevant staff as a prerequisite. Such programs should include knowledge and training on ‘digital rights’, which translates to understanding the intricacies related to the freedom of expression and use of social media platforms in such context.
		4.	<p>Intermediary liability imposed by the state</p> <ul style="list-style-type: none"> ▪ Another option that is being explored by states is the introduction of intermediary liability on internet intermediaries to regulate content on their respective platforms. This may be an option that is available to Sri Lanka as well. However, the comparative experience illustrates the negative consequences of this type of regulation on freedom of expression and the potential for misuse by the state.
CSO-led Interventions	Alternative Non-Legal Frameworks	5.	<p>Advocating for and emulating an independent international council for regulation</p> <ul style="list-style-type: none"> ▪ Independent external regulatory mechanisms for social media have been suggested as an effective option.¹³¹ The creation of a council at an international level could allow such a body to: (i) engage with concerns arising from across nations through appropriate consultative processes; and (ii) independently develop and legitimise standards through which social media can be regulated. In the absence of a fully independent international mechanism, CSOs in Sri Lanka can work with other CSOs in the Asian region and can begin to emulate such a mechanism through the creation and emulation of such a council in Asia. ▪

Cross-Cutting Interventions	Formal Regulatory Framework	6.	<p>Creating more awareness about the ICCPR Act</p> <ul style="list-style-type: none"> ▪ CSOs could advocate for the proper application of the ICCPR Act by law enforcement and partner with relevant institutions for capacity building and training. CSOs can publicly hold law enforcement accountable for instances of misuse of the law. ▪ Institutions such as HRCSL, National Police Commission (NPC), Judicial Service Commission, and Judges Training Institute can provide capacity building and training to law enforcement/judiciary on the ambit and scope of the ICCPR Act. ▪ Media outlets should ensure media ethics are followed in relation to reporting on arrests relating to hate speech/disinformation.
	Alternate Non-Legal Frameworks	7.	<p>Investing in citizen-driven initiatives that can draw attention to and counter online hate speech and disinformation using international human rights and ethical standards¹³²</p> <ul style="list-style-type: none"> ▪ Consider government interventions on the adoption of policies aimed at improving the digital literacy and e-safety of citizens island-wide. ▪ Initiatives such as fact-checking platforms are vital to counter disinformation and hate speech as well.
		8.	<p>Forming a national civil society coalition to build digital literacy¹³³</p> <p>CSOs that operate outside of the Colombo district for instance are affected by resource insufficiency.¹³⁴ Therefore, to improve coordination the creation of a national CSO coalition to boost digital literacy would assist in building a stronger network among CSOs at a national level and providing increased access to resources for CSOs outside the Colombo district. Such a CSO coalition could also strengthen safeguards for citizen-driven educational initiatives for combatting hate speech and disinformation through digital literacy.</p>

End Notes

¹ The outreach sessions included a total number of 93 participants. A key observation made at the outreach sessions were that many participants were unaware of the current legal framework on regulating hate speech and disinformation in Sri Lanka. The in-person outreach sessions which focused on raising awareness of the relevant frameworks, were conducted in English and Sinhala languages in Colombo and Kandy in September 2020. However, with the outbreak of the COVID-19 pandemic, the remaining sessions in December 2020 took place virtually in Sinhala and Tamil languages, and included participants from Batticaloa, Jaffna, Mannar, Trincomalee, Galle and Matara.

² Shilpa Samaratunge & Sanjana Hattotuwa, *Liking Violence: A study of hate speech on Facebook in Sri Lanka* (Centre for Policy Alternatives 2014), p. 3.

³ Dr. Beata Martin-Rozumiłowicz and Rast'o Kužel, *Social Media, Disinformation and Electoral Integrity: IFES Working Paper* (International Foundation for Electoral Systems 2019), p. 10.

⁴ Principle 12, Camden Principles on Freedom of Expression and Equality (ARTICLE 19, 2009) ('Camden Principles').

⁵ Article 19, International Covenant on Civil and Political Rights (ICCPR).

⁶ Ministry of Foreign Affairs, *Overview*, at <https://mfa.gov.lk/overview/> [last accessed on 19 August 2020].

⁷ Article 19(3), ICCPR.

⁸ United Nations Human Rights Committee, General Comment No. 34 – Article 19 (Freedoms of Opinion and Expression) ('HRC General Comment 34'), 12 September 2011, CCPR/C/GC/34, para. 43.

⁹ Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the expert workshops on the prohibition of incitement to national, racial or religious hatred* ('Rabat Plan of Action') 11 January 2013, A/HRC/22/17/Add.4, para.29.

¹⁰ Claire Wardle & Hoseein Derakhshan, *Information Disorder: Toward an interdisciplinary framework for research and policy making* (Council of Europe Report 2017), p. 5; Christina Nemr & William Gangware, *Weapons of Mass Distraction: Foreign State-Sponsored Disinformation in the Digital Age* (Park Advisors March 2019), p. 4.

¹¹ Article 14(1)(a), The Constitution of the Democratic Socialist Republic of Sri Lanka 1978.

¹² Article 15(2), The Constitution of the Democratic Socialist Republic of Sri Lanka 1978.

¹³ Article 15(7), The Constitution of the Democratic Socialist Republic of Sri Lanka 1978.

¹⁴ For example, section 4 gives effect to elements of the right to a fair trial and section 5 provides for the rights of a child.

¹⁵ As per section 2 of the Code of Criminal Procedure Act, a 'cognizable' offence is an offence for which a peace officer can arrest a person without a warrant. As per section 2, 'peace officer' includes a police officer, and a Divisional Assistant Government Agent and a Grama Seva Niladhari who have been appointed by a Government Agent in writing to perform police duties.

¹⁶ Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the expert workshops on the prohibition of incitement to national, racial or religious hatred* ('Rabat Plan of Action') 11 January 2013, A/HRC/22/17/Add.4, para. 34.

¹⁷ Human Rights Commission of Sri Lanka (HRCSL), 'Letter to the Acting Inspector General of Police', 23 May 2019, at <https://srilankabrief.org/wp-content/uploads/2019/09/HRCSL-letter-to-Acting-Inspector-General-of-Police.pdf> [last accessed 30 March 2020].

¹⁸ See *Confronting Accountability for Hate Speech in Sri Lanka* (Centre for Policy Alternatives (CPA) 2018) at p. 20 where the authors state that there have been no reported judgments or trials concluded under the section.

¹⁹ 'Fear, shock among Sri Lankan Muslims in aftermath of Buddhist mob violence', *CNN World*, 24 June 2014, at <https://edition.cnn.com/2014/06/19/world/asia/sri-lanka-muslim-aluthgama/> [last accessed 11 July 2020].

²⁰ Ministry of Foreign Affairs, *Right of Reply Sri Lanka 26th Session of the Human Rights Council Agenda Item 4*, at https://www.mfa.gov.lk/images/stories/pdfs/ROR_on_Aluthgama_incident.pdf [last accessed on 19 August 2020].

²¹ Farzana Haniffa, Harini Amarasuriya and Vishakha Wijenayake, *Where Have All the Neighbours Gone? Aluthgama Riots and its Aftermath: A Fact-Finding Mission to Aluthgama, Dharga Town, Valipanna and*

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- Beruwela* (Law & Society Trust 2014) at <https://lstlanka.org/wp-content/uploads/2017/11/aluthgama-report-final-english.pdf> [last accessed 10 June 2020], p. 4.
- ²² Gehan Gunatilleke, *The Chronic and the Entrenched: Ethno-religious Violence in Sri Lanka* (ICES 2018). For an account of the incident see, *Where have all the neighbours gone?* (Law & Society Trust 2014), *op. cit.*, p. 1-6.
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- ²⁴ 'Gintota unrest: 19 suspects remanded, curfew again today', *ColomboPage*, 18 November 2017, at http://www.colombopage.com/archive_17B/Nov18_1511026781CH.php [last accessed 26 June 2019].
- ²⁵ 'Gintota violence: PM warns troublemakers', *Daily News*, 20 November 2017, at <https://www.dailynews.lk/2017/11/20/local/134986/gintota-violence-pm-warns-troublemakers> [last accessed 26 June 2020].
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- ²⁸ 'Tension in Ampara after fake 'sterilization pills' controversy', *Sunday Observer*, 4 March 2018, at <http://www.sundayobserver.lk/2018/03/04/news/tension-ampara-after-fake-%E2%80%99sterilization-pills%E2%80%99-controversy> [last accessed 10 July 2020].
- ²⁹ *ibid.*
- ³⁰ 'Sterilization Pills' Found To Be Clumps Of Flour: Government Analyst Rules Out Rumours Of Attempted Ethnic Cleansing', *Asian Mirror*, 8 March 2018, at <https://asianmirror.lk/news/item/27037-sterilization-pills-found-to-be-clumps-of-flour-government-analyst-rules-out-rumours-of-attempted-ethnic-cleansing> [last accessed 10 July 2020].
- ³¹ 'Digana turns divisive!', *Daily FT*, 6 March 2018, at <http://www.ft.lk/top-story/Digana-turns-divisive-/26-650661> [last accessed 15 June 2020].
- ³² 'TRC to lift social media ban on Friday', *Daily FT*, 14 March 2018, at <http://www.ft.lk/top-story/TRC-to-lift-social-media-ban-on-Friday/26-651218> [last accessed 6 April 2020].
- ³³ Emergency Regulations Extraordinary Gazette No 2061/21, issued on 6 March 2018, at http://www.documents.gov.lk/files/egz/2018/3/2061-21_E.pdf [last accessed 17 April 2020].
- ³⁴ 'Kandy communal violence: Main suspect arrested', *Daily News*, 9 March 2018, at <http://www.dailynews.lk/2018/03/09/local/145064/kandy-communal-violence-main-suspect-arrested> [last accessed 15 June 2020].
- ³⁵ 'The Digana-Kandy Racial Riots: What You Need To Know', *Roar Media*, 07 March 2018, at <https://roar.media/english/life/in-the-know/the-digana-kandy-racial-riots-what-you-need-to-know> [last accessed 15 June 2020].
- ³⁶ See 'Abuse of ICCPR Act has 'chilling effect' on fundamental freedoms', *Sunday Observer*, 16 June 2019, at <http://www.sundayobserver.lk/2019/06/19/news-features/abuse-iccpr-act-has-%E2%80%99chilling-effect%E2%80%99-fundamental-freedoms> [last accessed 21 April 2020]; 'Kandy communal violence: Main suspect arrested', *Daily News*, 9 March 2018, at <http://www.dailynews.lk/2018/03/09/local/145064/kandy-communal-violence-main-suspect-arrested> [last accessed 21 April 2020].
- ³⁷ See 'Police impose island-side curfew till Tuesday morning amid fears of escalation in violence', *Sri Lanka Brief*, 13 May 2019, at <https://srilankabrief.org/2019/05/mobs-attack-mosques-muslim-owned-shops-and-homes-in-sri-lankas-kurunegala-district/> [last accessed 17 April 2020].
- ³⁸ 'Fear in Sri Lanka as monk calls for stoning of Muslims' *Aljazeera*, 22 June 2019, at <https://www.aljazeera.com/news/2019/6/22/fear-in-sri-lanka-as-monk-calls-for-stoning-of-muslims> [last accessed 15 June 2020].
- ³⁹ Extraordinary Gazette No. 2120/5, issued on 22 April 2019, at http://www.documents.gov.lk/files/egz/2019/4/2120-05_E.pdf [last accessed 17 April 2020].
- ⁴⁰ 'Leader of the Mahason Balakaya Amith Weerasinghe further remanded', *News 1st*, 28 May 2019, at <https://www.newsfirst.lk/2019/05/28/leader-of-the-mahason-balakaya-amith-weerasinghe-further-remanded/> [last accessed 26 June 2020].

⁴¹ 'Police remand 78 involved in violence', *op. cit.*

⁴² '13 arrested for riots in Minuwangoda to be produced in court today', *ColomboPage*, 14 May 2019, at http://www.colombopage.com/archive_19A/May14_1557817003CH.php [last accessed 17 April 2020].

⁴³ For description of the incident see, 'Abuse of ICCPR Act has 'chilling effect' on fundamental freedoms', *op. cit.*

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⁴⁶ For description of the incident see, 'Abuse of ICCPR Act has 'chilling effect' on fundamental freedoms', *op. cit.*

⁴⁷ Damith Chandimal and Ruki Fernando, 'Sri Lanka: The Truth About the Arrest and Detention of Ramzy Razeek', *Sri Lanka Brief*, 14 April 2020, at <https://srilankabrief.org/2020/04/sri-lanka-the-truth-about-the-arrest-and-detention-of-ramzy-razeek/> [last accessed 17 July 2020].

⁴⁸ The Facebook post by Ramzy Razeek (English translation) reads '*Sri Lankan Muslim society is facing ideological war for a thought war. Muslims have been surrounded all four in a way that cannot face this thought war which is being launched in a very subtle manner by racist gangs in the country. The Muslim society is looking at it ghostly as it could not do anything against the powerful intelligence attack. Racist enemies are successfully reaching their goal. Muslims are getting defeated by this powerful intelligence attack. Muslims should immediately prepare for a thoughtful jihada (an opinion struggle). This is a religious responsibility that has been put on their hands for the entire Sri Lankan public society. It's time to prepare for a thoughtful jihad (opinion struggle) by making a pen and keyboard a weapon for the country and all its citizens. Muslims at this moment should focus more on understanding the truth to the public by using every space including mainstream media and social media to face the hate propaganda against Muslims, another population of the country. There is not impossible.*' See original Facebook post, 2 April 2020, at <https://www.facebook.com/ramzy.razeek.5/posts/3367204646642916> [last accessed 17 July 2020].

⁴⁹ *ibid.*

⁵⁰ Section 291A provides '*Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or both.*'

⁵¹ Section 291B provides '*Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of persons, by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.*'

⁵² 'BASL issues severe indictment on IGP, AG, govt over attacks on minorities', *The Island*, 1 June 2017, at http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=166041 [last accessed 17 April 2020].

⁵³ *Confronting Accountability for Hate Speech in Sri Lanka* (CPA 2018), *op. cit.*, p. 30-35.

⁵⁴ See Human Rights Watch, 'Sri Lanka: Halt Harassment of Media: Websites Blocked, Journalists Face Charges', 3 July 2017, at <https://www.hrw.org/news/2012/07/03/sri-lanka-halt-harassment-media> [last accessed 6 April 2020] for an instance when the Sri Lanka Mirror was charged for exciting or attempting to excite the feelings of disaffection to the President or the government. See also, 'Four arrested for circulating harmful SMSs', *Daily Mirror*, 6 August 2014, at <http://www.dailymirror.lk/50702/tech> [last accessed 17 April 2020] for an instance when four people were arrested for allegedly circulating an SMS with the intent of creating disharmony among communities.

⁵⁵ *Sisira Kumara Wahalathanthri and Another v. Jayantha Wickramaratne and Others*, SC(FR) Application 768/2009 (Supreme Court of Sri Lanka) judgment delivered on 5 November 2015, at www.supremecourt.lk/images/documents/sc_fr_768_2009.pdf [last accessed 17 April 2020], p. 19.

⁵⁶ See 'Penal Code is being used fraudulently: JVP', *Daily Mirror*, 22 February 2012, at http://www.dailymirror.lk/breaking_news/penal-code-is-being-used-fraudulently-jvp/108-17020 [last accessed 29 April 2020]. See also ARTICLE 19, *An Agenda for Change: the right to freedom of expression in Sri Lanka*, 27 October 1994, at <https://www.refworld.org/publisher.ART19..LKA,475418a40,0.html> [last accessed 29 April 2020], at p. 26 which refers to a case in 1992 when section 120 was used to 'silence peaceful criticism'.

⁵⁷ *Naomi Michelle Cokeman v. The Attorney General and Others*, SC (FR) Application 136/2014 (Supreme Court of Sri Lanka) judgment delivered on 15 November 2017, at http://www.supremecourt.lk/images/documents/sc_fr_136_2014.pdf [last accessed 18 April 2020].

⁵⁸ *ibid.*, p. 3.

⁵⁹ 'Sri Lanka government intensifies crackdown on social media', *World Socialist Web Site*, 9 April 2020, at <https://www.wsws.org/en/articles/2020/04/09/medi-a09.html> [last accessed 21 April 2020].

⁶⁰ *ibid.*

⁶¹ *ibid.*

⁶² The punishment is 'a fine not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for any period not exceeding twelve months ; and if he shall be convicted a second time, or shall persist in the offence after warning to desist, he shall be liable to corporal punishment not exceeding twenty lashes.' Note: A sentence of whipping as a punishment was repealed through section 3 of Corporal Punishment (Repeal) Act, No. 23 of 2005.

⁶³ For full letter see 'HRCSL concerned by police arresting people for criticizing officials' ('HRCSL Letter April 2020'), *Ada Derana*, 29 April 2020, at <http://www.aderana.lk/news/63153/hrsl-concerned-by-police-arresting-people-for-criticizing-officials> [last accessed 29 April 2020].

⁶⁴ Preamble, Public Security Ordinance, No. 25 of 1947 (PSO).

⁶⁵ Section 5, PSO.

⁶⁶ Section 5, PSO.

⁶⁷ Sections 7 & 8, PSO.

⁶⁸ For example: Emergency (Prohibition on Publication and Transmission of Sensitive Military Information) Regulation No. 1 of 1998 published In Gazette Extraordinary No. 1030/28 of 5th June 1998 as amended on 6th June 1999 prohibited the publication of "any publication pertaining to official conduct, morale, the performance of the Head or any member of the Armed Forces or the Police Force or of any person authorised by the Commander - in - Chief of the Armed Forces for the purpose of rendering assistance in the preservation of national security." In *Sunila Abeyssekera v Ariya Rubesinghe and Other* [2000] 1 Sri LR 314, the Court held that the restrictions imposed by the ERs were not disproportionate to the legitimate aim of the regulations (i.e. interest of national security).

⁶⁹ Regulation 15, Emergency Regulations 2018: 'No person shall, by word of mouth or by any other means whatsoever including through digital and or social media communicate or spread any rumour or false statement or any information or image or message which is likely to cause public alarm or public disorder, racial violence or incite the committing of any offence.'

⁷⁰ Extraordinary Gazette No. 2120/5, issued on 22 April 2019, at http://www.documents.gov.lk/files/egz/2019/4/2120-05_E.pdf [last accessed 17 April 2020].

⁷¹ For an overview of emergency rule in Sri Lanka, see Deepika Udagama, 'An Eager Embrace: Emergency Rule and Authoritarianism in Republican Sri Lanka' in Asanga Welikala (ed), *Reforming Sri Lankan Presidentialism: Provenance, Problems and Prospects* (CPA 2015), at <http://www.mediareform.lk/wp-content/uploads/2020/01/Deepika-Udagama-2015-An-Eager-Embrace-Emergency-Rule-and-Authoritarianism-in-Republic-Sri-Lanka.pdf> [last accessed 29 April 2020], p. 286- 332. See also International Commission of Jurists, *Sri Lanka: Briefing Paper: Emergency Laws and International Standards* (March 2009), at <https://www.icj.org/wp-content/uploads/2012/05/SriLanka-emergencylaws-advocacy-2009.pdf> [last accessed 21 April 2020].

An example of when ERs have been misapplied, was in the case against Sarath Fonseka, the former Army General. The High Court convicted him under regulation 28 of the 2005 ERs on communicating or spreading any rumour or false statement which was likely to cause public alarm or public disorder. The conviction was based on a statement he allegedly made during an interview with a journalist regarding the allegation that

LLTE leaders who were surrendering with white flags were shot on order of the Defence Secretary during the war. For information on this case, see Jayantha de Almeida Guneratne, Kishali Pinto-Jayawardena (ed) & Gehan Gunatilleke, *The Judicial Mind in Sri Lanka; Responding to the Protection of Minority Rights* (Law & Society Trust 2014), at

[https://www.academia.edu/12987171/The Judicial Mind in Sri Lanka Responding to the Protection of Minority Rights](https://www.academia.edu/12987171/The_Judicial_Mind_in_Sri_Lanka_Responding_to_the_Protection_of_Minority_Rights) [last accessed 29 April 2020], p. 254-258.

⁷² The penalty for the offence is a fine not exceeding five thousand rupees or imprisonment up to six months, or to a fine and imprisonment.

⁷³ Section 69, SLTA. Note: The Minister must do this by an Order published in the Gazette. Further the Minister can either prohibit or order supervision or control of telecommunication. In the latter instance, the Minister can either prescribe conditions for the supervision or control, or make provision as deemed necessary for the interception or censoring of all or specified messages via telecommunication.

⁷⁴ 'Blocked: RTI requests reveal process behind blocking of websites in Sri Lanka', *Groundviews*, 8 December 2017, at <https://groundviews.org/2017/12/08/blocked-rti-requests-reveal-process-behind-blocking-of-websites-in-sri-lanka/> [last accessed 6 April 2020].

Note: Subsequently, the TRC revealed information about the blocking of Lankaenews in 2017. See 'RTI Reveals Lanka E News Blocked On Order from President's Office', *Groundviews*, 11 April 2018, at <https://groundviews.org/2018/04/11/lanka-e-news-blocked-on-order-from-presidents-office-rti-reveals/> [last accessed 6 April 2020].

⁷⁵ Facebook and other Social Media Networks are temporarily blocked', *News 1st*, 7 March 2018, at <https://www.newsfirst.lk/2018/03/07/measures-taken-monitor-social-media-websites-trc/> [last accessed 6 April 2020]; 'Sri Lanka blocks social media networks to stop sectarian violence', *Reuters*, 7 March 2018, at <https://www.reuters.com/article/sri-lanka-clashes-internet/sri-lanka-blocks-social-media-networks-to-stop-sectarian-violence-idUSL4N1QP39X> [last accessed 6 April 2020].

⁷⁶ 'Sri Lanka blocks social media after deadly Easter explosions', *CCNET*, 21 April 2019, at <https://www.cnet.com/news/sri-lanka-shuts-down-social-media-following-deadly-easter-explosions/> [last accessed 6 April 2020]; 'Sri Lanka attacks: The ban on social media', *BBC News*, 23 April 2019, at <https://www.bbc.com/news/technology-48022530> [last accessed 17 April 2020].

⁷⁷ 'RTI Reveals Lanka E News Blocked On Order from President's Office', *Groundviews*, 11 April 2018, at <https://groundviews.org/2018/04/11/lanka-e-news-blocked-on-order-from-presidents-office-rti-reveals/> [last accessed 6 April 2020].

⁷⁸ 'Sri Lanka President takes control of telecommunication authority', *ColomboPage*, 8 March 2019, at http://www.colombopage.com/archive_19A/Mar09_1552151677CH.php [last accessed 6 April 2020].

⁷⁹ 'Defence Secretary takes office as TRC Chairman', *Daily FT*, 7 December 2019, at <http://www.ft.lk/front-page/Defence-Secretary-takes-office-as-TRC-Chairman/44-691169> [last accessed 6 April 2020].

⁸⁰ *Reforming Sri Lankan Presidentialism: Provenance, Problems and Prospects* (CPA 2015), *op. cit.* p. 296- 297.

⁸¹ Section 29 ('Duration of the Act') of the original Act provided that the Act would operate for 3 years. This section was repealed by the Prevention of Terrorism (Temporary Provision) Amendment Act, No. 10 of 1982.

⁸² Section 3, Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 (PTA).

⁸³ Upon an order being made in the Gazette by the Minister.

⁸⁴ Section 14(2)(ii) and Section 14(3), PTA. The punishment is imprisonment up to 5 years. The Court may also order other penalties.

⁸⁵ 'Sri Lanka's draft Counter Terrorism Act: a license for continued state oppression, intimidation and torture', *Sri Lanka Campaign for Peace & Justice*, 4 May 2017, at <https://www.srilankacampaign.org/sri-lankas-draft-counter-terrorism-act-license-continued-state-oppression-intimidation-torture/> [last accessed 18 April 2020]. See also Human Rights Watch, 'Locked Up Without Evidence: Abuses under Sri Lanka's Prevention of Terrorism Act', 29 January 2018, at <https://www.hrw.org/report/2018/01/29/locked-without-evidence/abuses-under-sri-lankas-prevention-terrorism-act> [last accessed 18 April 2020] which refers to several instances when the provisions of the PTA were misapplied.

⁸⁶ See *The Judicial Mind in Sri Lanka; Responding to the Protection of Minority Rights*, (Law & Society Trust 2014) *op. cit.*, p. 243-244; Niran Anketell & Gehan Gunatilleke, 'Emergency Law in the Context of Terrorism –

Sri Lanka', at <http://www.southasianrights.org/wp-content/uploads/2009/10/SL-Terrorism-and-Emergency-Laws-Draft1.pdf> [last accessed 18 April 2020] p. 23-24.

⁸⁷ 'Sri Lanka government decides to withdraw Counter Terrorism Bill', *ColomboPage*, 03 January 2020, at http://www.colombopage.com/archive_20A/Jan03_1578067614CH.php [last accessed 26 January 2020].

⁸⁸ The punishment is imprisonment for a term up to five years.

⁸⁹ 'Man suspected of spreading false information on coronavirus granted bail', *ColomboPage*, 16 March 2020, at http://www.colombopage.com/archive_20A/Mar16_1584376889CH.php [last accessed 18 April 2020].

Note - subsequent news reports also stated that more arrests will be made under the Computer Crimes Act for the spread of false information about the coronavirus. See 'Investigations underway to arrest 40 suspects for spreading fake news on social media', *News 1st*, 17 March 2020, at <https://www.newsfirst.lk/2020/03/17/investigations-underway-to-arrest-40-suspects-for-spreading-fake-news-on-social-media/> [last accessed 18 April 2020].

⁹⁰ The status of SLCERT within the report is as at July 2020.

⁹¹ Note: The following information is taken from the SLCERT website, at <https://www.cert.gov.lk/aboutUs.php> [last accessed 18 April 2020].

⁹² 'CID to fight cyber-crime with Hi-Tech Crime Investigation Units', *Sunday Observer*, 1 November 2015, at <http://www.sundaytimes.lk/151101/news/cid-to-fight-cyber-crime-with-hi-tech-crime-investigation-units-169982.html> [last accessed 21 April 2020].

⁹³ *ibid.*

⁹⁴ UN Human Rights Council Special Rapporteur on Minority Issues (HRC 2015), cited in *Countering Online Hate Speech*, UNESCO Series on Internet Freedom (United Nations Educational, Scientific, and Cultural Organisation 'UNESCO' 2015), at <https://unesdoc.unesco.org/ark:/48223/pf0000233231> [last accessed 27 March 2020].

⁹⁵ See Article 19, *Self-regulation and 'hate speech' on social media platforms* (2018), at <https://www.article19.org/wp-content/uploads/2018/03/Self-regulation-and-%E2%80%99hate-speech%E2%80%99-on-social-media-platforms-March2018.pdf> [last accessed 27 March 2020] p.9. The report briefly discussed the three types of media regulatory mechanisms - statutory regulation, co-regulation and self-regulation.

⁹⁶ *ibid.*

⁹⁷ *ibid.*, p.15.

⁹⁸ Website of Facebook, Community Standards, at https://www.facebook.com/communitystandards/hate_speech [last accessed 28 March 2020].

⁹⁹ *ibid.*

¹⁰⁰ Note: The Guidelines offer a non-exhaustive list of examples of content that would violate the standards.

¹⁰¹ Facebook Transparency, *Community Standards Enforcement Report* (November 2019), at <https://transparency.facebook.com/community-standards-enforcement#hate-speech> [last accessed 28 March 2020].

¹⁰² *ibid.*

¹⁰³ *ibid.*

¹⁰⁴ Website of YouTube, Hate Speech Policy, at <https://support.google.com/youtube/answer/2801939?hl=en> [last accessed 28 March 2020]. The site offers examples of what would amount to 'hate speech'.

¹⁰⁵ Website of YouTube, Community Guidelines strike basics, at <https://support.google.com/youtube/answer/2802032?hl=en> [last accessed 28 March 2020].

¹⁰⁶ Website of Twitter, Rules and Policies, at <https://help.twitter.com/en/rules-and-policies/hateful-conduct-policy> [last accessed 28 March 2020].

¹⁰⁷ For example: inciting fear about a protected category.

¹⁰⁸ For details on the different types of action, see Website of Twitter, Enforcement options, at <https://help.twitter.com/en/rules-and-policies/enforcement-options> [last accessed 28 March 2020].

¹⁰⁹ Website of Instagram, Community Guidelines, at [https://help.instagram.com/477434105621119/?helpref=hc_fnav&bc\[0\]=Instagram%20Help&bc\[1\]=Privacy%20and%20Safety%20Center](https://help.instagram.com/477434105621119/?helpref=hc_fnav&bc[0]=Instagram%20Help&bc[1]=Privacy%20and%20Safety%20Center) [last accessed 28 March 2020].

¹¹⁰ *ibid.*

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- ¹¹¹ *Self-regulation and 'hate speech' on social media platforms*, (2018), *op. cit.*, p. 16.
- ¹¹² Mazin Hussain, 'The deadly Facebook cocktail: Hate Speech and Misinformation in Sri Lanka', *ReadME*, 14 May 2019, at <https://www.readme.lk/facebook-hate-speech-misinformation-sri-lanka/> [last accessed 22 April 2020].
- ¹¹³ See Twitter Account of Yudhanjaya Wijeratne, Tweet dated 24 April 2019, at <https://twitter.com/yudhanjaya/status/1121054915692908545?s=20> [last accessed 15 June 2020].
- ¹¹⁴ Meera Srinivasan, 'Online hate and its offline costs', *The Hindu*, 16 May 2020, at <https://www.thehindu.com/news/international/online-hate-and-its-offline-costs/article31603139.ece> [last accessed 30 June 2020].
- ¹¹⁵ *Self-regulation and 'hate speech' on social media platforms*, (2018), *op. cit.*, p. 15-16; See also *Countering Online Hate Speech*, (UNESCO 2015), *op. cit.*, p. 30-32.
- ¹¹⁶ *Self-regulation and 'hate speech' on social media platforms*, (2018), *op. cit.* p. 20.
- ¹¹⁷ *ibid.*
- ¹¹⁸ *ibid.*
- ¹¹⁹ *ibid.*, at p. 21-22 for factors that must be considered in the creation of the council.
- ¹²⁰ See generally, *Countering Online Hate Speech*, (UNESCO 2015), *op. cit.*
- ¹²¹ *ibid.* p.5.
- ¹²² Article 19, *Responding to 'hate speech' with positive measures: A case study from six EU countries* (2018), p. 28.
- ¹²³ *ibid.*
- ¹²⁴ Hashtag Generation is a 'A youth-led movement advocating for full and effective participation of young people in policy making, implementation and evaluation at local, national, regional & international levels.' See https://www.facebook.com/pg/hashtaggenerations/about/?ref=page_internal [last accessed 11 June 2020].
- ¹²⁵ Support afforded by Hashtag Generation cited in European Union Election Observation Mission, *Final Report: Sri Lanka Presidential election, 16 November 2019* (2020), at http://www.epgencms.europarl.europa.eu/cmsdata/upload/570dea26-4277-40e6-abb8-f50c59c8d403/Sri-Lanka_presidential_election_16_November_2019_EU_EOM_report.pdf [last accessed 11 June 2020] p.43.
- ¹²⁶ Website of Democracy Reporting International, 'Sri Lanka: DRI works with local partners to strengthen social media monitoring', 16 December 2019, at <https://democracy-reporting.org/sri-lanka-dri-works-with-local-partners-to-strengthen-social-media-monitoring/> [last accessed 11 June 2020].
- ¹²⁷ Website of Facebook, Newsroom, Miranda Sissons, 'An update on Facebook's Human Rights work in Asia and around the world', 12 May 2020, at <https://about.fb.com/news/2020/05/human-rights-work-in-asia/> [last accessed 30 June 2020].
- ¹²⁸ Hashtag Generation, *Findings from the social media monitoring exercise during the 2019 Sri Lankan Presidential Election* (2019), at <https://hashtaggeneration.org/wp-content/uploads/2020/01/social-media-monitoring-report.pdf> [last accessed 30 June 2020] p. 19; See Twitter account of Sanjana Hattotuwa, Tweet dated 06 March 2020, at https://twitter.com/sanjanah/status/1235656870724915200?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1235656870724915200%7Ctwgr%5E&ref_url=https%3A%2F%2Fict4peace.wordpress.com%2F2020%2F05%2F13%2Ffacebook-human-rights-impact-assessment-hria-of-sri-lanka-some-brief-thoughts%2F [last accessed 30 June 2020].
- ¹²⁹ *Responding to 'hate speech' with positive measures: A case study from six EU countries* (2018), *op. cit.*, p. 23; See also *Countering Online Hate Speech* (UNESCO 2015), *op. cit.*, at p. 45-52 which refers to examples of initiatives that seek to improve digital literacy.
- ¹³⁰ European Union Election Observation Mission, *Final Report: Sri Lanka Presidential election (16 November 2019), January 2020*, *op. cit.*, p. 35. at https://eeas.europa.eu/sites/default/files/sl2019_final_report_24_january_2020.pdf [last accessed 25 March 2021].
- ¹³¹ *Self-regulation and 'hate speech' on social media platforms*, (2018), *op. cit.*, p. 20.
- ¹³² This need to increase and advance different types of citizens driven initiatives was a sentiment expressed during the outreach sessions, specifically those held in Kandy.

¹³³ The need to possibly establish a national CSO coalition was a sentiment and suggestion received at the outreach session during September 202 – December 2020. It was stated that through such a CSO coalition network, groups (especially grassroots level organisations) that advocate against hate speech and disinformation would benefit in advancing their work and would have a safe space to voice their concerns.

¹³⁴ Sierra Amarasiri and Shamana Amjah (Verité Research), *2019 Civil society Organisation Sustainability Index: Asia Region: Sri Lanka Country Report* (August 2020), at <https://www.veriteresearch.org/publication/cso-sustainability-index-2019-sri-lanka-country-report/> [last accessed 15 October 2020].