

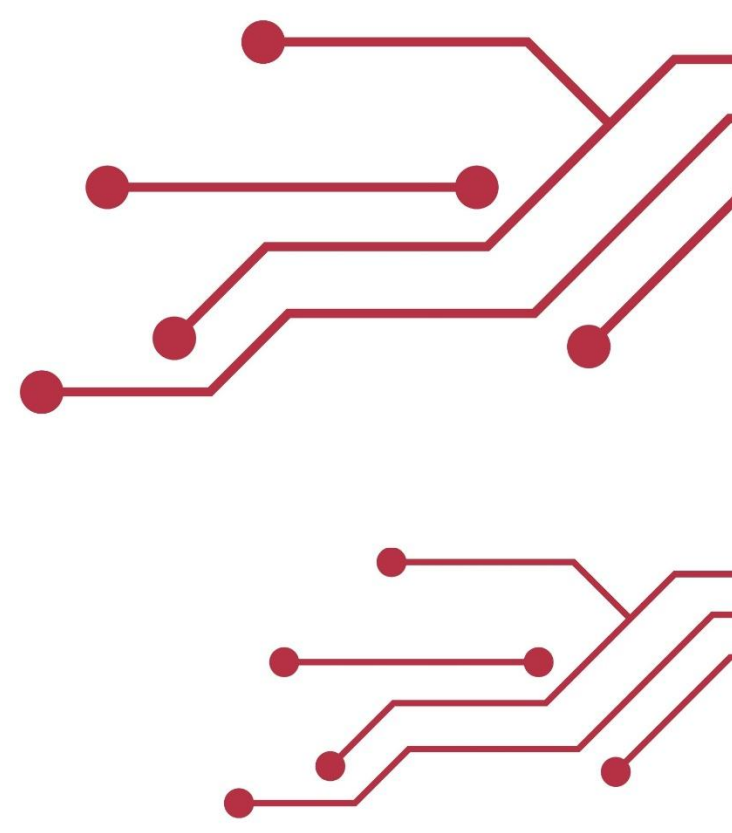
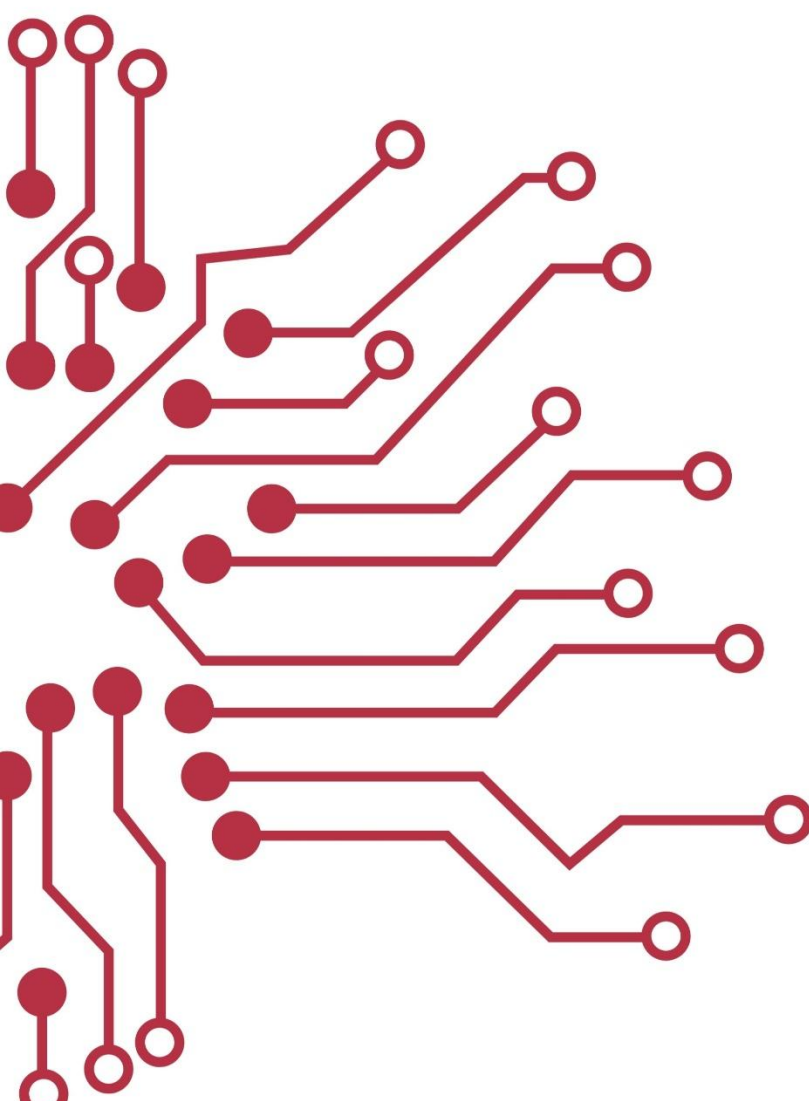
MITIGATING ADVERSE  
IMPACTS CAUSED BY  
LAWS AFFECTING  
ONLINE/DIGITAL  
PUBLICATIONS/  
ONLINE CONTENT

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இணைய  
வெளியீடுகளுக்கு  
பாதகம் விளைவிக்கும்  
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தீங்கான தாக்கங்களை  
குறைப்பதற்கான

# Policy Report Recommendations

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கொள்கை பரிந்துரைகள் அறிக்கை



**26<sup>th</sup> February 2026**  
Colombo, Sri Lanka

# **Policy Recommendation Report for Mitigating Adverse Impacts Caused by Laws Affecting Online/Digital Publications/Online Content**

## **1. Executive Summary**

Publications made using online media, especially through social media and websites (including social media and online platforms), have a significant impact on society.

Therefore, a great deal of public/social attention has been directed towards online media publications. Due to ambiguities in certain legal provisions in force in Sri Lanka, as well as bias or negligence on the part of law enforcement authorities, numerous instances have been reported in which social media activists and editors of websites have faced legal difficulties. It has also been reported that careless, irresponsible and false content/ posts on social media are causing inconvenience to a large number of people.

Among this group, the harm experienced/suffered by women, children, religious and ethnic minorities, as well as LGBTIQ+ groups, is extremely severe. Therefore, a need has arisen to review the legal provisions to remove or minimize the legal obstacles faced by parties publishing online, and to mitigate the harm caused to individuals by online publications and content.

Supported by the Canadian High Commission, through the CFLI project, implemented by Factum, a series of discussions was held with social media activists, website operators, content creators, and representatives of indigenous communities. During these discussions, this issue was brought to the fore. Drawing on the ideas expressed there, and on information obtained through a study of the existing legal framework in Sri Lanka, Factum has prepared this policy recommendation report for the attention and use of parties involved in Online Publication/Content.

This policy recommendation report focuses on the laws currently in force in Sri Lanka regarding Online Publication/Content, the legal provisions that have an adverse effect/impact in relation to online publications and content, the negative effects faced parties who publish on the internet when the law is enforced, and the negative effects on individuals/groups/communities caused by online expressions. On that basis, the report includes recommendations/proposals for steps that stakeholders can take to mitigate the impact on both parties.

## **2. Laws applicable to online publications and content in Sri Lanka**

A number of laws apply in relation to websites, social media, and other internet-based media.

All those laws can be categorised into several fields, such as/namely:

- Fundamental Rights Laws
- Regulatory Laws
- Criminal Laws
- Intellectual Property Laws
- National Security Laws
- Election laws

### **2.1. Fundamental Rights Laws**

Three fundamental rights set out in Chapter III of the (*Sri Lankan*) Constitution are directly connected to Online Publication/Content: namely, the fundamental right enshrined in Article 14(1)(a) to “freedom of speech and expression including publication,” the fundamental right enshrined in Article 14(1)(g) to “the freedom to engage in any lawful occupation, profession, trade, business or enterprise,” and the fundamental right enshrined in Article 14A to “access to information.”

In relation to Online Publication/Content and activities, these fundamental rights protect social media activists and content creators, enabling them to carry out their work. In the legal spheres affecting Online Publication/Content that will be discussed hereafter, when a person has been subjected to injustice through an executive or administrative act, it is possible to seek redress on the basis of these fundamental rights by filing a fundamental rights application before the Supreme Court or by making a complaint to the Human Rights Commission of Sri Lanka.

### **2.2. Regulatory Laws**

The main law currently in force for regulating publications online is the Online Safety Act No. 9 of 2024.

There had been strong opposition from the draft stage itself. After the draft was published in the Gazette, the Lawyers Collective — a collective of leading lawyers in the country, issued a media statement on 22 September 2023 condemning this draft. Likewise, the Media, Civil Organisations and Trade Unions Collective Against Oppressive Laws, consisting of civil organisations, media activists and trade unions, also denounced this bill. All media organisations exerted pressure on the government to refrain from bringing this bill forward. The Bar Association of Sri Lanka, too, at a meeting of its Executive Committee held on 23 September 2023, unanimously adopted a proposal calling on the government to withdraw the bill.

After the bill was presented to parliament, 47 petitions were filed with the Supreme Court by individuals and organisations, challenging its constitutionality under Article 121 of the Constitution. Accordingly, although many provisions of the bill were amended, due to the continuing opposition, the subject minister stated in parliament that further amendments would be introduced immediately after the law was passed.

All regulations of online publications and content are carried out under this Act. The primary impact this Act has on digital media publications is the introduction of offences related to making prohibited publications online. The Act prohibits making, via online means, the prohibited publications specified in sections 12 to 22. The Act also sets out three forms of relief that may be obtained by a person harmed by such publications. Namely, where a person suffers harm due to such prohibited publications (those from section 12 to section 22), that person may lodge a complaint with the Online Safety Commission and, following an inquiry conducted by the Commission, obtain an order for the removal of the said publication; file an action in the Magistrate's Court and obtain a conditional order for the removal of the said publication; and, where the person who made the publication cannot be properly identified for the purpose of instituting a civil action against the relevant publication, file an action in the District Court making the service provider liable and obtain an order directing the service provider to disclose the identity of the person who made the relevant publication.

In addition, even without a complaint to the Commission, there is power to institute proceedings, and the Magistrate's Court is empowered to impose fines in relation to prohibited publications. Another significant impact of this Act is the authority it confers on the Commission to register online platforms. Moreover, the Commission is vested with the power to designate online platforms that carry prohibited publications, and it is stipulated that sponsoring such a designated online platform or obtaining sponsorship from it constitutes an offence. In addition, the Commission is empowered to formulate a code of ethics for Online Publication/Content. At present, this Act is only partially in effect. No rules or regulations have yet been made under the Act, nor has the Commission been appointed. Furthermore, the Ministry of Justice has sought public views on amending the Act.

Another regulatory statute relevant to internet media is the Sri Lanka Telecommunications Act No. 25 of 1991, as amended by Act No. 27 of 1996. The allocation and regulation of frequencies for internet service provision related to Online Publication/Content are carried out under this Act, and for that purpose, the Act has established the Telecommunications Regulatory Commission. However, this commission does not regulate the content of online publications/content.

Furthermore, the Personal Data Protection Act has been passed, but it has no impact at this point in time, as the regulations required to bring into force the provisions that affect media usage have not yet been issued.

### **2.3. Criminal laws applicable to online publications and content;**

The provisions of several criminal law statutes in operation in Sri Lanka apply to publications on the internet. Such as:

**2.3.1 Penal Code** – Sections 120, 286, 286(A), 291(A), 291(B), 345, 365(C), 402, 403, and 486 of the Penal Code are directly applicable to online publications and content.

**2.3.2 Obscene Publications Act** – Under Section 2 of the Act, the distribution of obscene publications is prohibited.

**2.3.3. Child and Young Persons (Harmful Publications) Act** – It is prohibited to disseminate anything that, if it comes into the hands of a child or young person, would subject him or her to abuse.

**2.3.4. International Covenant on Civil and Political Rights Act** – The incitement of war or the incitement of religious or racial hatred is prohibited under section 3(1) of the Act.

**2.3.5. Computer Crimes Act** – Section 6 of the Act prohibits the dissemination of anything that is detrimental to national security or the economy.

**2.3.6. Prevention of Domestic Violence Act** – The publication of media reports that disclose the identities of parties against whom cases have been filed under the Act is prohibited.

**2.3.7. Prevention of Money Laundering Act** – Section 6 of the Act states that, in an investigation carried out regarding money laundering, the identities of suspects should not be publicised through the media.

### **2.4. National security laws affecting Online Publication/Content**

Several national security laws in force in Sri Lanka affect online publications/content. Namely,

#### **2.4.1. Public Security Ordinance**

During a state of emergency declared under the Public Security Ordinance, online media publications must be carried out in accordance with the restrictions imposed on the mass media by the emergency regulations in effect at the time.

#### **2.4.2. Prevention of Terrorism (Temporary Provisions) Act**

It is an offence to publish any material on an online platform that constitutes a publication which is an offence under section 2 of the Prevention of Terrorism Act, or that amounts to a violation of an order declared by the President under the Act.

### **2.4.3. Official Secrets Act**

The Act states that publishing photographs of locations gazetted as restricted areas under the Official Secrets Act, or publishing classified information regarding security operations, constitutes an offence.

## **2.5. Intellectual property law affecting online publications and content;**

- Intellectual Property Act No. 36 of 2003

Section 6 of the Intellectual Property Act states that reproducing a work, or a substantial part of it, which is considered a protected work under this Act, without obtaining proper authorisation from the author or creator, constitutes an infringement of the right of publication.

## **2.6. Defamation laws affecting Online Publication/Content**

Under defamation law, one should be cautious about three main types of statements, such as:

**2.6.1.** Contempt of court – Online communicators must exercise caution regarding the provisions contained in Article 105 of the Constitution, as amended, and the provisions of the Contempt of a Court, Tribunal or Institution Act No. 8 of 2024.

**2.6.2.** Parliamentary Privileges – Under the Parliament (Powers and Privileges) Act No. 21 of 1953, making a publication that constitutes a contempt of Parliament or of a Member of Parliament is recognised as a criminal offence.

**2.6.3.** Civil defamation, or personal defamation – If, by means of a certain statement, harm is caused to a person's reputation, that person has the right to file a civil lawsuit claiming damages from the individual who made and published that statement. Therefore, one must be extremely careful regarding the truthfulness of the matters stated.

## **2.7 Election laws affecting online publications/content**

### **2.7.1. The Constitution**

Article 104(B)(5) of the Constitution provides that, for the purpose of ensuring the holding of a free and fair election or referendum, the Election Commission of Sri Lanka have the power, as appropriate to the relevant media guidelines considered necessary by the Commission, to issue in advance such guidelines to any operator of a radio or television service or to any owner of a newspaper or publisher (any owner or publisher of a newspaper) as the Commission may deem suitable. Accordingly, during an election period, it is necessary to be aware of and act in accordance with the media guidelines issued by the Election Commission and published in the Gazette.

### **2.7.2. Election Acts**

The general provisions included in the Parliamentary Elections Act, the Presidential Elections Act, the Provincial Councils Elections Act, and the Local Authorities Elections Ordinance recognise, as an election offence, the publication of false reports in a manner that would cause harm to a candidate, as well as the publication of material that constitutes undue/adverse influence.

Therefore, from the time of the nomination papers have been submitted until the announcement of the election results, such publications must be avoided.

## **3. Legal provisions that adversely affect Online publishers, platforms, users and content creators**

### **3.1. Online Safety Act**

The prohibitions set out in this Act are vague and imprecise, and can be interpreted very broadly, thereby imposing an unnecessary restriction on the right to freedom of expression. Since the offence of “prohibited statement” allows for an extremely broad interpretation, there is a high likelihood that the Commission will issue orders against content published by creators engaged in creative online communication. In particular, due to the gravity of determining whether a particular statement is false or not, taking legal action even against publications made in good faith results in a severe restriction of freedom of expression.

Likewise, by empowering a non-independent commission to be appointed under the Act to make determinations regarding publications prohibited by the Act and to notify publishers to cease such publications, the presumption of innocence is challenged. Further, orders issued by such a non-independent commission could particularly have a chilling effect on social media activists. Since decisions taken by a non-independent commission can be political, they obstruct citizens’ freedom to express their opinions.

Likewise, as this Act imposes criminal liability on internet service providers and social media platforms, there is a risk that these companies may withdraw from Sri Lanka, leading to restrictions on the expression of opinions via social media. If internet service providers withdraw from Sri Lanka, it would cause severe harm to individuals engaged in online advertising and the sale of goods.

However, the amendments to be incorporated into the Act have not yet been presented, nor have the regulations or orders to be issued under the Act been promulgated, and the Commission has not yet been appointed.

Accordingly, at this point, the only power being exercised under the Act is the filing of private actions in Magistrates’ Courts for the removal of publications made via online media (under Section 24(2) of the Act). Through these actions, complainants are given the opportunity to

have online publications/content, especially social media posts that harm them—removed swiftly.

Some social media activists, however, are of the view that, pursuant to the provisions of the Act, the removal of certain posts that are reasonable and relate to the public interest, as well as the discouragement of such activities, are also taking place. The Human Rights Commission of Sri Lanka, issuing a media statement on February 03, 2026 (2026-02-03), declared that “until the Ministry of Justice introduces a new law, with appropriate legislative provisions, to replace the Online Safety Act, its operation should be suspended.

### **3.2. (International) Civil and Political Rights Covenant Act**

Section 3(1) of the International Covenant on Civil and Political Rights (ICCPR) Act No. 56 of 2007 states that “no person shall propagate war or advocate national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.” Under this provision, a number of social media activists have been taken into custody over the past several years. In fundamental rights cases and bail applications arising from these arrests, courts have observed that some of the arrests were carried out arbitrarily. Because the police were effecting arbitrary arrests under this provision, the Human Rights Commission of Sri Lanka issued guidelines to the police in 2019.

### **3.3. Computer Crimes Act**

Section 6 (1) of the Computer Crimes Act No. 24 of 2007 states that it is an offence to commit, using a computer, any act that causes harm to national security, the national economy, or public safety. Social media activists, as well as web activists, have been arrested for this offence. When individuals are taken into custody under this provision, the computers and mobile phones/smartphones they have used are also seized and kept as evidence in the case. As a result, even if those individuals are later released on bail, it becomes difficult for them to continue their occupations because they are deprived of those devices and the data stored in them.

Provisions to prevent this situation have been set out in section 21 of the Act, and section 21(2) of the Act states that “no police officer shall have access to any computer for the purpose of any investigation under this Act, unless such police officer has been certified in writing by the Inspector-General of Police to possess adequate knowledge and skill in the field of information technology and, accordingly, to have acquired the necessary expertise to perform such functions.” However, it does not appear that the police pay any attention to this provision when examining computers and mobile phones.

### **3.4. Prevention of Terrorism (Temporary Provisions)**

Section 2 of the Prevention of Terrorism (Temporary Provisions) Act No. 40 of 1978 is a provision that can be interpreted very broadly, and social media activists have also been arrested under this section. Under this Act, when a person is taken into custody, they can be detained for up to one year on the basis of a detention order issued by the Minister of Defence, without being produced before a court. Therefore, the operation of Section 2 is extremely detrimental to digital media activists.

### **3.5. Penal Code**

Content creators of websites and social media activists are also being arrested under Section 120 of the Penal Code. Section 120 states that inciting opposition against the government is an offence, but its explanatory notes state that incitement carried out for the purpose of administering justice or correcting wrongs or errors does not constitute an offence under this provision.

### **3.6. Public Security Ordinance**

When a state of emergency exists under the Public Security Ordinance, the President may issue regulations. According to Article 15 (7) of the Constitution, such emergency regulations may also be enacted in a manner that restricts the right to freedom of speech and expression, including publication, as set out in Article 14 (a) (1) of the Constitution. Since a state of emergency has been declared at this time as well, the Emergency (Miscellaneous Provisions and Powers) Regulations No. 1 of 2025, brought into force by Extraordinary Gazette No. 2464/30 dated 28 November 2025 and Extraordinary Gazette No. 2464/3 dated 28 November 2025, are in operation.

Its Orders 18 and 20 are, in a certain sense, a restriction on online expression—but there have been no reports of any online commentator (content publisher/content creator) being taken into custody under these provisions.

### **3.7. Personal Data Protection Act**

Since the Personal Data Protection Act No. 09 of 2022 includes within the definition of personal data processing the dissemination of personal information via the internet, sharing content on the internet is subject to limitations arising from the requirement to obtain the data subject's consent. However, as this Act has not yet been fully implemented and the regulations and rules have not yet been issued, its impact does not yet apply to online publications/content.

## **4. Adverse impacts resulting from the implementation of the law/laws**

### **4.1. Unlawful Arrests**

It has been reported that social media activists have been taken into custody on allegations of violating Section 3(1) of the International Covenant on Civil and Political Rights Act. Many have been released after the (*Honourable*) Magistrates' Courts were informed by the Attorney General that prosecutions would not be pursued. Some individuals have filed fundamental rights petitions against these unlawful arrests and have also instituted proceedings before the Human Rights Commission of Sri Lanka.

### **4.2. Questioning and summons to the police**

It can be observed that the police are summoning social media activists and web writers to obtain statements regarding certain posts, and when doing so, the police do not provide a proper

explanation as to the grounds for the summons. In this regard, although the Inspector General of Police has issued a circular dated July 02, 2025 (2025-07-02), bearing No. RTM-101, CRTM-01 to all Officers-in-Charge of police stations, actions contrary to that circular are still being observed.

#### **4.3. Allegations of criminal defamation**

Based on complaints made by politicians and public figures to the Criminal Investigation Department and other police stations, claiming that they have been defamed through social media posts or publications on news websites, the police summon the individuals concerned. This happens despite the fact that the offence known as criminal defamation was removed from the Penal Code by the Penal Code (Amendment) Act No. 12 of 2002, and that defamation is now only a basis for civil litigation, not a criminal offence, though social media activists and website editors are being severely inconvenienced by these police actions. As a result of this conduct by the police, social media activists and website editors/authors face severe difficulties. Calling for an end to this situation, the Human Rights Commission of Sri Lanka, in a media release issued on February 03, 2026, has requested that the government take action.

#### **4.4. False Lawsuits**

Due to the broad scope of Section 23 of the Computer Crimes Act, conditional court orders are also being obtained against social media activists and web writers who disclose information of public importance. This situation has become a factor discouraging people from expressing their opinions online.

#### **4.5. Irregularities occurring during the seizure of the computer**

Under the Computer Crimes Act, the power to investigate an offence is vested in an officer certified by the Inspector General of Police as having received relevant training, as set out in Section 21 of the Act. However, the practical situation is different. Likewise, when computers or mobile phones are taken into custody under this Act, the limitations specified in the law and the legal provisions relating to data protection are not observed, and, as a result, social media activists and website authors whose devices are seized face severe difficulties.

### **5. Injustices caused to individuals by online publications/content**

#### **5.1. Misleading through false statements**

Through the dissemination and sharing of false information on the internet—especially on social media—many people are led astray, and in some instances, the spread of such

information about the reputation and character of certain individuals causes great distress not only to those individuals themselves but also to their families. Unlike in other forms of media, because of the inherent characteristics of internet-based media, false information spread rapidly across society, causing significant harm within a very short time. This situation is particularly harmful in cases involving women and children.

## **5.2. Hate Speech**

Hate speech targeting religious and ethnic groups, followers of political parties, as well as the LGBTQ community, can be seen being posted on social media. As a result, those individuals are seen facing significant difficulties within society.

## **5.3. Causing discomfort by publishing extremely private matters of certain individuals**

We can see extremely personal information about certain individuals—such as photographs, videos, and data that violate their privacy—being posted on social media, thereby severely challenging those individuals' privacy.

## **5.4. Extortion Demands**

It has been reported that individuals threaten to publish highly personal information on social media and then demand money or make other requests to avoid doing so.

# **6. Recommendations for minimising existing legal issues related to Online Publications/Content**

Every party associated with online publications/content bears a responsibility to act to minimise problematic situations arising for both those who create such publications and those who are adversely affected by them. In this context, the government, internet media users, media organisations, social media activists, and internet service providers can be identified as stakeholder groups. Accordingly, each of these parties can take the following measures to minimise the existing legal issues related to online publications/content.

## **6.1. Measures the government can take to resolve existing legal issues related to online publications/content**

**6.1.1. Amending the Online Safety Act** – Amending sections 12 to 22 of the Act so as to reduce their current breadth and make them more specific, transforming the Cybersecurity Commission into a more independent institution, and introducing amendments in a manner that enhances its accountability.

**6.1.2. Amendment to the Prevention of Terrorism (Temporary Provisions) Act** – Amending Section 2 of the Act, as its current broad scope interferes with expressions made via the internet.

**6.1.3. Directing the police to prevent unlawful arrests** – Arrests made in relation to content published via the internet as being unlawful are most often carried out on the basis of alleged violations of Section 3(1) of the International Covenant on Civil and Political Rights Act, Section 120 of the Penal Code, and Section 2 of the Prevention of Terrorism Act. Therefore, all police officers shall be directed to follow the guidelines issued by the Supreme Court and the Human Rights Commission of Sri Lanka.

**6.1.4. Police acceptance that defamation/insult does not constitute a criminal offence**

Failure by the police to accept complaints made regarding posts published on the internet media, where people claim to have been subjected to defamation/insult and request that the law be enforced in that regard.

*The acknowledgement by the Police that defamation is not a criminal offence. The Police refuse to accept complaints about social media posts in which individuals claim they have been defamed and request legal action.*

Establishing a legal framework to bind social media platforms in order to prevent the publication of statements on social media that are harmful to citizens / to ensure the prompt removal of such posts.

**6.1.5.** Taking the initiative to introduce a code of ethics for internet media, including social media.

**6.1.6.** Providing encouragement and recognition to teams that carry out verification and fact-checking.

**6.1.7.** Expanding and strengthening the Sri Lanka Computer Emergency Response Team (CERT) institution and its mandate so that it can intervene to assist those who are subjected to injustice through online publications/content.

**6.2. Steps that journalists and other internet users can take to resolve existing legal issues related to online publishers, platforms, users, content creators.**

**6.2.1.** Establishing a code of ethics

**6.2.2.** Being mindful about accuracy

**6.2.3.** Avoiding hate speech

**6.2.4.** Improving digital literacy

**6.2.5.** Developing critical thinking

**6.2.6.** Enhancing legal knowledge

**6.2.7.** Networking

**6.2.8.** Taking appropriate legal action

**6.3. What social media platforms can do to resolve existing legal issues related to online publications.**

**6.3.1.** Revisiting community standards

**6.3.2.** Responding promptly to complaints regarding violations of community standards

**6.3.3.** Establishing legal accountability in collaboration with the government