

The Feminist Response to Online Safety for Women; A Comparative Analysis Between the United Kingdom and Sri Lanka

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Abstract

This article explores how feminists have responded to concerns about online safety while comparing the regulations governing online safety in Sri Lanka and the United Kingdom. The data analysis in this essay about online harassment and feminist rights is based on qualitative methodologies. Through the feminist lens, it explores how different types of feminist theories address technology's role in oppressing and empowering women. Additionally, this study has demonstrated how international legislation is interpreted to protect women's rights online sphere. The article has explored the effectiveness and limitations of current policies in addressing gender-based violence and harassment online within UK and Sri Lanka. This article aims to address mistreatment of women in online environment in Sri Lanka, identifying areas that the Act failed to address concerning women's safety within online space. The research concludes by highlighting the significance of feminist viewpoints and the need for active organizations in creating successful online safety regulations and arguing for legislative and policy changes that enhance the protection of women's rights such as freedom of speech and privacy in the digital age.

Keywords: Feminism; Freedom of speech; Gender-based violence; Privacy rights; Online safety.

1. Introduction

Women face numerous cyber harassments in the digital space around the world. In Sri Lanka according to Article 12 section 4, of the Sri Lankan Constitution women were given special

treatment stating, they were vulnerable. The rapid development of digital technology caused difficulties with regard to the online safety and protection of women. Therefore, this research article elaborates on how women are protected through this Online Safety Act with a comparative analysis of the United Kingdom Online Safety legislation. The hypothesis is that the Sri Lankan Online Safety Act has not taken the necessary precautions to protect women in Sri Lanka in cyberspace. Hence women face various kinds of difficulties in this digital era, and the government has not recognized when it comes to safeguarding women and their rights. This article is limited to Sri Lankan legislation, UK legislation, and as well as Universal declarations. The paper examines how technological advances has been strengthen and repress women, encouraging the

utilization of technological platforms for political action, higher education, and personal expression whilst emphasizing the particular difficulties that women encounter in this realm.¹

2. Methodology

This article primarily focuses on qualitative methods in analyzing data related to the feminist theories and types of online harassment that occur within online space. The research is library based and the data for this study was mainly gathered from both primary and secondary sources. The primary sources used to analyze this article are international Legislation including conventions and treaties from bodies such as the United Nations, regional legislations, domestic legislation, and the incidents. Moreover, books, journal articles, newspaper articles, and websites have been used as secondary sources to evaluate this article.

3. Analysis and Discussions

3.1. Feminist Lens on Digital Safety for Women

Feminism is a social, political, and economic theory that promotes the equality of the sexes.² In ancient Rome, the patriarchal family background consisted of males as the family head (*pater familias*) and the subordinate body of the family hence they regarded females as a vulnerable group in the society. However, over centuries the laws were interpreted to safeguard women in society from incidents such as domestic violence, sex discrimination, rape, unequal pay, and harassment incidents. For instance, Article 3 of the Night Work (Women) Convention (Revised) 1948 (No. 89) of the International Labour Organization³, prohibited women from working at night or in mining in the early 19th century.

However, there are different types of feminist theories that aim to protect women's rights such as Liberal feminism⁴, Radical feminism⁵, Cultural feminism and safeguarding the women's rights within the online space Cyberfeminism. With the development of technology and cyberculture, Cyberfeminism came into force in the early 1990s. With the development of technology and electronic devices, usage of social media platforms such as Facebook, Instagram, Twitter, and YouTube they have being used for harassment and other online violations against women.⁶ After

¹ Trevor Scott Milford, *Chapter II. Revisiting Cyberfeminism: Theory as a Tool for Understanding Young Women's Experiences* 55-81.

² Raymond Wacks, *Understanding Jurisprudence* (6th edn, OUP 2020) 372.

³ Night Work (Women) Convention (Revised) 1948 (No. 89) of the International Labour Organization, Art 3.

⁴ Raymond Wacks, *Understanding Jurisprudence* (6th edn, OUP 2020) 373.

⁵ Catherin A. MacKinnon, *Towards a Feminist Theory of the State*, (Harvard University Press 1991) 247.

⁶ Kim Barker and Olga Jurasz, 'Online Misogyny: A Challenge for Digital Feminism?' (2019) 72(2) *Journal of International Affairs* 95-114 < https://www.storre.stir.ac.uk/retrieve/7cf50d94-9f42-4b9c-9bbf-3eb55ab5fec7/Barker%20and%20Jurasz_Online%20Misogyny%20%28JIA%20accepted%29%20.pdf > accessed 11 May 2024.

the COVID-19 pandemic with the habit of using electronic devices to perform daily tasks the violence that occurs through the online space has increased rapidly. For example, Maria Ressa, CEO of the Filipino online news outlet “Rappler”, has faced continuous online attacks, including misogynistic abuse and threats.⁷ Moreover, Diane Abbott who is the first black member of the United Kingdom parliament was targeted with 45% tweets through Twitter accounts and direct abusive messages in 2017.⁸ Furthermore, Asian women receive more abusive violent threats through internet space, Former Scottish politician Tasmina Ahmed-Sheikh expressed her feelings and hurtful experience that she encountered through her political journey after losing her seat in the election by stating “*Internally, it hurts a lot. It really, really hurts a lot. It’s personal,*”. Likewise, these kinds of affects women’s rights to active online access, restricts women’s voices from being freely heard in digital space, and generates a democratic imbalance between freedom of speech and the right to privacy of women.

3.2. The International and UK legal Framework

As in the Universal Declaration of Human Rights (UDHR), women’s rights must be protected and, in the preamble, it highlights “equal rights of men and women” rather than “equal rights of men”. The Article 2 of the UDHR established the liberal feminist overview of the elimination of institutional and statutory restrictions that restrict women’s equal opportunities. Nonetheless, the European Convention on Human Rights (ECHR) has intervened to protect women’s rights through articles such as Article 10 which guarantees women’s rights and reputations, and Article 14 which ensures that everyone has the right to be free from discrimination. According to paragraph 6 of the 19th General Recommendation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), it identifies that gender-based violence is “*violence directed against a woman because she is a woman or that affects women disproportionately*”.

Among the Several regulations which are taken place in the United Kingdom to safeguard internet users against online harassment, the legislative provisions such as Protection from Harassment Act 1997, Data Protection Act 2018, the Data Protection Act 2018 and the Communications Act 2003 commonly used by the UK judiciary prosecute offenses to viva public electronic communications networks. Specifically Public Order Act of 1986 make protection for women who are targeted with online hate speech bullying, or distress and Revenge Porn. These legislative provisions collectively provide a robust legal framework to protect the online safety of women in the UK.

⁷The Chilling: Global trends in online violence against women journalists’ (UNESCO) <<https://webarchive.unesco.org/web/20220625110103/https://en.unesco.org/publications/thechilling>> accessed 10 May 2024.

⁸ Jessica Elgot ‘Diane Abbott more abused than any other female MP during election’ *The Guardian* <<https://www.theguardian.com/politics/2017/sep/05/diane-abbott-more-abused-than-any-other-mps-during-election>> accessed 11 May 2024.

3.3. Legal Framework in Sri Lanka

According to the Article 12 of Sri Lankan Constitution, the Right to Equality, which forbids discrimination on any grounds, including sex, and suggests protection from harassment and abuse based on a person's gender. Section 4 of Article 12 act as a shield to protect women, children, and disabled people as a vulnerable community in society. Furthermore, Article 14 of the Constitution guarantees freedom of speech in its entirety. Outside of the constitution the legislative authorities such as The Penal Code of Sri Lanka, Computer Crimes Act 2007, The Obscene Publications Ordinance No. 04 of 1927 Personal Data Protection Act 2022 sets out the legal framework to provide safer mechanisms for the online safety of citizens. These regulations have defined and regulated the various forms of violence against women that take place in the interest of protecting them.⁹

The Online Safety Act Sri Lanka (OSASL)¹⁰, enacted in 2023, is a key piece of legislation aimed at protecting individuals from online abuse. It prevents "communicating false statements" which compromises public order, public health, and national security.¹¹ Within this review, certain key provisions of the OSASL evaluating, particularly those that mainly affect the online safety of women. Likewise, section 4 of the OSASL granted broader authorities to "The Online Safety Commission (OSC)"¹² to regulate people and internet service providers to remove or block inappropriate websites and content.

Notably, PART III of the Act contains several provisions that aim to protect women from the harassment that can occur in the online space. According to this OSASL, section 18 covers "online cheating by personation". It forbids pretending to be someone else, knowingly replacing one person with another, or falsely claiming that someone is another person, on social media platforms like Facebook. Even though the Act has not specifically mentioned, the women harassed through impersonation or fake accounts have a clear legal avenue to pursue justice under this section.

Moreover, according to part (1) of section 20 intentionally making, communicating, or publishing a statement or any private information, to cause harassment to a targeted person liable for a maximum five-year prison sentence or a fine. Part (2) of this section defines "private information" as sources like images, audio, or video. Specifically, Section 21 is intended to protect the rights of children from the abuse that occurred in the online space. According to the penal code, these types of offenses against women fall under this provision. Part (2) of the section mentioned that publishing any photograph, audio, or video of an abusive or pornographic nature relating to a child would be punishable including imprisonment for 2 to 20 years and a fine of up to one million

⁹ Naushalya Rajapaksha, 'Cyber Sexual and Gender Based Violence in Sri Lanka; A Gap Analysis' [2023] CitW 1- 54.

¹⁰ Here in after referred as OSASL.

¹¹ Morayo Ogunbayo and Rhea Mogul, 'Sri Lanka passes controversial bill to regulate online content' *CNN* (Sri Lanka 2024) <<https://edition.cnn.com/2024/01/25/media/sri-lanka-online-safety-bill-pass-intl-hnk/index.html>> accessed 11 May 2024.

¹² Here in after referred as OSC.

rupees, or both. However, there should be specific recognizant for women as children to ensure the same level of safeguards against online violations for women. According to part 6 to part 9 of Section 19 grants power to the OSC to take immediate measures to prevent further circulation. Through these provisions of Section 11 and 19 the commission has the power to instruct people who made offensive statements to stop the communication and involve internet service providers to disable or remove the content related to the protection of women.

3.4. Protection of the right to speech and privacy

However, the current form of the OSASL has a significant impact on women's privacy and human rights. Due to the loopholes and the lack of sufficient measures to protect women from gender-based online violence, the Act has drawn criticism for undermining freedom of expression, suppressing important conversations about women's rights and other social justice problems.

The primary concerns raised by OSASL were the violation of fundamental human rights, such as the "**right to privacy**" and "**right to speech, expression, and access to information**". Moreover, several sections of the Bill include excessive measures that would **limit the enjoyment of the rights to online privacy and freedom of expression** which do not comply with international standards of human rights.¹³ The content of the OSBSL led to a disproportionate effect on women's rights activities and other people's rights to talk about sensitive issues. Since it has made barriers to legitimate expression which could pose a direct threat to the democratic freedoms and civic space in Sri Lanka.

4. UK legal framework for Online Safety Act

The **Online Safety Act 2023 (OSAUK)** came into effect in October 2023 after receiving the Royal accent.¹⁴ The main aim of the Online Safety Bill UK was to safeguard citizens, specifically children, from the violence that occurs through the online space.¹⁵ Moreover, OSAUK has granted power to the "Office of Communications" (Ofcom)¹⁶ to remove or control harmful content that could affect society. For instance, section 9 is reserved to protect users from illegal content. Moreover, section 10 of the act has taken steps to keep children from accessing harmful and improper content. This regulation primarily enforces age restrictions on content including pornography.

¹³ 'Major blow to human rights': Amnesty International slams newly passed Online Safety Bill' *Ada Derana* (25 January 2024) <<https://www.adaderana.lk/news/96718/major-blow-to-human-rights-amnesty-international-slams-newly-passed-online-safety-bill>> accessed 13 May 2024 .

¹⁴ Here in after referred as OSAUK.

¹⁵ Markus Trengove, Emer Kazim and others, 'A Critical Review of the Online Safety Bill' [2022] *Patterns* 1-10 .

¹⁶ Here in after referred as Ofcom.

The main reason behind these regulations results from the 2014 suicide of 14-year-old Sophie Parkinson, who took her own life due to dangerous content she had obtained from the internet.¹⁷

Feminist activists such as Catherine MacKinnon fought to protect women from sexual harassment and pornography. She held that the law often perpetuates male dominance by ignoring how women are systematically disadvantaged.¹⁸ Likewise, even though the OSBUK did not include any measures to protect women, the local organizations such as End Violence Against Women (EVAW)¹⁹ and The National Society for the Prevention of Cruelty to Children (NSPCC)²⁰ undertook a year-long attempt to bring attention to the abuse that women and children experience. The initial modification was the Ofcom has implied guidelines for tech businesses to make sure that they decrease the risks of harm to women who use their services in that effort.²¹ They listed 'coercive control' as a 'priority offense' which is a form of domestic abuse. Tech companies are required to take steps to regulate or remove violent content when reporting domestic violence on the internet surface.

Furthermore, the Act underwent another change which was breach of freedom of expression. When enforcing the laws to prevent harmful content, on the other hand, it would breach one person's right to speech within online space. However, the Bill mandates that platforms must consider users' rights to freedom of expression and privacy which is outlined in Article 10 of the ECHR. In 2012, journalist Cathy Newman, host of Channel 4 News, was subjected to intense misogynistic abuse after fake pornographic images of her were circulated which reflects how the internet has affected journalists' freedom of expression and how the Online Safety Act may interact with these types of issues.²²

¹⁷Emma Cowing, 'My lovely caring daughter took her own life after viewing horrific images online - yet we're still not keeping children safe from criminal actions on social media' *Daily Mail Online* (20 May 2023) <https://www.dailymail.co.uk/femail/article-12104755/My-lovely-caring-daughter-took-life-viewing-horrific-images-online.html> accessed 15 May 2024.

¹⁸The Editors of Encyclopedia Britannica 'Catharine A. MacKinnon; American feminist and law professor' (*Britannica*, 23 April 2024) < <https://www.britannica.com/biography/Catharine-A-MacKinnon> > accessed 16 May 2024.

¹⁹'A DIFFERENT WORLD IS POSSIBLE - Violence against women and girls stops us being free and living the lives we choose.' (*End Violence Against Women*) <<https://www.endviolenceagainstwomen.org.uk/>> accessed 17 May 2024.)

²⁰'NSPCC', (*National Society for the Prevention of Cruelty to Children*) <<https://www.nspcc.org.uk/>> accessed 17 May 2024.

²¹'Consultation: Protecting people from illegal harms online' (*Ofcom*, 9 November 2023) <<https://www.ofcom.org.uk/online-safety/illegal-and-harmful-content/protecting-people-from-illegal-content-online/>> accesses 17 May 2024.

²²Graham Ruddick, 'C4 calls in security experts after presenter suffers online abuse; Cathy Newman subjected to 'vicious misogynistic abuse' after interview with psychologist' *The Guardian* (19 January 2018) <<https://www.theguardian.com/society/2018/jan/19/channel-4-calls-in-security-experts-after-cathy-newman-suffers-online-abuse>> accesses 15 May 2024.

5. Recommendations

The OSASL must be modified in order to uphold women's rights, based on a comparison of the UK Online Safety Act and other feminist theories. The Bar Association of Sri Lanka (BASL) has demanded to revoke the OSBSL, claiming that it will gravely restrict basic human rights such as the right to speech and liberty of the citizens. In keeping with it, the Supreme Court suggested that 31 of the 56 articles be changed to ensure the Bill passes with a simple majority of votes.²³ The Human Rights Commission of Sri Lanka (HRCSL)²⁴, The UN and The International Court of Justice (ICJ) observe that because the legislation substantially restricts online communication with vague phrases like "*false statements*,"²⁵ hence it limits on freedom of expression and assembly. It is essential to safeguard the fundamental right of 'freedom of expression' according to Article 19 (3) of the International Covenant on Civil and Political Rights (ICCPR)²⁶. These organizations claimed that the provisions of this act would most certainly violate the standards of necessity and proportionality. ARTICLE 19 and 50 other organizations have filed over 50 petitions against the OSBSL.²⁷ Moreover, they held that "*Criminalizing speech does not benefit women or children, whom the Bill claims to protect*", since these arguments intended to suppress important discussions and debates on matters crucial to everyone's mental health, safety, and well-being.

In essence, even though the Sri Lankan Online Bill has been passed, the recommendations made by relevant authorities have never been adhered to. These suggestions can be used as an amendment to the OSASL to protect women's rights and freedom of speech. In the Sri Lankan context, there is a low number of Sri Lankan feminists involved in upholding their rights and requirements. '*Women should stand up for women and only women can understand their necessities*'. Therefore, the governmental agencies and other foreign organizations, including the UN and ICCPR, might get involved in this matter to provide insight into feminist activists in Sri Lanka.

6. Conclusion

In conclusion, ongoing review and revision of current legislation are vital for safeguarding women's rights in cyberspace. To guarantee that laws successfully prevent online harassment based on gender with no jeopardizing basic rights for individuals, lawmakers must seek input from feminists to ensure that a more secure and fair online environment can be established for

²³ Sri Lanka Brief 'Online Safety Bill, Supreme Court Ruling, and Alternatives' [16 November 2023] Sri Lanka Brief <https://srilankabrief.org/online-safety-bill-supreme-court-ruling-and-alternatives/> accessed 12 May 2024.

²⁴ Sri Lanka Brief 'UN expresses concerns over Anti-Terrorism Bill and the Online Safety Bill in Sri Lanka' [13 October 2023] Sri Lanka Brief <https://srilankabrief.org/un-expresses-concerns-over-anti-terrorism-bill-and-the-online-safety-bill-in-sri-lanka/> accessed 12 May 2024.

²⁵ Ravina Shamdasani, 'Human rights concerns over two draft laws in Sri Lanka' [13 October 2023] United Nations Human Rights Office of the High Commissioner <<https://www.ohchr.org/en/press-briefing-notes/2023/10/human-rights-concerns-over-two-draft-laws-sri-lanka>> accessed 12 May 2024.

²⁶ International Covenant on Civil and Political Rights (ICCPR), s 19(3).

²⁷ Sri Lanka: Withdraw the Online Safety Bill' (*Article 19*, 19 January 2024) <<https://www.article19.org/resources/sri-lanka-withdraw-online-safety-bill/>> accessed 13 May 2024 .

women. The need for more diverse and varied approaches to OSASL is emphasized by this study. Laws that defend women's rights in the digital era must address online abuse and harassment while still preserving their right to privacy and freedom of speech.

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