

DAWN OF DIGITAL DICTATORSHIP:  
WEAPONISING THE LAW AGAINST ONLINE SPEECH



DEFAMATION  
ASPA

# SINGAPORE



SEDITION LAW

POFMA

PUBLIC ORDER  
ACT



# What is the ASEAN Regional Coalition to #StopDigitalDictatorship?

The ASEAN Regional Coalition to #StopDigitalDictatorship was established in 2020, by human rights and digital rights activists from Southeast Asia, on a mission to decolonize digital rights and restore our online democracies.

Together, we stand in solidarity with one another, with people from the Global Majority, resisting and pushing back against authoritarian governments and complicit tech companies.

We tell our realities from the ground, and we develop solutions together.

**Our truths. Our Stories. Our Solutions. Our Liberation.**

**Fighting back online authoritarianism in Southeast Asia is, and shall always be, decolonial, grounded on feminist values, centred on our voices and our collective power.**

Listed alphabetically, members of the Coalition include: ALTSEAN-Burma, Cambodian Center for Human Rights, ELSAM, Free Expression Myanmar, Foundation for Media Alternatives, ILGA Asia, Manushya Foundation, The Rohingya Maiyafuñor Collaborative Network, SAFEnet, Viet Tan, and Women's Peace Network.

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# List of Abbreviations

<b>AJPA</b>	Administration of Justice (Protection) Act
<b>ASEAN</b>	Association of Southeast Asian Nations
<b>CCDH</b>	Center for Countering Digital Hate
<b>HRD</b>	Human rights defender
<b>ICCPR</b>	International Covenant of Civil and Political Rights
<b>ISP</b>	Internet service provider
<b>LGBTIQ+</b>	Lesbian, Gay, Bisexual, Transgender, Intersex, Queer/Questioning, Asexual
<b>NGO</b>	Non-governmental organisation
<b>OGBV</b>	Online Gender-Based Violence
<b>PAP</b>	People's Action Party
<b>POFMA</b>	Protection from Online Falsehoods and Manipulation Act
<b>RPC</b>	Revised Penal Code
<b>SACC</b>	Sexual Assault Care Centre
<b>SLAPP</b>	Strategic lawsuit against public participation
<b>SPF</b>	Singapore Police Force
<b>TOC</b>	The Online Citizen
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UN</b>	United Nations

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This project would not have been possible without the help of the authors below, as well as reviewers who asked to remain anonymous, in validating our desk-research and in some cases, contributing content that informed this report.

# Chapter I.

## Introduction

The digital space is quickly emerging as one of the key spaces in which human rights are threatened. In Southeast Asia, the internet is no longer a free, safe, and secure space for expression. Restrictive legislation, intimidation, and even the murder of human rights defenders, activists, and journalists tarnishes the commitment to freedom of expression of the countries in the region. In this light, the need for our rights to be respected, including online, becomes greater.

This report is the outcome of the collaborative work of the ASEAN Regional Coalition to #StopDigitalDictatorship (“the Coalition”). After its establishment in 2020, with the coordination of Manushya Foundation, virtual discussions were initiated to discuss challenges faced, while determining collaborative and inclusive efforts to assess, amend, and monitor the implementation of legislations affecting digital rights. The Coalition has established itself as a leading regional expert voice on digital rights in the region and is now a key player, powering local and regional voices to speak their truth to power and to resist digital dictatorship.

A core group of members of the Coalition has collectively developed the research and analysis framework of a regional ASEAN Study, which is divided into three thematic reports. This report is part of a series of three thematic reports and focuses on the right to freedom of speech and expression in the digital space.

The aim of this report goes far beyond merely analysing the legal framework related to freedom of expression online and documenting rights violations in the nine Southeast Asian countries covered. The main goal is to increase public understanding of how important digital rights are to everyone’s lives and to strengthen netizens’ knowledge of those rights. But there is more to consider. As intersectional feminists, we recognise the internet is not equal for everyone. While the digital realm offers immense opportunities, it is far from being neutral or egalitarian, and it remains susceptible to persistent backlash against the rights of women and LGBTIQ+ people. Like other social spaces, it reflects and reproduces power relations and inequalities, including those related to gender.

Coalition members dedicate their work to making Asia a safe and peaceful place for all. While they have different goals and perspectives, the cultivation of an open, safe, and inclusive digital space for all is a key priority for them. At **Manushya Foundation**, we place “equality” at the core of our activities, apply a gender lens to all of our work, and focus on powering women activists and human rights defenders, youth, and LGBTIQ+ individuals to tell their very own stories in a powerful manner for their advocacy. Likewise, **ILGA**

**Asia**, a regional federation of more than 204 member organisations, works for the equality of all people regardless of sexual orientation, gender identity, and sex characteristics, as well as liberation from all forms of discrimination and stigmatisation. **Women’s Peace Network** has “equality” as one of its core visions and works to protect the rights and increase the inclusion of marginalised women, youth, and communities in the Rakhine state and across Myanmar. **The Foundation for Media Alternatives** focuses on the intersection between information and communication technology (ICT) and gender rights, including tech-related gender-based violence.

We also recognise that gender inequality intersects with other forms of oppression, such as race, ethnicity, class, sexuality, and disability, and women exposed to intersecting forms of discrimination are particularly vulnerable to violence in the digital world. Understanding the intricate ways in which power operates, we apply an intersectional feminist lens to explore and tackle the multifaceted dynamics within the digital realm. With this report, we shed light on this and the patriarchal power dynamics that hold our world back from fulfilling a society where everyone is treated with fairness and dignity.

However, that is not where our work ends. The ultimate objective is to call, as a strong and unified voice, on governments, policy-makers, and tech companies to move the needle forward from commitments on paper to concrete measures to respect their international human rights obligations—in order to restore our only democracy. Recommendations are also extended to civil society, which provides a critical foundation for holding governments and businesses accountable, and promoting human rights and democracy.

Following **Chapter II: Methodology**, which will clarify our research and compilation process, **Chapter III: Summary of International Human Rights Laws and Standards** will provide important context for the rest of the report with a table addressing the right to freedom of expression; the rights of human rights defenders; the right to privacy; and the right to effective remedy, and indicates the ratification status by country of each convention, where appropriate. Following, **Chapter IV:**



**Country Overviews (Analysis)** is originally split into nine sections, each one focused on a specific country: **Cambodia, Indonesia, Lao PDR (Laos), Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam.** Each section explains how laws and legal frameworks are being used to target free expression and information online, censor or regulate content, and monitor online activities. Each section includes cases of individuals arrested and charged for their online activities, as well as instances of online censorship, monitoring, and surveillance. However, in this booklet, the focus is solely on Singapore.

In this booklet, a section is dedicated to the impact of COVID-19 and democracy in Singapore. Although the pandemic has brought the world grinding to a halt, Southeast Asian governments took it as an opportunity to tighten their grip over civic space and implemented self-serving laws and policies. Under the banner of safeguarding public health, governments exploited emergency powers and other legal tools, including “fake news” laws, in restrictive and repressive ways, to advance their authoritarian agendas, suppress freedoms and critical speech, silence political opponents, control the flow of information, and attack media freedoms. While national circumstances differed in how the pandemic was governed, the states covered in this report had extensive repressive powers and used COVID-19 as a pretext to limit democratic space both offline and online.

Further, another section draws particular attention to cases of online gender-based violence and harassment experienced by women, including those who are more susceptible to online violence because of their jobs, race, ethnicity, religion, or identity, such as women activists and human rights defenders, women journalists, women belonging to religious or ethnic minorities, young women, women with intersecting identities (Indigenous, ethnic and minority, migrant women; lesbian, bisexual, transgender and intersex women; women with disabilities).

The report concludes with a number of **recommendations** for the primary actors identified as holding key functions in enhancing the state of digital freedoms in Singapore, specifically that of online expression. Governments, members of Parliament, tech companies, and civil

society have—each one to a different extent—a crucial role to play to uphold human rights and fundamental freedoms in the digital space. Since civil society civil groups are front and centre in representing the factual needs of the people and they can power citizens by providing civic education on human rights, a series of recommendations is likewise made to them. People are more likely to resist attempts to suppress their rights if they are aware of them.

Creating a safe internet space for everyone is crucial for promoting inclusivity, respect, and equal opportunities.

**Only together can we foster a more inclusive and respectful internet culture where everyone can engage, express themselves, and participate without fear of discrimination or harassment. None of us are free until we are all free.**

### What is the ASEAN Regional Coalition to #StopDigitalDictatorship?

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**Fighting back online authoritarianism in Southeast Asia is, and shall always be, decolonial, grounded on feminist values, centred on our voices and our collective power.**

# Chapter II.

## Methodology

This Thematic Report is a culmination of four years of monitoring, research, writing, reviewing, and examining the digital rights space in nine ASEAN countries: Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, The Philippines, Singapore, Thailand, and Vietnam. Our research does not cover Brunei Darussalam and Timor-Leste due to the lack of coalition members in these countries. As mentioned previously, this booklet will, however, focus solely on Singapore.

**W**he methodology used in this report encompasses both primary and secondary sources. Primary data was gathered by Manushya Foundation, together with organisation members of the ASEAN Regional Coalition to #StopDigitalDictatorship. We have entrusted our coalition members to write thorough country-specific analyses, based on their expertise in the digital rights landscapes of their respective countries. It must thus also be noted that as these coalition members are specialists in their own rights, with a wealth of information obtained through lived experiences and field research, not every source will be cited, as a lot of information was first-handedly provided by the author and not obtained from elsewhere.

We included voices from the ground and experts' insight from panel discussions, including sessions we held as part of RightsCon, such as the 2022 "Thailand: Digital Authoritarianism Rising" session, the 2021 "Online Freedom Under Attack: Weaponising Misinformation, Disinformation, and 'Fake News' for Censorship in Southeast Asia" session, as well as a series of other webinars hosted by the Coalition. Participants of the webinars and discussions consisted of citizens, experts, representatives of academia, and civil society groups. For some countries, our Coalition members also conducted independent investigations and compiled data from open sources published by the relevant authorities, government agencies and the judiciary. The report's coverage spans the years 2020 through 2023, except for the chapter on Laos (**Chapter IV, 3. Lao PDR**), where

egregious human rights breaches instances prior to 2020 are also included. Similarly, for Myanmar (**Chapter IV, 5. Myanmar**) and Cambodia (**Chapter IV, 1. Cambodia**), countries for which we are also incorporating elements from 2024 due to the rapidly evolving events. We focused our inquiries on different target areas, which were ultimately synthesised into primary themes featured in the reports in this series: criminalisation of defamation and lack of human-centred cyber laws and policies; online monitoring and content moderation; threats to privacy and data protection; harassment of activists and human rights defenders (HRDs); and internet shutdowns.

This report is also composed on the basis of desk research, including a systematic literature review of relevant legislation and regulations; reports, studies, and recommendations by UN human rights mechanisms and NGOs; online news articles; policy and white papers; and independent publications. Data was also obtained from studies and external civil society organisations. We carried out interviews with a wide range of stakeholders to receive the most accurate insight on the state of digital rights on the ground relating to the target areas specified above. The study's ultimate objective is to provide a comprehensive analysis of the state of digital rights in the Southeast Asia region, including during the COVID-19 pandemic, by looking at existing national laws, policies and measures; recorded cases of violation; as well as previous recommendations or proposals made in line with international human rights laws and standards.

# Chapter III.

## Summary of International Human Rights Laws and Standards

Fig. G: Summary table of international human rights laws and standards.

FREEDOMS OF EXPRESSION AND TO HOLD OPINION		
International Human Rights Instruments	Relevant Provisions and Interpretations	Ratification/Voting/Adoption Date and Status
UDHR	<b>Article 19:</b> “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”	<b>NOT Binding</b> but serves as a cornerstone for the development and evolution of international human rights law. as a matter of customary international law
ICCPR	<b>Article 19:</b> Upholds the right of every individual to freedom of expression, including the freedom to “seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media” without interference.	<b>Ratified</b> Cambodia (May 26, 1992)  Indonesia (Feb. 23, 2006)  Lao PDR (Sept. 25, 2009)  Philippines (Oct. 23, 1986)  Thailand (Oct. 29, 1996)
	<b>Article 19(3):</b> Articulates a three-part test, stipulating that any restrictions on expression must be “provided by law”, proportionate, and necessary for “respect of the rights and reputations of others,” “for the protection of national security or of public order, or of public health and morals.”	<b>General comment no. 34: Article 19</b> (freedoms of opinion and expression): States that criminalize defamation must decriminalize it given that “imprisonment is never an appropriate penalty” for, and is neither necessary nor proportionate to the aim of protecting others. <sup>2</sup>
UDHR	<b>Article 12:</b> “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”	<b>NOT Binding</b> but serves as a cornerstone for the development and evolution of international human rights law. Binding as a matter of customary international law

Fig. G: Summary table of international human rights laws and standards.(continuous)

<p><b>ICCPR</b></p>	<p><b>Article 17:</b> “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.” It also upholds the right of persons to receive legal protection from such interference or attacks.</p> <hr/> <p><b>General comment no. 16: Article 17 (right to privacy):</b> This Article is intended to protect against said infringements, both by states and private individuals. Further, “interference authorized by States can only take place on the basis of law, which itself must comply with the provisions, aims and objectives of the Covenant.” The principles of legality, necessity and proportionality also apply to privacy limitations.<sup>3</sup></p>	<p><b>Ratified</b>                  Cambodia                  (May 26, 1992)</p> <p>Indonesia                  (Feb. 23, 2006)</p> <p>Lao PDR                  (Sept. 25, 2009)</p> <p>Philippines                  (Oct. 23, 1986)</p> <p>Thailand                  (Oct. 29, 1996)</p> <p>Vietnam                  (Sept. 24, 1982)</p> <p><b>Not signed or ratified</b>                  Malaysia, Myanmar, Singapore</p>
<p>Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (2016) juncto Report of the OHCHR on the right to privacy in the digital age (2014)</p>	<p>Legitimate surveillance, where intended to limit the freedom of expression, requires states to demonstrate the risk that the expression “poses to a definite interest in national security or public order.”<sup>4</sup> All interference with the right to privacy must also be authorised by an independent oversight body through careful review, and be accompanied with an assurance of effective remedy in case of a breach.<sup>5</sup></p>	<p><b>Non-binding</b> (interpretive)</p>
<p style="text-align: center;"><b>RIGHTS OF HRDS</b></p>		
<p><b>International Human Rights Instruments</b></p>	<p><b>Relevant Provisions and Interpretations</b></p>	<p><b>Ratification/Voting/Adoption Date and Status</b></p>
<p><b>UN Declaration on Human Rights Defenders</b></p>	<p><b>Article 6:</b> Provides for the right of persons to seek, obtain, receive and hold information about all human rights and fundamental freedoms; freely publish or impart or disseminate information and knowledge on all human rights and fundamental freedoms; and to study, discuss and hold opinions on the observance of these rights.</p> <p><b>Article 7:</b> “Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.”</p> <p><b>Article 9:</b> Everyone whose rights or freedoms pursuant to the Declaration are allegedly violated must be able to access an effective remedy and have their complaint heard by an independent, impartial and competent authority.</p>	<p><b>NOT Binding</b> but serves as a cornerstone for the development and evolution of international human rights law</p>

Fig. G: Summary table of international human rights laws and standards.(continuous)

RIGHT TO AN EFFECTIVE REMEDY		
International Human Rights Instruments	Relevant Provisions and Interpretations	Ratification/Voting/Adoption Date and Status
UDHR	<b>Article 8:</b> “Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.	<b>NOT Binding</b> but serves as a cornerstone for the development and evolution of international human rights law
ICCPR	<b>Article 2(3):</b> Provides for the obligation of states to ensure that those individuals whose rights have been violated have access to an effective remedy whether the violation(s) were committed by a person acting in their official capacity. Further, the effective remedy is to be determined by a competent judicial, administrative, legislative or other authority as mandated by the national legal system. The bottomline is that, regardless of the authority in charge, remedy must actually be granted.	<p><b>Ratified</b></p> <p>Cambodia (May 26, 1992)</p> <p>Indonesia (Feb. 23, 2006)</p> <p>Lao PDR (Sept. 25, 2009)</p>
	<b>General comment no. 31 (the nature of the general legal obligation imposed on States Parties to the Covenant):</b> Judicial and administrative mechanisms must be set in place to “investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies.” Reparation to individuals can take the forms of “restitution, rehabilitation and measures of satisfaction, such as public apologies, public memorials, guarantees of non-repetition and changes in relevant laws and practices, as well as bringing to justice the perpetrators of human rights violations.” <sup>7</sup>	<p>Philippines (Oct. 23, 1986)</p> <p>Thailand (Oct. 29, 1996)</p> <p>Vietnam (Sept. 24, 1982)</p> <p><b>Not signed or ratified</b> Malaysia, Myanmar, Singapore</p>

# Chapter IV.

## Country Analysis



# 4. Singapore

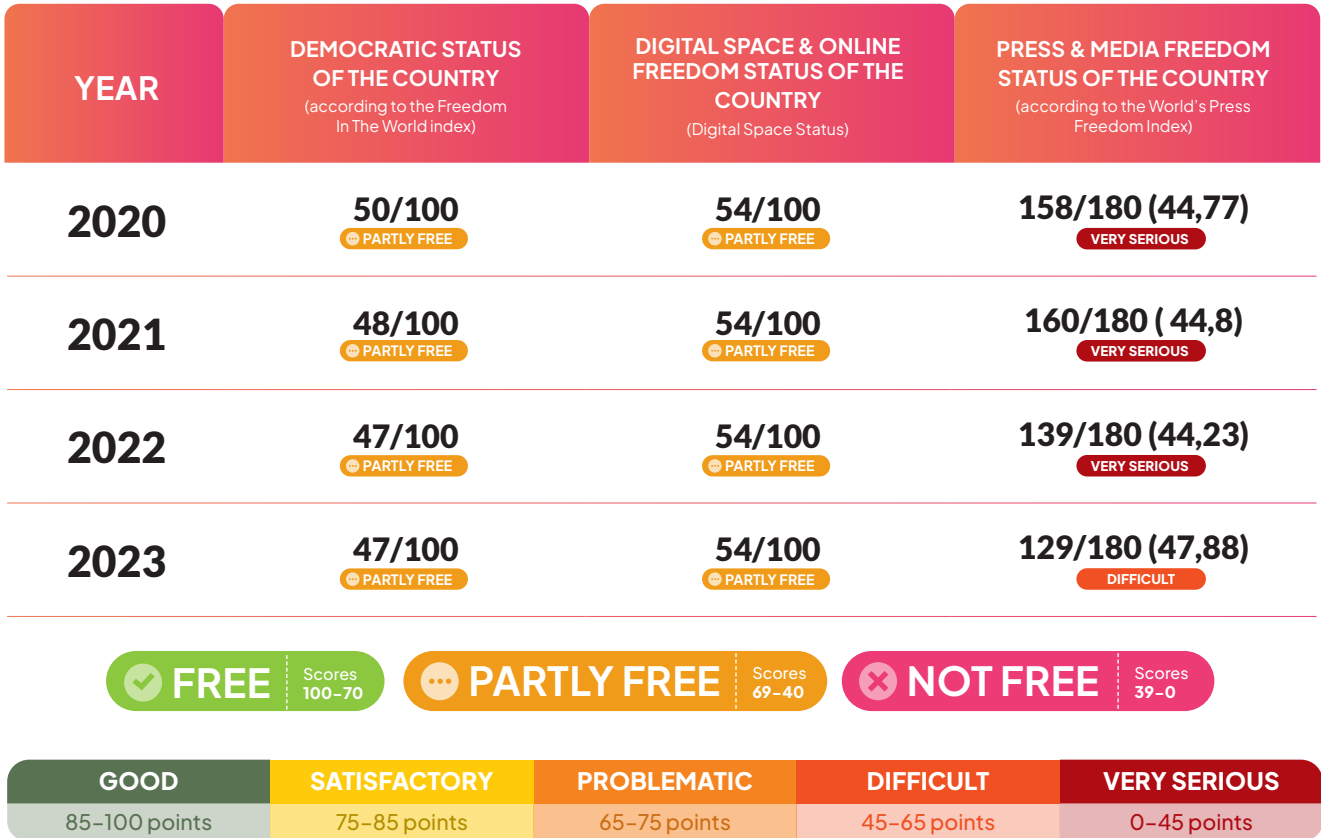


Fig. 4.1: Summary of freedom ratings for Singapore, 2020-2023.<sup>1</sup>

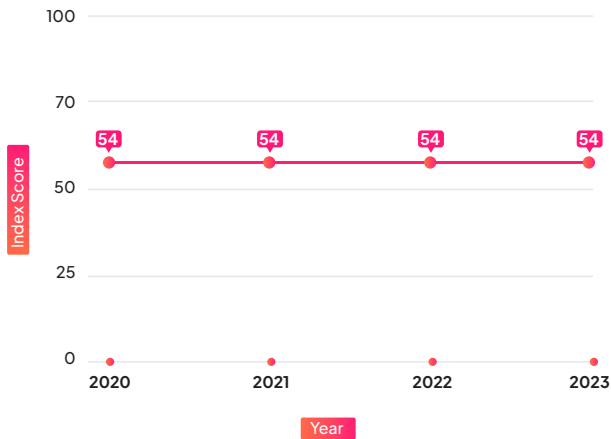
## 4.1 Legal Framework

The right to freedom of expression is constitutionally guaranteed in Article 14 of the Singapore Constitution. However, the Parliament is entitled to restrict the right to protect the privileges of Parliament and provide against any contempt of court, defamation or incitement to any offence, as well as when the Parliament considers that doing so is necessary in the interest of national security, public order, morality etc.<sup>2</sup> A restrictive legal and regulatory regime in the country severely undermines the right to freedom of expression.

### Criminalisation of Defamation: the Penal Code and 2014 Defamation Act

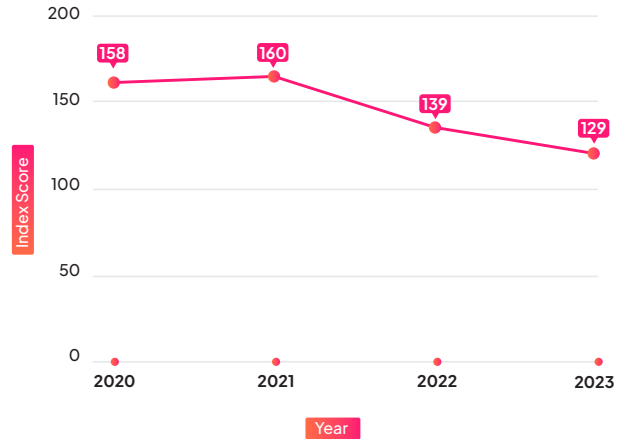
Singapore has an extremely strict criminal defamation law, despite decades-long urge by the UN for its decriminalisation. Sections 499 and 500 of Singapore’s Penal Code criminalise defamation with up to two years’ imprisonment or a fine or both.<sup>3</sup> Under Section 499, defamation is considered to have taken place where a person “by words either spoken or intended to be read, or by signs, or by visible representations, makes or publishes any imputation concerning any person, intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.”

### Digital Space & Online Freedom Status: Singapore



Freedom House, *Explore the Map*, (n.d.), available at: <https://freedomhouse.org/explore-the-map?type=fiw&year=2023>

### Media & Press Freedom Status: Singapore



Reporters sans frontières, *Classement*, (n.d.), available at: <https://rsf.org/fr/classement>

Fig. 4.2: Digital Space & Online Freedom Status (Freedom on The Net) and Media & Press Freedom (World Press Freedom Index) Ratings for Singapore over the years, 2020-2023.

In addition to criminal charges, Singapore systematically uses civil defamation suits against dissidents and activists to silence them,<sup>4</sup> pursuant to the 2014 Defamation Act.<sup>5</sup> The law also applies to the broadcasting of words by means of telecommunication. People’s Action Party (PAP) leaders have been awarded damages ranging from SGD 100,000 to SGD 300,000 (\$74,000 to \$222,000) in defamation suits brought against opposition politicians, activists, and news media corporations.<sup>6</sup>

### Sedition Law to Muzzle Critics

The 1948 Sedition Act, as amended in 2013, which has been in force since the colonial era, criminalises expression that can “bring into hatred or contempt or to excite disaffection” against the government or the administration of justice in Singapore, “raise discontent or disaffection” among the inhabitants of Singapore, or “promote feelings of ill-will and hostility between different races or classes of the population of Singapore.” Violations are punishable by two years.<sup>7</sup> Section 298 of the Penal Code additionally provides for prison terms of up to three years for offenders with “the deliberate intention to wound that person’s religious or racial feelings.”<sup>8</sup>

### Prominent Instruments that Limit Free Speech: AJPA, POFMA, and Foreign Interference Act

#### The Administration of Justice (Protection) Act (AJPA)

Section 12(1) of the 2017 Administration of Justice (Protection) Act (AJPA) criminalises contempt of court or “scandalisation of courts” by imposing the harsh penalties of three years’ imprisonment or a fine of SGD100,000 (\$74,000) or both. The offence of “scandalising the court” includes (i) “impugning the integrity, propriety or impartiality” of judges by “intentionally publishing any matter or doing any act that ... poses a risk that public confidence in the administration of justice would be undermined” (Section 3(1)(a)); and the (ii) “intentional” publishing of any material which interferes with pending court proceedings (Section 3(1)(b)).<sup>9</sup> It essentially prohibits criticising the court or the administration of justice generally and even forbids reporting on ongoing cases if it is deemed as a “risk” to the trial. Combined with the harshness of the potential penalty and the vagueness of the offence, AJPA could significantly curtail open discussions of the administration of

justice in Singapore under the guise of “maintaining orderly proceedings,” not excluding those which take place in the online space.

## The Protection from Online Falsehoods and Manipulation Act (POFMA)

On the other hand, the 2019 Protection from Online Falsehoods and Manipulation Act (POFMA), a “Fake News” law that came into effect in October 2019, allows for nearly any form of communication—written, visual, audio, or otherwise—to be targeted and classified as a criminally liable “false statement of fact.” Section 7 criminalises the communication of any “false statement of fact” where such communication is likely to “be prejudicial to the security of Singapore, to public health, public safety, public tranquillity,” “influence the outcome of an election,” “incite feelings of enmity, hatred or ill-will”, or “diminish public confidence in the performance of any duty or function of, or in the exercise of any power by, the Government, an Organ of State, a statutory board.” This provision fails to define the categories “public safety,” “public tranquillity,” and “public interest.” Offences under Section 7 are punishable by a fine of up to SGD 50,000 (\$37,100), imprisonment of up to five years or both.<sup>10</sup>

POFMA also allows for the determination of “falsehood” by taking a portion of a statement out of context under Section 2(1), stipulating that a statement may be found to be false “if it is false or misleading, whether wholly or in part, and whether on its own or in the context in which it appears.”<sup>10</sup> Thus, it does not clearly explain what constitutes false or misleading content and broadly defines “public interest” to include the preservation of “public tranquillity,” “friendly relations” with other countries and public confidence in government institutions. Those vague and overbroad provisions prevent precise understanding of the law to enable individuals to regulate their conduct accordingly, in contravention of the international human rights principle of legality. Moreover, Sections 10-12 grant any government

minister the unchecked and extended power to issue a so-called “correction order”—essentially a notification that a statement in question is false—or a “Stop Communication Direction,” which requires a person to “stop communicating the subject statement by the specified time.” Non-compliance with these Directions is punishable with a fine up to SGD 20,000 (\$14,800), imprisonment of up to 12 months or both. A Minister also has the unfettered authority to issue access blocking orders when an individual or online news outlet fails to comply with directions and rectify “false” content. Such directions and orders can be issued on vague and unspecified assessments without court orders.<sup>11</sup>

## The Foreign Interference (Countermeasures) Act

The act took effect on July 7, 2022, and is aimed at “prevent[ing], detect[ing] and disrupt[ing] foreign interference in ... domestic politics.” It enables authorities to order social media platforms to investigate alleged “hostile information campaigns” and foreign interference in Singapore’s internal affairs.<sup>12</sup> Other broad provisions under the act allow the authorities to control almost any form of expression and association relating to politics, social justice or other matters of public interest. The law makes it a criminal offence to undertake “clandestine” electronic communications on behalf of a foreign principal under certain circumstances, including when that activity “diminishes or is likely to diminish public confidence in ... the Government or a public authority” or “is likely to be directed towards a political end in Singapore.” Activity “directed towards a public end” includes influencing conducts or seeking to influence government decisions or public opinion on matters of “public controversy” or “political debate” in Singapore. Lacking clear provisions on what is deemed illegal makes it difficult for people to adjust their behaviour according to the law, and further gives the executive branch unrestricted latitude in interpreting and enforcing the law. The consequences for breaking

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*Despite its claims to be a democracy, the Singaporean government has systematically chipped away at fundamental freedoms using ambiguous and overly-broad legislation, such as on defamation, the Protection Against Online Falsehoods and Manipulation Act (POFMA), and the Public Order Act, to suppress activism and muzzle free speech.*

–Josef Benedict, Civic Space Researcher at CIVICUS

the Foreign Interference (Countermeasures) Act are severe, with the heaviest penalties being a fine of up to SGD100,000 (\$74,000) and/or imprisonment of up to 14 years. Individuals could be penalised for any “deliberate” use of encrypted communication platforms to achieve said public or political end. This puts at risk anyone who uses encrypted messaging and email services, or VPNs. Under the Act, authorities may issue directions to censor, block, or restrict access to online content or services seen to be in violation of these provisions. These directions are issued without independent oversight and could only be appealed to a limited extent.<sup>13</sup> Offences under the Act are additionally non-bailable and arrestable. The law will disproportionately impact journalists, academics, artists, and other individuals who express their opinion, share information and advocate on sociopolitical issues and matters of public interest, as the issues on which they work are under increased state oversight and control.<sup>14</sup>

### **Sweeping Restrictions on Online Journalism: 2018 Public Order Act, 1974 Newspaper and Printing Presses Act, and the 1994 Broadcasting Act**

In addition, the 2018 Public Order and Safety (Special Powers) Act allows the authorities to ban communications including videos, images, text, or audio messages in the event of a “serious incident” whereas the definition of a “serious incident” varies from terrorist attacks to peaceful protests such as large sit-down demonstrations or even a standalone protest. These powers allow the commissioner of police to prohibit anyone from taking or transmitting photographs or videos in a defined area, or from making text or audio messages about police operations. A breach of the order may lead to imprisonment for up to two years, a fine of up to SGD20,000 (\$14,800) or both.<sup>15</sup> It imposes heavy restrictions on online journalism and information sharing surrounding major public events. The 1974 Newspaper and Printing Presses Act and the 1994 Broadcasting Act,

applicable to digital platforms, restrict the activity of news outlets and independent media through licensing and registration requirements.<sup>16</sup>

### Escalating State Censorship Online: Online Safety Bill

On Nov. 9, 2022, the Singaporean Parliament passed the Online Safety (Miscellaneous Amendments) Bill to amend the Broadcasting Act. The Bill would empower the Infocomm Media Development Authority to issue orders to social media platforms to block access to harmful content within hours.<sup>17</sup> If they fail to do so, they can be fined with up to \$1 million, or the Infocomm Media Development Authority can issue a direction to ISPs to block users' access to that platform.<sup>18</sup>

## 4.2 Challenges and Cases

Singapore has had a parliamentary political system dominated by the ruling People's Action Party (PAP) and the family of current PM Lee Hsien Loong since 1959. The existing legal and institutional framework that PAP has constructed allows for democratic rights, political pluralism to some extent, and acknowledges fundamental rights, including freedom of expression. Nevertheless, the growth of credible opposition parties is constrained and the country has a relatively bad record of human rights performance, especially in relation to digital rights. Freedom on the Net 2021 and 2022 ranked Singapore "partly free" with an aggregate score of 54/100 and remained under the threat with the same score of 54/100 during the coverage period of 2023.<sup>19</sup> The World Press Freedom Index 2022 by Reporters Without Borders ranked Singapore 139th out of 180 countries with a score of 44.23.<sup>20</sup> In 2023, the Index showed slight improvements, with Singapore ranking 129th with a score of 47.88.<sup>21</sup>

## Struggles, Legislation, and Repression in Singapore (2020–2023)



**LEGEND:**

⚠️ : Alleged offense + (articles/provisions invoked against the individual)  
 - "Unknown": Either information is not available or no articles/provisions have been cited by the judiciary

🔒 : Legal and extralegal consequences  
 - "Status Unknown": Current status of the individual is unknown (detained, convicted, deceased, etc).

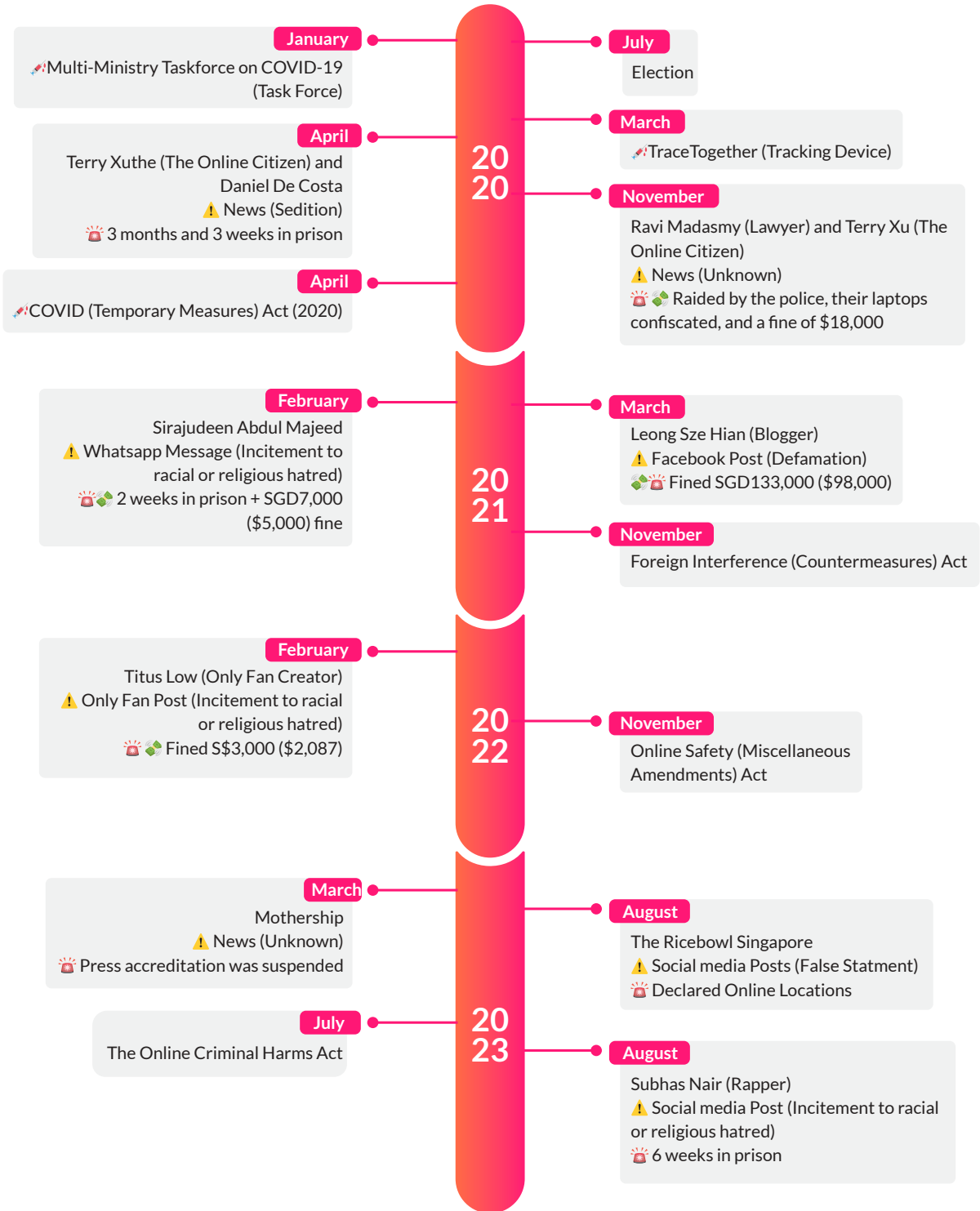


Fig. 4.3A: Summary timeline for Singapore, 2020-2023.





Country	Event	Contextualisation
 <b>SINGAPORE</b>	 Online Safety (Miscellaneous Amendments) Act (2022)	The law grants extensive authority to block online content as deemed necessary by the government.
	 The Online Criminal Harms Act (2023)	It introduces stricter regulations and penalties for individuals and entities engaged in online criminal activities.
	 Election (2020)	The ruling People's Action Party (PAP), led by Prime Minister Lee Hsien Loong, maintained its uninterrupted hold on power despite a notable decline in popular support. The PAP, in power since 1959, secured a super majority by winning 83 out of 93 seats in parliament. The remaining 10 seats were claimed by the Workers' Party, marking the highest number ever held by opposition lawmakers since Singapore's first general election in 1968. Despite its victory, the PAP's share of the popular vote saw a decline to 61.2%, compared to nearly 70% five years ago and approaching the party's record low of 60% in 2011. The election recorded a high voter turnout of nearly 96%.

Fig. 4.3B: Contextualisation for Singapore's timeline, 2020-2023.

### Abuse of Defamation Provisions by the Powerful to Limit Criticism

Defamation provisions have been systematically invoked by the State and other powerful actors to protect themselves and avoid criticism. In October 2020, Terry Xu, the editor of now-inoperative The Online Citizen (TOC),<sup>22</sup> along with newspaper contributor Daniel De Costa, went on trial on criminal defamation charges lodged in 2018. This came after Xu published online De Costa's letter in which he accused the PAP leadership of "corruption at the highest echelons."<sup>23</sup> On Nov. 12, 2021, each was convicted of defaming Cabinet members, and on April 21, 2022, Xu was sentenced to three weeks imprisonment, while De Costa was jailed for three months and three weeks.<sup>24</sup>

Terry Xu was also involved in a separate defamation suit. On Aug. 15, 2019, TOC published an article online titled "PM Lee's wife Ho Ching weirdly shares article on cutting ties with family members" that referred to a post made on Facebook by the PM's wife and reported on a dispute between members of the PM's family. PM Lee's press secretary Chang Li Lin issued a letter to TOC on Sept. 1, 2019 demanding the removal of the article and a public apology. After Xu refused, PM Lee instituted legal proceedings against him and the article's writer, Rubaashini Shunmuganathan.<sup>25</sup>

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*[A] person of power using his public office to issue a letter, it creates some doubts as to the angle [from which] he is approaching the matter ... If I were to undertake the apology and say what I published was defamatory, action may not follow legally but it may follow in terms of other statutory boards or ministries ... coming to us and saying we've published questionable content.*

-Terry Xu, the editor of The Online Citizen (TOC)

“

*Wham’s conviction merely for exercising his right to free expression is part of a wider pattern of harassment and intimidation against activists and defenders in Singapore. The continuous judicial harassment he is subjected to is meant to intimidate Singaporeans into silence.*

–FORUM-ASIA

In September 2021, PM Lee Hsien Loong was awarded SGD210,000 (\$155,000) in damages by the High Court,<sup>26</sup> and another SGD87,833 (\$65,000) in costs and disbursements in October 2021, with the Court ruling that the defamatory statements made in the article were “grave and serious” as they “do not merely attack [Mr Lee’s] personal integrity, character and reputation, but that of the prime minister, and damage his moral authority to lead Singapore.”<sup>27</sup>

Similarly, Leong Sze Hian, blogger and financial adviser, was sued by PM Lee for civil defamation after sharing an article on his Facebook account and was ordered to pay SGD133,000 (\$98,000) in damages to PM Lee as per a High Court ruling on March 24, 2021.<sup>28</sup>

Legal provisions on defamation, together with laws on public safety have also been exercised to intimidate and judicially harass activists who are critical of the status quo or of those in high ranks. The abuse of these laws consequently bars them from pursuing their human rights work and exercising their fundamental freedoms of expression mainly due to fear of reprisals. Jolovan Wham—a well-known and

outspoken HRD—has faced several criminal charges for his activities.<sup>29</sup> In February 2022, he was fined SGD 3,000 (\$2,200) for holding up a piece of paper with a support message to Terry Xu and Daniel De Costa written on it, which he posted online.<sup>30</sup>

### **Race, Religion, Obscene Materials, and Government Critics: Sensitive and Subject to Prosecution and/or Removal**

The authorities have a track record of weaponising repressive laws to crack down on free expression and hinder access to information. In February 2021, Sirajudeen Abdul Majeed was the first person to be charged under Section 298A(a) of the Penal Code and sentenced to two weeks in jail along with a SGD 7,000 (\$5,000) fine. His charge came after he sent a message in a WhatsApp group stating the PAP “want[ed] to make the Malay community a sub-minority” and made several racist remarks in a phone call with a police officer.<sup>31</sup> Similarly, Zainal Abidin Shaiful Bahari, was sentenced to three weeks in prison under Section 298(A) of the Penal Code for posting multiple racially insensitive tweets.<sup>32</sup>



# SINGAPORE

## 2023 Political Overview

Unitary parliamentary republic in theory, semi-authoritarian regime in practice.

### Head of State, Head of Government

Prime Minister Lee Hsien Loong (de facto power), President Tharman Shanmugaratnam

## #StandWithSubhas

### ♥ CASE STUDY

**Artists expressing their political views** are also frequently targeted by state-enabled **Digital Dictatorship**, such as in the case of this Singaporean rapper...

### WHO

Subhas Nair, Singaporean-Indian rapper ♥

### WHY/WHAT

♥🗣️: Subhas Nair filmed a satirical rap song and music video raising awareness for the colorism, Islamophobia, anti-Indian sentiment, anti-Malay sentiment, and general anti-brown sentiment that is prevalent in Singapore. In his song, he particularly called out Singaporean Chinese people, who make up the majority of the Singaporean elite.

### WHEN

2019–2020 (Nair shares music video and other various comments critiquing racism in Singapore); 2 November 2020 (Nair takes down the video), 5 September 2023 (sentenced)

### WHERE

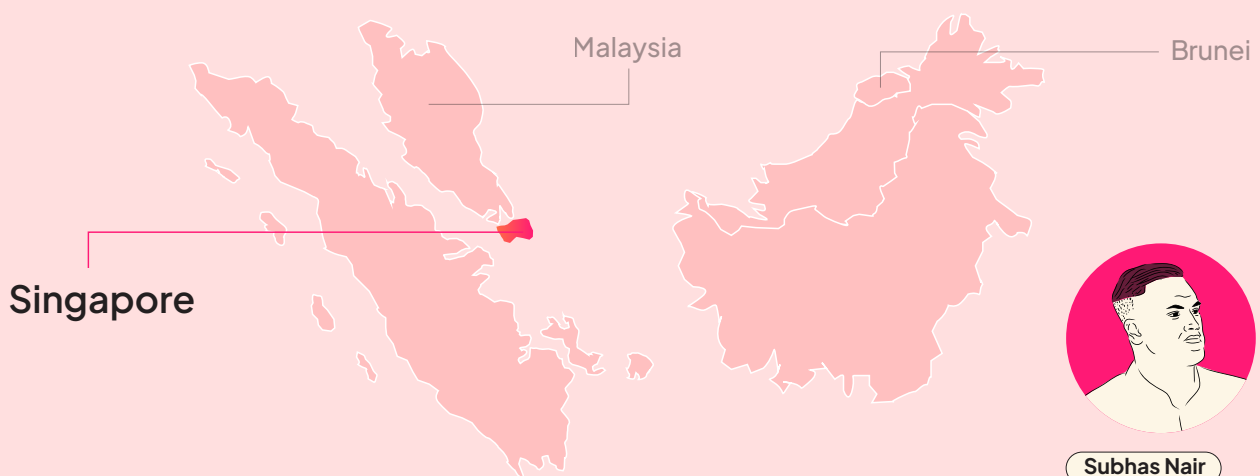
Singapore

### HOW

⚠️ How Digital Dictatorship has caused the violation of Fatia and Haris' human rights:

🗣️🙋 Nair has maintained in all his statements on the matter that he was never trying to be racist. Rather, he insinuated that he was trying to critique the way that certain racial/ethnic groups in Singapore *have contributed* to a pattern of racism towards other groups. Nevertheless, he received a lot of backlash from the conservative public and from elites, with people accusing him of being 'vulgar' and 'insensitive' towards certain races.

🗣️🙋🙏🗣️ Nair was given a 'conditional warning' (along with his sister Preeti, who helped him produce the song) after posting the video, and was then formally charged with **violating Section 298A of Singapore's Penal Code (knowingly 'promoting ill will' between different racial groups)** after he made some additional comments on social media critiquing Chinese Singaporean exceptionalism. In 2023, Nair was sentenced to 6 weeks in jail.



**Subhas Nair**

Singaporean-Indian rapper

Mothership, *S'porean rapper Subhas Nair jailed 6 weeks for attempting to promote ill-will between racial & religious groups*, (5 September 2023), available at: <https://mothership.sg/2023/09/subhas-nair-jailed-six-weeks/>

TIME, *A Singaporean Rapper Tried to Call Out Racism. He's Been Sentenced to Jail For His Statements*, (5 September 2023), available at: <https://time.com/6310667/subhas-nair-singapore-racism-rap/>

Arrests, litigation, and the other forms of harassment mentioned in this case study are just some examples of how Digital Dictatorship has affected the individual(s) mentioned, as well as Southeast Asian society as a whole. HRDs and/or journalists, including the one(s) in this case study, are often perpetually targeted by Digital Dictatorship in numerous ways that go beyond just what is discussed here.

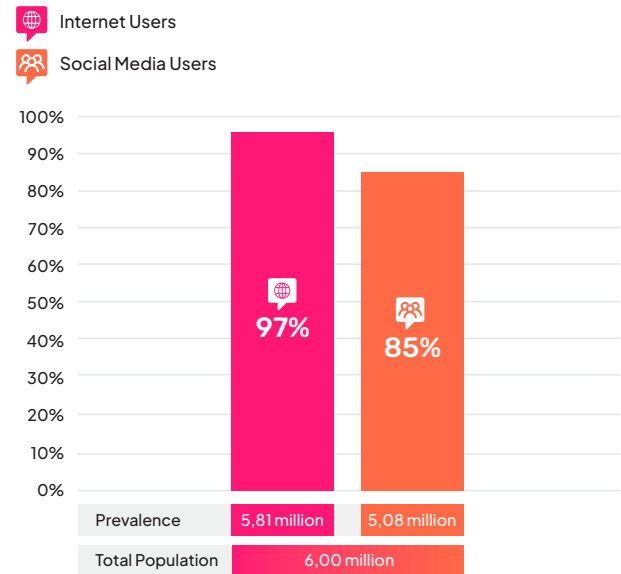


In November 2021, rapper Subhas Nair was charged with four counts of inciting public ill-will or hostility between religious and racial groups for posting on social media about alleged double standards in how different ethnic groups are treated in Singapore. Nair was said to have breached a conditional warning issued against him in 2019 over a rap video he made with his sister.<sup>33</sup> On March 21, 2023, Nair testified stating that his online comments targeted the racism and hate speech happening in the country (especially “brownface”) and were not meant to create animosity between racial and religious groups. However, in September 2023, he received a six-week jail term for four charges related to attempting to incite hostility between various racial and religious communities in Singapore.<sup>34</sup>

In a similar vein, OnlyFans creator Titus Low was charged in December 2021 for transmitting obscene material by electronic means and violating an order not to access his account. He was slapped with two additional counts for similar offences. His case sparked a debate among Singaporeans of whether adult content behind a paywall and thus gives people the option to either watch or not watch it should be criminalised.<sup>35</sup>

## Invoking POFMA to Further Suppress Criticism

The government has invoked POFMA many times since it came into force against online content critical of the government or its policies.<sup>36</sup> According to the POFMA Office Media Centre, as of December 2022, the Office has issued some 77 Correction Directions.<sup>37</sup> A different dataset compiled by the Singapore Internet Watch, however, shows that there have been 96 orders issued since POFMA became effective in October 2019 to May 2022, targeting news websites, NGOs, opposition politicians, and social media users.<sup>38</sup> Several orders, instructed by different ministries in the government, were sent to independent online media, such as TOC and New



DataReportal, *Digital 2023, Singapore*, (9 february 2023), available at : <https://datareportal.com/reports/digital-2023-singapore>

Fig. 4.5: Percentage of Internet and Social Media Users in Singapore, 2023.

Naratif, and civil societies, resulting in a chilling effect on the free communication of opinions or discussions about matters of public interest and concern. In June 2020, access to National Times Singapore’s Facebook page was disabled in Singapore. This was the fourth Facebook page operated by Alex Tan, a political dissident, to be subject to a disabling order.<sup>39</sup>

Strict online information controls further undermine free expression and lead to poor access to information and lack of public oversight on government policies. For instance, in July 2020, there were several POFMA Correction Directions issued by various ministers related to online content, statements, or talking points from opposition politicians about: government spending on foreign students;<sup>40</sup> COVID-19 testing for foreign workers and the handling of the pandemic;<sup>41</sup> and plans to increase the city’s population.<sup>42</sup> In May 2022, activist Gilbert Goh also received a POFMA Correction Direction for a Facebook post he made in April, claiming that a woman and her partner who were in urgent need of financial assistance for basic necessities had “no one [they] can turn to” for help.<sup>43</sup> In addition, the abusive law has been also frequently

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*A law like POFMA, with its broad powers and potential penalties like access blocks and defunding of platforms down the line, should not be used merely to help government institutions protect their reputations or save face.*

–Kirsten Han, freelance journalist and curator of the We, The Citizens newsletter

used to target political opposition parties, especially during election cycles.

In May 2023, Josephine Teo—Minister for Communications and Information and Second Minister for Home Affairs—issued POFMA directions for a series of posts criticising the way the government dealt with the case of a man given the death penalty for allegedly planning to smuggle cannabis.<sup>44</sup> She also rejected Transformative Justice Collective (TJC)’s application to cancel a POFMA correction order they were given after the group discussed the same case.<sup>45</sup>

Access restriction and content blocking are also prevalent, at the expense of the right to information. On May 18, 2021, a POFMA order was issued to TOC, an Instagram user and Singapore Uncensored over a post claiming that a police officer bullied an older woman for not wearing a mask. TOC’s appeal against this Correction Direction was dismissed by a High Court judge in 2022.<sup>46</sup> In January 2020, the Ministry of Communications and Information ordered ISPs to block a website belonging to the Malaysian NGO Lawyers for Liberty after the group failed to publish a POFMA correction notice in relation to its statements on Singapore’s methods of capital punishment.<sup>47</sup>

Both POFMA and the Foreign Interference (Countermeasures) Act are expected to destabilise news outlets by allowing the government to demonetise them. The laws empower ministers to label any website or online page found to have repeatedly published alleged false information or is suspected of being involved in foreign interference activities as a “declared online location” or “proscribed online location.” Those labelled are prohibited from accepting donations or charge for advertisements and subscriptions. Since February 2020, the Facebook pages of States Times Review, Singapore States Times, National Times Singapore, and the private page of dissident Alex Tan have been designated as “declared online locations” after receiving POFMA orders.<sup>48</sup>

### **AJPA: Criminalising People for Criticising the Courts or the Administration of Justice**

Contempt of court proceedings under AJPA have extensively been used to curtail freedom of expression and the right to information, preventing HRDs, individuals and civil society from discussing any judicial proceedings and causing people to self-censor. In 2020, the offices of public interest lawyer Ravi Madasamy and Terry Xu were raided by the police and their laptops confiscated, after TOC published

an article questioning the legality of the extradition of Madasamy's client. Madasamy's client Mohan Rajangam and TOC writer Danisha Hakeem were likewise investigated as part of this case.<sup>49</sup>

In August 2021, contempt of court proceedings were initiated by the Attorney General against Terry Xu over a separate blog post on the legal system, which was also published on Facebook.<sup>50</sup> One year later, Xu's bid to terminate the proceedings was dismissed by the Court of Appeal.<sup>51</sup> Terry Xu was fined \$18,000 in 2023 for his article questioning the Singaporean legal system and for his acts which were described as "failed [to practise] responsible journalism."<sup>52,53</sup>

## Online Content Manipulation & Restrictions

### Media Licences Revocation and Website Blocking

Blocking media outlets and websites for spreading information deemed inappropriate by the government is not new to Singapore. For example, on Sept. 14, 2021, TOC's media licence was removed with the media outlet being ordered to cease posting on its website and social media channels.<sup>54</sup>

Free video streaming websites are also illegal and, in 2022, the country's courts ordered 99 websites to be blocked, most of them streaming Kdramas and sports.<sup>55</sup> Gambling websites can also be blocked by the Gambling Regulatory Authority (GRA).<sup>56</sup> More than a thousand gambling sites have been blocked since the Gambling Control Act took effect in 2022.<sup>57</sup>

While online pornography websites are not illegal and the exact number is hard to determine, it is estimated that approximately 100 websites containing pornographic material have been blocked by the Info-communications Media Development Authority of Singapore (IMDA) to show that they do not coincide with the Singaporean society's values.<sup>58</sup>

### Government Requests to Remove or Restrict Content or Accounts

In 2020, Meta restricted access to 546 content items on Facebook and Instagram based on requests by Singaporean agencies, including from InfoComm Media Development Authority. Four items were allegedly in violation of the POFMA and six were reported as defamation by private parties.<sup>59</sup> In 2021, almost 2,000 items were restricted on the same two platforms, although none indicated an attempt to restrict online freedom of expression. This trend continued until June 2022, with 576 items being restricted without any apparent connection to the limitation of online freedom of expression.<sup>60</sup>

Google received 13 requests with an average compliance rate of 28.6% in 2020 and 27 requests in 2021, with the compliance rate virtually unchanged. In the first half of 2022 however, the platform received 265 requests and increased its compliance rate to 70.6%.<sup>61</sup> While numbers from 2020 were unlogged, the most recent data shows Twitter reported five requests by Singapore to remove content in 2021, 60% of which were complied with.<sup>62</sup> TikTok did not receive a significant number of requests to limit and/or restrict content between 2020 and 2022.<sup>63</sup>

The Minister for Communications and Information also announced in February 2022 that Singapore is exploring the possibility of using artificial intelligence to block scam websites more rapidly. She also disclosed that 12,000 of these sites were blocked in 2021, a sharp increase from 500 in 2020.<sup>64</sup>

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*The contempt of court is undeniably a tool for the authorities to curb reportage and opinions on issues that warrant public awareness.*

–Terry Xu, editor-in-chief of TOC



## PANDEMIC POLITICS: COVID-19 IMPACT ON ONLINE FREEDOM

Singapore has not invoked emergency laws to deal with the COVID-19. Instead, it employed a legislative model whereby the emergency was handled through ordinary legislation delegating special and temporary powers to the executive.

Amid the pandemic, individuals were prosecuted for their online activity, as Singapore continued extending its controlling powers over online freedom of speech. For instance, in May 2020, an individual was sentenced to four months imprisonment for sending a message in a private Facebook group claiming that more stringent COVID-19 pandemic measures would be put in place, despite deleting the post after 15 minutes.<sup>65</sup>

Singapore sustained its use of the POFMA to restrict freedom of expression online, requiring news outlets and social media platforms to comply with correction orders. According to the POFMA Office Media Centre, as of December 2022, 50% of the POFMA cases were COVID-19 related.<sup>66</sup> In January 2020, Facebook was ordered to block Times Review’s website after it stated that Singapore was running out of masks.<sup>67</sup> In July 2020, several orders were related to online content about COVID-19 testing for foreign workers and the handling of the pandemic.<sup>68</sup> They were also issued to Twitter and Facebook in May 2021, forcing them to warn all users about false claims circulating on social media regarding a Singapore variant of the virus.<sup>69</sup>



## INTERSECTIONAL GENDER ANALYSIS: ONLINE GENDER BASED VIOLENCE IN SINGAPORE

Online gender-based violence in Singapore is a concerning issue that manifests in various harmful behaviours, such as sexual harassment, defamation, cyberstalking, hate speech and doxing.<sup>70</sup> According to a 2022 study, two out of five Singaporeans have either experienced cyberbullying or observed sexist content within the past two years. Among the examples of harmful content examined, two recurring forms were particularly prevalent, with 14% involving comments or images implying male superiority and 12% suggesting that women bear responsibility for many of the challenges faced by men. These findings highlight the persistent presence of gender stereotypes in the online sphere. Despite the concerning statistics, there is a collective sentiment against online abuse, with 71% of Singaporeans agreeing that women should not be subjected to such behaviour. However, agreement is lower among men (63% vs. 79% among women).<sup>71</sup>

A separate survey conducted in 2022 by the Sunlight for Action Alliance to tackle online harm found that women aged 25-34 were the most likely to have experienced behaviours such as sexual harassment, stalking and non-consensual posting of intimate images.<sup>72</sup> Further research has pinpointed the top four online harms encountered are sexual harassment, cyberbullying, impersonation, and defamation. The dangers of the Internet are not perceived in the same way by the two genders. Young women aged between 15 and 34 are more concerned about sexual harm and sexual harassment, while young men in the same age group are more concerned about defamation and cancel campaigns.<sup>73</sup> In essence, these statistics underscore the urgent need for comprehensive strategies to address online gender-based violence, taking into account the experiences and perceptions of different demographic groups.

In Singapore, the main threat is image-based sexual abuse. In 2020, these incidents accounted for 65% of cases of technology-facilitated sexual abuse, and up from 61% in 2019. This category includes the dissemination

of sexual, nude or intimate photos or videos of another person. Overall, Aware's SACC recorded 163 new cases of technology-facilitated sexual abuse in 2021, down from 191 in 2020. Of these 163 cases, the perpetrator was someone known to the victim in 134 situations.<sup>74</sup>

One of the most shocking cases was the "SG Nasi Lemak" affair in Singapore in 2019. Thousands of private photos were shared in a Telegram newsgroup called "SG Nasi Lemak", mainly of Singaporean women, without consent. At its peak, the group had 44,000 members and 29 administrators. According to one report, the men in the group had to contribute and share photos or risk being excluded from the group. The police arrested four administrators after receiving a large number of complaints. Two of them were released on parole; another was sentenced to nine weeks in prison and fined \$26,000; the last was sentenced to one year's compulsory treatment instead of a prison term. The scandal made the rounds on social networks, sparking outrage at its scale and the fact that almost all the participants escaped with impunity. As a result of this impunity, a number of spin-offs from the discussion group have emerged and continue to do so.<sup>75</sup>

On 18 July 2023, the implementation of the Code of Practice for Online Safety and the Content Code for Social Media was an initial attempt to address the problem, but was also seen as a way for the Singapore government to maintain control over the information available to citizens. The code can also be useful in cases of revenge porn, which is particularly prevalent in Singapore.<sup>76</sup> For example, in December 2023, a man met a teenager via an online gaming application and began a relationship with her. During this relationship, which lasted around a month, the two exchanged nude photos. After they broke up, the man decided to post the naked photos of the girl online out of revenge. He also shared her personal details and photos of her face so that she could be easily identified.<sup>77</sup>

## 4.3 Access to Effective Remedy: Constitutional Right but Undermined by the Judiciary's Independence

Singaporean law provides for the right to seek remedies in the form of appeal before a court or administrative body, as well as the right to a fair and public trial. Judicial independence is guaranteed by the constitution, and the government generally respects it. Nevertheless, the undue government influence over the judiciary has been extensively documented.<sup>78</sup>

For victims of abuse of free expression in Singapore, accessing redress remains difficult. Under Sections 17 and 29 of POFMA, any appeal to challenge a Correction or Stop Communication Direction must first be brought before the minister who issued the order and can only be brought before the High Court if the minister has refused the appeal. Yet, the Court only considers an appeal under limited circumstances, i.e. where (a) "the person did not communicate in Singapore the subject statement"; (b) "the subject statement is not a statement of fact, or is a true statement of fact"; or (c) "it is not technically possible to comply with the Direction." An appeal process also does not suspend a Direction, so that it remains effective until a decision is reached. In light of this, the appeal option under POFMA deters individuals from taking action; it is an expensive and time-consuming process that only serves as a last resort alleviatory measure, rather than a mechanism to prevent erroneous implementations.<sup>79</sup>

In practice, there have only been a handful of POFMA Direction appeals brought before judges. Two of those were brought by the Singapore Democratic Party and TOC, and were examined in closed chambers.<sup>80</sup>

The High Court in the Singapore Democratic Party's case ruled that the responsibility of proving a statement's falsity should be on the government, whereas the judgement in TOC's case later contradicted this by underlining that the appellant should bear this responsibility. The High Court dismissed both appeals, and TOC and Singapore Democratic Party took both decisions up to the Court of Appeal.<sup>81</sup> On Oct. 8, 2021, the Court of Appeal ruled that it is the person who makes an allegedly false statement who must disprove the statement's falsity, and not vice versa. In its decision, the court also upheld the constitutionality of POFMA.<sup>82</sup>

Individuals facing prosecution initiated by state authorities for expression critical of the government possess limited avenues for remedy, as the court judgements frequently reject attempts to seek remedy by injured parties.<sup>83</sup> Both of these men have passed away, killed by Singapore's judicial system. Indeed, Singapore's legal aid system does not cover post-appeal cases. Families therefore have to either find lawyers willing to work for free or raise the necessary funds, which can be particularly difficult given that most of them come from modest social backgrounds at best.

The country lacks relevant pieces of legislation such as SLAPP law to guard against lawsuits that may restrict the work of HRDs as well as whistleblowing legislation to protect those exposing rights abuses.

Additionally, there is no national human rights institution in place to act as a state-based non-judicial grievance mechanism.

# Chapter V.

## Recommendations

In this chapter, we will discuss recommendations regarding the governance of the digital space in Singapore. These recommendations are addressed to different stakeholders.



## Recommendations to Governments

- 1 Decriminalise defamation and libel, repealing or substantially amending Section 499 and 500 of the Penal Code, and the 2014 Defamation Act, bringing relevant provisions into line with Article 19 of the ICCPR;
- 2 Enact a stand-alone anti-SLAPP law to ensure legal protections against strategic lawsuits against public participation (SLAPP) aiming at silencing dissent, and protect individuals from judicial harassment by the state and corporations;
- 3 Repeal or substantially amend the 1948 Sedition Act, which unduly restricts freedom of expression, independent media, and access to information, to bring them in line with international human rights law. In particular, clarify or reform vague laws, so that they are written in ways that are comprehensible and accessible to all members of society, so that all society members are aware of their responsibilities, protections, and the consequences of not abiding. The repeal or amendment process should include effective public consultation (in particular, taking into account historically marginalised opinions);
  - a. In particular, clarify the following vague terms in the 1948 Sedition Act: “raise discontent or disaffection”, “bring into hatred or to excite disaffection” and “promote feelings of ill-will and hostility between different races or classes of the population of Singapore” while simultaneously upholding the right to freedom of expression and opinion. Enable people of marginalised groups (e.g. women, LGBTIQ+, disabled peoples, people marginalised based on ethnicity indigenous peoples, etc) to guide and participate in the development of reasonable definitions for terms used in legislation that disproportionately affect them. Ensure that reports of online gender-based violence (OGBV) are subject to systematic and consistent investigation, and offer assistance to individuals or groups affected;
  - b. Expand any definitions of ‘personal information’ and/or ‘private information’ to protect (if not already protected) an individual’s full legal name; date of birth; age; gender/legal sex; LGBTIQ+ identity; places of residence, education and work; private personal information of family members and relatives; descriptions and pictures depicting an individual’s physical appearance; and screenshots of text messages or messages from other platforms. These should be considered when investigating cases of doxxing, smear campaigns, and other instances of online violence that weaponise an individual’s personal/private information against them. Ensure that reports of doxxing campaigns and other forms of violence on the digital space are subject to systematic and consistent investigation, and offer assistance to individuals or groups affected.
- 4 When punishing expression as a threat to national security under the 2019 Protection from Online Falsehoods and Manipulation Act (POFMA), the scope of incitement should be specified, and the government must demonstrate, with evidence, that:
  - a. The expression is intended to incite imminent violence;
  - b. It is likely to incite such violence; and
  - c. There is a direct and immediate connection between the expression and the likelihood or occurrence of such violence, in line with the Johannesburg principles.

- 5 Guarantee transparency and access to information, both offline and online, particularly where such information relates to the public interest and impacts upon the individual's right to public participation, including by amending the 2018 Public Order and Safety (Special Powers) Act to enable provision of such access. Implement measures to enhance transparency in political advertising, including clear disclosure of funding sources and target audiences to promote accountability and integrity, and combat disinformation;
- 6 Enable HRDs, journalists, civil society members, ordinary users, lawyers and academics to safely carry out their legitimate online activities to spread awareness for human rights violations without fear or undue hindrance, obstruction, judicial harassment, and/or online harassment (e.g. OGBV and general OBV, hate speech campaigns, or doxxing);
- 7 Working with responsible MPs and with tech companies, enforce and reform the Code of Practice for Online Safety and the Content Code for Social Media 2023 to prevent harmful effects of doxxing. Establish a committee, if not already in place, to ensure compliance with these regulations, with a particular focus on moderating or removing illicit content.
- 8 Repeal or amend the 1974 Newspaper and Printing Presses Act and the 1994 Broadcasting Act that establish a licensing regime for the print and online media, and replace them with a system of self-regulation;
- 9 Cease the targeting and criminalisation of legitimate online speech by opposition activists, journalists, HRDs, and other dissenting voices solely in the exercise of their rights to free expression online, through the abuse of laws such as the 2017 Administration of Justice (Protection) Act (AJPA);
- 10 Prevent acts of harassment and intimidation against, the placement of arbitrary restrictions on, or arrests of journalists, activists and human rights defenders who merely criticise public officials or government policies;
- 11 Recognise online and technology facilitated OGBV as a human rights violation and include it in laws to criminalise and prohibit all forms of violence in digital contexts. Enhance the capabilities of the Singapore Police Force (SPF) to effectively investigate and prosecute such crimes;
- 12 Ensure inclusivity and promote effective decision-making and policymaking on OGBV by actively including the voices and perspectives of women with various identities in all relevant processes, recognizing their valuable insights and experiences.
- 13 Strengthen collaboration with the technology industry, feminist organisations, civil society, and national and regional human rights bodies to amend the appeal process under POFMA, aimed at promptly and effectively providing and encouraging remedies to victims of OGBV
- 14 Integrate subjects related to OGBV and healthy relationships, consent, bullying and online safety in school curricula.
- 15 Implement an immediate moratorium on the export, sale, transfer, servicing, and use of targeted digital surveillance technologies until rigorous human rights safeguards are put in place to regulate such practices. In cases where such technologies have been deployed, ensure both targeted individuals and non-targeted individuals whose data was accessed as a result of someone else's surveillance are notified, implement independent oversight, and ensure targets have access to meaningful legal remedies;
- 16 End all legal proceedings against individuals facing investigation, charges or prosecution initiated by state authorities for engaging in legitimate activities protected by international human rights law or for addressing violations. Cease all violence against independent media and journalists allowing them to freely report on the emerging situation in the country and stop all efforts to restrict independent information from reaching people;

- 17 Legally recognise human rights defenders and provide effective protection to journalists, HRDs and other civil society actors who are subjected to intimidation and attacks owing to their professional activities;
- 18 Ensure that all measures restricting human rights that may be taken in response to mass-destabilising events, including public health emergencies such as a global pandemic, are lawful, necessary, proportionate and non-discriminatory. Review the measures taken in response to the pandemic, including COVID (Temporary Measures) Act (2020), the Multi-Ministry Taskforce on COVID-19 (Task Force, January 2020), and TraceTogether (Tracking Device, March 2020) in order to ensure that a clear and sufficient legal framework exists for the response to any future pandemic, and take a cautious, progressive approach to emergency measures, adopting those that require derogation only as a last resort when strictly required because other, less restrictive options prove inadequate;
- 19 Take immediate steps to ensure and protect the full independence and impartiality of the judiciary and guarantee that it is free to operate without pressure and interference from the executive;
- 20 Facilitate the participation, leadership, and engagement of a diverse range of people of marginalised communities in government. Create task forces to take proactive initiatives to safeguard marginalised communities (e.g. women, LGBTIQ+, people marginalised based on ethnicity) from specific forms of abuse, (e.g. hate crimes, smear campaigns, the sharing of intimate images online including revenge porn), doxxing, hate speech, and overall gender-based violence.
- 21 Carry out routine assessments of the state of digital rights under the jurisdiction. Facilitate the creation of task forces, consisting of individuals trained in the safeguarding of digital rights, to investigate these affairs.
- 22 Set up accessible and appropriate, non-judicial grievance mechanisms in the form of a national human rights institution; Provide, among the remedies, fair treatment, just compensation or satisfaction, and the establishment of sufficient grounds to avoid its repetition. Also, implement an evaluation system that regularly screens the existing mechanisms.
- 23 Amend the current judicial grievance mechanism of appealing to challenge a Correction or Stop Communication direction, by:
- a. Removing a minister's approval as a step in the process to ensure full independence and impartiality of the judiciary,
  - b. Expand the circumstances under which an appeal can be submitted to include,
  - c. Allow appeals to suspend directions in order to decrease erroneous implementation of POFMA.
  - d. Clarify or reform vague provisions in the POFMA, so that they are written in ways that are comprehensible and accessible to all members of society, so that all society members are aware of their responsibilities, protections and the consequences of not abiding;

## Recommendations to Members of Parliament

- 1 Propose amendments to the Sedition Act (1948) and Section 499 to 500 of the Penal Code to address all shortcomings in line with international human rights standards such as UDHR and the ICCPR; and gather consensus among other MPs to ensure these amendments are adopted into the text of the law;
- 2 Hold the Singapore government accountable by ensuring that the steps taken by government bodies and agencies in the legal framework are evaluated and analysed on an individual as well as regular basis, applied only in cases where there is a risk of serious harm and cover both the enterprises in the public and private sector without discrimination, particularly when such a step could result in the violation of rights of individuals affected;
- 3 Build discussion and debate around digital rights with specific attention paid to the Singapore context as well as good practices adopted regionally and internationally, with the general public actively involved in providing the grassroots perspective;
- 4 Enforce the Code of Practice for Online Safety and the Content Code for Social Media, and adopt other national laws to address and punish all forms of gender based-violence, including in the digital space. Legal and policy measures to eradicate online gender-based violence (OGBV) should be framed within the broader framework of human rights that addresses the structural discrimination, violence and inequalities that women and other communities marginalised based on gender (e.g. the LGBTIQ+ community) face. Policies should also highlight specific forms of abuse that people marginalised based on gender often face online (e.g. sexual harassment including non-consensual sharing of intimate pictures online, defamation, cyberstalking, impersonation, the spread of deep fakes, hate speech and doxxing)
- 5 Adopt specific laws and measures to prohibit new emerging forms of OGBV, as well as specialised mechanisms with trained and skilled personnel to confront and eliminate online gender-based violence;
- 6 Organise and take responsibility for task forces that will take proactive initiatives to safeguard marginalised communities (e.g. women, LGBTIQ+, people marginalised based on ethnicity) against specific forms of abuse (e.g. hate crimes, smear campaigns, the sharing of intimate images online including revenge porn), doxxing, hate speech, and overall gender-based violence.
- 7 Ensure that the opposition parties are allowed to fully participate in drafting and passing legislation to enable them to fully represent their constituents.

## Recommendations to Tech Companies

- 1 Ensure the companies' terms of services and policies are uniform and in compliance with international standards on freedom of expression, which are reviewed regularly to ensure all circumstances and situations that may arise have been addressed, while also addressing new legal, technological, and societal developments, in line with the obligation to respect human rights under the UNGPs;
- 2 Drop the for-profit business model that revolves around overcollection of data. Such business models are being utilised by the government and are violating data rights.
- 3 Adopt the Global Network Initiative Principles on Freedom of Expression and Privacy;
- 4 Clearly and completely explain in guidelines, community standards, and terms of services what speech is not permissible, what aims restrictions serve, and how content is assessed for violations;
  - a. Ensure tech companies recognise gendered hate speech as hate speech,
  - b. Ensure profanities and slang in Singaporean local languages directed against human rights defenders are considered hate speech, including less common words or phrases which convey the same threat of serious harm as "kill", "murder" or "rape".
- 5 Ensure the integrity of services by taking proactive steps to counteract manipulative tactics utilised in the dissemination of disinformation, including the creation of fake accounts, amplification through bots, impersonation, and the proliferation of harmful deep fakes.
- 6 Prioritise prediction of, preparation for, as well as protection against digital dictatorship and online-based violence when launching, revolutionising, or reforming products, services, and initiatives. The guidelines of the Center for Countering Digital Hate (CCDH) 'STAR Framework' should be urgently considered, which include: safety by design; transparency in algorithms, rules enforcement, and economics; accountability systems implementation; and corporate responsibility. In addition, these predictive, preparative, and protective factors must take into account and implement the input of marginalised communities (e.g. LGBTIQ+ peoples, women, and those marginalised based on ethnicity) who often become targets of online violence that is often unregulated or even perpetuated by existing systems;
- 7 Products, services, and initiatives must have consumer safety in mind from the very beginning of conception. This means that product, service, and initiative developers, as well as high-level executives, must all take all possible measures to ensure that their products are safe, by design for all users, including marginalised communities (e.g. including LGBTIQ+ peoples, women, and those marginalised based on ethnicity). Not only does far-sighted consideration ensure user safety and the safeguarding of human rights, but it will also increase the longevity of these products, services, and initiatives in a rapidly changing economy where people are becoming increasingly aware and adamant about the protection of their human rights. Ensuring safety by design includes the practice of performing thorough risk assessments, and educating developers as well as executives to recognise their responsibilities to uphold human rights standards during the development as well as execution processes;
- 8 Promote transparency. CCDH specifically highlights the need for transparency

in “algorithms; rules enforcement; and economics, specifically related to advertising.” Though transparency is more of a ‘preparative’ factor rather than a ‘preventive’ one, it will make civic engagement and corporate accountability much more effective, ultimately amounting to increased ‘prevention’ efficacy;

- a. Transparency in algorithmic development, for example, is essential; though algorithms are not responsible humans, they were created by responsible humans. This same logic can be applied to Artificial Intelligence (AI); though AI is not human, it was created by humans. If algorithms and AI are developed and/or trained by humans with harmful biases (e.g. misogynistic, anti-LGBTIQ+, ableist, racist biases), they are accordingly likely to cause and perpetuate harm (e.g. misogynistic, anti-LGBTIQ+, ableist, racist harm). Transparency in the development of algorithms, AI, and other technologies is essential so that any harm being perpetuated by these non-human systems can be flagged, and accordingly addressed.
- b. The same logic can be applied to company regulation development processes, as well as advertising strategy. For example, if company regulations were formulated in a way that disproportionately excludes marginalised voices (e.g without any adopted input from a diverse range of people of intersectional identities, such as women, LGBTIQ+ people, disabled people, or people marginalised based on ethnicity), those regulations are more likely to cause or perpetuate human rights violations. Companies should implement measures to enhance transparency in advertising, including clear disclosure of funding sources and target audiences to promote accountability and integrity, and combat disinformation;

9 Transparency goes hand-in-hand with effective corporate regulatory and

accountability systems. The people who run and work for tech companies, like consumers, are humans, who must be proportionately held accountable for their actions if they intend to create products, services, and initiatives for consumption by civil society. Companies and their stakeholders (particularly senior executives) must recognise they hold a lot of economic, political, and social power by virtue of being in their positions, and thus naturally hold more responsibility than the average consumer. This means that though consumers have their own responsibilities, companies cannot put responsibility disproportionately on the consumer to regulate their own use of the companies’ products, services, and initiatives, if these companies genuinely intend to safeguard human rights. Thus, companies must implement regulatory systems that put people above profit, in order to allow themselves to be held accountable, and in order to facilitate their self-regulation;

- 10 Enable people of marginalised groups (e.g. women, girls, LGBTIQ+ people, disabled people, people marginalised based on ethnicity), to participate and lead in the technology sector to guide the design, implementation, and use of safe and secure digital tools and platforms.
- 11 Commit to eradicating OGBV and allocate resources to information and education campaigns aimed at preventing ICT-facilitated gender-based violence. Additionally, invest in raising awareness for the intersection between human rights and digital security, demonstrating how human rights must be taken seriously in both the offline and online spaces. This can come in many forms, including working closely with local communities and human rights organisations (e.g. feminist groups, LGBTIQ+ groups) to

facilitate dialogue and sensitivity training regarding the needs of people marginalised based on gender and/or other factors;

- 12 Implement and communicate stringent user codes of conduct across their platforms, ensuring their enforcement. Additionally, establish uniform content moderation standards that can effectively identify and address nuanced forms of online violence, while remaining sensitive to diverse cultural and linguistic contexts;
- 13 Improve the systems for reporting abuse so that victims of OGBV and racial discrimination can easily report it and track the progress of the reports;
- 14 Publish regular information on official websites regarding the legal basis of requests made by governments and other third parties and regarding the content or accounts restricted or removed under the company's own policies and community guidelines, and establish clear, comprehensive grievance mechanisms that allow governing bodies and civil society members to dispute restrictions or removals of content and accounts. Aside from being clear and comprehensive, these mechanisms must have efficient, effective, and bias-trained systems of humans and/or electronic systems ready to receive and handle the grievances.;
- 15 When appropriate, consider less-invasive alternatives to content removal, such as demotion of content, labelling, fact-checking, promoting more authoritative sources, and implementing design changes that improve civic discussions;
- 16 Engage in continuous dialogue with civil society to understand the human rights impacts of current and potential sanctions, and avoid overcompliance in policy and practice;
- 17 Ensure that the results of human rights impact assessments and public consultations are made public;
- 18 Ensure that any requests, orders and commands to remove content must be based on validly enacted law, subject to external and independent oversight, and demonstrates a necessary as well as proportionate means to achieve one or more aims.
- 19 Organise task forces and initiate proactive initiatives to safeguard LGBTIQ+, women, girls and other concerned minorities against specific forms of abuse, (e.g. the non-consensual sharing of intimate images, including revenge porn), doxxing, hate speech, and overall gender-based violence.
- 20 Carry out routine assessments of human rights impacts and provide comprehensive transparency reports on measures taken to address the against marginalised communities (e.g. e.g. hate crimes, smear campaigns, the sharing of intimate images online including revenge porn).
- 21 Conduct assessments and due diligence processes to determine the impact of business activities on users, with respect to online freedom. Ensure meaningful and inclusive stakeholder engagement, with no one left behind.

## Recommendations to Civil Society

- 1 Set up an independent multi-stakeholder body with the cooperation of various sectors to monitor and provide recommendations on trends in, and individual cases of digital rights abuses;
- 2 Work alongside the government and other stakeholders, to generate dialogue on issues and ensure accountability of government measures especially when it comes to issues related to democracy and human rights;
- 3 Support the independent evaluation and analysis of substantive aspects, including the use of the principles of necessity and proportionality through established global standards, and the impact of responses on society and economy;
- 4 Hold implementing authorities and officials liable for the misuse of their powers or information obtained, while carrying out their duties in the existing legal framework;
- 5 Strengthen understanding and solidarity among underprivileged people (e.g. class solidarity, solidarity among women and others marginalised based on gender, understanding among different ethnic groups within a jurisdiction);
- 6 Promote a safe and respectful environment for free online expression;
- 7 Continue to increase knowledge on digital security through training and capacity building programs, and actively carry out training on media literacy, including how to verify information to be true;
- 8 Continue to conduct awareness campaigns to educate individuals and communities about the various forms of gender-based violence, its impact on survivors, and the importance of promoting a safe and respectful online environment;
- 9 Advocate for the implementation and enforcement of robust laws and policies that criminalise all forms of gender-based violence, including OGBV.
- 10 Develop and implement digital literacy programs that equip individuals, especially women and marginalised communities, with skills to navigate online platforms safely, recognise and respond to online harassment, and protect their privacy;
- 11 Create and participate in grassroots, community-led initiatives to safeguard LGBTIQ+, women, girls and other concerned minorities against specific forms of abuse (e.g. the non-consensual sharing of intimate images, including revenge porn), doxxing, hate speech, and overall gender-based violence. Wherever possible, mobilise these initiatives to hold governments, MPs, and corporations accountable.
- 12 Collaborate with social media platforms and technology companies to develop and enforce policies and mechanisms that effectively address OGBV.
- 13 Have specialised support services and helplines for the survivors of OGBV, including counselling. Advocate for data collection and collect disaggregated data on OGBV when running prevention and response programmes.



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