



Access Now Submission to the United Nations Human Rights Council on the Universal Periodic Review 38th Session Third Cycle for Singapore

15 October 2020

About Access Now

Access Now is an international organisation that works to defend and extend the digital rights of users at risk around the world. Through representation around the world, Access Now provides thought leadership and policy recommendations to the public and private sectors to ensure the continued openness of the internet and the protection of fundamental rights. By combining direct technical support, comprehensive policy engagement, global advocacy, grassroots grantmaking, legal interventions and convenings such as RightsCon, we fight for human rights in the digital age. As an ECOSOC accredited organisation, Access Now routinely engages with the United Nations (UN) in support of our mission to extend and defend human rights in the digital age.¹

Introduction

1. This is the third Universal Periodic Review (UPR) for Singapore, last reviewed in January 2016.² At that time, Singapore received 238 recommendations during the UPR in Geneva, of which 118 were accepted and 120 were noted.³ Singapore was first reviewed in May 2011.
2. The UPR is an important UN mechanism aimed at addressing human rights issues across the globe. Access Now welcomes the opportunity to contribute to Singapore's third review cycle.
3. This submission examines (1) freedom of expression and expression, (2) freedom of peaceful assembly and association, and (3) the right to privacy in Singapore. Specifically, this submission raises concerns regarding freedom of opinion and expression, the protection and safety of journalists and human rights defenders, chilling effects on freedom of assembly and association, the collection and use of biometric data through the national digital identity program, and COVID-19 contact tracing.

¹ Access Now, [Access Now About Us](#).

² UN Human Rights Council, [Universal Periodic Review - Singapore](#).

³ UPR-Info, [2RP: Responses to Recommendations & Voluntary Pledges - Singapore](#)

4. The rights to freedom of opinion and expression and freedom of peaceful assembly and association remain priority issues for Singapore's third UPR. The right to privacy should also be a priority issue for Singapore's third UPR.

International and domestic human rights obligations

5. While Singapore has signed and ratified some international human rights instruments, Singapore has not signed or ratified the International Covenant on Civil and Political Rights (ICCPR) nor the International Covenant on Economic, Social and Cultural Rights (ICESCR).⁴
6. Part IV of the Constitution of the Republic of Singapore (the Constitution) protects fundamental liberties. Among other fundamental rights, Article 14 establishes the right to freedom of speech and expression, peaceful assembly, and association.⁵ The right to privacy is not affirmed in Singapore's Constitution.
7. Sections 2 and 3 of Article 14 poses certain restrictions on the rights to freedom of speech and expression, peaceful assembly, and association. For instance, under Article 14 section 2 Parliament may by law impose "restrictions as it considers necessary or expedient in the interest of the security of Singapore or any part thereof, friendly relations with other countries, public order or morality and restrictions designed to protect the privileges of Parliament or to provide against contempt of court, defamation or incitement to any offence."⁶

(1) Freedom of opinion and expression

8. The right to freedom of speech and expression is affirmed in Article 14 of Singapore's Constitution. Singapore received 13 recommendations regarding freedom of opinion and expression during its last UPR cycle, of which Singapore supported 5 and noted 8.⁷
9. In May 2019, Singapore passed the Protection from Online Falsehood and Manipulation Act (POFMA) which went into effect in October 2019.⁸ The POFMA allows the government to "handle complaints of 'fake news' and issue orders for websites, news outlets, or social media platforms to label content false."⁹ It also allows government

⁴ OHCHR, [Status of Ratification Interactive Dashboard Singapore](#).

⁵ Singapore Statutes Online, [Constitution of the Republic of Singapore](#) 9 August 1965.

⁶ *Id.*

⁷ UPR Info [Database of Recommendations](#); UPR-Info, [2RP: Responses to Recommendations & Voluntary Pledges - Singapore](#).

⁸ POFMA Office, A Singapore Government Agency Website [Protection from Online Falsehoods and Manipulation Act](#).

⁹ VOA News, [Singapore's Fake News and Contempt Laws a Threat to Media, Journalists Say](#) 6 May 2020.

ministers to issue correction notices. POFMA's measures include criminal penalties such as fines and up to a year in prison for failure to comply with removal or correction orders. As of May 2020, POFMA has been "invoked 22 times."¹⁰ For instance, in April 2020, Singapore sought an injunction against *The Online Citizen*, an independently owned news outlet, for "reporting the salary of Ho Ching, chief executive of state-owned investment firm Temasek Holdings and the wife of Prime Minister Lee Hsien Loong."¹¹ The government specifically invoked POFMA to force the editors of *The Online Citizen* to issue "correction notices" of which "failure to comply would carry fines of up to \$14,000 U.S. (20,000 Singapore dollars) or a year in jail."¹²

10. The Administration of Justice Protection Act (AJPA) has been used to silence activists, human rights defenders, and journalists in Singapore. In October 2017, the AJPA was amended despite concerns regarding the broad and vague powers that may result in abusive interpretation and implementation. The 2017 amendments included an "expanded definition of 'scandalizing the judiciary' to include social media posts."¹³
11. Despite a previous UPR cycle State recommendation to revise the Internal Security Act and Newspaper and Printing Presses Act, which Singapore noted, Singapore continues to use the Internal Security Act to censor online media and persecute internet users.¹⁴ For instance, in February 2020, Singapore detained a 17-year-old boy, under the Internal Security Act, for accessing Pro-ISIS material and for supporting ISIS ideology.¹⁵
12. Defamation continues to be a criminal provision in Singaporean law (under the Penal Code, Chapter 224, Sections 499-500) in addition to being an actionable ground to sue under civil law.¹⁶ According to Freedom House, "in addition to criminal charges, civil defamation suits remain a powerful deterrent."¹⁷
13. Singapore continues to criminally prosecute activists, human rights defenders, and journalists for their online social and political activities under anti-defamation laws. For instance, in December 2018, under Singapore's criminal defamation law, an online journalist and private citizen were both criminally charged for publishing a letter in *The Online Citizen*, accusing the government of corruption and "tampering of the

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ UPR Info [Database of Recommendations](#); UPR-Info, [2RP: Responses to Recommendations & Voluntary Pledges - Singapore](#).

¹⁵ Strait Times, [17-year-old secondary school student detained under Internal Security Act for supporting ISIS](#), 11 February 2020.

¹⁶ Freedom House, [Freedom on the Net 2019: Singapore](#), 2019.

¹⁷ *Id.*

Constitution.”¹⁸

14. Criminal law is not an appropriate response to speech acts and it creates a dangerous space for human rights abuse in the form of state-sponsored intimidation and unjustified prosecution of critical voices. Defamation has been decriminalised in many states, including many members of the Commonwealth of Nations that contained similar provisions in their legal frameworks. It also leads to grave risks of chilling effect on speech as people may self-censor because of the fear of reprisals and criminal prosecution coming from the State.
15. By actively imposing criminal and civil laws that censor, fine, and imprison individuals, particularly activists, human rights defenders and journalists in Singapore, the government of Singapore hinders people's right to freedom of expression and access information, therefore failing to comply with international human rights law standards. Despite recommendations from states in previous UPR reviews, Singapore continues to impose laws that create a chilling effect on freedom of opinion and expression throughout the country.

Access to the internet

16. Access to the internet, particularly a universal, affordable, open, secure, and high-quality, internet connection helps ensure citizens' access to information, as well as to relevant services and economic mobility. By expanding and enhancing connectivity, the government enables the enjoyment of various human rights, especially by vulnerable communities, who are mostly affected by the lack of connectivity.
17. It is imperative that everyone, especially those in at-risk or under-served communities, such as low-income people, have access to a high-quality internet connection. In light of the COVID-19 pandemic, the internet is an essential tool for employment, education, health, communication, political engagement, and accessing other important resources. Moreover, those without a connection are cut off from exercising a broad range of human rights, including the right to access information.¹⁹
18. Studies conducted by the International Telecommunications Union (ITU) find that in 2017, 91.1% of households in Singapore had Internet access.²⁰ This ITU study concluded

¹⁸ Channel News Asia, [The Online Citizen editor charged with criminal defamation, along with author of article](#), 13 December 2018; Yahoo News, [TOC editor Xu and writer De Costa charged with criminal defamation](#), 12 December 2018.

¹⁹ Access Now, [Access Now releases "Expanding connectivity to fight COVID-19: recommendations for governments and telcos"](#) 30 April 2020.

²⁰ ITU, [Measuring the Information Society Report, Volume 2](#), 2018 at page 162.

that Singapore “is a country that is a global leader in connectedness to ultra-high-speed broadband networks.”²¹ Access Now commends Singapore for its efforts to increase internet connectivity, and encourages Singapore to ensure affordable, open, secure, high-quality internet connectivity, and to bridge digital divides through publicly funded digital literacy research and training. We commend the commitment made in 2011 by the Infocomm Development Authority on protecting the principle of net neutrality, prohibiting Singaporean telecommunications providers from blocking or otherwise making inaccessible legitimate Internet content due to commercial considerations.²² We recommend that the Singaporean Government and IDA consult on the implementation of this earlier regulatory commitment.

19. As connectivity is expanded and enhanced, more people go online and thereby benefit from the educational, professional and personal benefits provided by the internet. They are also able to learn how to securely and effectively exercise their human rights. The government, on its end, must ensure that human rights are protected online and implement an open, transparent and accountable internet governance framework.
20. In the current context of the COVID-19 pandemic, access to the internet becomes even more important as the internet became a fundamental tool for the dissemination of public health information, such as preventive measures, and governmental responses and guidelines to contain the spread of the virus.²³

(2) Freedom of peaceful assembly and association

21. The right to freedom of peaceful assembly and association is affirmed in Article 14 of Singapore’s Constitution. Singapore received 12 recommendations regarding freedom of assembly and association in its first and second UPR cycles, 4 of which Singapore supported and 8 noted.²⁴
22. Singapore’s Public Order Act, a law which aims to regulate assemblies and processes in public places, vaguely defines “public assembly” leaving it up for broad interpretation and regulation.²⁵ Police permits are required for outdoor assemblies, and limited restrictions apply to indoor gatherings.²⁶ Speaker’s Corner at Hong Lim Park is the designated site for open assembly.²⁷ According to Human Rights Watch, permits for

²¹ *Id.*

²² Strait Times, [Singapore’s stance on Net neutrality remains unchanged despite US developments: IMDA](#), 15 December 2017

²³ Access Now, [#KeepItOn: Internet shutdowns during COVID-19 will help spread the virus!](#), 17 March 2020.

²⁴ UPR Info [Database of Recommendations](#); UPR-Info, [2RP: Responses to Recommendations & Voluntary Pledges - Singapore](#).

²⁵ Singapore Statutes Online, [Public Order Act](#), 9 October 2009.

²⁶ Freedom House, [Freedom in the World 2020 Singapore](#).

²⁷ *Id.*

“cause-related” assemblies are rarely granted, particularly in assemblies outside Hong Lim Park.²⁸

23. In April 2017, the Public Order Act was “amended to authorize the commissioner of police to deny a permit for any ‘cause-related’ assembly if non-citizens are to be involved in any way.”²⁹ Since a violation of the restrictions on public assemblies amounts to a criminal offense, authorities routinely question and harass those who participate in public assemblies causing a chilling effect on exercising one’s right to freedom of association and assembly.³⁰
24. Singapore’s Societies Act requires associations (*i.e.* society’s) of more than 10 people to register with the government.³¹ Under Section 23 of the Societies Act, the government enjoys full discretion to dissolve any society.³² Human rights organizations and activists that engage in any political activity without registration often face police questioning, criminal charges, or harassment in reprisals for their work.³³
25. Restrictions on individuals’ freedom of peaceful assembly and association have serious impacts on their right to freedom of expression. Reprisals against peaceful demonstrations and associations that criticize governmental conduct not only amount to censorship of content by the authorities, but also trigger self-censorship by individuals themselves, who refrain from manifesting their views due to the fear of facing criminal and civil punishments.

(3) The right to privacy and data protection

26. The right to privacy is not affirmed in Singapore’s Constitution. During both the first and second UPR cycles, Singapore received no recommendations regarding the right to privacy or data protection.³⁴
27. In 2012, Singapore implemented the Personal Data Protection Act to mainly govern the collection, use, and disclosure of personal data by organizations.³⁵ In May 2020, Singapore made significant amendments to the Personal Data Protection Act.³⁶

²⁸ Human Rights Watch, [Kill the Chicken to Scare the Monkeys: Suppression of Free Expression and Assembly in Singapore](#), 12 December 2017.

²⁹ *Id.*

³⁰ *Id.*

³¹ Singapore Statutes Online, [Societies Act](#), 27 January 1967.

³² *Id.*

³³ Freedom House, [Freedom in the World 2020 Singapore](#), 2020.

³⁴ UPR Info [Database of Recommendations](#); UPR-Info, [2RP: Responses to Recommendations & Voluntary Pledges - Singapore](#).

³⁵ Singapore Statutes Online, [Personal Data Protection Act](#), 7 December 2012.

³⁶ Reed Smith, [Singapore proposes significant changes to its data protection law](#) 14 May 2020.

Singaporean Government officials have stated in Parliament that public agencies are not governed by the Personal Data Protection Act and instead comply with the Government Instruction Manuals and the Public Sector (Governance) Act.³⁷

National Digital Identity Program

28. In March 2003, Singapore launched an authentication system, Singapore Personal Access (or SingPass) for citizens to access digital Government service.³⁸ This year, Singapore used SingPass to operationalize its national digital identity program for Singapore residents and businesses.³⁹ This new system includes a recent deal with a UK based firm “iProov” to provide face verification technology in Singapore’s digital identity system.⁴⁰ SingPass users can now access e-government services through a biometric scan of their face through the deployment of facial verification technology offered by iProov.
29. It is imperative that digital identity systems, particularly those backed by the state’s resources and legal powers, are designed around sound principles of governance, data protection, privacy and security.⁴¹ An effective policy framework for such programs must be supported by an equally strong technology and cybersecurity framework. The collection of large amounts of personal information pertaining to identities – including biometrics – often form tempting targets for criminals and other actors for malicious hacking and cyber intrusion.
30. Additional challenges related to the secure communication of data during authentication must be met through proper encryption. We note grave concern over the use and collection of biometric data in the new digital identification cards. The aggregation and use of biometric data should be sharply limited, even if such processing is aimed at increasing convenience or justified as a way to enhance security.

COVID-19 and Contact Tracing

31. At the outset of the COVID-19 virus, Singapore’s Ministry of Health made information about victims public, and a developer turned the information into an interactive map.⁴² The map went viral, sparking debate on whether its utility for public health had been balanced against the risks to the identified victims, who could face discrimination, stigmatization, and more. The mismanagement or even illegal sharing of data during

³⁷ Strait Times, [Parliament: Public agencies not governed by PDPA because of fundamental differences in how they operate](#), 1 April 2019.

³⁸ SingPass, [About Us](#).

³⁹ Smart Nation Singapore, [National Digital Identity \(NDI\)](#) 16 September 2020.

⁴⁰ ZDNet, [UK Firm to Power Face Verification in Singapore's digital identity system](#), 22 September 2020.

⁴¹ Access Now, [National Digital Identity Programmes: What's Next?](#) March 2018.

⁴² Access Now, [Protect digital rights, promote public health: toward a better coronavirus response](#), 5 March 2020.

previous disease outbreaks has been well documented. Law, not ethics, should govern the processing of health data.⁴³

32. In response to the pandemic, governments around the world have been using data and technology in their efforts to contain the spread of the virus. Contact tracing has historically been conducted mostly manually by individuals but a large number of apps are currently being developed, or are already in use, to track the spread of COVID-19, including in Singapore.⁴⁴
33. Singapore has a government technology programme called Tracetogether. This app – now supplemented by Bluetooth token devices – allows people to voluntarily share their information, and tracks other people with whom they come in contact via bluetooth. If any of the app’s users contract COVID-19, all users who have come in contact with said person are notified, along with the government. There is insufficient transparency as to who may have access to this information.⁴⁵ Businesses are required to collect and share information on persons entering the premises with the Government using the SafeEntry app during the ongoing COVID-19 situation; the use of SafeEntry has been made mandatory with no alternative visitor recording system currently listed as acceptable.⁴⁶

Recommendations

34. We urge that freedom of expression, access to information and the right to privacy are prominent issues in the upcoming UPR review cycle. We therefore recommend that Singapore:
 35. Sign and ratify the ICCPR, ICESCR, and the respective Optional Protocols.
 36. Ensure that national legislation and policies fully guarantee the safety of activists, human rights defenders, and journalists so that these important actors can pursue their activities freely without undue interference, attacks, or intimidation.
 37. Refrain from restricting individuals' right to freedom of peaceful assembly and association, and subjecting them to criminal prosecution or civil liability.
 38. Enact a law affirming the public’s access to information, and ensure its proper functioning with appropriate administrative resources, support, and accessibility.

⁴³ *Id.*

⁴⁴ Access Now, [Privacy and public health: the do's and don'ts for COVID-19 contact tracing apps](#), 4 May 2020.

⁴⁵ Access Now, [Recommendations on Privacy and Data Protection in the Fight Against COVID-19](#), March 2020.

⁴⁶ Singapore Government Ministry of Manpower, [FAQs on Safe Management Measures at the workplace after Circuit Breaker period](#).

39. Strive to reach the U.N. Sustainable Development Goal 9.C by extending open, affordable, and secure access to high-quality internet for all, with inclusive processes and robust support for all attendant services, devices, literacy and educational programs.
40. Minimise the amount of and type of data, particularly biometric data, the government and associated service providers collect through the digital identity program.
41. Restrict lawful interception and monitoring of digital identity program use and implement measures for accountability.
42. Ensure that the digital identity program is based on models for secure communications, including providing end-to-end encrypted traffic as far as possible.
43. Develop legal procedures and evidentiary standards for biometrics with care to protect human rights and due process.
44. Ensure that collaborations between governments, authorities, and companies or other organisations, particularly through contact tracing apps to monitor COVID-19, are transparent. Specifically, private-public partnerships should follow open data, open government, open procurement standards, and transparency reporting requirements, and facilitate the public's access to information.
45. Make a public commitment to protect the confidentiality of health data and identity of individuals who test positive for COVID-19.
46. Ensure that all governmental activity, including law enforcement, is consistent with international human rights obligations, including the protection of the right to privacy, and is conducted on the basis of a legal framework which is publicly accessible, clear, precise, comprehensive and non-discriminatory.

Conclusion

47. The UPR is an important UN process aimed at addressing human rights issues worldwide. It is a rare mechanism through which citizens around the world get to work with the government to improve human rights and hold them accountable to international law. Access Now is grateful to make this submission.

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