



11th July 2022

Esteemed Ms. Khan,

The authors submit the following dossier for the consideration of Ms. Irene Khan, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, as an input for the thematic report on the challenges to freedom of opinion and expression in times of armed conflict, to be presented in the 77th session of the UN General Assembly.

The contents of this dossier respond to the following core questions, as designated in the call for inputs: 2.a) What are the legal, policy and practical challenges faced by States, companies, media and civil society organizations in upholding freedom of opinion and expression while countering hate speech, disinformation or other forms of information manipulation in situations of conflict and disturbances? 2.b) Where do you see major legal and policy gaps or inconsistencies on these issues?

This submission incorporates researchers specialized in human rights and human security from the civil society research group ITSS Verona. The International Team for the Study of Security Verona is a youth-led, apolitical, nonprofit cultural association dedicated to the study of international security.

In this line, our submission entitled “*State-sanctioned information laws: how freedom of expression is restricted under the guise of national security protections*”, explores the manner in which states have been increasingly implementing restrictive laws on information and freedom of expression under the imperative of protecting national security in contexts of increased social instability. We explore the implications of these policies for the operations of civil society organizations and media outlets, to argue they generate notable disruptions for civic advocacy. We affirm that these national laws and ambiguities in policy are often being instrumentalized as a means to silence or punish dissent within the state. In order to exemplify the risks that such measures imply, we present the cases of two states in Southeast Asia, Myanmar and Singapore, which have seen a notable regression of freedom of opinion and expression within the last few years, as a response to social instability and demands for civic rights. We build our policy recommendations based on the analysis of these case studies and with the objective of facilitating the adoption of monitoring and accountability standards that international stakeholders, like the UN, can apply to safeguard the right to freedom of opinion and expression under volatile circumstances.

We hope this submission can provide relevant insights toward the development of your thematic report.

Best regards,

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State-sanctioned information laws: How freedom of expression is restricted under the guise of national security protections

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I. Introduction

Freedom of expression and opinion has been severely affected by new policy measures and laws developed during the pandemic. But the tendency of states limiting certain discourses they consider do not reflect well upon their administrations has existed long before the health crisis. Semi-democratic and authoritarian governments have mobilized restrictions on freedom of expression as a way to limit accountability and social protest. This has naturally curtailed the work of media organizations and civil society in attempting to report honestly and act as watchdogs of the state.

In order to demonstrate the dynamics of information control that states are increasingly undertaking, we focalize our case studies in Southeast Asia. This region has experienced a noticeable trend of regression in freedoms of expression and opinion over the last few years. We present the cases of Singapore and Myanmar in order to investigate how state authorities are leveraging laws seeking to curb misinformation and hate speech in order to limit dissent and public mobilization critical of the government. Specifically, we look at the use and justification of national security laws and their limitations on “sensitive” topics as a means to restrict critique, advocacy, and impose punitive measures on independent reporting. We outline these circumstances as a way to explain the challenges civil society organizations and media contend with in the fight to ensure freedom of opinion and expression.

II. Empirical evidence: selected case studies

Case 1: Singapore and the notion of “foreign interference” as a means to control and punish national critique

Singapore stands as one of the most important commercial and financial hubs in the world. However, it presents manifested social tensions over restrictions on fundamental civic rights. This has led to periods of social unrest and discontent with the government. While [Article 14\(1\)](#) of the Constitution guarantees the rights to freedom of expression, peaceful assembly, and association, this is not without exceptions – [judicial and statutory limits](#) allow these rights to be curtailed if they violate other civic rights or disturb peace and security. The way in which these limits operate in the Singaporean context are specific to the manner of governance and communication of the state. Domestic newspapers, television channels and other media outlets are mostly owned by companies connected to the government and therefore tend to publish content endorsing state policies. Occasionally, however, they may attempt to also publish critical pieces. These efforts are highly regulated or even [restricted by the government](#); using racial or religious tensions, the threat of terrorism, or the curtailment of misinformation as excuses to restrict content.

Freedom of expression in Singapore comes under fire through defamation suits and other harsh civil and criminal penalties, compounded by repressive laws that impose huge fines and imprisonment upon human rights defenders and government critics. In a noted case, blogger and activist [Leong Sze Han](#) had to pay SGD



133,000 (US\$ 99,000) in damages after being sued for defamation over an article he shared on his social media which linked the Prime Minister to a corruption scandal. These institutional limitations shield censorship within law and evidence Singapore's autocratic approach to unwanted media coverage.

In October 2021, [Parliament passed the Foreign Interference Act](#) (FICA), supposedly in a bid to protect national security. In reality, the law allows the government to further curb civil liberties, freedom of expression, and opinion. Under this law, the government has the power to compel internet service providers and social media platforms to remove or block access to any online content if "foreign interference" is suspected. Harsh penalties may be awarded to media outlets, journalists, media workers or anyone else considered a "foreign agent". The vague phrasing of the law and unclear definition of what may constitute "foreign interference" or a "foreign agent" have led to increased actions on suspicions of unwanted behavior, serving to [harass and control critical voices](#) and curb information-sharing and advocacy on public interest matters. In essence, these developments in national law have worsened the state of [freedom of expression in Singapore even](#) further.

The evolution of Singapore's national policy in this context indicates a worsening trend of repression and punishment in sharing independent facts and reporting, most notably targeting media and civil society. As such, these organizations may face shutdowns, unmanageable fines, or even worse when challenging government narratives. This case highlights the way in which expressions defiant of power are increasingly being treated as threats, thus moving from a consideration of civic rights to a securitized national concern where states have discretion to define arbitrary preventive or punitive measures of control.

Case 2: Freedom of Expression curtailed for "national security" under Myanmar's military government

Freedom of expression and opinion are [not guaranteed](#) under Myanmar's 2008 Constitution. Additionally, provisions contemplated within the State's legal framework that do tackle these subjects have not met the minimum international requirements for the protection of these core human rights, as described in Article 19 of the International Covenant on Civil and Political Rights. Both media and internet censorship, as well as measures aimed at [restricting](#) the flow of information, have become especially prevalent with regards to sensitive ethnic, religious, and political topics – such as events in Rakhine State and the plight of Rohingya Muslims. Given these restrictive laws and policies, the state often broadly interprets provisions to [prosecute](#) media officials, journalists, civil society activists, and human rights defenders that hold contrarian views to the state.

Notably, journalists and media outlets that report about persecuted ethnic communities have been [blocked under a vague "Telecommunications Law"](#). This framework was espoused as an attempt to counter propaganda, misinformation, and address national security concerns. However, its purpose became more evident when the government ordered the blocking of the [website of Justice for Myanmar](#), which works to expose corruption and human rights abuses by the Myanmar military. Most significantly, the pre-existing Myanmar [Penal Code's Section 505\(b\)](#), which prohibits speech that may cause "fear or alarm in the public" and "upset public tranquility", is now routinely being used to prosecute government and military critics. [Internet shutdowns](#) altogether have also been a favored tactic to restrict communication and information flows as a means to subdue public dissent. Myanmar's Rakhine and Chin states faced year-long internet



shutdowns in 2019 and 2020, which led to both an increase in human rights abuses and a rise in the rate at which these violations went undocumented. Additionally, these mass communication blackouts had dire effects on local populations through the disruption of public health services and humanitarian efforts.

The prospect of attempts at guaranteeing freedom of expression and opinion only worsened after the February 2021 military coup. [Authorities periodically imposed](#) internet, mobile network and telecommunication shutdowns to control information, particularly in areas where military operations were being carried out – such as Kachin and Chin State and regions of Sagaing, Magway and Mandalay. This has obstructed documentation of human rights violations and been further worsened by threats, and even the [murder, of humanitarian workers](#). Furthermore, military authorities made amendments to the Penal Code in February 2021, particularly the addition of Section 505(a), which criminalized both any intent to criticize, along with any actual criticism, of government and military actions. It also allowed for arbitrary searches, arrests and surveillance without warrants. Under this section, [authorities](#) have carried out mass-scale arrests, detentions and convictions, mostly targeting journalists and media workers – with the licenses of eight critical media outlets revoked.

These events and reports reveal the exacerbating situation regarding freedom of information, expression, opinion and press in Myanmar, which continues to be a source of concern for the international community. The case of Myanmar is particularly troubling due to its situation as a military dictatorship currently conducting genocidal violence against a minority population. With policies aimed at reducing both local and international oversight of violent abuses, this case evidences the worrying nexus between limitations on freedom of expression and patterns of state-sanctioned mass violence.

IV. Policy recommendations

The following recommendations are derived from the cases presented in this dossier and call for limits on the authoritarian policies states are imposing to control information in contexts of social unrest. These recommendations aim to protect civil liberties and freedom of expression by establishing baselines from which to monitor government overreach and ensure accountability:

1) Establish a working group that can support international oversight efforts to track and address undue restrictions on internet and social media access

Internet and social media have become fundamental tools for societal communication, with their disruption generating notable harms. While certain sites or patterns of online activity may indeed represent threats to national security or become concerns due to the spread of hate, propaganda, terrorist messaging or misinformation, state restrictions have often been utilized as a means to control the flow of information in semi-democratic and authoritarian contexts. In order to establish monitoring mechanisms that can serve to better protect the rights of citizens in these contexts, and in line with the recognition of access to the internet and freedom of expression as fundamental human rights, we propose the establishment of a monitoring working group tracking limitations in access to online spaces and communication as a supplementary information provider for the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Human Rights Council. This group of independent experts could provide quarterly reports on expression crackdowns, call for justifications or policy modifications from offending states, and help cross-investigation efforts with other key reporting systems in an advisory capacity (collaborating



with investigations regarding ethnic cleansing, mass violence, etc.). In this way, the working group would operate as monitoring support and would serve to increase the visibility, cost, and accountability associated with limitations upon the rights to expression and opinion. This practice has already been put in place to evaluate other human rights abuses and would provide further recognition of the right to expression and opinion as a bedrock for the protection of all other social liberties.

2) Establish an accountability mechanism to challenge laws and policies that do not respect minimum international standards of freedom of expression and opinion

International legal standards allow for restrictions on human rights only when absolutely necessary to protect legitimate interest or to address national security threats, when imminent and clearly defined. In order to ensure these requirements are observed, we propose the creation of four enforcement mechanisms mirroring those of [CEDAW](#) – that is, a reporting procedure, an interstate procedure, an inquiry procedure and an individual complaints procedure. These mechanics would allow for states, organizations, and individuals to report and challenge restrictive laws limiting freedom of opinion and expression. In this way, a system of international accountability is created to help better monitor and respond to authoritarian national measures on expression. These mechanisms become sites of evolving precedent in international law, help better protect individual freedoms, and impose greater costs on states not adhering to minimum international standards of freedom of expression and opinion.