

1 October 2021

## **MARUAH's Statement on the Foreign Interference (Countermeasures) Bill**

MARUAH, a human rights organization, hereby submits this statement on our concerns on the Foreign Interference (Countermeasures) Bill (FICA).

### **Introduction**

We understand the need for governance on information and nature of expositions in a highly digitized world. Singapore is globalized which offers interconnectedness, swift operations and links across many sectors locally and internationally amongst governments, businesses, civil societies and individuals, all reliant on processes, information, interactions through various tools in a rapidly changing world. There is naturally anxiety over any invasion digitally onto the security of the country as well as into the minds of people in any society.

No one, including Maruah, wants an election outcome based on influences from foreigners, acting locally. It is also a good reminder that, without digitisation, Singapore's history also shows many foreign influences in Singapore's formative years within political parties, trade unions, civil societies and a more liberal media. But they bore themselves as persons focused on assimilating views and consolidating on purpose to build a secure, democratic and independent Singapore. The majority were good-intentioned, working for a better country for the people and also handle divisiveness and hostilities. Presently, a digitised and globalised world increases the frequency and the intensity of influence within a shorter space of time.

But we also say that we already have countermeasures in the many laws such as Protection from Online Falsehoods and Manipulations Acts (POFMA) as well as sophisticated systems of surveillance and digitised searches that government officers are authorized to carry out to protect the people and the country against harm and maintain the security of the country. What is needed is more critical thinking and awareness courses for all people, especially the very young ones.

Instead a legalistic approach through the FICA Bill is in place, drawing much critique on its purpose of strengthening the government's ability to prevent, detect and disrupt foreign interference in our domestic politics conducted through (i) hostile information campaigns (HICs) and (ii) use of local proxies. We state that the key effect is to assess how (i) and (ii) impact the "political end" of the country. FICA's Part 6, Clauses 80 (2 a-e) frame how persons and entities could be viewed as local proxies to deliver HICs. But we ask what is the parametric assessment around the word 'hostility' as dictionaries and thesauruses offer a wide range of definitions and with much nuancing.

For Maruah, a human rights organisation, pertinent issues remain as our core areas of concern. Maruah's primary focus is about promoting and protecting the dignity of people and

their political, economic, social, cultural and environmental rights. Human rights are a universal value that is also ordained in Singapore's constitution which protects certain fundamental liberties such as liberty of the person, freedom from slavery or forced labour, equality before the law, the right to a fair trial, freedom of religion, freedom of speech, assembly and association, and the right to an education. As a human rights organisation, alongside other e-groups and registered civil society organisations, we will keep advocating for transparency, democracy, greater liberties on freedom of expression, assembly and association and oppose discrimination, death penalty, caning, unfulfilled recommendations made by State at United Nation's reporting mechanisms, gerrymandering and the Group Representative Constituency (GRC) provisions for General Elections amongst others.

But Clause 80(2) and especially (2e) is hugely problematic to an organisation such as Maruah's as we have organised discourses, prepared written statements, advocated locally, regionally and internationally and driven campaigns on our own and in solidarity that could be seen to be oppositional to the political views of the government on subjects such as migrant workers' rights, death penalty, limitations on freedom of expression, protection for human rights defenders, to name a few. For Maruah we are also learning through various learning portals that are usually foreign led. This means that we could be conveniently seen to have lost our own independence, as having little critical discernment and to be so influenced that it is interfering with our purpose and activities and could affect Singapore's political end and security of the country. This lack of clarity on what constitutes 'political end' despite having five indicators in Section 80 (2) is destabilising as it means relying on a decision maker who would probably make a situational assessment based on the prognosis and surveillance done. With FICA, Maruah runs this risk as any one person or an entity, could become culpable, face investigations, handle stiff penalties and live with an irrevocable reputational branding of being disloyal to the country.

It needs to be noted that a large number of Singaporeans and people living in Singapore too are working in a global ecosystem of ideas, networks, innovations, systems, partnerships, agreements and knowledge. Many persons and entities are inadvertently functioning in a myriad-web of inter-connecting influences that are local, national, regional, international. No one would want to be FICA-ed and yet the terms remain unclear and general on how influence and interference could be interpreted for a political end outcome.

FICA, in its current form, is based on much distrust of activists and entities and will thus curtail much on the strategic vision of an organisation, online writers as almost any action stands to render the organisation or the individual to being a local proxy of the foreign influences, and thus running a HCI.

## Key Concerns on FICA

### 1. The Process

Despite having other laws and the explainer in Para 5 of the First Reading in Parliament (<https://www.mha.gov.sg/mediaroom/press-releases/first-reading-of-foreign-interference-countermeasures-bill/>), it is still difficult to fathom the immediate threat to Singapore being subjected to HCIs. As there is also a lack of transparency on such information, it begs an answer as to what the immediacy is in getting FICA approved at this point in time. Why was there no consultation with various stakeholders through a Select Committee or other processes as applied to other Bills? Why this short period of two weeks between the First and Second Readings in Parliament to approve this Bill? We object to this top-down approach especially when anyone could be indicted as being local proxy to a foreign influence. What is the balance offered through FICA that civil society can grow and expand without being seen as local proxies carrying a foreign agenda?

### 2. Terms in FICA

- 2.1 Phrases such as “pre-empting”, “at risk”, “deception” (Part 1, Clauses 2, 3) seem to imply that preventive countermeasures are justified even when evidence has not been secured.
- 2.2 “Foreign interference”( Part 1, Clauses 3(1), 6, 8, 9) applies to a wide range of persons, institutions, organisations, business entities, operating in a wide range of roles ( Part 1, Clauses 4, 6 a-b, 8 e-f) which technically, means anybody who is a non-Singapore citizen, regardless if the person is also married to a Singapore citizen or a positive contributor to Singapore’s well-being. Maruah is concerned over what constitutes to be “interference” as it applies to direct and indirect activities to change the status quo. It is wide-ranging and a wide scope. We also ask if FICA is equally applicable to government officers and elected Parliamentarians as well as officeholders and if that also means the decision-maker remains as the single office holder of a Minister?
- 2.3 “Public interest” covers a spectrum, including “diminution of public confidence in function of government”(Part 1, Clauses 7, 8, 9), “directed towards a political end in Singapore” and “influencing government decisions”( Part 1, Section 8). These concern us deeply as we are a human rights organization opposed to issues - death penalty, caning as it is a torture, governance, free and fair elections, anti-discrimination, equity for people, civil and political rights, democracy, reporting mechanisms and clarity on functions of government and its attendant institutions – that can be viewed as promoting opposing views to that of the government. Maruah’s statements, campaigns, events and solidarity support with others could be culpable under FICA’s interpretations of our purpose and action, seeing these as

a “diminution” of people’s confidence in the government and/or that our course of work is as such and influenced by foreigners. Yet as an organization we are aligned to our government-approved constitutional mandate, our vision and do function within the State’s legal frameworks, and also using many influences drawn from a web of local and foreign constituents, readings, observations, reports, podcasts and best practices. But FICA exposes the organization to many aspersions on public interest that will then demand time and effort to prove otherwise.

- 2.4 “Foreign Affiliations” (Part 6, Clauses 76, 78 79) offer indicators on foreign affiliations and the reporting structure needed to declare these affiliations. Maruah’s work is a symbiotic learning and sharing of experiences through many actors, especially those in Southeast Asia and internationally. It would become cumbersome if all these connections need to be reported on. Some clarification would be helpful.
- 2.5 On Electronic Communications Activity and Online Communications Activities (Part 1, Clauses 13 to 18) covers all forms of communication mediums, service providers and online communicators. In a world of multi-information points, there are already multi-levels of influence, assessments of information and reviews in managing a positioning in accordance with one’s own vision, mission and strategic aims. FICA, in this current form, will limit the growth, evolution and critical discernment in knowledge and information management as most activities and assessments would become reductive and safe, to avoid being ‘FICA-ed’.
- 2.6 Online information can be directed to become a ‘proscribed online location” (Part 3, Clauses 24, 25) if it is seen to have ‘influenced’ materials. Such prescription means that the social service providers could be liable under FICA to reporting structures and risk restrictions being placed on funding sources of subscriptions and/or advertisements (Part 3, Clause 41). This would lead to a shrinkage of online news providers as financial sustainability is a challenge amongst many local stakeholders in the digitized world of newsmagazines and information portals.
- 2.7 The word ‘prejudicial” is used (Part 2, Clauses 17c, 18 c). We urge circumspection as ‘prejudicial’ can be subjective by definition, scope and prone to being easily seen as ‘influence(s)’. Clearer terminology would help in guiding an organization like ours as we are involved in human rights work, support a global call to protect human rights defenders and subscribe to human rights in humanitarian work.
- 2.8 The primary authority lies with the Minister, presumably the Minister of Home Affairs, as the main decision maker who issues directives on offences, revokes on the offences, changes the nature of the offences. It is many responsibilities to take on under FICA in this decision-making process that can disrupt the lives of PSPs, unnecessarily if evidence falls short and charges are then revoked. We state that

FICA gives too much power and authority to such an office. For the long term (Part 3, Sections 20, 21, 22, 27, 28, 29) a law functions beyond the reign of any Minister. FICA, even with amendments, needs to be processed and managed through access to judicial processes as otherwise it can become another Internal Security Act process, where there are no open or closed trials.

- 2.9 Designation of “politically significant persons (PSPs)” (Part 4, Clause 47) is focused on activities directed towards a ‘political end’ in Singapore. We ask how the definition of “political end” (Part 6, Clauses 80 (2 a-e) pertains to human rights work. Clause 80(2 a - e) is hugely problematic to an organisation such as ours if work viewed as working towards a ‘political end’ but remains unclear on foreign interference or influence. Maruah will continue to organise, has organised discourses, prepare written statements, drive campaigns that could be seen to be oppositional to the government on the earlier mentioned, subject matter (re: limitations on freedom of expression, gerrymandering or unfulfilled recommendations made by State at reporting sessions). So clarity is needed as ‘political end’ is a wide spectrum as much as, how much of this work becomes HCI and that Maruah is a local proxy working under a foreign influence.
- 2.10 Reporting mechanisms mean that PSPs would have to FICA-compliant. Maruah, as a political association, has never been able to raise even \$5,000. And we cannot grow either and become a stronger enabling organization. Now FICA means more valuable time and effort will be given to these administrative matters. We remain envious of human rights organisations in other ASEAN member states and civil society organisations registered under Registry of Societies as the labelling of ‘political association’ is problematic. Now our identity will be a PSP. Can the Minister justify why Maruah is a political association and why does the human rights work make it only political? A clarification and justification could help us accept this classification better.
- 2.11 Maruah is concerned over the punitive measures as they include hefty fines and jail terms. Moreover, countermeasures can be increased, more orders can be set out on the same offence and on non-compliances. Part 9, Clause 108(1) is one that gives competent authorities to ask PSPs to obtain information on ‘foreign influences’, ‘expenditures’ at intervals or specified times. This is onerously unsettling and intimidation for all affected and identified as PSPs.
- 2.12 Part 6, Clauses 81, 82 are posing a problem to us as we do carry links, as part of our knowledge management, to share reports on human rights abuses in other countries and reports on Singapore. It could also be (un)favourably positioned to our country. We are unsure how this directive on transparency would be applied, the expanse of this order and fundamentally the purpose of FICA as it is stunting the

growth and public education on human rights. It appears to be unnecessarily restrictive.

### **3. MARUAH's Unease**

More people are engaged on many issues in Singapore whether it be climate change, migrant workers, gender equality, freedom of expression and more discourses based on readings on philosophy, humanities, culture, ageism, racism, religion etc., are taking place. This is a good sign. Parliamentary proceedings are now on offer as live telecasts. There is also stronger engagement from opposition parties and more new parties are emerging. Many issue-focused e-groups have formed. There is more engagement by the public on social media. Due to Covid-19-related stresses, inherent prejudices have cropped up which have become avenues for engagement and discussion as well as terrain-mapping in our country, so that remedies can be looked into. Mistakes will be made on this evolutionary path. But a deeper engagement must continue as many are learning from each other and globally around the world. There is influence, perhaps even interference onto mind- and heart-scapes. Discourses, communications and public education for greater critical discernment are crucial and a better remedy than imposing laws that can depress this growth. Right now, these are growth areas across different segments of the population. It is a good curve to be on.

FICA can flatten this curve, plateauing it, if not causing a downward spiral in people engagement.

Therefore, we ask for greater trust from the government for the people. Make FICA less onerous and intimidating as it will stifle growth and engagement. Build up critical discourses on information and knowledge assimilation.

As a last resort, if FICA must stay, we ask that sharper amendments be made to FICA. This can be done by:

- Considering the laws used in other countries and the impact these have had on the people, civil society and discourses;
- Dissolving decision-making power to beyond the purview of one Minister to an independent committee;
- Having judicial processes under FICA;
- Using the amended FICA only when it is needed; and
- Evidence is clearly mapped.

**ISSUED BY MARUAH SECRETARIAT**  
**1 October, 2021**



## About MARUAH Singapore

We are a Singapore human rights NGO.

MARUAH means Dignity in Malay, Singapore's national language. Human rights are all about maintaining, restoring and reclaiming one's dignity at the individual, regional and international level.

We seek to

- promote and raise awareness, knowledge and understanding of human rights and human rights and related issues at the national, regional and international levels, in Singapore, ASEAN and elsewhere
- provide a civil society perspective on human rights and related issues at the national, regional, and international levels - advocate for and work towards the respect for and upholding of human rights in accordance with international and other norms
- foster national, regional, and international coordination and development of all activities in relation to human rights and related issues
- facilitate the education, participation and engagement of persons, groups and organisations in Singapore with respect to human rights and related issues

MARUAH is also the Singapore focal point for the Working Group for an ASEAN Human Rights Mechanism. The Working Group has national representatives from all of the founding Member States of ASEAN, namely Indonesia, Malaysia, the Philippines, Singapore, and Thailand. The Working Group is an NGO officially recognised in the ASEAN Charter as a stakeholder in ASEAN.

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