



Singapore: Use of Anti-Fake News Law reveals institutional framework that undermines the promotion and protection of human rights

(11 February 2020) - Think Centre and the Asian Forum for Human Rights and Development (FORUM-ASIA) are gravely concerned about the recent use of the Protection from Online Falsehoods and Manipulation Act (POFMA), an anti-fake news law, to degrade freedom of expression in Singapore. It exposes a weak institutional framework, which undermines the promotion and protection of human rights.

The POFMA was proposed as a measure by the Select Committee on Deliberate Online Falsehoods – Causes, Consequences, and Countermeasures in 2018.¹ It was passed by Parliament on 8 May 2019, and came into force on 2 October 2019. The Act empowers any Minister of the Government of Singapore to issue a correction order, if any views or opinions published online are deemed to be ‘factually incorrect’ or perceived to be a potential threat to public interest. Individuals, online websites, platforms or intermediaries can be subjected to criminal charges or fines if they fail to comply with a correction order.

Even before the POFMA was formally enacted, civil society, both from within and outside of Singapore, raised many concerns about the Act. The key concern was related to the potential misuse of POFMA as a political sledgehammer to muzzle critics and quell dissent expressed online.

After more than 120 days of POFMA being in force, it has become evident that the law has served to further delimit freedom of expression in Singapore. As of January 2020, orders were issued against: politicians; a political party; journalists; alternative media websites; and even a human rights legal organisation based outside of Singapore.

In one of the most disturbing instances, the Government reacted to a statement made by Lawyers for Liberty (LFL), a human rights and legal organisation based in Malaysia. In their statement, released online on 16 January 2020, the LFL revealed allegations of serious and disturbing practices carried out by the Singapore Prisons Service during judicial executions. The allegations were allegedly corroborated by reliable witnesses from both former and current officers. Such a whistleblowing case, if proven, could have serious implications for Singapore’s standing on well-established international human rights norms, such as those related to torture.

Rather than initiating constructive measures to review the distressing claims, the Government issued a blanket denial in the form of a POFMA Correction Notice, followed by an Access Blocking Order on 22 and 23 January respectively. While it may be conceivable that the Government wishes to clarify that the death penalty is administered in full compliance with the law, it is indefensible to dismiss the charges of inhumane extrajudicial methods through the use of POFMA orders. It is even more indefensible to stonewall inquiries from journalists and online media, and label their reporting ‘fake news’.²

¹ <https://www.allenandgledhill.com/sg/publication/articles/11282/protection-from-online-falsehoods-and-manipulation-bill-passed-in-parliament>

² <https://mothership.sg/2020/01/toc-pofma-mha-execution-court/>



The recent use of POFMA reveals a worrying inherent weakness of the Singapore system. Any healthy and robust discussion on social issues should be evidence based. It is concerning when political leaders interpret social issues based on limited data, and release even less to the public.

In a policy forum held in January, the Trade and Industry Minister, Chan Chun Sing, revealed that the Government does not view that sharing of data will help in the development of better policies.³

He reportedly further shared views that indicate that the establishment has a bias against all vocal critics of the State, which leads them to deliberately misuse or misinterpret data. Such adversarial and suspicious attitudes showcase a disturbing lack of faith of political leaders in their fellow citizens. It undermines Singapore's position in this current digital era, where the free flow of information is oxygen for a healthy, functioning society.

The experience of the first legal challenge of POFMA orders, confirms concerns that were raised before the passage of POFMA.

The Singapore Democratic Party (SDP) had sought to challenge POFMA correction orders filed against them in mid-December last year. The SDP first appealed to the Minister for Manpower, but this was rejected. The party then filed a court challenge to reverse the original POFMA orders.

The Government had touted the use of the Courts as an 'oversight mechanism.' The Law and Home Affairs Minister, in an interview conducted early last year, said that they would want to 'try and make it fast and relatively inexpensive.'⁴ Such claims, when put to the test, showed a disparity in resources and capacity between the Government, backed up by the Attorney-General's Chambers, and any aggrieved party, who wishes to challenge a POFMA order in court.

For example, in the SDP case, the Deputy Attorney-General, and the Ministry of Manpower had, within a relatively short time, served a submission of a 544 pages, which vastly outdid the SDP's submission. The Online Citizen, which had been served POFMA orders for reporting on the claims of the LFL, shared that they have had to spend 989.60 Singapore Dollars on court documents.⁵

In the SDP case, the Presiding Judge's remarked that the 'appellant's (i.e. SDP) right to free speech is indeed constrained by the Minister's POFMA Correction Orders. He also observed that there is a 'clear information asymmetry between the Minister on one hand, and the maker of a statement being challenged under POFMA on the other. Unlike the Minister, who is able to rely on the machinery of state to procure the relevant evidence of falsity, the maker of a statement often has to contend with far more limited resources. For a statement-maker, who may be an individual, to bear the burden of proof would put him in an invidious position.'⁶

³ <https://www.straitstimes.com/politics/ips-forum-sharing-data-not-panacea-to-all-policy-issues-chan-chun-sing-tells-goh-meng-seng>

and <https://mothership.sg/2020/01/chan-chun-sing-ips-data-sharing/>

⁴ <https://www.channelnewsasia.com/news/singapore/proposed-law-on-falsehoods-has-clear-oversight-mechanism-to-11438132>

⁵ https://www.facebook.com/theonlinecitizen/posts/10158088370051383?_tn=H-R

⁶ <https://berthahenson.wordpress.com/2020/02/05/first-pofma-case-too-bad-sdp-but-thank-you-anyway/>



The World Health Organisation declared the 2019 Novel Coronavirus situation a global health emergency on 30 January. Several Ministers have already taken to POFMA to 'correct' statements or allegations related to the situation in Singapore. It is inevitable that the Government would point to these exceptional and still developing circumstances as the perfect scenario for the deployment of POFMA.

What can be seen, however, is that recently POFMA has been used as a means for information control, which has had the effect of preventing people from openly expressing their concerns.

On the whole, POFMA, in its current form, will have a snowball-effect in the long run to silence open and healthy discussions on contentious issues that all Singaporeans should be concerned about.

Think Centre and FORUM-ASIA call on the Government of Singapore to:

- Repeal the POFMA, and cancel all POFMA orders, including those made against human rights defenders and alternative media who reported on the serious allegations raised by the LFL.
- Initiate an open and transparent inquiry into allegations raised by the LFL, with the cooperation of credible international mechanisms ; and
- Cooperate with and facilitate UN Human Rights mechanisms and UN Special Mandate holders, particularly the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, to ensure that laws and policies targeting disinformation comply with international human rights standards.