

MARUAH's Statement on the Second Reading of the Public Order and Safety (Special Powers) Bill.

1. MARUAH¹ is submitting this document to express concerns and seek clarifications on matters pertaining to this Bill, the Public Order and Safety (Special Powers) Act² (POSSPA). We would also like to apologise for this late submission. It was inadvertently so. Still MARUAH hopes that the views shared here will be taken into consideration, during the Second Reading, in the Parliamentary remarks from the Minister of Home Affairs and Law and in the discussions to be held by the Select Committee in its preparatory work for the Third Reading before the proposed POSSPA is accepted by Parliament to be an Act.

MARUAH's Overview

2. We acknowledge that there are many new global, regional and national developments that bring in many acts of extreme violence as borders are porous and access to information is much easier through the Internet. Today there is much global connectivity and digitized communication that give rise to social movements, some of which do become focused on vile acts of violence. These acts and sharing of information can cause destruction. This is also history repeating itself, when extreme violence also took place without the Internet as a tool for communication. Political leaders, policy makers, enforcement officers, academics, interested individuals and organisations often identify these extreme acts of violence as done by 'terrorists'. We are aware of the escalation in these attacks on people, on institutions and on those who oppose this form of behaviour.
3. MARUAH would also take this opportunity to say that this rise in extreme violence needs a level of understanding even though one may be inclined to do so. In the last three decades, especially since 9/11, there have been many uprisings, conflicts, wars, and violent protests. Many of these acts begin with a motivation to right a wrong and are based on many factors that include: a historical unhappiness over injustices felt and perhaps, perpetrated over many decades; a sense of helplessness in seeing no solution in the future; deep seated anger, revenge, loss, discrimination, lack of focus, disunity, disempowerment, violence, depression, trivializing the value of life etc.
4. Whilst we appreciate the efforts governments, business communities and the people offer through humanitarian aid, philanthropy, charity, capacity-building to redevelop communities caught in conflicts and destruction, we are also equally concerned about the erosion of rights-based value systems that mean weakened mutual efforts to protect people, the environment and to ensure that people's rights are fulfilled in their lifetime, every day, through sound policies and laws. We know that this is a dilemma that the people and the government face – a challenge in wanting to respect people's rights to freedom, not restrict their space for civil, political, economic, social, cultural, religious and environmental discourses, and yet ensure that people are protected from these incidents of extreme violence. The civil society organisations (CSOs) and many e-networks of communities will be wary of more restrictions to personal and civil freedom even as we still believe that there is a need to handle this rise in extreme violence that can easily erupt into major loss of lives and infrastructural destruction. This balancing act is a difficult one and we urge that one concern cannot over-ride the other, as governments and CSOs have a moral responsibility to protect people as well as to preserve people's freedom, which in Singapore, is already a restricted entity.
5. MARUAH, hereby, states: we wish there had been more consultations on this POSSPA Bill with the people sector and CSOs; more leeway in time had been given to have views from the public and CSOs; this Bill ought to be enacted only after the recommendations from the Select Committee on Deliberate Online Falsehoods are made, discussed and accepted. We make this last point as two major components

¹ MARUAH (means "Dignity" in our National Language) was formed in 2007 and was registered in 2010. MARUAH (<https://maruah.org/about/>) is focused on promoting, protecting and fulfilling human rights in Singapore, in the region and internationally. We operate as volunteers and are focused on conducting research, submitting advocacy papers to relevant authorities, and in building up capacity. MARUAH focuses on civil, political and socio-economic, cultural rights and on the instruments to ensure that human rights are observed promoted and serve to protect the people with adequate remedies in place.

² Hence this Bill will be referred to as the POSSPA

of the proposed POSSPA cover a Communications Stop Order and the acquisition of materials, key elements that discussants at the Select Committee hearings, have raised in dealing with online falsehoods.

6. MARUAH also states that while we appreciate the three purposes³ of the POSSPA Bill, we also ask why there is a need to have a new law when there are these laws – Internal Security Act (ISA), Public Order (Preservations) Act (POPA), the Public Order Act⁴, Penal Code (Clauses 141, 142, 144, 145, 146, 148), Public Entertainment and Meetings Act (PEMA), Miscellaneous Offences (Public Order and Nuisance) Act (MOA) – that do meet the purposes of the POSSPA in protecting people and apprehending the potential persons or groups, termed as ‘suspects’ here. These current laws do pose restrictions on civil and political rights and do already protect people from acts of extreme violence from internal and external groups or individuals. MARUAH states that it would be easier to introduce key amendments, if needed, to the already existing laws to deal with extreme acts of violence as perceived by the officers of the State. This way there is a higher chance of having a balance – protect people and still retain the limited freedom that people have here through the current laws – then have the proposed POSSPA, which embraces many aspects in intelligence gathering, detention, acquisition of materials, curtailment on activities which affects anyone and everyone, based on suspicions.

MARUAH's Specific Concerns (references on Para 5 and 6 raised above)

7. On the ‘terrorism’ threat, we note that, as explained in Parliament and in the Ministry of Home Affairs’ (MHA) press release⁵, the Ministry “has significantly enhanced (its) ability to respond to the terrorism threat” by amending the Public Order Act and the Infrastructure Protection Act⁶. It was also stated that the proposed POSSPA would mean that the existing Public Order (Preservation) Act (POPA; 1958) would be repealed. MARUAH notes that the proposed POSSPA, when enacted, will exist alongside the Public Order Act (Chapter 257A; revised in 2012) and the Internal Security Act (1960). A look at the POPA shows that this Act has significant provisions to deal with threats and actions of extreme violence. We cite one example from POPA, Clause 3 (Proclamation of state of danger to public order) and the similarity in purpose with the proposed POSSPA’s Clause 3 (a), (c) (Meaning of “serious incident”) and Clause 4 (Meaning of “act of serious violence”).

Concerns and Seeking Clarification:

8. MARUAH asks why there is a need for this new law when POPA could be amended, if need be, to describe weapons more distinctly and to identify new acts of extreme violence. In addition, we also ask why there is any further need for a new law when under the Singapore Constitution, Clauses 149 to 151A⁷ (Special Powers against Subversion and Emergency Powers), the ISA and many other laws are already in place to ensure that checks and balances can be enforced and suspects can be apprehended. MARUAH asks here if the need to enhance Special Powers, as already mandated in the Constitution, could be designed to mean improving policies, implementation processes and information gathering on suspects, rather than have the proposed POSSPA to acquire Special Powers. Therefore we ask if current laws are inadequate and there is no room for amendments to strengthen Special Power provisions to deal with acts of extreme violence?

³ The three purposes of the POSSPA Bill: Enable the use of special powers for serious incidents affecting public safety; Enable the Police to protect the secrecy of tactical operations; and Enable the Police to respond to serious incidents more effectively;

<https://www.mha.gov.sg/newsroom/press-releases/Pages/Public-Order-and-Safety-Special-Powers-Bill-2018.aspx>

⁴ Following the liberalization of Speakers’ Corner on 1 Sep 08, Singapore citizens are exempted from permit requirements if they wish to organise or participate in demonstrations at the Speakers’ Corner as long as they do not touch on race or religion, in addition to other minimal basic conditions. While such events are exempted from a Police Permit for the assembly or procession under the Public Order Act, organisers will still have to apply for the necessary permits under the House to House and Street Collection Act. Charities within the meaning of the Charities Act (Cap. 37) that are also approved as Institutions of Public Character under that Act;

<https://www.mha.gov.sg/Newsroom/speeches/Documents/PublicOrderActBooklet.pdf>

⁵ <https://www.mha.gov.sg/newsroom/press-releases/Pages/Public-Order-and-Safety-Special-Powers-Bill-2018.aspx>

⁶ *ibid...*“Over the last two years, MHA has significantly enhanced our ability to respond to the terrorism threat. The Public Order Act was amended and the Infrastructure Protection Act was enacted to enhance the security of large events and critical buildings respectively. The Police have also developed new capabilities for rapid and effective response to terrorist incidents. The Bill updates the existing Public Order (Preservation) Act (POPA), which was enacted in 1958 to provide special powers to deal with large-scale communal riots. As part of the Bill, POPA will be repealed.”

⁷ <https://sso.agc.gov.sg/Act/CONS1963#pr149->

9. The proposed POSSPA's primary aim, as deciphered, from the 3 purposes, is to ensure that the authorities have power through this Act. These powers, coming through the Activation Orders in the Bill, allows for: immediate apprehending of suspects based on surveillance and intelligence gathered; a multi-discipline community of officers to detain suspects, nullify their actions and to keep the community safe; dealing with "offensive weapons"; gathering more intelligence; immobilizing dangerous suspects; imposing cordons; 'freezing' or putting into cold store suspected groups and halting information flows; imposing curfews in severe emergencies; ensuring that people and infrastructure are protected from harm and destruction.
10. While this is not an exhaustive listing on the Special Powers under the proposed POSSPA, MARUAH asks why the ISA with its mandate⁸, is insufficient to fulfil this purpose as outlined in this Bill. Under the ISA, Clauses 28, 30, 34, 35,⁹ already have provisions to seize, gather intelligence, search and withhold information from detainee or families, and officers can put the 'freeze' on or stop activities, by incarcerating, without trial, the detainees and so sever the links and cut off any influence. In a similar vein, the POA (Chapter 257A) has Clauses 7, 21, 21A, 25¹⁰ which already have provisions to seize, (dis)approve assemblies, have knowledge on nature of public event, to search and detain an alleged wrong-doer. The POA (Chapter 257A) also "empowers a law enforcement officer to direct any person to stop filming or take photographs or exhibit or communicate any film or picture which may prejudice the effective conduct of an ongoing law enforcement operation or investigation of any intelligence operation, or endanger the safety of officers in these operations"¹¹. And the Penal Code (Chapter 8)¹² shows that there are already many avenues to handle suspects who can cause harm in society. Why then the need for the proposed POSSPA despite existing laws?
11. MARUAH notes that the proposed POSSPA is focused on authorization and immediacy, for appointed officers, to act and defuse potential dangers. However, we also notice that the POA (Chapter 257A), ISA, POPA, ISA, have also outlined the role for the Commissioner of Police as the main authority to give authorization. The proposed POSSPA also includes the Minister in this role and that both main leaders, work in synergy, with the appointed officers from various specialist disciplines and expertise. There is also provision for a Communications Stop Order¹³.
12. We ask about the process of instituting an Authorization Order to give appointed officers Special Powers. We say this, in the light of provisions as provided in the proposed through POSSPA's Clause 3(b) and the worrying illustrations as offered in (d) and (e). MARUAH is very concerned as to how '*serious incidents*' will be interpreted for Authorization Orders to be given so that Special Powers can be used to apprehend suspected persons planning what is viewed as an extreme act of violence.
13. We note the Ministry of Home Affairs (MHA) response to a CSO statement, was to say that the POSSPA Bill, is not intended "to regulate peaceful public assemblies, it is "not meant for day-to-day policing"¹⁴ and that "If members of the public have any allegations of misconduct or abuse of powers by police officers when POSSPA has been activated, they should lodge a police report, or (report) directly to the ministry,"¹⁵.

⁸ A note from MARUAH here – MARUAH opposes the use of the ISA in its current form and will continue to ask for transparency, a closed hearing through court system on the charges

⁹ <https://statutes.agc.gov.sg/Act/ISA1960>

¹⁰ <https://statutes.agc.gov.sg/Act/POA2009>

¹¹ <https://www.mha.gov.sg/Newsroom/speeches/Documents/PublicOrderActBooklet.pdf>

¹² https://sso.agc.gov.sg/Act/PC1871#P4VIII_141-

¹³ Unfortunately in acronym-happy Singapore the Communications Stop Order will be CSO, which is the global acronym for Civil Society Organisations. Under this POA(SP) the CSOs (organisations) can be impacted upon by a CSO (communications stop order). This can lead to much confusion on the ground and various interpretations for cause of action in the various communication mediums that will be used to detain people and bring stability, in emergencies. MARUAH raises this as a point of concern.

¹⁴ <https://www.todayonline.com/singapore/special-police-powers-not-meant-peaceful-protests-says-mha-response-civil-societys>

¹⁵ *ibid*.

14. But MARUAH has illustrations that have come to court and also detailed on social media of: homes of activists that had been raided, mobile phones and computers that had been seized and in some instances, these activists are still waiting to get them back; as well as an interpretation on how officers on duty and civilian officers who have been appointed, handle sensitive matters such as religious and cultural ceremonies/observations on less extreme acts of violence, related to noise levels or use of musical instruments. These actions beg the question of 'What is a Serious Incident'? MARUAH raises this, please note, not to highlight incidents of the past in this discourse, but to raise a very important and fundamental issue of authorization powers and the interpretation of "serious incidents" that can lead to removal of information based on the justification that suspected person(s) were propagating acts of extreme violence. We share this dilemma CSOs and individuals interested in civil liberties face when it comes to trusting government offices on interpretation of incidents and having them use their special powers. How can the proposed POSSPA build up trust between the government and the people who advocate for justice, for human rights, for more freedom, whilst still adhering to the current plethora of laws that are already restrictive, and yet followed most of the time.
15. MARUAH states that the proposed POSSPA is an intrusion into civil society space as well as individuals who believe in nurturing civil, political, economic, social, cultural, religious, cultural, ethnic, heritage, arts spaces for the people. Many among us have been working in these areas for years and in some instances, decades. Under the POSSPA Bill, seizure of materials, articles, films, exhibits, photographs, deemed to be 'dangerous', is still an interpretation on 'dangerous'. These seizures, when they take place, also can become tools for intelligence gathering and surveillance. Such acts as provided for in this Bill and also in other present laws, are acts of 'severe intervention and interference by the powers in authority', based on suspicions while proof of wrongdoing are being ascertained. What is needed is transparency in information sharing from the government, a longer-term approach to building up trust between the government and CSOs, who are both contributing for the common good of the people in Singapore.
16. Finally, MARUAH states that the proposed POSSPA when enacted runs the risk of being a 'big sweep' action to weed out potential suspects plotting acts of extreme violence. This sweep by POSSPA will sow more fear, risk burying the work of advocacy-oriented CSOs, increase suspicions and increase divisiveness. Interpreting 'serious incidents', giving 'authorisation orders', officers having 'special powers' – beyond the provisions in the current laws – mean that many in society who work to promote and protect the rights of people, can also be impaled through interpretations of POSSPA's clauses. The government and the people sector (CSOs and individuals) are walking this tightrope of dealing with threats of extreme violence and relying on the spaces of civil and political freedom to promote and protect the rights of people.