

# New Naratif



## OPINION

### Shanmugam's Stealth Coup in Singapore

*The Foreign Interference (Countermeasures) Bill will give Minister for Home Affairs K Shanmugam the power to demand information about any Singaporean's private life and finances, all based on the suspicion of foreign interference—no evidence required.*

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On 4 October, Singapore's parliament is expected to pass a law that is ostensibly meant to prevent foreign intervention via "clandestine" electronic communications in Singapore. While it appears to be yet another pretext for the People's Action Party to crack down on criticism, dissent and the free flow of information, what is truly worrying is the sheer amount of power that will be concentrated in the hands of one man, with virtually no oversight to stop any abuse of power.

The Foreign Interference (Countermeasures) Bill, known as FICA, specifically grants Minister

for Home Affairs K Shanmugam the ability to demand access to any company's books and confidential information, to investigate any commercial transaction involving a foreign person or organisation and to demand information about the private life and finances of any Singaporean, all based on the suspicion of foreign interference—no evidence required.

Using this information, he could theoretically engage in insider trading, or blackmail and threaten anyone, including his own cabinet colleagues, and force them to bow to his will.

Even for those who religiously avoid politics, FICA allows the home affairs minister to punish or restrict the rights of anyone based merely on his suspicion, with no substantive recourse to the courts. It allows the minister to demand information from a person, place a gag order on a person posting on a specified topic, disable their accounts and force them to repay money given to them, among other things. The law also allows him to block or disable access to a site and its apps, force the site to publish government-drafted messages or force it to return money—all of this without needing to provide any substantive justification to any independent authority, like the courts.

If independent media, like *New Naratif*, or individuals publish content about a “subject of political debate in Singapore”, Shanmugam could issue a “direction” on the site or person—delete the content, return the money, shut down the entire site, for instance—and regardless of whether they complied, he could immediately declare their site a “Proscribed Online Location”. This would immediately make it illegal to operate the site, for Singaporeans to support the site and to accept advertising on the site. He could also force not just the removal of published information but also order a person not to publish any information that is similar to the information identified in the direction. This could effectively stop any further comment about an issue.

These powers effectively turn Shanmugam into a behind-the-scenes dictator, able to stick a finger into any pie, look into anyone's affairs and freely threaten anyone with complete impunity.

In effect, this law would make Shanmugam—and any future heir to his office of minister for home affairs—the most powerful man in Singapore.

One can see the brutal logic of FICA's maximalist approach to foreign interference. If the minister can look into any transaction, peer into anyone's electronic life, unilaterally block any website and delete any online information, he can effectively stop any foreign intervention, the same way dropping a nuclear bomb on a person cures them of any illness.

Investing such expansive powers into a single man creates high risk for abuse. Shanmugam has already been severely criticised for manipulating POFMA to achieve political ends. While no one is suggesting he would abuse the law for personal benefit, nor is anyone questioning his integrity, we have no idea if his successors would behave with propriety. Ultimately, because of how this law is written, we simply would never know if he or his successors had succumbed to the terrible temptation of using this law for their personal benefit.

## Understanding the Law

Foreign interference laws elsewhere sensibly and logically assume that if you want to influence a country, you will seek to influence those with the power to make change. Consequently, those laws focus on holding people with power, such as elected politicians, accountable.

In **Australia, the United Kingdom** and the United States, all elected lawmakers are required to declare their interests, including income and assets. The UK and US even have **public disclosure requirements** for legislators' staff. In Taiwan, reporting and disclosure requirements even **extend to close family members**. Lobbying of politicians is regulated and publicly disclosed under schemes such as the **Foreign Agents Registration Act** in the US and the **Foreign Influence Transparency Scheme** in Australia. All this information is placed on public registries.

By contrast, FICA has reporting requirements, but only to the authorities—not to the public. This is because in Singapore, the assumption is reversed: private citizens, who hold no power to change the country, need to be monitored; while the government, which holds all the power, must be protected from the people.

Accordingly, the law seeks to deal with foreign interference by making the lives of all citizens

transparent to the home affairs minister, with no meaningful oversight preventing him from abusing his new powers.

FICA defines foreign interference by four criteria:

- “electronic communications activity on behalf of a foreign principal”
- that “involves publishing in Singapore any information”
- against the “public interest” or “directed towards a political end in Singapore”
- that is “covert or involves deception”.

But the law defines these four concepts so broadly that it is virtually impossible to electronically communicate with a non-Singaporean citizen without breaking this law. You'd be hard-pressed to find anyone in Singapore, whether you are a businessperson, politician, activist, journalist or academic, who does not interact in legitimate ways that could nonetheless be prosecuted under this law.

For example, imagine you are conducting academic research on sexual harassment in the workplace with funding from the Swedish government. Your interviewees all speak to you on condition of anonymity. You publish your research, arguing that existing laws need to be strengthened to protect women. Congratulations, you have just broken FICA.

As noted above, avoiding any participation in politics does not stop the home affairs minister from punishing you or restricting your rights based merely on his suspicion, with no substantive recourse to the courts. Part 3 of the law lays out a wide range of directions that the minister can impose on suspected violators, while Part 4 allows the minister to unilaterally designate a person or entity as “Politically Significant”, enmeshing them in a thicket of regulations and red tape regarding their finances. He could force them to make disclosures about any possible foreign link, and even force them to stop associating with a particular foreigner.

The bill admits that this “may restrict the freedom of association” but justifies it on security grounds.

## **The PAP's Dark Fantasy**

Underpinning this new law is a dark fantasy held by the PAP that if they can simply pass enough laws that give them enough discretionary power over enough aspects of Singapore, they can then fix all the problems the country faces.

This pattern can be discerned throughout numerous major laws that have been passed by the Lee Hsien Loong government, including the Public Order Act 2009, the Protection from Harassment Act 2014, the Administration of Justice (Protection) Act 2016 and the Protection from Online Falsehoods and Manipulation Act 2019 (POFMA). What these laws, and others, have in common is these laws are so broad that they can **encompass virtually any relevant activity**, legitimate or otherwise. If everything is illegal, then criminals can't find loopholes.

But the PAP's approach assumes that the people executing the law are benevolent and would not abuse it, that there are sufficient safeguards to prevent people who are innocent from being unjustly or accidentally targeted, that fundamental rights are protected and that justice can eventually prevail. Each new law they enact increasingly proves this wrong.

The Public Order Act defined a public assembly or procession as consisting of one or more people, and **outlawed public protests without a permit**, allowing permits to be selectively granted only to events that are pro-government or not political. Artist Seelan Palay was convicted under this law for **walking down the street with a mirror**, while activist Jolovan Wham has been charged with violating this law for **taking a photo outside the state courts** and **holding up a smiley face sign in a public place**.

The first use of the Protection from Harassment Act was against the independent news site *The Online Citizen* and an inventor who told it that the Ministry of Defence had violated his patent rights. The ministry **sought to have the article taken down** using the law, arguing it contained “false statements” and constituted harassment.

The Administration of Justice (Protection) Act defined contempt of court to include virtually any comment on an ongoing case, legitimate or otherwise. It has been **used against activists, opposition politicians** and **independent media**, among others.

Shanmugam promised that POFMA **would only be used against factual statements** in the public interest, but the law **defined its terms so broadly** that it could apply to interpreted and implied statements. About **half of its uses** have been against political opponents and independent media, and it was **blatantly abused** by alternate authorities to intervene in the 2020 general election **against opposition politicians and independent media**. Its targets had to comply with directions before they were allowed to appeal, thus effectively presuming the guilt of citizens and forcing them to prove their innocence.

FICA is the culmination of this trend. Its definitions are astonishingly vague, leaving the law open to all sorts of abuse. The law can punish people even if they have not committed any offence; they are effectively presumed guilty until proven innocent.

In Singapore, the assumption is reversed: private citizens, who hold no power to change the country, need to be monitored; while the government, which holds all the power, must be protected from the people.

But this bill goes even further. Earlier laws allowed oversight by the judiciary, which generally ruled in the government's favour but did—extremely rarely—rule against the government. Appeals under FICA will take place in secret tribunals convened by the Ministry of Home Affairs, with only one member required to be a judge, and only allowing judicial review for procedural issues—not for the actual merits of the case. The judiciary has no meaningful


oversight over this law.

A FICA tribunal can dismiss an appeal without the participation of the minister. Worse, the minister can refuse to provide information to the tribunal on various grounds, including national security, while demanding information from the appellant to demonstrate how their appeal is “frivolous” or “vexatious”.

## Stop the Stealth Coup

There is an extreme lack of transparency, accountability and oversight in this law, but compounding all the above is that it places all that power in the hands of one man: the minister for home affairs. Shanmugam, and his heirs, are theoretically free to abuse the law for political and personal benefit.

Ultimately, Shanmugam would not even need to abuse FICA. Just the threat of this law being used to dig into your personal life would stifle media activity and political activism. No one, including his cabinet colleagues, would oppose Shanmugam, allowing him to claim that there was no opposition to the law and no criticism of the PAP government. These powers effectively turn Shanmugam into a behind-the-scenes dictator, able to stick a finger into any pie, look into anyone's affairs and freely threaten anyone with complete impunity.



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Even Lee Kuan Yew at his most authoritarian did not have these powers, and if he wished to act against his critics, he would have to act openly by detaining them without trial or suing them in court. Shanmugam could act without ever facing public scrutiny or accountability for his actions.

The FICA bill is expected to have its second and third readings and be passed into law on 4



October. The moment it passes, Shanmugam's executive coup will be complete. If his PAP colleagues are smart, they will take these powers away from him and place them, at the minimum, with an independent authority that has judicial oversight.

But if his colleagues are wise, they will withdraw this bill entirely, and instead pass laws that regulate the people in power and hold them accountable, instead of powerless private citizens. Otherwise, our shaky, 56-year-old experiment with building a democratic society based on justice and equality will die a quiet death at the hands of this brutally oppressive law.

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