

IPS Forum on the Elected Presidency, 5 August 2011

By Debbie Soon
IPS Research Assistant

The recent presidential election has thrown up contesting interpretations on the role of the elected president (EP). The electoral promises of presidential aspirants may have pushed the boundaries of the public's imagination in regard to what the EP can do.

The IPS Forum on the Elected Presidency was held on 5 August 2011 to discuss these issues ahead of the hustings. IPS Special Adviser Professor (Prof) Tommy Koh, opened the Forum with his remarks, Prof Thio Li-ann of the NUS Faculty of Law and Law and Home Affairs Minister, Mr K Shanmugam followed with their presentations on the roles, responsibilities and power of the office of the elected presidency.

Participants then posed questions to clarify the scope of the Office in areas they thought the Constitution did not explicitly



Opening Remarks by IPS Special Adviser
Professor Tommy Koh



Q&A session with Law and Home Affairs
Minister Mr K Shanmugam

address. This was in response to the minister's exposition based on English law and practice about how the Constitutional Monarch relates to Parliament and Cabinet in that case. He argued that apart from the five key areas of substantive power the EP has, the Constitution definitively states that the EP must act on the advice of the Government in all other matters. Any public, independent comments an EP might make would be construed as partisan and ultimately undermine his role as the symbol and unifier of the nation. He also highlighted how the EP nevertheless had opportunities to interact with the Prime Minister of the day in their private and regular consultations. Taking all that into consideration, the minister said that the EP is very influential.

The EP has five key substantive powers vested by the Constitution, said panel

speakers at the Forum. These include the power to veto proposed government bills to spend reserves accumulated in previous political terms, and to overrule proposed appointments and removals of individuals from key public service positions, both of which are exercised in consultation with the Council of Presidential Advisers. The other three are the EP's ability to assent to investigations by the Director of the Corrupt Practices Investigation Bureau if the Prime Minister refuses an application to do so; the ability to overrule Cabinet in issuing a restraining order under the Maintenance of Religious Harmony Act, with the support of the Presidential Council of Religious Harmony; and the concurrence to release a detainee under the Internal Security Act in line with the Advisory Committee's decision. Apart from this, the president could be considered the country's top diplomat, as well as an instrument of soft power in his patronage of social causes.

However, recent debates have turned to areas that the Constitution is less explicit about. Would it, for instance, be within the limits of the EP to speak up independently on issues of national interest? Does popular support through the ballot box suggest that the EP has some moral authority to do so? Participants asked questions to ascertain where the EP might "cross the line" in his public advocacy. Using the case of the EP's participation in the launch of a facility that served people with special needs, speakers suggested that the line would be crossed if the EP used the occasion to comment on how the Government could or had not supported the cause in a way that he thinks should be the case. It would also be unacceptable for him to comment on the country's position with regard to say, international conventions and agreements in

addressing the rights of people with special needs.

In outlining another hypothetical scenario, one participant asked if it would be within limits for the EP to act independently in calming the ground if ethnic conflict arose because of government mismanagement. The speakers clarified that such an approach would be inappropriate even if the Government had mismanaged the situation, unless the EP was acting on the advice of the Government to do so. Prof Koh raised the analogy of the Malaysian King's intervention when a civil society movement threatened to organise a mass protest. The Minister explained that the King had acted, based on what he knew from media reports, at the behest of the Prime Minister.



NUS Law Professor Thio Li-Ann addresses forum questions.

If the role of the EP was indeed limited and complex, should Singapore then revert to a situation where Parliament appoints the President? Would the Presidential Election Committee's (PEC) pre-qualification of candidates lead the public to mistakenly assume that all candidates are equally qualified, and neglect to properly scrutinise candidates for their suitability for the role at the ballot box? The speakers expressed their confidence that the public would continue to grow in their understanding of the Office. One participant also suggested that the

country would be well-served if the workings of the office of the Presidency were put on public record so that it might be better understood. Prof Thio further suggested a legal duty should be imposed on the PEC to provide substantive reasons for the issuance and refusal to grant Certificates of Eligibility to presidential aspirants. This emerged from



Forum participants raised questions on the elected presidency .

the reasoning that all who exercised public power should be subject to some degree

of accountability. Having a public record of the dealings of the EP's office would ensure that the populace might be less susceptible to "electoral gimmickry" especially in the case where candidates might promise beyond what the Constitution allows them to deliver to attract support.

A blog was set up to provide a platform for further discussion after the Forum on the role and scope of the EP, the potential effect of independent speech from an EP on the balance of power between state institutions and the pre-qualification process. One respondent pointed to the lack of information for citizens to ascertain if the EP had carried out his duties. Another said that there was a need to update the institution of the EP, created some two decades ago, so that it would better match current aspirations and needs of citizens.

Full speeches and webcasts of the IPS Forum on the Elected Presidency are available at: http://www.spp.nus.edu.sg/ips/Forum_The_Roles_of_the_Elected_President_050811.aspx

If you have comments or feedback, please email ips.eneews@nus.edu.sg



© Copyright 2011 National University of Singapore. All Rights Reserved.

You are welcome to reproduce this material for non-commercial purposes and please ensure you cite the source when doing so.