

IPS Forum on the Reserved Presidential Election Full Report

Debbie Soon and Tan Min-Wei
IPS Research Associate and Research Assistant

ON 8 SEPTEMBER 2017, the Institute of Policy Studies (IPS) held its Forum on the Reserved Presidential Election at the Raffles Convention Centre. Over 300 business leaders, academics, educators, students, journalists and members of the public were in attendance.

Session I – Ministerial Dialogue with Minister for Law and Home Affairs, K Shanmugam

The Forum began with a dialogue with Minister for Law and Home Affairs, K Shanmugam, chaired by Dean of the Lee Kuan Yew School of Public Policy, Professor Kishore Mahbubani.



Law and Home Affairs Minister K Shanmugam (left) addressing a question from the floor in a panel chaired by Dean Kishore Mahbubani (right).

Minister Shanmugam gave an extensive review of the history of Singapore's presidency, the rationale for the elected presidency and the 2016–2017 reforms before answering questions from participants.

He said the primary, ceremonial role of the President — being a symbol of the nation — was not abrogated when the custodial function and the electoral process to provide a mandate for that were introduced in 1991.

Minister Shanmugam accepted that the veto mechanisms of that custodial power — over the use of national reserves and appointments to key positions in the public and legal service — have their limits. He explained that an electorate could simply wait for the next presidential election to choose a candidate who has a “similar philosophical bent” as a government that might have been blocked in its proposal to spend the national reserves. Therefore, the veto provides Singaporeans with a short window to be alerted to consider the issues at hand. However, should the President decide to exercise this veto power, it is important he or she wields an electoral mandate to do so, just as Parliament and members of the Cabinet have that.

Minister Shanmugam acknowledged that there have been very few occasions to witness how the President exercises this custodial power because the government had thus far resisted spending the national reserves. He referred to the occasion when the late President S. R. Nathan had agreed to this during the 2008 financial crisis in an effort to allow the government to guarantee all Singaporean bank deposits — a sum equivalent to half all of savings in the Central Provident Fund. In that instance, President Nathan had to make a vital decision in a short span of time, and ultimately, had to rely on his own judgement and deep knowledge of the government to do it.

Minister Shanmugam noted that such institutional checks were unusual, as it was the government itself that examined Singapore's political framework and identified where it had to “voluntarily curb its own power”; it designed a way to “control itself through someone else”.

He then described the 2016 reforms to the presidency, acknowledging throughout that there were numerous points where the government had made judgement calls on what Singapore needs. As such, there is always room for discussion and debate, he said.

Noting that the initial criteria for the automatic qualification for both public and private sector candidates were set out in 1991, Minister Shanmugam said that most citizens he had engaged on the ground about the 2016 reforms agreed with the idea that these had to be updated.

He added that the criteria actually did not constrain the field as much as in 1991. The 1991 criteria of \$100 million dollars in paid-up capital meant that 158 Singaporean companies provided the qualifying roles that are stated in the eligibility criteria. When the qualifying threshold for private sector individuals was raised to shareholder equity of \$500 million, close to 700 companies registered with ACRA met it. There are other firms that may meet the qualifying threshold but are not registered with ACRA. Based on the known data, he estimated that at least 2,000 individuals qualified in the new threshold for 2016.

Minister Shanmugam then explained the need for a reserved election, arguing that if there were an electoral contest, the ethnicity of candidates could shape the outcome. Citing the

CNA-IPS Survey on Race (2016), he said the data suggests support would fall by 37 per cent when a Malay candidate runs against a Chinese one, and 14 per cent when an Indian candidate runs against a Chinese one, all other things being equal. If so, what are the chances for a Malay candidate of being elected?

He gave examples of other countries such as the United States and France, citing the more laissez-faire styles of race relations policy, and asked the audience to consider it that had led to outcomes that would be acceptable to Singaporeans, rather the outcomes of the interventionist approach here.

In the government's view, it is necessary to introduce policies to ensure good race relations, because the natural order of things would lead to segregation, not integration, he said. Minister Shanmugam cited the Group Representation Constituency (GRC) system, which removes the element of race by ensuring minority representation, such that all parties would not find any advantage to either overtly or covertly appeal to race to gain an electoral advantage.

While acknowledging that society is not static, Minister Shanmugam said that just because a number of non-Chinese candidates could stand and win in parliamentary elections did not disprove the underlying point of the lowering of support for candidates of ethnic minorities.

He emphasised that if either a Malay or Indian president is elected within a 30-year period, there would be no need for a hiatus-triggered reserved election.

Question and Answer Session

The question and answer session centred around three themes: the actions of an activist government; racial and national identities; and the design of political systems around those identities.

Contest or walkover?

Participants asked the Minister if he thought there was going to be a contest or a walkover in the September presidential election, and if it was the latter whether there was anything that could be done about it. The Minister said he was not privy to how the Presidential Elections Committee would rule with regard to the applications for eligibility by the three declared presidential hopefuls. As to why other Malays who may be qualified for the post had not put themselves forward for the 2017 election, Minister Shanmugam said it was up to those people to explain,

Interventionist approach to foster integration

The Minister said, in the session, that the government's approach to the reserved presidential election fell somewhere along a spectrum — from having a laissez-faire approach to multiracialism, to a totally reserved system. Highlighting again the role of the government's own judgement in both the design and the timing of the reforms that led to the reserved election, he said it was not about whether specific individuals become or are denied the presidency, but that the design of a political system is based on principle.

On the question of who was to be considered Malay since candidates had to be qualified by their ethnic identity also, Minister Shanmugam said that the criteria and process had been established in 1988 to determine the ethnic identity of GRC candidates.

The two criteria are what an individual considers himself or herself to be in terms of ethnicity, and whether representatives of that community believe that to be the case also. The select committee which had set this up for GRCs had said that legislation should not dictate prescriptive criteria for ethnicity but a mechanism that allows the community to decide for itself.

When asked how the reserved election gelled with the phrase “regardless of race, language, or religion” in the National Pledge, the Minister acknowledged the importance of the question. He said that are different paths that countries take to achieve multiracialism, but that the Singaporean government had always eschewed a laissez-faire approach commonly favoured in countries such as France or the United States. Instead it had taken an activist path, acknowledging differences among ethnic groups, yet inviting them to form bonds towards a sense of national identity.

The final question summed up the session, with a participant asking the Minister if the government had been so overly activist that even after two generations, “people are still voting along racial lines?”

Minister Shanmugam reiterated that ultimately the government’s level of activism is a question of judgement. While one could argue that the government does not need to take such actions, “the proof of the pudding is in the eating,” he said. He urged the audience to assess the state of race relations in Singapore against the best in class, whether it is countries that are “developed [or] not developed, Asian [or] Western”. Singapore’s record speaks for itself.

.

Session II: Panel Discussion

IPS Senior Research Fellow Dr Mathew Mathews who chaired the second session and invited participants to reflect on the construct of racial identity, and specifically, the Malay one.



Dr Kevin Tan takes a question from the audience on a panel with Mr Goh Sin Teck, Dr Mathew Mathews (chair) and Dr Norshahril Saat (left to right).

The first speaker, Dr Norshahril Saat, Fellow at ISEAS-Yusof Ishak Institute said that the Malay community, like the rest of Singapore, is divided in its views on how it defines its identity and its response to the reserved election. The Malay identity has been politicised from time to time in Singapore and certainly in Malaysia as it put in place its Bumiputera policy in the 1970s. Today, the notion of *Melayu Jati* or one who is “pure Malay” is still debated.

Dr Norshahril said there were three possible broad dimensions by which to consider who is Malay. The first is ancestry but it is difficult to find pure Malays in Singapore, as was the case with the three presidential hopefuls.

Second, the Malay community is bound by the common practice of religion, language and culture and therefore admits individuals of different origins be they Javanese, Baweanese, Bugis, Minangkabau, Indian Muslims, Pakistanis and so on. This lies at the heart of the concept of *masuk Melayu* (roughly translated as “becoming Malay”). All three prospective candidates associate themselves with the Malay community, which in turn accepts them too, but certainly, being Muslim strengthens their position. Being able to speak Malay can be a factor too, as was seen in the case of presidential hopeful, Salleh Marican. Hence, Malayness is not just a category defined by ancestry, but a cultural category. The government regards the Malay identity from the cultural perspective in some policies (the Reserved Presidential

Election) and as an ethnic category in others (qualifying for help from the ethnic-based self-help groups).

The third dimension touches on the candidates' association with the Malay community. Halimah Yaacob has an advantage due to her visibility in public office, although she may be hampered by her perceived lack of independence from the establishment. Both Farid Khan, the third presidential hopeful, and Mr Salleh have networks in business circles, but they can claim that they have never been part of the establishment.

Singapore's definition of an ethnic Malay person for Group Representation Constituencies (GRCs) and the presidential election takes an elite-based approach, noted Dr Norshahril. A committee of community leaders of the ethnic community considers if a presidential hopeful is accepted as such by the Malay community.

Dr Norshahril concluded that he hoped Singaporeans would give the reserved presidential election a chance, although the aim should be to remove this mechanism in the longer term. After all, on the question of whether politics is influenced by race, we see that Indian contender Murali Pillai had prevailed over Chinese opposition politician Chee Soon Juan in the 2016 Bukit Batok by-election. The truest test is if the Malay President elected in a reserved election is able to win in an open contest subsequently. In any case, history will not judge the President by how he or she enters into the position but by how he or she serves the national interest and wins the hearts and minds of Singaporeans.

Lianhe Zaobao Editor Goh Sin Teck shared his view on the discussions of ethnic identity in traditional and social media discourse, emphasising that he was not at the Forum to represent the views of the Chinese community, which are both diverse and divisive much like the case with regard to the Malays.

He said that each ethnic group places different weight on the dimensions of religion, language and ancestry in determining if someone is part of their community. Religion and the ability to speak Mandarin, for instance, do not play an important role in defining members of the Chinese community, he said. Where then would persons of mixed heritage fit in?

Next, Mr Goh asked if Singaporeans should wish for an election just for its own sake? Would it mean that the President has no mandate he or she came to the role through a walkover? He felt that the Presidential Elections Committee should exercise its discretion in grey areas, but not lower the bar for candidates where there are clearly stated criteria. He added that the late President Nathan took his post twice, unopposed, yet this was accepted by the majority of Singaporeans. Just 10 years ago, almost half of Singapore's members of Parliament assumed their posts through walkovers too, but their mandate was not questioned.

Third speaker, Dr Kevin Tan, Adjunct Professor of the Faculty of Law at the National University of Singapore said he wanted to discuss the legal problems facing the upcoming reserved election. The first was the tautologous manner of determining the ethnicity of a presidential hopeful. If it was in the first place difficult to determine the boundary of ethnicity for an individual, it would be similarly problematic trying to locate the ethnic community, through which persons are drawn to form the Community Committee to decide if a person is part of that ethnic group.

Identifying a person's ethnicity is further complicated with the case of Malay candidates as the constitutional definition carries with it a unique qualifier — that a person belonging to the Malay community means anyone, whether of the Malay race *or otherwise*. Also, Article 12(1) of the Constitution, which states that “[a]ll persons are equal before the law and entitled to the equal protection of the law”, may be violated in this process of ethnic determination. The act of ethnic determination carries with it the element of positive discrimination. Discrimination is not, in itself, illegal, if it satisfies a two-part reasonable classification test — there has to be an intelligible difference in deciphering if a person is part of a class and, there has to be a rational nexus between the object and class of discrimination. One has to be able to clearly ascertain if a person is Malay, and any form of arbitrariness is arguably unconstitutional, and could be challenged in court.

The second problem has to do with the entity that determines if an individual is Malay. Ethnic identity is ascertained by a 16-member Community Committee, with five members from each of the three ethnic blocs. The fact that the decision of the Committee is final and not subject to appeal or review by the courts is arguably unconstitutional as it is the courts' job to interpret the Constitution.

The third problem has to do with the suggested parity between public and private sector candidates in the qualifying period in the eligibility criteria. The Constitutional Commission that suggested the reforms to the system of the Elected President proposed that public sector candidates should have at least six years in their relevant positions to have sufficient experience for the role, double the qualifying period of private sector candidates. Parliament did not accept this recommendation, and some argue that the institution of Parliament provides a back door to the presidency.

Dr Tan made two additional points. He said that elections are necessary so that the President would have the mandate to stop Parliament, so a single candidate should nonetheless be put through an endorsement or affirmation exercise. Finally, he said that the timing of the PE in 2017 was unconstitutional. Referring to the Constitution that states that the election is to be held “not more than three months before the end of the term”, Dr Tan said that holding an election after the sitting President leaves office is unconstitutional.

Question and Answer Session

Participants wondered if the reserved election caused candidates to over-assert their Malay identity, citing the Malaysian context where former Premier Mahathir Mohamed who was part-Indian had to assert his Malayness in his practice of politics. How would this influence race relations and multiculturalism? Another participant asked if contesting along the lines of Malay identity would harden racial lines.

Accentuation of race in Singapore politics

To these, Dr Norshahril explained that *masuk Melayu* is very much a Malaysian concept, although there are cases of this in Singapore where Chinese babies adopted by Malay families were registered as Malay on their identity cards. Potential candidates themselves understand the need to connect with the community, with Mr Salleh for instance emphasising his ability to speak conversational Malay. On the issue of hardening racial lines, although there is a

reserved election for Malays in 2017, Dr Norshahril said that to prevail in an election, candidates would have to appeal to all Singaporeans.

Complexity of categorising candidates

In the case of ethnic hybridity, to which community would mixed-race individuals belong to? In response to a question from Mr Goh, Dr Tan said that as far as the Constitution is concerned, an individual can identify with two races if both communities accept him. Dr Tan later asked Dr Norshahril if the Malay community would accept the hypothetical case where someone is Malay by race, a Christian by religion and has a Chinese spouse. Dr Norshahril said the community is probably not ready to do so at this point in time.

In response to a question on whether the notion of Malayness was community- rather than constitutionally-driven, Dr Tan said that he raised these issues as they are in the Constitution. A participant suggested that in the case of religion as an identity marker, a person who is Malay by ancestry but is not recognised as part of the Malay community because he is Christian, could take his case to court as the person's freedom to practise his religion is protected and should not be held against him.

.

Session III – Ministerial Dialogue with Minister in Prime Minister’s Office, Chan Chun Sing and Senior Minister of State for Communications and Information, Dr Janil Puthucheary

Session III of the Forum featured a ministerial dialogue with Chan Chun Sing, Minister in the Prime Minister’s Office and Dr Janil Puthucheary, Senior Minister of State (SMS) for the Ministry of Communications and Information. It was chaired by IPS Deputy Director (Research), Dr Gillian Koh.



Minister Chan Chun Sing, Dr Gillian Koh (chair) and Senior Minister of State Dr Janil Puthucheary (left to right) on a panel discussing the issues of race, process and the long-term perspective on the system of the Reserved Presidential Election.

Dr Puthucheary started by sharing that despite initial misgivings about the reserved election, he had come to believe it would strengthen Singapore’s model of multiculturalism. Clearly, race is still central in Singapore’s social narrative if people are arguing about the system, but he believed this strengthens Singaporean society. He also emphasised that it is important the reforms provide flexibility in how ethnic communities choose to define themselves rather than adopt rigid definitions about those identities.

The question and answer session followed SMS Puthucheary’s opening remarks. The discussion is grouped into three themes of race, process and long-term perspective on the system of the Reserved Presidential Election.

Question and Answer Session

Race

Picking up on a discussion that began in Session II, the role that religion plays in determining either ethnic or community identity was a major topic of concern. This also raised the question of how the members of the Community Committee are selected to become “gatekeepers” of who can be considered part of an ethnic community, with queries about whether they can keep up with the changes in, and sentiment of, the community to accurately represent it.

Minister Chan said that the system of having a Community Committee is the same as that used in the GRC system in parliamentary elections, with the exception of the Chinese sub-committee that is newly instituted for the Elected Presidency.

He added that the committees have provided sensible advice in the 30 years that it has been in operation. Given the two-part process where a prospective candidate has to state which community he or she belongs, and the Community Committee would have to decide if it accepted that assertion, the community is given the opportunity to define itself.

When asked if he thought the system would not allow for a Malay Christian to receive a community certificate, SMS Puthuchery said that the system recognised that the definition of an ethnic group is fluid and can change over time. To provide a definitive definition would necessitate constant revision. The Community Committee could take soundings from the whole of the community to define itself and certainly to demonstrate leadership, especially if it comes to assessing those on the borderline.

The trade-off is that individuals might find themselves denied community certificates because of unusual circumstances, such as the hypothetical case of whether a Malay Christian would be certified as Malay. SMS Puthuchery emphasised however that a denial (of a community certificate) would not affect the person’s ability to run in an open election, nor force him to give up the religion of his choice.

SMS Puthuchery said the pressure to define communities was already very high. Any attempt to impose a definition externally would be impossibly difficult, thorny and contentious. If on the other hand, representatives of the community take a decision, how would the views of those outside the community take precedence or better it?

Both leaders said that the election of candidates from minority groups would reset the countdown towards another reserved election for Malays, and they hope that given enough time, there would be no need for another.

Responding to a question about whether the reserved election would help the world recognise that Singapore is not a “Chinese state”, both leaders said that reserved system was designed to address a domestic, not an external need.

Minister Chan took the opportunity to say Singapore had to work constantly to balance multiracialism with meritocracy. Singaporean multiracialism is always different from that of the rest of the world, choosing to build upon acknowledged differences between ethnic groups, rather than homogenise and ignore those differences.

Process

A participant asked if there was a need to increase transparency of what the President does, especially with regard to the role's custodial powers, and whether technology can be used to facilitate a greater involvement of citizens especially the younger generations in policymaking.

Minister Chan explained that it is unrealistic for all the details of how the President exercises his custodial power to be made known in real time, as strategic issues are at play. Some details can be market-sensitive. He added that even former president, Dr Tony Tan said he had been consulted on structuring a guarantee in relation to a High-Speed Rail Link between Singapore and Kuala Lumpur, as that may involve the use of past national reserves. Minister Chan said that the government certainly could not conceal such intentions from the President or the Council of Presidential Advisors.

Another participant asked if anyone was measuring the way people from different ethnic groups were engaging one another; in other words, the health of race relations in Singapore. SMS Puthuchery said that OnePeople.sg, the agency he chairs, keeps track of and is engaged on such issues on an ongoing basis and not just because of the reserved election.

The leaders were also asked if the qualification criteria to be a candidate in the presidential election are too strict, potentially leading to a walkover in the upcoming election; and if the government could encourage more candidates to contest in future presidential elections. SMS Puthuchery questioned this idea that the government provides additional candidates, noting the existing conflict as it is between the government making provision for ethnic representation and waiting for people to step up organically. He said the current system is the way it should be where the government creates the process and leave it to individuals to step forward. Also, he said that qualification criteria should not be compromised just because it is reserved election.

Minister Chan agreed, saying that while Singaporeans might wish to see more candidates, he did not think they would want to have different rules for different races to achieve that; they would not want to tilt the balance too much towards multiracialism and undermine meritocracy.

Long-term perspective on the Reserved Presidential Election

In his concluding remarks, Minister Chan reflected on the rationale and the price that would be paid for introducing the reserved election. Given that Singapore is a young country with unique characteristics that is trying to build a nation with common values and ideals, while we study political systems elsewhere, features we find elsewhere have to be adapted to suit the local context carefully, if at all.

He asked participants if they believed the ruling People's Action Party (PAP) would pay a political price for introducing the reserved election. After observing that the majority of the audience thought so (by show of hands), he asked them to consider why the PAP had nonetheless pressed ahead to introduce it.

Saying that he was aware of "many conspiracy theories" about the reform, he dismissed them by saying "no one goes into an election thinking that 'I will have a 100% chance of winning, and therefore everybody must do all kinds of things to block me.'"

He revealed that the younger ministers approached Prime Minister (PM) Lee Hsien Loong when the system was being considered with the same concern. The PM had said that it is better to suffer the political price to pre-empt a potential problem that could undermine Singapore's multiracial harmony in the future. This, Minister Chan said, demonstrated how the PM is a political leader rather than a politician who cares only about short-term political capital.

He ended by reiterating the two main ideals that Singapore must uphold — meritocracy that unites Singaporeans regardless of race, language, or religion because they have the assurance that as long as they were willing to work hard, they can fulfil their potential; and, multiracialism, which does not whitewash differences or homogenise Singaporeans, but builds on these to form a stronger, authentic union.

He said that the present generation owes it to future generations of Singaporeans to build foundations that allow them to do even better than their predecessors.

.

[Debbie Soon](#) is a Research Associate and [Tan Min-Wei](#) is a Research Assistant with the Governance and Economy department at IPS.

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



© Copyright 2017 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.