

What if the president crosses the line?

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Two academics in the audience, Dr Ian Chong and Dr Cherian George, sparked off a protracted discussion on what exactly the president could or could not say in public:

Ian Chong: 'What if the president says in public that more can be done for the handicapped? Would that be unconstitutional?'

Thio Li-ann: I think I would look at constitutional convention because the Constitution text is not exhaustive. When it comes to social causes, I don't think the Government has any problem with President Nathan and previous presidents highlighting causes like that, because in a sense they're relatively uncontroversial. The difficulty comes when you wade into controversial topics and then you get into questions of legitimacy - 'I voted for you to protect the money, why are you talking about something else?'

Ian Chong: So what can the courts or the Government do in that case?

Thio Li-ann: The courts can't do anything because the Constitution is silent on this. This would be a matter of political negotiation between the political branches.

K. Shanmugam: I don't have much of a disagreement with Li-ann except I will put this qualifier in. You talked about handicapped welfare. If the president were to go and open a place for handicapped people or people who are physically disadvantaged, and says that more such centres should be opened, it's good, this sort of work should be encouraged, that's fine. But if he were to say, the Government should put more money, that becomes a matter of government policy. Based on our Constitution he's not allowed to say that, except as advised by the Cabinet.

Ian Chong: So if he does, what are you going to do?

K. Shanmugam: So if he does, what you can do, he's acting unconstitutionally. Various consequences laid out. I will prefer not to go into that.

Thio Li-ann: When it comes to charitable causes, I don't see why you always have to point the finger at the Government. You should be galvanising the society at large. I think the president is a bit like Angelina Jolie, or George Clooney, in the sense they have star power, right? You know, there's an event and the president turns up, then everybody will listen to him. When George Clooney highlighted the plight of the southern Sudanese, everybody starts looking at the whole issue. So I think that the president can usefully use his star power to promote charitable work among society at large. I don't think there will be any objection to that.

Tommy Koh: Supposing the president goes to a school for children with a particular disability. Suppose at the end of the visit, he were to say, 'I'm very impressed by the teachers, I'm very impressed by the students. But I think the physical plan of the school is not good enough.'

K. Shanmugam: Cross the red line? I don't think so. I think these situations have got to be resolved by common sense. First of all, he will be entitled to say anything he thinks, including the physical plans or the lack of proper care, et cetera, to the prime minister. But

separately in public I think he's entitled to talk about the state of repair or disrepair. And I wouldn't think that's crossing the line.

Tommy Koh: Would it cross the red line if he were to go further and say that Singapore has not yet acceded to the (United Nations) Convention (on the Rights of Disabled People)? He should not say this in public?

K. Shanmugam: Absolutely. Which conventions we accede to is an issue decided in Cabinet. There are good reasons why we accede to some and not to others.