

After historic process, participants take stock of EP panel's proposals

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For only the second time in Singapore's history, a Constitutional Commission was appointed in February. Its task was to review specific aspects of the Elected Presidency (EP).

Half a century ago, a similar commission was set up as a newborn nation sought to find its way forward: In 1965, a Constitutional Commission comprising 11 members and headed by then-Chief Justice Wee Chong Jin was appointed in December — four months after Singapore attained independence, and amid communal tensions.

The commission was asked to propose ways for the rights and interests of minorities to be safeguarded in the Constitution. Public hearings were held, with the views culminating in a report submitted in August 1966. The recommendations paved the way for the setting up of the Presidential Council in 1970 — later renamed the Presidential Council for Minority Rights.

Fast forward to today, and a nine-member commission, headed by Chief Justice Sundaresh Menon, was tasked with studying the eligibility criteria for prospective candidates for the Presidential Election, safeguarding minority representation in the presidency, and the framework governing the exercise of the President's powers.

The commission's report was submitted last month, after six months of deliberations involving public hearings and written submissions from the public.

In all, the commission received more than 100 submissions. A total of 19 groups and individuals who had contributed written submissions — including former Cabinet Minister S Dhanabalan, academics, lawyers, professionals, law students and representatives from non-governmental organisations — gave their views on the proposed changes to the Elected Presidency at four public hearings, which were held in April and May.

On Thursday, the Government released its White Paper to set out its proposed changes to the EP and its responses to the commission's wide-ranging recommendations. The Bill to effect the necessary legislative changes will be introduced in Parliament next month and the House will debate it in November.

TODAY spoke to the people who had presented their views at the public hearings, to get their thoughts on the commission's proposals — what caught their eye, what they agreed or disagreed with — and their contributions to a historic process.

MR TAN MIN-WEI, RESEARCH ASSISTANT IN THE POLITICS AND GOVERNANCE CLUSTER AT THE INSTITUTE OF POLICY STUDIES

"I was personally surprised that the commission chose to venture outside the terms of reference in regard to removing the Elected Presidency altogether. My expectation when working with (IPS deputy director) Dr Gillian Koh on our submission is that the commission would chose to stay within the set terms of reference laid out by the Prime Minister.

The introduction of the reserved election is problematic. Part of the issue with it isn't the reserved election itself — it is too early to say how that will work out — the issue is that we're still uncertain as to what the nature of the problem is.

We have had four elections and seven candidates, of which one was a minority. We have not had a Malay or Eurasian candidate. So the most important question is, why not?

The reserved election appears to solve a problem downstream from this — that is, what happens when minority candidates can qualify, run for office, and cannot be elected for racial reasons. I cannot say that this is not a problem that does not need fixing; all I can say is that there are many other elements to the system that need to be addressed before addressing concerns about how the electorate votes.

Unless what the commission is suggesting or the Government in taking up the “reserved election” idea is that it is because Malays and Eurasians do not believe they have a chance that they do not even try. This, then, is an assumption that Chinese voters vote only on the basis of race — yet another deeply troubling hypothesis or assumption that will need to be dissected.”

DR MATHEW MATHEWS, SENIOR RESEARCH FELLOW AT THE INSTITUTE OF POLICY STUDIES

“It was certainly meaningful to be able to suggest changes to the important institution ... I was among those who defended the need to have provisions for minority representation, which I knew would be contentious. But rather than doing something akin to a Group Representation Constituency system or one where the Elected President (EP) would be rotated among those of the main ethnic communities in Singapore, I suggested a mechanism of safeguards that would kick in only if we are not able to ensure that all of our groups would be represented from time to time. I am hopeful that, over time, an unrestricted election will be able to produce minority EPs.”

ASSOC PROF EUGENE TAN, SINGAPORE MANAGEMENT UNIVERSITY SCHOOL OF LAW

“The commission took great care to explain how it arrived at its recommendations. It was a thorough, comprehensive and compelling report.

(The surprising suggestion was) to return to the former system of having an appointed President ... There was no indication during the hearings that the Commission was actively considering (this). The suggestion is also almost a non-starter, given the Government's steadfast position that the President must be elected in order to provide the President with the democratic mandate and moral authority to stand up to the Government.

While I understand the commission's rationale and reasoning for its proposal for reserved elections, I remain uncomfortable with it as it is a form of affirmative action. To be fair, conceptualised as it is, the reserved election holds promise as a safeguard ... But I hope we will never have to resort to a reserved election.

It is worth recalling that our ceremonial Presidents did not become symbols of our multiracialism by virtue of their being minorities. It was what President Yusof Ishak did through his actions, utilising the “soft power” of the office of the President, that enabled him to transform

the head of state office into a symbol of our multiracialism ... The late President Wee Kim Wee, a Peranakan Chinese, was much beloved and respected by all Singaporeans, demonstrating that being from the majority race is not a barrier to a symbol of multiracialism.

It was a privilege and honour to be part of this important and path-finding review process. This is, after all, only the second constitutional commission in our history, with the first half a century ago! For me, it was also a rare opportunity to encourage my Constitutional Law class students to be part of the review process ... I believe that the experience brought constitutional law alive for the students, and demonstrated how they can play a role in the review process.”

ASST PROF JACK LEE, SINGAPORE MANAGEMENT UNIVERSITY SCHOOL OF LAW

“I generally remain unconvinced that it is necessary to introduce a system of reserved elections to ensure that candidates from specified minority communities will be elected as President from time to time. I feel we should give more credit to voters to be able to pick candidates for their abilities, not their ethnicity ... Moreover, we risk reinforcing the misconception that minorities are not capable of being elected on their own merit. More should be done to encourage members of minority communities to put themselves up for election under the current system, rather than rushing into having reserved elections.

I feel it is not a good idea for the financial criterion for presidential candidates to be raised beyond what is necessary to take inflation into account, or that we insist that only the head of an organisation is qualified. I fear that these more-stringent criteria will make it more difficult to find suitably qualified minority candidates. The criteria should be pitched at a level to ensure that candidates have adequate experience handling financial matters. They need not be “financial wizards”, especially since the Council of Presidential Advisers exists to assist the President in carrying out his or her constitutional duties.

The part of the commission’s report that I found most surprising was the suggestion — which was actually outside the commission’s terms of reference — that perhaps it would be a good idea to separate the ceremonial and custodial roles of the President ... I agree (with the commission) that this might solve many of the issues that (it) was asked to look into.”

MR MOK ZI CONG, PART OF A GROUP OF SINGAPORE MANAGEMENT UNIVERSITY LAW STUDENTS WHO MADE ORAL SUBMISSIONS

“We agree with the proposals by the commission to regulate the campaign methods and to prevent misinformation by candidates running for the office. In discharging his or her custodial functions, the Elected President may only react to proposals by Parliament, and has no power to introduce proposals of his or her own. It is key that Singaporeans, in choosing their President, are aware of his unique role, and the recommendations by the commission go well towards this.

We disagree with the commission’s decision not to express any views on transitional arrangements for the revised eligibility criteria. While it is true that when the amendments take effect is a matter for Parliament to decide ... we felt that there was value in the commission making its views known, with the aim of upholding the integrity of the office of the Elected President.

Our most meaningful contribution would be our submission that there should be a requirement for the President to publicly publish his reasons for vetoing the drawing down on the reserves. The commission agreed with our suggestion, and its ultimate recommendation went even further than what we had originally proposed. Such a requirement will go towards transparency and accountability, and further public debate about the exercise of the President's powers."

(Note: In its White Paper published on Thursday, the Government said it has not taken up the commission's proposal to publish the President's opinion on all decisions where he exercises his veto. This should not be done where appointment or fiscal matters are concerned. Instead, it could apply to just Supply Bills, Supplementary Supply Bills and Final Supply Bills, which are Bills that involve expenditure.)

MS GRACE TEO, PART OF A GROUP OF NATIONAL UNIVERSITY OF SINGAPORE LAW STUDENTS WHO MADE ORAL SUBMISSIONS

"Changes to the Constitution must be made with a lot of care and precision, and so we appreciate the lengths the commission has gone through to deliberate and arrive upon balanced recommendations.

In particular, we are heartened by the "light-touch" approach employed by the commission in recommending a provision to ensure minority representation in the office. We would just bring up two potentially problematic scenarios with that particular recommendation: The increased possibility of a "walkover" election in reserved elections, and the possibility of candidates who may be "twice-barred" by the stringent conditions for eligibility — once by race, the second time by the date of his leadership experience.

This experience as a whole has elevated national conversation to a new level for us. It is very exciting to think that young Singaporeans can participate on so high a level, armed with what they see for Singapore's future, and it was even more exciting to be a part of that.

One of the more tangible ways in which our proposals have been acknowledged is in the recognition that the Elected President, as a unifying symbol, should possess the ability to represent diverse interests. During the public hearings, we submitted that ... what is significant is not just the candidate's race, but that this individual is able to represent the diverse interests of Singaporeans.

We recommended that this criterion be recognised ... Section (E) of the sample certificate of eligibility application form (proposed by the commission) requires candidates to provide other relevant information that would be relevant for consideration by the Presidential Elections Committee, and it is stated that this would include 'community activities or initiatives demonstrating your engagement with ethnic groups other than your own'."

MR RONALD WONG, ASSOCIATE DIRECTOR AT CONVENANT CHAMBERS LLC

"The suggestion ... for a return to a President appointed by Parliament rather than elected, and to leave the custodial functions to a council of experts ... was surprising because it went beyond the terms of reference and was a radical bold suggestion.

I agree with the proposals, which went beyond the terms of reference about considering an appointed President that does not have custodial powers, and assuming the Presidential office is still by election, setting rules on election campaigns — what can be said or not about the

Presidential role — and educating the public on the Presidential office. But I think for that to happen, the Government needs to, itself, be clear (on) what exactly the Presidential Election campaigns are or should be about. Surely it's got to be about character and integrity, in addition to technical expertise.

The raising of eligibility criteria for private-sector candidates is not concomitant with a greater scrutiny of public-sector candidates.

The commission says, for public-sector candidates, not all the public offices can endow the candidates with all the skills for a Presidential role. That's true. It is also true of the private-sector candidate. But if we expect to raise the private-sector candidate eligibility criteria with respect to the (requirement of having helmed a company with) S\$500 million in shareholders' equity, why is there no comparison for the public office? It is just as easy to set a criteria along those lines.

Whether people agree or disagree on the commission's proposals, the Government's intent and decisions on the topic, the fact is that not many people in the world get to participate in such a national institution-building deliberative democracy process like that. So this privilege, which is available to all Singapore citizens, is a heavy one."

MS JOLENE TAN, HEAD OF ADVOCACY AND RESEARCH AT THE ASSOCIATION OF WOMEN FOR ACTION & RESEARCH

"We are glad that the commission agrees with us that there is an inherent tension between the custodial and representative roles of the office (the first key point of our submission). The design of the office is inherently flawed, lending weight to the call to split the functions and revert to an appointed office.

In our view, the general trend in the recommendations is to arbitrarily narrow the eligibility criteria further, undermining the democratic mandate of the office and making it appear even more exclusionary and even elitist, rather than representative.

We wholeheartedly agree that minority representation matters ... But we question whether limiting who people can vote for is the way to address this.

We disagree with the proposal to tighten the corporate criteria further, which makes the office more exclusionary, and may also tend to limit further the pool of potential woman and minority-race candidates.

We also continue to disagree that the Presidential Elections Committee (PEC) should be able to disqualify candidates based on "integrity and character". What the PEC disapproves, the electorate may accept. The people should not be prevented by ... unelected individuals (sitting on the PEC) from making this assessment. One of the most important features of any candidate is their track record of public service and contribution, and as far as possible, all potential candidates should be free to present that to — and be assessed by — the electorate.

We greatly appreciate the detailed and publicly documented review process. In our view, more legal and policy changes should be subject to thorough public deliberation, not necessarily through a commission, but with a similar spirit of consultation and transparency.

We believe we have reinforced the commission's recognition that the custodial and representative functions of the role sit together uneasily, and we hope that we have generally pushed for greater clarity and nuance in thinking around the office. But we are disappointed that no concrete suggestions have been made to improve the representation of women in the presidential process — for instance, through requiring or even urging more women's appointments to the Council of Presidential Advisers."

MR NGIAM SHIH TUNG, MARUAH MEMBER

"The commission appears to view the President as primarily a technocrat and is proposing to convert the Presidential Elections Committee (PEC) into a super Public Service Commission (PSC) that shortlists candidates with "technical competence and expertise" for the custodial functions of the job.

Several portions of the report are contradictory, which perhaps reflects the fundamental tension between the different roles which the President is called upon to play (and which the commission acknowledges). With regard to reserved elections, the commission is proposing a solution that might be activated only once in 30 years, yet the Elected Presidency itself has been in existence for only 25 years. It is not clear that this is even a problem now, and the "solution" may very well turn out to be a land-mine that blows up on a future Singapore many years from now.

(One proposal that Maruah disagreed with was) having elections reserved for members of specific races. This goes against our principles of racial equality and may easily turn out to be more divisive than unifying. (Another is) raising the financial criteria, which will have the effect of narrowing the pool of eligible candidates. Maruah is of the view that financial experience is not a relevant criterion for Presidential candidates.

Considering that the commission did not cite Maruah even once in its report, I don't think we had much influence in their thinking. However ... our participation did serve as an indicator that there are divergent views in Singapore on the qualifications that a President has to have."