

COMMENTARY

Appreciating the roles, powers and limits of the elected presidency

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WITH the issuance of the Writ of Election last week, Singapore's sixth presidential election enters a critical phase. At least four presidential hopefuls await the Presidential Elections Committee's decision on their eligibility to contest.

In the meantime, they have ramped up their (unofficial) campaigning with the aim of profiling themselves and their visions for their presidency should they be elected. Regardless of whether Singaporeans get to cast their votes, it is vital that Singaporeans have a good and accurate understanding of the roles, functions and powers of the elected presidency, enabling them to make an informed choice.

Despite being directly elected by the people, the president does not have an independent political role or power. The presidency is defined as much by the exercise of its custodial powers but also by clearly stipulated limits to its power. Hence, the presidential election is quite different from the parliamentary general election, which we are more familiar with. Only two presidential elections were contested – in 1993 and in 2011.

Understanding the elected presidency

In parliamentary elections, political parties promise voters comprehensive agendas of action and bold manifestos to appeal to voters. However, this is not the case in the election for Singapore's president.

Presidential aspirants and voters alike must be clear that the presidency is not an alternative power centre to the elected government, even in a one-party dominant political system. While ostensibly modelled on the British monarch, Singapore's head of state office has evolved. The elected president possesses custodial powers, in addition to the traditional ceremonial and community roles.

The elected presidency is a unique constitutional innovation and reflects our own political cir-

cumstances, governance concerns, and national aspirations. Voters must not only properly appreciate its potential as an additional check and balance, but also its limits as a "speed bump". The presidency is not a guarantee against the slide to misgovernance and profligacy.

As part of an elaborate process of constitutional engineering in the 1980s, the presidency became an elected institution in 1991. This is to provide the president with the legal mandate and moral authority to exercise his custodial powers of protecting the integrity of the public service and as a custodian of our national reserves.

Equally important but habitually ignored, Singapore's president stands above partisan, party politics. The Constitutional Commission of 2016, headed by Chief Justice Sundaresh Menon, had highlighted the president's critical role as the symbol of national unity: He represents all Singaporeans, regardless of race, language, religion, or political affiliation.

Competing and conflicting visions of the presidency

In the campaigning by the presidential hopefuls thus far, some have either deliberately or ignorantly painted visions of the presidency that are clearly incongruent with our constitutional framework.

At his campaign launch last Friday (Aug 11), Tan Kin Lian insisted that, if elected, he will "influence" government policies, such as to bring down the cost of living, ensure affordable housing, securing jobs, advising and guiding the Singapore's sovereign wealth funds' investment approach.

The constitutional reality is that the president has no such powers in influencing, guiding, and advising the government on its policies and laws. It does not matter that Tan does not intend to be an adversary to the elected government. In fact, the institutional design is not for the presidency and the elected government to be adversaries.

Ours remain an abidingly parliamentary system of government, in which the direction and control

of the Government rests with the prime minister and his Cabinet. They are in turn accountable to Parliament and, ultimately, to Singaporeans.

The president does not possess executive powers as his American and French counterparts do. The president exercises custodial and protective powers and can use limited veto powers over the government in specified circumstances. Otherwise, the president must act on the Cabinet's advice. He (or she) has no constitutional authority to initiate or veto policies or laws.

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To be sure, the president can have confidential and purposeful discussions with the prime minister on national issues, which in turn requires a requisite of level of trust to exist between both leaders. But it is an entirely different proposition altogether to insist that the president can and has such powers and prerogatives over the elected government of the day. He would effectively be interfering with the general direction of government and becoming an alternative centre of political power.

George Goh, another presidential hopeful, had said on Jun 13 that: "Today, we are in a difficult



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situation in Singapore, (with a) high cost of living ... People want change". Goh has since walked back on those comments, describing the president as the "heart" of the government and the elected government as the "head".

Goh said on Aug 4 that if elected, he wanted to ensure that Singapore continues to be a place where anyone can succeed.

Again, the president does not have such authority and power. No president can legitimately initiate and implement such a policy – never mind how ideal and noble the aspiration is.

Reactionary custodial powers

Put simply, the president's custodial powers are reactionary ones. For example, if the government seeks to draw down on Singapore's past reserves for whatever purpose, the president's custodial powers are set in motion as any drawdown must have the president's concurrence. But the president cannot unilaterally direct any drawdown of the reserves.

Similarly, if the government does not initiate or revoke a key public sector appointment, the president's custodial power in this regard is not engaged at all.

In responding to media queries on Jul 29 on the president's role in light of the corruption probe involving Transport Minister S Iswaran and the resignation of two People's Action Party and one Workers' Party legislators, another hopeful, Ng Kok Song spoke of the president's custodial power in safeguarding the integrity of key appointments in the public service. Ng correctly noted that besides

good institutions, Singapore needed good men and women in the public service as "if bad people get into our institutions, they will corrupt our institutions".

However, Ng could have given the impression that the elected president can scrutinise political office appointments, such as ministerial ones and the Speaker of Parliament.

The president has no oversight over political office appointments; such appointments are the sole prerogative of the prime minister.

Instead, the president's custodial power is over key public sector appointments, such as the Chief Justice and Supreme Court judges, the Attorney-General, chairman and members of the Public Service Commission, the Auditor-General, the Accountant-General, the Chief of Defence Force and the four service chiefs, the police commissioner, and the Corrupt Practices Investigation Bureau director. This custodial power includes the ability to veto the removal of individuals from these positions.

Presidency not a site of political power

In a one-party dominant political system, there may well be some cachet among some voters for candidates not formerly being from the establishment. But this should not be mistaken to mean a complete rejection of candidates with a past association with the party or government. It ultimately boils down to what defines each candidate – his track record, values, and character as demonstrated throughout his career.

Presidential candidates will

seek to appeal to the voters' idealism at one level and pragmatism at another. By idealism, I mean the desire for someone who occupies the highest office of the land to embody the qualities, attributes, and values that Singaporeans hold dear.

Pragmatism speaks to the voters' desire for a president who can work with the elected government of the day to raise governance standards.

Voters must know when a candidate is overreaching in the quest for votes by claiming powers and prerogatives that the Singapore Constitution does not provide the president with.

As the 2011 presidential election vividly demonstrated, there were candidates who sought to self-ascribe powers and prerogatives that the president clearly did not possess.

Instead, a presidential candidate needs to emphasise how his track record and values enable him to be a unifying force amid growing political diversity and contestation and his having to exercise custodial powers.

Candidates must therefore not convey misrepresentations of or non-existent visions of the office in their electioneering. Voters must exercise the solemn responsibility of knowing the powers, roles, and limitations of the elected presidency.

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