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**Singapore's Elected President:
An Office that is Still Evolving**

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Singapore's Elected President: An Office that is Still Evolving

Dr Jack Tsen-Ta *Lee*

Constitutional changes effected to Singapore's Constitution in 1991 transformed the office of President from a purely ceremonial one chosen by the Parliament, to one directly elected by the people exercising certain discretionary powers. Among other things, the President may now veto attempts by the Government to deplete the nation's past financial reserves, and to effect unsuitable appointments to or dismissals of key public officers. Now, the Government is proposing to tweak the system further.

CHANGES MADE to [Singapore's Constitution](#)¹ a quarter of a century ago brought it further away from the traditional Westminster model which the nation inherited from the United Kingdom, the former colonial power. These amendments created a new type of President – not a full executive head of state, but what might be described as a 'figurehead-plus'. Now, the Government is proposing to tweak the system further.

Before 1991, the office of the President was a purely ceremonial one, and the officeholder was elected by the Parliament. This meant the President was effectively chosen by the People's Action Party (PAP), as it has been the ruling political party controlling a majority of the seats in Parliament since 1959.

In fact, for 16 years from 1965 when Singapore became an independent republic, the PAP held every single parliamentary seat. The situation only shifted in 1981, when J B Jeyaretnam of the Workers' Party was returned to Parliament in a by-election. In the following general elections in 1984 and 1988 Jeyaretnam retained his seat, and was joined in the opposition by Chiam See Tong of the Singapore Democratic Party.

In this political climate, the PAP began to introduce constitutional changes to allow more alternative voices to be heard in the legislature. In 1984 it became possible for a certain number of opposition candidates in a general election who were the 'best losers' to be deemed elected as Non-constituency Members of Parliament (NCMPs). At present, the number of NCMPs thus elected is nine less the number of opposition candidates successfully contesting the polls in their constituencies.² In 1990 the position of Nominated Member of Parliament (NMP) was created. Up to nine NMPs selected from fields such as culture, industry, community service and the labour movement can be appointed by the President upon nominations made by a special select committee of Parliament.³

¹ The Constitution of the Republic of Singapore ([1985 Rev Ed, 1999 Rep](#)).

² Parliamentary Elections Act ([Cap 218, 2011 Rev Ed](#)), s 52(1).

³ Constitution, Art 39(1)(c) and the Fifth Schedule.

While NCMPs and NMPs are free to participate in parliamentary debates, they cannot vote on certain important issues, including constitutional amendments, financial matters, and votes of no confidence in the Government.⁴ Moreover, they are powerless to block the passage of bills they are allowed to vote on. PAP MPs presently outnumber them as the party holds 83 of the 101 seats in Parliament.

Some critics have denounced the NCMP and NMP schemes as a ploy by the PAP Government to dissuade voters from electing opposition MPs, since the schemes ensure a token presence of potentially non-PAP views in the legislature. Nonetheless, NCMP seats have been a platform for opposition politicians to maintain visibility in public life, which may have helped them to win in later general elections. NMPs have also raised a number of important issues for discussion in Parliament.

‘Second key’

These changes to the constitutional order culminated in the Elected Presidency scheme. The PAP described it as a safeguard against a “freak election result” – one in which the PAP no longer forms the Government. In that scenario, the Elected President holds a ‘second key’ over certain significant matters, the ‘first key’ being wielded by the Government. Transforming the office into one directly elected by the people would give the President moral authority to disapprove of government decisions, if need be.

No longer a purely ceremonial head of state, the President has discretionary power to veto attempts by the Government to deplete the nation’s past financial reserves (those built up in previous parliamentary terms);⁵ and to effect unsuitable appointments to or dismissals of key public officers such as judges, the Attorney-General, the Chief of Defence Force, and the Commissioner of Police.⁶ In addition, the President may authorize the Corrupt Practices Investigation Bureau to conduct investigations in the face of a contrary command by the Prime Minister.⁷

The President also holds a casting vote over whether someone should be detained without trial under the [Internal Security Act](#),⁸ or should have a restraining order issued against him or her under the [Maintenance of Religious Harmony Act](#).⁹ This vote may only be exercised if there is a difference of opinion between the Minister for Home Affairs who wishes to proceed against the person, and the advisory body appointed to make a recommendation to the President on the matter.

To a degree, some of the President’s discretionary powers only have a signalling effect, serving to highlight to the electorate the Government’s actions. If the President decides to veto such action against the recommendation of the Council of Presidential Advisers, the Constitution authorizes the Government to override the veto with a parliamentary resolution supported by at least two-thirds of all the elected MPs. This override mechanism applies to the President’s fiscal powers and powers over public service appointments and dismissals.¹⁰ Given the PAP’s dominance in Parliament, it is a foregone conclusion that such a resolution would pass. In any case, since the Elected Presidency scheme came into being, no holder of the office has yet exercised his veto.

⁴ Constitution, Art 39(2).

⁵ See, generally, the Constitution, Arts 21(2)(c)–(f).

⁶ Constitution, Art 22.

⁷ Constitution, Art 22G.

⁸ Internal Security Act ([Cap 143, 1985 Rev Ed](#)): see the Constitution, Art 21(2)(g).

⁹ Maintenance of Religious Harmony Act ([Cap 167A, 2001 Rev Ed](#)): see the Constitution, Art 21(2)(h).

¹⁰ Constitution, Art

Further changes

In January this year, Prime Minister Lee Hsien Loong [announced in Parliament](#) that he would be appointing a constitutional commission chaired by Chief Justice Sundaresh Menon to consider further changes to the Elected Presidency scheme.¹¹ In particular, he said the qualifying criteria to be President might need to be more stringent, and that some mechanism might be required to ensure that members of minority communities are elected as President from time to time.

Among the qualifications for being elected President set out in the Constitution is the requirement that a person must have held, for not less than three years, one of several high offices, including that of cabinet minister, Chief Justice, Speaker of Parliament, Attorney-General, or Permanent Secretary of a government ministry.¹² Alternatively, Article 19(2)(g) states that a person is qualified if he or she has held office for the requisite period:

(iii) as chairman of the board of directors or chief executive officer of a company incorporated or registered under the Companies Act (Cap. 50) with a paid-up capital of at least \$100 million or its equivalent in foreign currency; or

(iv) in any other similar or comparable position of seniority and responsibility in any other organisation or department of equivalent size or complexity in the public or private sector which, in the opinion of the Presidential Elections Committee, has given him such experience and ability in administering and managing financial affairs as to enable him to carry out effectively the functions and duties of the office of President.

The Prime Minister noted the S\$100 million sum was to ensure that Presidents are “people with high senior management competence and experience, as they have to assess and decide on financial proposals involving billions of dollars”, and are able to hold a demanding appointment. However, “over 25 years, our economy has grown, government spending and reserves have increased, and the size and complexity of the organisations subject to the second key of the President have increased many fold”. Thus, he suggested the figure might need upwards adjustment.

The Prime Minister added:

The President is the Head of State, he represents all Singaporeans in our multi-racial society. I think it is important that minorities have a chance to be elected President, and that this happens regularly. [...] But in future, when Presidential Elections are more likely to be contested, even hotly contested, I believe it will become much harder for a minority President to get elected.

He therefore submitted there should be a procedure “to ensure that minorities can be periodically elected if we have not had a particular minority as President for some time”.

The Constitutional Commission, only the second to be convened since Singapore's independence, issued a [call for submissions](#) on the matter and held four

¹¹ [PM Lee Hsien Loong at the Debate on President's Address on 27 January 2016](#), website of the Prime Minister's Office (28 January 2016; archived [here](#)).

¹² Constitution, Art 19(2)(g)(i). In addition, service as the chairman or chief executive officer of the Central Provident Fund Board, Housing and Development Board, Jurong Town Corporation, or the Monetary Authority of Singapore also suffices: Art 19(2)(g)(ii).

public hearings in April and May.¹³ I was one of those who [made a submission](#) and appeared before the Commission,¹⁴ and also attended a number of the hearings. Judging from the questions asked by Commission members, it appears that serious consideration is being given to pushing up the financial criterion, perhaps by several hundred million Singapore dollars; and to having occasional elections reserved for minority candidates if no President from a minority community has been President for a certain number of terms. Quite a few of those appearing before the Commission were asked to comment on the latter suggestion, originally [made by Dr Mathew Mathews](#) of the Institute of Policy Studies (IPS).¹⁵

My own view is that the two main issues the Commission is focusing on pull in opposite directions. Increasing the financial threshold to be President reduces the potential pool of candidates, and might make it harder for minority candidates to qualify. Only senior executives who are Singapore citizens may stand for office, and many will probably not wish to do so anyway. Of the citizens willing to throw their hats into the ring, because almost 75% of Singapore residents are Chinese, only a low percentage are likely to be from the Malay, Indian and other minority communities.

While diversity in institutions of governance is vital, legislating some sort of reserved election might also imply that minority candidates cannot succeed on their own merits without a leg-up, a point [made to the Commission by Dr Gillian Koh and Mr Tan Min-Wei](#), also from the IPS.¹⁶ Perhaps a 'softly, softly' approach is warranted, at least for a start. We could experiment with having an independent body reach out to business and professional associations, and other relevant organizations, and encourage minority candidates to participate in presidential elections.

The Constitutional Commission is expected to report in the latter half of the year, and if changes are recommended the Government may seek to implement them before the next presidential election due in 2017. It will be interesting to see how such changes affect the election. Regardless, it seems the office of the Elected President continues to evolve.

¹³ Constitutional Commission Secretariat, [Specific Aspects of the Elected Presidency](#), REACH (Reaching Everyone for Active Citizenry @ Home), Government of Singapore (last updated 31 March 2016; archived [here](#)).

¹⁴ Jack Tsen-Ta Lee, [Submission on Specific Aspects of the Elected Presidency](#), SelectedWorks (21 March 2016).

¹⁵ "[Constitutional Commission on Elected Presidency: Mathew Mathews' Submission](#)", *The Straits Times* (20 April 2016; archived [here](#)).

¹⁶ "[Constitutional Commission on Elected Presidency: Submission by Gillian Koh and Tan Min-Wei](#)", *The Straits Times* (20 April 2016; archived [here](#)).