

Statement by the Minister for Law

1. Recent comments in the media suggest some confusion over what the President can and cannot do. As the Presidential Elections approach, it is important for Singaporeans to understand what the President is elected and empowered to do under the Singapore Constitution. The Attorney General has confirmed that the following is the Constitutional position.

The role of the President

2. Singapore has a Parliamentary system of government, not a Presidential one. The President is the Head of State, not the Head of Government. The Prime Minister is the Head of Government and has the authority and responsibility to govern Singapore.

3. The Constitution clearly defines the role and scope of the President. He has custodial powers, not executive powers. In other words, he can veto or block Government actions in specified areas, but he has no role to advance his own policy agenda. National policies and running the Government are the responsibility of the Prime Minister and Cabinet. This is so for all policies, whether they concern security and defence, immigration and population, or housing and social safety nets. The Prime Minister and Cabinet are accountable to Parliament, where policies are debated and endorsed, and ultimately to voters, who decide every five years who to elect to Parliament and to govern Singapore.

4. The President's veto powers over the Government are limited to specific areas:

- (a) Protection of past reserves, i.e. reserves accumulated during previous terms of office of Government;
- (b) Appointment of key personnel; and
- (c) ISA detentions, CPIB investigations and any restraining order in connection with the maintenance of religious harmony.

On all other matters, under the Constitution the President must act in accordance with the advice of the Cabinet. In addition, the President is required to consult the Council of Presidential Advisers (CPA) when exercising his veto powers in connection with reserves and appointments.

5. The President's veto powers are an important check against a profligate government squandering the nation's reserves, or undermining the integrity of the public service. That is why the President is directly elected by the people: to have the mandate to carry out his custodial role, and the moral authority to say no if necessary to the elected government.

Protection of Past Reserves

6. The Constitution protects the past reserves of the Government and key statutory boards and government companies ('5th Schedule' entities) like the CPF Board, MAS, HDB, GIC and Temasek. The reserves include physical assets like land and buildings as well as financial assets like cash, securities and bonds. The Government of the day can only spend past reserves with the approval of the President.

7. However, the President does not direct the operations of these statutory boards and government companies. In particular, he is not empowered to direct the investment strategies of GIC and Temasek. The investment strategies of GIC and Temasek are the responsibility of their respective Boards and managements. The Government's role is to appoint suitable and qualified individuals to the two Boards. The President's role is to approve Board appointments proposed by the Government. The President also receives the audited annual accounts of GIC and Temasek, and has access to any of the information that is available to their boards. This system of governance has allowed the GIC and Temasek to operate professionally and to achieve good returns over time, comparable to other reputable global investors.

Appointment of key personnel

8. To safeguard the integrity of the Public Service, the President has the discretion to refuse the appointment of a person to certain key positions in the public service. He can also refuse to concur with the removal of persons from these key positions. These include the Attorney-General, Chairman and members of the Public Service Commission, the Auditor-General, and the chiefs of the Armed Forces and Police. The President has similar veto powers over the appointment of the Chief Justice and Judges, and board members and CEOs of the 5th Schedule entities.

ISA detentions, CPIB investigations and restraining orders in connection with the maintenance of religious harmony

9. The President's concurrence is required for further detention under the Internal Security Act (ISA) if Cabinet disagrees with the ISA advisory board's advice that the detainee should be released. His concurrence also allows the Director of the Corrupt Practice Investigation Bureau to continue with investigations even if the Prime Minister has refused permission to conduct the investigations. The President can cancel, vary or confirm any restraining order made under the Maintenance of Religious Harmony Act, if the decision of Cabinet is against the recommendations of the Presidential Council for Religious Harmony.

Conclusion

10. The custodial and non-executive nature of the President's role is not new. It was clearly explained by Mr Goh Chok Tong (as First Deputy Prime Minister) when he moved the Constitutional Amendment creating the elected Presidency in 1990, and reiterated by Mr Goh (as Prime Minister) in a statement to Parliament in 1999.

11. This clarification should help Singaporeans better understand the role of the elected President, as set out in the Constitution.

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