

By **K.C. VIJAYAN**
SENIOR LAW CORRESPONDENT

SINGAPORE'S Constitution is not set in stone and can be amended as provided by rules and procedures under the law.

Attorney-General V.K. Rajah made this clear on Thursday when he addressed a conference at the National University of Singapore (NUS) law faculty.

Describing the issue as fairly straightforward, he said: "The Constitution has made it very plain and specific provisions stipulate how its various provisions may be amended.

"Even fundamental provisions can be amended... although entrenched provisions require a national referendum. There is therefore no question of any provision of the Constitution, however fundamental, being immune from amendment."

In making this point, he referred to a fairly recent discussion that certain features of the Constitution are inviolate.

The Constitution safeguards fundamental liberties such as the freedom of religion and provides for the structure of the Government, judiciary and Parliament.

Last September, an article in the Law Gazette argued, as an example, that abolishing the elected

presidency may be against the basic structure of the Constitution.

The debate was featured in *The Straits Times*.

In his speech titled "Interpreting the Constitution", which was delivered to an audience of local and foreign academics, students and legal practitioners, Mr Rajah accepted there may be matters "that some of us hope can be placed under constitutional protection". But this is not a matter for the courts.

Mr Rajah stressed that in interpreting the Constitution, "we must be guided by what the text is, not what we hope for it to be.

"To venture beyond the text of the Constitution and enunciate a

Singapore Constitution not set in stone: A-G

Prescribed
processes
stipulate how it
may be amended

meaning that reflects what the law should be is to disrespect the principles of separation of powers: This is an exercise that violates rather than upholds the Constitution."

He noted that the courts here have "firmly and quite rightly" refused repeated invitations to go beyond the reach of particular

clauses. He highlighted the 2010 case of Yong Vui Kong, who went on to become the first drug trafficker to have his death sentence reduced to life imprisonment after changes were made to the law.

In that case, the Court of Appeal declined to debate the constitutional fairness of the mandatory death penalty.

Mr Rajah said that even when a judge is required to go beyond the plain words of the Constitution, it is critical that the decision is explained and justified by reference to legal rules and precedents.

Otherwise, they would be replacing the Constitution with their personal views. But he stressed that judges alone cannot

secure the health and vitality of the Constitution.

"Beyond the organs of state, the strength of the Constitution ultimately depends on its acceptance by the people: by you and me and our fellow citizens."

He said the Constitution as devised by then Prime Minister Lee Kuan Yew and his colleagues had served Singapore well for the past 50 years.

"As we look ahead, each succeeding generation must decide for itself if the Constitution continues to reflect its aspirations and our national conditions, and have the strength of conviction and the boldness of spirit to make any necessary change."

The conference, "Judging the Constitution: The Theory and Practice of Constitutional Interpretation in Singapore", was funded by the NUS Centre for Asian Legal Studies.

NUS assistant professor of law Jaclyn Neo, whose article "Should constitutional principles be eternal?" was featured in this paper, said: "The A-G gave a phenomenal sweep of the constitutional law landscape in Singapore. One crucial takeaway is that there is space for reasonable and constructive disagreement."

✉ vijayan@sph.com.sg

■ SEE OPINION A44