

## Will the IPCMC haunt the EAIC?

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Wednesday, 11 March 2009 22:28



The Enforcement Agency Integrity Commission (EAIC) bill, unveiled for first reading in parliament today, comes some three years after the proposal for the Independent Police Complaints and Misconduct Commission (IPCMC).

Criticised as being an inadequate alternative, it looks unlikely for the new commission to rid itself from the shadows of the IPCMC unless it performs up to expectation.

The EAIC is the third in a series of reform bills backed by Prime Minister Datuk Seri Abdullah Ahmad Badawi as part of his “Integrity Agenda” which also saw the establishment of the Malaysian Anti-Corruption Commissions (MACC) and Judicial Appointments Commission (JAC).

The EAIC, tabled by Home Minister Datuk Seri Syed Hamid Albar, is the second makeover of the original IPCMC bill.

The proposed bill replaces the much-criticized Special Complaints Commission (SCC) bill tabled in late 2007 in place of the IPCMC.

The EAIC’s objective is to improve the integrity of enforcement agencies, to reduce enforcement officer misconduct and to promote public confidence.

EAIC’s key points to note:

- Encompasses 21 enforcement agencies including the National Anti-Drugs Agency, voluntary corps Rela, the Immigration Department of Malaysia, the Royal Malaysian Police and Commercial Vehicles Licensing Board. The MACC is not included in the bill.
- The EAIC is empowered to investigate any alleged misconduct or abuse of power whether committed on or off duty.
- The commission, upon concluding its investigations, can refer the case to disciplinary authorities of the relevant agencies for action. Alternatively, criminal cases can be referred to the public prosecutor while corruption-related cases would be referred to the MACC.
- The commission would also assist the government in formulating legislation, make recommendations on administrative measures as well as conduct site visits to the premises of enforcement agencies.
- In its investigations, the commission may either conduct public proceedings or closed hearings in cases involving confidential documents or matters.

The main gripe among critics of the EAIC is its lack of power to prosecute any enforcement officer found guilty of committing any crime or misconduct.

Human rights group Suaram’s coordinator Tah Moon Hui expressed disappointment in the EAIC bill precisely because of this. “We don’t think the EAIC can solve the problems (in enforcement agencies) because the commission has no power to take action.”

Tah, who monitors issues on police power and right to justice, also lamented the secrecy surrounding the drafting of the EAIC bill, saying that civil society and the public had not been consulted in the process.

“Civil society will continue to make calls for the government to table the IPCMC Bill,” he said. “We don’t think the EAIC has the power, we still want the IPCMC.”

Civil society, opposition leaders and the public had repeatedly pressured the government to table the IPCMC as recommended by the Royal Commission to Enhance the Operation and Management of the Royal Malaysian Police in 2005.

The commission had released a massive 576-page report, making 125 recommendations in three key areas of reform, including measures to reduce crime, eradicate corruption within the police force as well as steps for the police to have greater compliance with human rights standards.

The police reacted very negatively to the IPCMC, as the commission would have the power to discharge, and demote police officers found guilty of crimes and misconduct. Crucially, it also has prosecution powers.

Some of the key features of the IPCMC:

- The IPCMC is empowered to initiate its own investigations and to direct the Inspector-General of Police to commence investigations, regardless of whether the commission had received a complaint or not.
- The IPCMC was not subject to secrecy laws and is empowered to intercept any forms of communication to assist in its investigation.
- The IPCMC would have wide-ranging disciplinary powers and can initiate legal action via its chief legal counsel.

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- The IPCMC Act contained no provisions for amendments.

Although many government critics and opposition members have pushed for the establishment of the IPCMC, Datuk Dr Denison Jayasooria, a member of the Royal Commission, told a public forum in February that implementation alone would not be enough to achieve the desired reform of the police.

What is required is the strengthening of enforcement agencies' internal systems and mechanisms in parallel with an external oversight body. "The policemen need to have the will within them," Denison said, citing an example from the New York police force's internal watchdog group.

When asked whether the IPCMC would still be relevant if an alternative act was enacted, Denison, a Suhakam commissioner, said that the IPCMC would remain as the benchmark.

"Even if the Act (SCC) cannot match the proposed IPCMC, because the Act would be in some modified form, it's still something," Denison said at the public forum. "Then try to reform it and so on. Reform takes time," he added.

When contacted for comment on the newly-proposed EAIC, Denison preferred to reserve comment until he had read the bill.

Although just newly unveiled and likely to receive a fresh round of criticism, the EAIC bill – like the MACC and JAC – is almost certain to be passed. It's doubtful though that the EAIC will satisfy critics of its predecessor, the SCC, as it is still a substantially watered-down version of the IPCMC.

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Last Updated on Thursday, 12 March 2009 03:44