

Prosecution powers mooted for MACC
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The Parliamentary Special Committee on Corruption (SCC) has recommended that the Federal Constitution be amended to ensure the independence of prosecutors to charge a high-profile person.

It notes the main issue raised by the public resulting in a negative perception towards the Malaysian Anti-Corruption Commission (MACC) is that it does not have the power to prosecute except with the consent of the public prosecutor based on Article 145 (3) of the Federal Constitution.

"The DPPs stationed in MACC are only able to make decisions upon ordinary investigation cases... however, high-profile and sensitive cases will be referred to the attorney-general's chambers.

"The MACC's independence is only seen in its power to conduct investigations but not to make decisions to prosecute or otherwise on offences," the SCC report states.

NONEThe SCC is headed by Radzi Sheikh Ahmad (right in photo). The report was released today.

The SCC, it said, is fully aware that to provide the MACC an independent power to prosecute through amendments of the MACC Act 2009, is considered ultra vires the constitution.

"Hence, the SCC recommends that the federal constitution be amended to enable such power to be given to the MACC to enable it to prosecute offences under the MACC Act 2009."

"The SCC further states that should there be any abuse of power by the MACC on the given prosecution power, the five-member board/committee/panel established has sufficient powers to act as a check-and-balance mechanism to ensure this would not happen."

Lack of budget

The report also states that MACC was allocated an inadequate budget, receiving only 51.61 percent of the amount it had applied for this year.

NONE"The MACC has applied for an allocation of RM324.11 million but only RM156.84 million was approved. This is only 0.08 percent of the national budget.

"In comparison, the total budget received by Hong Kong's Independent Commission Against Corruption (ICAC) for last year was HK\$808.1 million (RM328.3 million) which is 0.34 percent of the territory's budget," said the SCC.

As a result, the financial constraints are felt by the MACC as other expenses including overtime, travel allowances and the hiring of new staff are affected.

It noted that in 2008, the MACC was promised an additional 5,000 officers (ie 1,000 annually for the next five years).

"However, only 33 additional posts have been approved so far to the MACC for this year,"

the SCC report states, adding that the limited recruitment has affected the MACC's effectiveness in the discharging of its duties.

The report notes that the corruption scenario has become more complex and sophisticated.

Only 45 percent conviction

The MACC report also states that last year 754 cases were brought to trial at the subordinate courts, including 176 fresh cases.

Of this total, 174 cases have been completed, of which 45.4 percent or 79 cases resulted in convictions, while 43 resulted in acquittal without the defence being called and another 23 resulted in discharges not amounting to an acquittal.

The MACC report also states that out of 119 cases on appeal at the High Court, 77 or 64.7 percent of decisions were in the prosecution's favour and 33.6 percent or 40 cases were against the commission. Another two appeals were withdrawn by the MACC.

At the Court of Appeal, the MACC obtained a higher success rate where decisions in 25 cases or 86.2 percent were in the prosecution's favour and four cases or 13.8 percent were in favour of the defence.

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