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From Complaint Institution to Ombudsman: Structural Effectiveness, Challenge and Reform in Malaysia

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ABSTRACT

This article evaluates the structural effectiveness of Malaysia's primary complaint institutions—the Public Complaint Bureau (PCB), Enforcement Agency Integrity Commission (EAIC), Independent Police Conduct Commission (IPCC), and Human Rights Commission of Malaysia (SUHAKAM)—in anticipation of the upcoming Ombudsman Bill. The authors employ a doctrinal research method to study the effectiveness of these bodies, primarily their lack of structural independence from the executive and the absence of binding enforcement powers. The authors found that although all the complaint institutions are efficient in case resolution, these institutions frequently function as "toothless tigers" because their recommendations are routinely disregarded or partially implemented by government agencies. The article also looks into the potential challenges for the proposed Ombudsman Bill, such as enforcement power, structural independence, and jurisdiction issues. The authors recommend that the new ombudsman must have binding power, be elected by a special standing committee, separate the federal ombudsman and state ombudsman, and specify all the agencies that will be under the Ombudsman's purview in a single schedule. Finally, the article proposes urgent reforms for the IPCC and SUHAKAM.

Keywords: Ombudsman; Malaysia; Administrative law; Maladministration; Effectiveness

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1. Introduction

The Ombudsman office originated in Sweden in 1719. The office was established to exercise general supervision to ensure that laws and regulations were complied with and that public servants discharged their duties properly. After World War II, the concept of such an office spread all over the world, starting from Denmark in 1954, New Zealand in 1962, the United Kingdom in 1967, etc (Hertogh & Kirkham, 2018, p. 20–21). While Malaysia, following international trends, also had the idea of an ombudsman office in 1967, the idea was dropped, and a public complaint bureau was established under the Prime Minister's Department (Jain & Cremean, 2011, p. 775).

Following the introduction of the National Anti-Corruption Plan 2019–2023, one of the strategic aims to be achieved by the government is to replace the old Public Complaint Bureau with a new and independent Ombudsman Office within 2 years (Prime Minister's Department, 2019, p. 39). However, although the Minister in the Prime Minister's Department had promised to table the bill as soon as possible, the transformation from PCB to an ombudsman had been extended to the National Anti-Corruption Strategy 2024-2028 due to an unsuccessful attempt to establish it (Prime Minister's Department, 2024, p. 61). However, as of the date this article is submitted, the proposed bill has not been tabled yet.

Following the tabling of the new ombudsman bill in 2026, the issue that arose is whether the new ombudsman institutions may be effective in handling complaints. Malaysia has several complaint institutions such as the Public Complaint Bureau, Enforcement Agency Integrity Commission, Independent Police Conduct Commission, and Human Rights Commission, and all of them are being criticised for various reasons (Lee, 2017; Ayub et al., 2021; Jen, 2022; Thio, 2009). Therefore, the core issue now is how effective the new ombudsman institution will be. Whether it will be like the existing complaint-handling institutions that are facing lots of criticism.

This article discusses the concept of the Ombudsman, the current composition and structure of the complaint institution in Malaysia, the effectiveness of these institutions, the possible challenges of the upcoming Ombudsman institution, recommendations to the bill, and possible reforms of the current complaint institutions.

1.1 Methodology

This article employs the doctrinal research method. Doctrinal research requires both primary and secondary sources. Primary sources are legislative texts (statutes) and judicial decisions, while secondary sources include dictionaries, legal writing in the form of books or research articles, and encyclopaedias (Majeed et al., 2023).

2. Concept of Ombudsman

Although the ombudsman has no universal definition, the most cited definition is the International Bar Association (IBA) definition in 1974 (Sabine, 2012), which is stated as follows:

> "An office provided by the constitution or by action of the legislature or Parliament and headed by an independent high-level public official who is responsible to the legislature or parliament, who receives complaints from aggrieved persons against government agencies, officials and employees or who acts on his own motion, and has power to investigate, recommend corrective actions and issue reports." (Allen, 1974, p. 1078).

The core function of an ombudsman includes, but is not limited to, investigation of complaints, own-initiative investigation, promotion of good administrative practices, public outreach and education, advisory role and policy influence, and safeguarding fundamental rights (Zhyvko et al., 2025). It is noteworthy that the term "Ombudsman" has been widely used throughout the world to simply mean any complaint-handling mechanism, whether governmental or non-governmental (Frank, 1975, p. 55).

An ombudsman usually has no power to alter a decision when a complaint is found to be justified, although they may persuade the relevant authority or department to alter its decision or to pay compensation for the complaint (Brown & Marriott, 2011, pp. 19-034). The ombudsman has a reporting duty. In specific investigations, the ombudsman reports to the complainant, the government, and, if recommendations are not implemented by the administration, the ombudsman can present the matter to the legislature. Besides, the ombudsman also has a duty to make an annual report to the legislature on the activities of the office. Sometimes ombudsmen can issue special reports based on investigations for more serious cases (Reif, 2004, p. 4). Examples of the Ombudsman office in other jurisdictions include the Parliamentary and Health Service Ombudsman in the United Kingdom, the Commonwealth Ombudsman in Australia and the Office of the Ombudsman in Hong Kong.

3. Literature Review

This literature review is divided into three main sections, namely introduction of literature, the need for ombudsman and classification of ombudsman.

Ombudsman falls within the area of administrative law, and therefore, much literature on administrative law has been used, such as the books Principles of Administrative Law by Jain et al. (2011), Beatson, Matthews, and Elliot Administrative Law Text and Materials by Elliot et al. (2011), and other journals and reports related to the topic. Out of all sources, the book 'The Ombudsman, Good Governance and the International Human Rights System' by Reif (2004) is widely used for understanding the international standard of ombudsman. Many journals and reports are also used to evaluate the structural effectiveness of current complaint institutions, such as 'Enforcement Agency Integrity Commission: Whither Is It

Bound?' by Ayub et al. (2022), 'The Polemics of the Independent Police Complaints and Misconduct Commission (IPCMC) Bill 2019 and Independent Police Conduct Commission (IPCC) Bill 2020' by Jen (2022), and 'Situating Suhakam: Human Rights Debates and Malaysia's National Human Rights Commission' by Whiting (2003). A notable report published by the C4 Centre, titled "Structuring the Malaysian Ombudsman Office", also shares a similar approach to this article, as it primarily focuses on recommendations for the upcoming ombudsman bill (Linggaraj, 2024).

3.1 Need for Ombudsman

Some may ask why there is a need for such an ombudsman system while courts are already empowered to address abuse of administrative power by way of judicial review. As noted by Bradley (Bradley, 1980, p. 309-310), "at a time when the system of administrative law was failing to give the individual effective protection, the creation of an Ombudsman was needed to make possible the development of a new equity, suitable for a much-governed nation." The authors agree that while judicial review may be the best solution for abuse of administrative power, due to its shortcomings, an ombudsman system is needed. An Ombudsman system provides accessibility, flexibility and a less formal avenue for individuals to seek redress, particularly in cases where legal remedies are inadequate.

The first shortcoming is the evidential threshold. As mentioned by Jain et al (Jain et al., 2011, p. 2661), in judicial review cases, the burden of proof to prove that the public authority had abused its power is on the claimant. Only when such is proved does the Court give a remedy based on grounds such as mala fide, etc. However, it is not easy for an ordinary person to get the evidence, as he has no access to any of the government records. Courts are also generally reluctant to order the concerned administrative authority to produce the relevant departmental records. The authors agree with Jain et al. that ordinary citizens often face serious difficulties in obtaining relevant information from public authorities. This makes it hard for them to prove their case effectively, and in turn reduces the practical effectiveness of judicial review as a means of controlling administrative power.

The second shortcoming is the limited grounds of judicial review. Jain et al. (2011, p. 2661) suggested that although it seems that the Ombudsman and judicial review may have an overlap in jurisdiction. However, judicial review can only review the matter on limited grounds such as ultra vires and mala fide. Courts do not ordinarily review the facts decided by administrative authorities, except to a limited extent, as judicial review concerns procedural justice. On the contrary, an ombudsman can investigate allegations of rudeness, delay and so on, which may not disclose illegality for judicial review purposes, as Elliot et al. (2011, p. 712) suggested. An ombudsman can investigate matters that cannot be examined by the courts through judicial review. This factor further reinforces the argument that there is a need for an ombudsman in Malaysia.

Similarly, Zhyvko et al. (2025, p. 88) suggested that while traditional oversight mechanisms such as judicial review and parliamentary inquiries play important roles, they

often face limitations in terms of accessibility, procedural complexity, and responsiveness. In this context, ombudsman institutions have emerged as a complementary, non-judicial avenue for redress and oversight, particularly suited to addressing grievances related to maladministration and the abuse of bureaucratic discretion. However, they argued that the national ombudsman institution can successfully promote legality and fairness and protect citizens without the coercive punitive power of the courts. The effectiveness of ombudsman institutions comes from their positive characteristics such as moral credibility, procedural accessibility, transparency, and public outreach (Zhyvko et al., 2025, p. 97). While the authors agree that the ombudsman is a better solution due to the stringent nature of judicial review, the authors disagree that the ombudsman can promote legality, fairness and protect the citizen on its own without coercive punitive power, which will be further explained in the article.

3.2 Classification of Ombudsman

According to Rowat, the classification of ombudsmen should be based on the extent to which they can be distinguished from the classical ombudsman system. He opined that there can only be two broad categories, i.e., the public sector and the private sector (Rowat, 1997). A public sector ombudsman, as the name suggests, has jurisdiction in a specific service area. Meanwhile, the private sector ombudsman has jurisdiction only within a specific industry or trade, as suggested by (Olalekan, 2020, p. 868). As Hodges (2018, p. 53) states, the primary functions of private-sector ombudsmen are to resolve disputes between consumers and traders. They operate at the intersection of three different worlds: consumer dispute resolution; market regulation and consumerism; and information technology. Private sector ombudsmen have been developed in banking, insurance, construction, newspaper/press and other private enterprises. This does not involve the transfer of governmental function to the private entities (Olalekan & Mohamed, 2017, p. 19). One example of a private sector ombudsman in Malaysia is the Financial Market Ombudsman Service (FMOS), previously known as Ombudsman for Financial Services (OFS).

For public sector Ombudsman, the typical or prototype organisation is generally referred to as the classical ombudsman. According to Dolan and Bennett (Dolan & Bennett, 2019), it responds to complaints from citizens or constituents about administrative unfairness across an entire jurisdiction, whether a country or a sub-jurisdiction such as a state or province.

Besides the classical ombudsman, there are also quasi-ombudsmen, which are also known as executive ombudsmen. Quasi-ombudsmen share many of the classical ombudsman's characteristics but lack a fundamental structural feature—usually some compromise has been made concerning the office's independence, as Hill (1983, p. 44) stated. Similarly, Mohapatra (1978) suggested that an executive ombudsman is a part of the public bureaucracy. He has neither the independence of the 'classical ombudsman' nor his powers.

There is also a hybrid ombudsman, which is allowed to investigate both the public and private sectors. There are a lot of variations of hybrid ombudsman, such as human rights, anti-corruption, leadership code enforcement, and/or environmental protection functions, as Reif (2004) suggested. A hybrid human rights ombudsman can be described as an institution established by a government that has been given two roles: to protect and promote the human rights of persons, usually against the state, and monitor government administration for legality and fairness (Reif, 2004, p. 87). The Human Rights Commission also performs a similar function, which is to protect and promote human rights in the nation or a federal sub-unit. (Reif, 2004, p. 85) Khoo (2017) defined the National Human Rights Commission (SUHAKAM) as a commission, but due to a similar function, SUHAKAM will be discussed as a hybrid human rights ombudsman under this article.

There are many variations of the ombudsman, including a single-sector ombudsman, as suggested by (Reif, 2004, p. 27). This type of ombudsman is competent over one sector only, such as the police, correctional facilities, defence forces, the prevention of discrimination and equal opportunities, children, etc (Reif, 2004, p. 34).

4. Current Complaint Institutions in Malaysia

There are several complaint institutions in Malaysia that perform similar functions to the Ombudsman currently, i.e., addressing complaints against public authorities. These complaint institutions are the Public Complaint Bureau, Enforcement Agency of the Integrity Commission. Independent Police Conduct Commission and Human Rights Commission Malaysia. This section will discuss the composition, structural effectiveness of these institutions, common challenges, and anticipate the challenges based on these defects faced by these institutions.

4.1.1 Public complaint Bureau (PCB)

As mentioned before, there was an idea of establishing a classical ombudsman in Malaysia. However, the idea of the classical ombudsman was dropped. The government created the Public Complaint Bureau, which is an executive ombudsman, as the department is established under the Prime Minister's Department. Several reasons are given. An ombudsman is only effective in a unitary-type state where power is centralised; the system has been effective in countries with long and deep parliamentary systems; Malaysia is a multiracial society with acute racial sensitivities, and so there exist potentialities for political and racial exploitation arising from consistency and extensive publicity on the activity of an ombudsman (Jain & Cremean, 2011, p. 775).

The PCB is headed by a Director General. It is attached structurally to the Prime Minister’s Department. The functions of the PCB are supervised by the Permanent Committee on Public Complaints (PCPC), which is headed by the Chief Secretary to the government (Siddiquee, 2005). This makes the PCB an executive ombudsman, instead of a classical ombudsman, as it is not independent like a classical ombudsman.

The PCB is established to bring about a closer rapport between the government and the public. It also aims to establish a channel by enabling the public to put forward their complaint in connection with the government administration or complaints in federal administrative action deemed unjust (Jain & Cremean, 2011, p. 775). The PCB is purely an administrative arrangement, and it has continued to perform its role effectively by drawing its authority mainly from the various Administrative Development Circulars (ADC) and Administrative Development Circular Letters issued by the Chief Secretary to the Malaysian Government from time to time (Chua, 2007).

The Public Complaint Bureau (PCB) acts as an executive monitoring authority that investigates public complaints regarding maladministration and service delivery failures by government agencies. The Bureau filters submissions to ensure they constitute formal "Public Complaints" ("Aduan Awam"), rejecting general inquiries, suggestions, or appreciation. Furthermore, complaints falling under the jurisdiction of other oversight bodies, such as MACC or the Malaysia Human Rights Commission, are excluded. Once a complaint is formally assigned to an investigator, the investigative efficacy is hindered by limited powers, as officers are primarily restricted to requesting additional documentation from the complainant (Biro Pengaduan Awam, n.d.). Ultimately, the PCB lacks legal enforcement power and must rely on "urging" departments to adopt non-binding recommendations for corrective action in line with administrative circulars (Ministry of Agriculture and Food Security, 2022).

The PCB will report the investigation results to the PCPC, a high-powered committee, chaired by the Chief Secretary to the Government. Reports on allegations of serious wrongdoings in the public service would be reported to the committee, which would then decide on the appropriate actions to be taken. The committee has extensive powers, including the right to institute investigations and to direct any officer to explain and account before it. It can also give the PCB the right of access to records. All decisions made by PCPC must be implemented promptly by the relevant departments (Chua, 2007).

4.1.2 Effectiveness of the PCB

The PCB is always said to be effective due to the number of complaints resolved per year. The table below shows the rate of completed solutions by the PCB in terms of complaints that were accepted by the PCB. Through the analysis of the data by other researchers, the PCB is said to be effective, as the rate of complaints solved is above 80%. However, the decision not to make it compulsory for ministries and government agencies to use the system has caused inconsistency in providing real results towards public complaints, mainly because the PCB does not have the same force of law compared to powers conferred under an Act or Legislation duly passed by Parliament. The PCB power is only governed by Official Circulars (Ali et al., 2023, p. 18). Nevertheless, its effectiveness is seen in the increasing number of complaints lodged and the high rate of solving these complaints. Similarly, A study on PCB Sabah branches also shows a similar result, in which 49% of respondents were satisfied with the PCB Sabah branches, while only 6 % of respondents

were not satisfied with it. It is most likely because customers expected the PCB to resolve the issues raised and for the resulting decision to favour them, while the action for resolving complaints falls under the jurisdiction of the relevant agency, and not all their wishes can be fulfilled (Aris, 2020).

	2018	2019	2020	2021	2022	2023	2024
Total complaints received	6387	9177	8727	10455	16652	17301	28522
Total complaints resolved	5805	9037	7256	9468	14482	16804	21898
Percentage of solved complaints	90.9%	98.9%	83.14%	90.56%	86.96%	97.12%	97.07%

Table 1: Number of Complaints Received Compared to Complaints Resolved (Biro Pengaduan Awam, n.d.)

However, although statistics show that the PCB is effective in handling complaints, it is still frequently criticised as ineffective. The first criticism is the lack of independence. The PCB does not owe its existence to any statute. This means that the PCB is merely a body that derives its authority from circulars issued by the Prime Minister's Department. This means that every aspect of the PCB's structure, jurisdiction, and powers is susceptible to alteration by the government of the day at any given time (Lee, 2017). Therefore, the PCB is a part of the executive and has no legal power to investigate alleged cases of maladministration or to enforce recommendations. Its function depends entirely on the cooperation of various government departments and agencies (Jain & Cremean, 2011, p. 776).The PCB can only be a quasi-ombudsman instead of a classical ombudsman because the PCB has no independence. This lack of structural independence from the Executive puts into question its ability to be truly objective or credible in the eyes of the public (Lee, 2017, p. 14).

Another major criticism often levelled against the PCB is regarding its accountability. As discussed earlier, the PCB is not accountable to Parliament or even the Cabinet directly; it is only accountable to the PCPC, which is then accountable to the Cabinet. Unlike a classical ombudsman, the Bureau has no access to Parliament and does not submit reports to it (Jain & Cremean, 2011, p. 776). Consequently, Ministries and agencies answer to PCPC, not the PCB, meaning officers essentially explain themselves to their own Heads of Ministries. Ultimately, this means civil servants answer only to the Head of the Civil Service, as the PCB lacks the power to force officers to answer to Parliament (Lee, 2017, p. 13).

Lack of power is another topic of criticism of the PCB. As Rajoo (2018) suggested, the PCB has already proven to be ineffective due to its being headed and administered by personnel with limited power. As discussed before, the PCB which has only limited power, and which does not include access to government documents, can only make non-binding

recommendations, and has no power to report to Parliament. The PCB can only investigate cases and forward its report to PCPC for further deliberations and decisions on recovery actions (Siddiquee, 2005). PCPC also has extensive powers, including the right to institute investigations and direct any officer to explain and give an account, while also having the power to give PCB the power to access records (Lee, 2017).

4.2 Enforcement Agency Integrity Commission (EAIC)

The Enforcement Agency Integrity Commission (EAIC) is one of the complaint institutions which deals with misconduct in Enforcement agencies. Like PCB, EAIC can be classified as an executive ombudsman rather than a classical ombudsman due to the lack of enforcement powers and structural dependence on the executive branch, as the commissioner is appointed by Yang di-Pertuan Agong (YDPA) on the advice of the Prime Minister.[1]

Enforcement Agency Integrity Commission (EAIC), unlike PCB, is a Federal Statutory Body established by an Act of Parliament, namely the Enforcement Agency Integrity Commission Act 2009 (Act 700). This Act is intended to replace the Independent Police Complaints and Misconduct Commission Act of 2005, which was meant to make the Royal Malaysian Police much more accountable, thus helping restore and sustain public confidence in the force (Ramli et al., 2015). EAIC goals are to instil and enhance integrity among enforcement officials and enforcement agencies, as well as to strengthen the public's trust in them. (Othman et al., 2022)

EAIC was established to improve the integrity of the enforcement agencies, to reduce misconduct amongst enforcement officers, and to promote public confidence in the enforcement agencies.[2] S. 4 of Act 700 outlines many of the functions of EAIC, but the main function is to receive complaints from the public and investigate cases of misconduct against enforcement officers involving 21 enforcement agencies as regulated under the Schedule.

Any person can lodge a misconduct complaint with the EAIC.[3] Submissions undergo an initial evaluation by the Complaints Committee (CC) to conduct a preliminary investigation,[4] which assesses the complaint before a full investigation identifies specific individuals and misconduct (Ayub et al., 2022, p. 32). If the CC finds a basis for misconduct under Section 24, it recommends a full investigation to the Commission.[5] Alternatively, the CC may recommend referring the matter directly to the MACC or an appropriate disciplinary authority.[6] Upon approval, the Commission initiates the investigation and notifies the relevant agency and the Public Prosecutor.[7] Furthermore, referred matters must

[1] Enforcement Agency Integrity Commission Act 2009, s. 5(1).

[2] Explanatory Statement to Enforcement Agency Integrity Commission Bill 2009.

[3] Enforcement Agency Integrity Commission Act 2009, s. 23.

[4] Enforcement Agency Integrity Commission Act 2009, s. 25.

[5] Enforcement Agency Integrity Commission Act 2009, s. 26(3).

[6] Enforcement Agency Integrity Commission Act 2009, ss. 26(1) and 26(2).

[7] Enforcement Agency Integrity Commission Act 2009, s. 27(4).

be reported back to the Commission within 30 days.[8] Following a completed investigation, the Commission will either close the case if unproven,[9] recommend specific punishments to the relevant Disciplinary Authority for disciplinary offences,[10] or refer findings to the Public Prosecutor if a crime is disclosed.[11]

The investigative power of EAIC on its own initiative under this section is very broad (Samsudin et al., 2022). Section 31 gives the Commission wide investigation powers, including holding hearings, calling and examining witnesses under oath, requiring documents, issuing arrest warrants or fines for non-compliance, accepting evidence that courts may not normally allow, compensating witnesses for attendance, and deciding whether hearings are open or closed to the public. EAIC may have the power to search and seize with or without a warrant in specific circumstances.[12] EAIC also has the power of investigation to establish a task force to help EAIC perform its functions more effectively and efficiently.[13] Members of the task force have all the powers of investigation, which are contained in the CPC.[14] To ensure accountability, EAIC is also required to submit an annual report to Parliament of all its activities during the year to which the report relates under S. 48 of Act 700.

4.2.1 Effectiveness of EAIC

Statistically, EAIC is said to be effective. The body and its regulatory system, through the implementation of Act 700, are workable and effective when one looks at the statistics of the complaints recorded and the investigation papers. They imply that the EAIC has done well in terms of receiving and collecting the complaints from the public and handling the cases (Ayub et al., 2022). Although EAIC is statistically effective, another study in the Customs Department shows that the perception of the officers and members of the Royal Malaysia Customs Department on the effectiveness of EAIC on the enforcement agencies is at a moderate level (Ayub et al., 2024). This implies that while EAIC appears operationally efficient on paper, it is not fully reflected in stakeholder confidence. The moderate perception among enforcement officers suggests that its impact on actual accountability and behavioural change within agencies remains limited.

However, EAIC is still facing a lot of criticism in terms of effectiveness. As former president of the Malaysian Bar, Lim Chee Wee, had stated: "The existing EAIC is a watered-down substitute for the Independent Police Conduct Complaints and Misconduct

[8] Enforcement Agency Integrity Commission Act 2009, ss. 27(1), 27(2) and 27(3).

[9] Enforcement Agency Integrity Commission Act 2009, s. 30(1)(a).

[10] Enforcement Agency Integrity Commission Act 2009, s. 30(1)(b).

[11] Enforcement Agency Integrity Commission Act 2009, s. 30(1)(c).

[12] Enforcement Agency Integrity Commission Act 2009, ss. 40 and 41.

[13] Enforcement Agency Integrity Commission Act 2009, s. 17(1).

[14] Enforcement Agency Integrity Commission Act 2009, s. 17(4).

Commission (IPCMC) and would therefore be a less-than-effective oversight body." (Lim, 2013).

The biggest issue surrounding EAIC is enforcement. As an investigating body, EAIC does not act as an arbitrator in sentencing. It will only have the ability to counsel and take disciplinary action (Ayub et al., 2021). EAIC can only give a recommendation. Although EAIC only deals with a small number of agencies, many of the agencies will not actually follow up on the recommendation given by EAIC. For example, when a complaint against a police officer was found to be valid, and EAIC had provided a recommendation to the Royal Malaysia Police to decrease the wages, the Police may reject the recommendation and impose a lighter punishment such as a warning. As EAIC chairman Tan Sri Dr Ismail Bakar stated, only about half of the agencies involved had implemented the commission's recommended disciplinary actions in the recent 50 misconduct cases that occurred in public authorities (Vethasalam, 2025).

Similarly, there are numerous occasions where the department denied any liability and disregarded the recommendation made by EAIC. This can be seen in the cases of *Balamurugan M Suppiah* (2022),[15] and *Syed Mohd Azlan bin Syed Mohamed Nur* (2020).[16] Both victims were found dead while in police custody. EAIC had investigated the matter and published the report concluding that the police shall be liable for the incident. However, the police took no action on the report, which caused the family member to turn to the court to seek justice. The court ruled in favour of the deceased's family. Such incidents show that although EAIC is effective in conducting investigations, the organisation fails to implement the recommendation because the supervised agency was not complying with its recommendation; thus, it makes EAIC a 'toothless tiger'.

Another minor issue is its scope of jurisdiction. EAIC only covers 21 agencies, unlike PCB, which covers most of the government agencies. EAIC also has no power against state authorities, at most, at the time, as the state department is not in the list covered by Act 700.

4.3 Independence Police Conduct Commission (IPCC)

In 2005, the Royal Commission to Enhance the Operation and Management of the Royal Malaysia Police (RCR) identified serious problems within the police force and proposed 125 recommendations, including the creation of an Independent Police Complaints and Misconduct Commission (IPCMC) as an external oversight body (Kadir & Jusoff, 2020). Although an IPCMC bill was drafted, the government enacted Act 700 instead to oversee not only police misconduct but also other enforcement agencies. (Ayub et al., 2021) Despite continued calls for IPCMC by SUHAKAM (Human Rights Commission of Malaysia, 2019, p.

[15] *Insp Mohd Noor Husri bin Johari & Ors v. Natthanan Yoochomsuk (Pentadbir Estet dan Tanggungan Balamurugan a/l M Suppiah, Si Mati) & Anor* [2022] Malayan Law Journal Unreported 3795 (Malaysia High Court).

[16] *Syed Mohamed Nur bin Ali (executor and dependant of Syed Mohd Azlan bin Syed Mohamed Nur, deceased) v. Weddrin bin Mojingkin & Ors* [2020] 9 Malayan Law Journal 639 (Malaysia High Court).

64), the Bar Council (Gafoor, 2019), scholars (Kadir & Jusoff, 2020) and judges,[17] the IPCMC bill was withdrawn in 2020. A replacement IPCC bill was passed in 2022 and enforced in 2023, despite criticism (Jen, 2022).

IPCC is a single-sector ombudsman, as its jurisdiction only covers police misconduct in Malaysia. IPCC is different from the EAIC as it has jurisdiction over many government agencies (Ayub et al., 2021). S. 4 of the Independence Police Conduct Commission Act 2022 (IPCC Act) states that the function of the IPCC is to strengthen integrity within the police force, advising the Government on ways to improve integrity, and protecting the public by addressing police misconduct. It also establishes effective systems for receiving and investigating complaints against police officers. S. 5 of the IPCC Act provides the powers of the IPCC, which include advising the Government on police welfare, visiting police-related premises by giving early notice to the relevant Head of Department, making any necessary recommendations, receiving and investigating misconduct complaints, gathering evidence, and recommending disciplinary action to the Police Force Commission.

Anyone who wants to complain about the police force to the IPCC may make a complaint to a Complaint Committee, which is established under S. 23 of the IPCC Act.[18] S. 32 of the IPCC Act also allows the IPCC to commence an investigation of misconduct on its own initiative, but only if the IPCC is satisfied that it is in the public interest to do so, whether or not there is a complaint of misconduct relating to it.

For a complaint under S. 25(c) of the IPCC Act, which is a complaint related to the misconduct, the complaint shall be referred to any officer of the Commission for investigation. The IPCC has the power to examine a person as a witness[19] and obtain documents or other things for investigation.[20] IPCC can only make non-legally binding recommendations for disciplinary action to the Police Force Commission.[21] If it is an investigation into offences other than misconduct, it will be referred to the MACC[22] or the relevant authority. If findings indicate no misconduct, the complaint will be rejected, and the relevant Head of Department will be informed.[23] IPCC may also establish several Task Forces to assist the Commission in the investigation of any misconduct.[24]

[17] *N Indra a/p Nallathamby (administratrix of the estate and dependant of Kugan a/l Ananthan, deceased) v. Datuk Seri Khalid bin Abu Bakar & Ors* [2014] 8 Malayan Law Journal 625 (Malaysia High Court), p. 746.

[18] Independence Police Conduct Commission Act 2022, s. 24(1).

[19] Independence Police Conduct Commission Act 2022, s. 27.

[20] Independence Police Conduct Commission Act 2022, s. 28.

[21] Independence Police Conduct Commission Act 2022, s. 30(1)(c).

[22] Independence Police Conduct Commission Act 2022, s. 30(1)(a).

[23] Independence Police Conduct Commission Act 2022, s. 30(1)(d).

[24] Independence Police Conduct Commission Act 2022, ss. 31(1) and 30(2).

4.3.1 Effectiveness of IPCC

The effectiveness of IPCC has been criticised since the Bill was enacted. It is said that the IPCMC Bill was revised to a watered-down version and a largely ineffective IPCC Bill (Mallow, 2024). A total of 57 CSOs have made a joint statement to empower IPCC to remedy the public trust deficit in PDRM, which is due to the many incidents of police misconduct and abuse of power (Amnesty International Malaysia, 2024).

The first criticism lies in its investigative power. IPCC has less investigative power compared to the IPCMC Bill 2019 and EAIC. IPCC can only investigate a small scope of misconduct in S. 22(1) of the IPCC Act. It even excludes misconduct under S. 96 and S. 97 of the Police Act 1967 under S. 22(2) of the IPCC Act. Under S. 22 of the IPCC Act, the IPCC will be worse than the existing mechanisms under the EAIC, as investigations into key misconduct do not include acts covered by the inspector general's standing orders. Police officers can refuse to answer based on a subjective and arbitrary excuse, and there is no power for the commission to ensure its recommendations are implemented (""New" IPCC", 2020). This severely limits the powers of the IPCC, and the scope of misconduct should be extended (Sebastian, 2025).

Furthermore, the IPCC has limited essential "Search and Seizure" powers, rendering its ability to conduct thorough investigations weaker than that of the defunct EAIC (Sebastian, 2025). S. 28(6) of the IPCC Act also requires police or public body officers to get approval from their Head of Department before submitting documents to the Commission if they believe the information would prejudice national security or the national interest. This raises the question of whether this section could be abused to prevent the submission of documents that might help the investigation (Jen, 2022). The Task Force established under S. 31 of the IPCC Act also has lesser power, as it has the power only included in the IPCC Act, unlike IPCMC and EAIC, which are given power under the Criminal Procedure Code (Jen, 2022).

There is also no statutory requirement for IPCC to conduct public inquiries into deaths in custody or police brutality, which limits transparency and accountability (Sebastian, 2025). Under the IPCC Act, even if the IPCC wants to visit police premises, the IPCC must give early notice to the relevant Head of Department.[25] This will render such visits ineffective, as it will give time to the relevant authorities to respond, which may not be reflective of the actual situation at the premises (Cheah, 2022). As an independent body, the Commission is entitled to conduct surprise visits to places and premises without notice, to see for themselves the original condition of the place and premises, like EAIC and SUHAKAM, which have such power (Jen, 2022).

In terms of recommendation, the Commission cannot act against police officers who have committed wrongdoing but can only recommend proposed action to the Police Force Commission or other relevant authorities. Bar Council criticised it as a toothless piece of legislation that does not effectively achieve the intended objective (Cheah, 2023). Notably,

[25] Independence Police Conduct Commission Act 2022, s. 5(2)(b).

EAIC recommendations to the police to prosecute were often not followed (Faruqi, 2019). It is not unreasonable to expect the IPCC to face the same brick wall (Amnesty International Malaysia, 2024). Similarly, the IPCMC Bill had explicitly given the Commission disciplinary power over any police misconduct in S. 31, but the new IPCC Act did not include this power, which somewhat affects the function and purpose for which the Commission is being established (Jen, 2022, p. 240). The power to decide on penalties is all in the hands of the Police Force Commission, which is not independent of the police. Hence, regardless of how strong the evidence is and how comprehensive the findings are, the findings cannot be referred to the Attorney General's Chambers, Parliament, or any panel within the IPCC itself to take necessary action (Jen, 2022).

The last criticism revolves around the appointment process and accountability. As per S. 6 of the IPCC Act, the commissioner is appointed by the YDPA on the advice of the Prime Minister. S. 14 of the IPCC Act also has a similar provision that the Secretary of the IPCC is to be appointed by the Minister in charge of Home Affairs, and the officers of the IPCC may be appointed from any government agencies on a secondment basis to be its investigators. At the same time, the IPCC Act does not bar the appointment of former police officers or current government officials to the commission, unlike the IPCMC Bill and EAIC. This raises an issue of conflict of interest and the independence of the Commission itself (Jen, 2022). As far as the Bar Council is concerned, it further undermines any form of independence or impartiality in this oversight mechanism, leading it to become further entwined with the Executive (Cheah, 2022).

4.4 Human Rights Commission (SUHAKAM)

Human Rights Commission of Malaysia (SUHAKAM) was established in 1999 under the Human Rights Commission of Malaysia Act 1999 (HRCMA).[26] Its aim is to protect human rights in Malaysia and to provide for matters connected therewith or incidental thereto.

Although SUHAKAM is not a hybrid ombudsman and only a commission (Khoo, 2017), it is still under this topic because the public can still complain about issues relating to human rights infringement cases to SUHAKAM. Under S. 12, SUHAKAM may, on its own motion or on a complaint made to it by an aggrieved person, a group, or someone acting on their behalf, inquire into an allegation of the infringement of human rights of such person or group of persons. However, there are certain limitations. SUHAKAM shall not inquire into any complaint relating to any allegation of the infringement of human rights which is the subject matter of any proceedings pending in any court, including any appeals.[27] or has been finally determined by any court.[28] If the subject matter of inquiry becomes subject matter of a court proceeding, SUHAKAM shall immediately cease to do the inquiry.[29] However,

[26] Human Rights Commission of Malaysia Act 1999, s. 3.

[27] Human Rights Commission of Malaysia Act 1999, s. 12(2)(a).

[28] Human Rights Commission of Malaysia Act 1999, s. 12(2)(b).

[29] Human Rights Commission of Malaysia Act 1999, s. 12(3).

SUHAKAM may inquire into a complaint, but it is not mandatory. SUHAKAM does not need to conduct an inquiry for any complaint, as the wording in S. 12(1) is only 'may', which gives SUHAKAM the discretionary power to hold or not to hold the inquiry.[30]

During the inquiry, SUHAKAM is empowered to gather and receive any form of evidence it considers necessary, whether written or oral, and to examine witnesses.[31] It may require witnesses to give evidence under oath or affirmation and can authorise its officers to administer such oaths.[32] The Commission may summon any person in Malaysia to attend its meetings to provide evidence or produce documents or items in their possession.[33] It is also allowed to admit evidence that would normally be inadmissible under the Evidence Act 1950.[34] Additionally, the Commission has the discretion to allow or exclude the public from the inquiry or any part of it.[35] When the inquiry discloses infringement of human rights, SUHAKAM shall have the power to refer the matter, where appropriate, to the relevant authority or person with the necessary recommendations.[36] However, the SUHAKAM recommendation or report was never legally binding.[37]

4.4.1 Effectiveness of SUHAKAM

SUHAKAM, like other complaint institutions, is being criticised as ineffective. The main criticism is the enforcement power. SUHAKAM is like other complaint institutions in Malaysia, which only have the power to make recommendations but not to enforce them. On many occasions, SUHAKAM might have already given recommendations or solutions to the government, but the attitude of the government always makes SUHAKAM ineffective. Former Prime Minister Dr Mahathir's words may be the best example of the government's attitude against SUHAKAM: "SUHAKAM is just a group of people, but most of the people, their interests must be taken into consideration. They are free to give suggestions, but it does not mean we have to follow them." (Thio, 2009, p. 1332). SUHAKAM is only considered an advisory body, and therefore, government agencies and those in public office do not take the majority of its recommendations seriously (Khoo, 2018). As former SUHAKAM commissioner Abu Talib Othman acknowledged: "We are not deterred whether people criticise us or ignore our reports. The law clearly states that we can only advise. If those that we advise do not act on our reports, there is nothing we can do." (Renshaw et al., 2011, p. 186). SUHAKAM was always treated as a 'toothless tiger ', the same as EAIC and IPCC. Regarding this issue, former law minister Nazri responded: "I think you are dreaming; we

[30] *Subramaniam Vythiligam v. Human Rights Commission* [2003] 6 Current Law Journal 175 (Malaysian High Court).

[31] Human Rights Commission of Malaysia Act 1999, s. 14(1)(a).

[32] Human Rights Commission of Malaysia Act 1999, s. 14(1)(b).

[33] Human Rights Commission of Malaysia Act 1999, s. 14(1)(c).

[34] Human Rights Commission of Malaysia Act 1999, s. 14(1)(d).

[35] Human Rights Commission of Malaysia Act 1999, s. 14(1)(e).

[36] Human Rights Commission of Malaysia Act 1999, s. 13(2).

[37] *Koh Keng Joo & Anor v. Tan Sri Dato' Seri Khalid bin Abu Bakar & Ors* [2025] 9 Malayan Law Journal 69 (Malaysian High Court).

have never planned to give any teeth to SUHAKAM. It does not have prosecuting powers because this can be done by other enforcement agencies." (Thio, 2009). Regarding such issues, Prof Khoo Ying Hooi described SUHAKAM as cosmetic to the government. It is only when national, regional, and international pressures increase that, in some events, the government decides to act on SUHAKAM's recommendations (Khoo, 2018).

A few recent instances where the government disregard SUHAKAM's recommendations are the disappearance of Pastor Raymond Koh, Amri Che Mat, Joshua Hilmy and Ruth Sitepu. SUHAKAM had conducted a public inquiry on their disappearance and concluded that the Royal Malaysia Police is responsible for their disappearance (Human Rights Commission of Malaysia, 2019; Human Rights Commission of Malaysia, 2022). However, the Royal Malaysia Police denied responsibility for the disappearance, and later the matter was brought to court. The High Court held that the Royal Malaysia Police and the Government of Malaysia are liable for the disappearance of Pastor Raymond Koh and Amri Che Mat, and ordered them to pay compensation to the family. Even though the families of Joshua Hilmy and Ruth Sitepu did not bring their cases to court, justice and truth for them remain no less important, and their case shall never be forgotten ("High Court Accountability Rulings", 2025). These instances clearly demonstrate the limited authority of SUHAKAM. Even after thoroughly examining the evidence and finding the government and police liable, its recommendations are not legally binding. The government may simply deny responsibility, forcing the matter to be ultimately resolved in court, which leads to significant delays and inefficiency.

Another criticism is the limitation of the inquiry. S. 12 states that SUHAKAM cannot inquire into the matter of any court proceeding, and if the matter becomes a matter of a court proceeding, SUHAKAM shall immediately cease to do the inquiry. This limitation causes difficulties for SUHAKAM, as in cases of wrongful detention, detained suspects often apply for habeas corpus to challenge the legality of their detention; this legal action automatically triggers the cessation of SUHAKAM's investigation (Samsudin et al, 2022, p. 9). At the same time, the court will only be looking at procedural issues in habeas corpus cases, whereas SUHAKAM is prevented from investigating the substantive human rights violations or 'grassroots' issues involved, thereby making it difficult for complainants to obtain the justice they deserve (Samsudin et al., 2022). Besides, this limitation can also be used by the prosecution as an 'escape clause'. This means that, while the section is intended to prevent jurisdictional conflicts, it could be misused to block SUHAKAM's investigations. The government could simply start legal proceedings to stop the inquiry (Whiting, 2003, p. 78). There are actually a few instances where the police use the clause to stop the SUHAKAM inquiry, such as the cancelled 2007 investigations into police shootings in Batu Buruk, Terengganu, and the state-sanctioned burning of homes in Sabah. Both were halted due to ongoing court cases involving the victims (Renshaw et al., 2011). This clause was also used by the police in the abduction case of Pastor Raymond Koh, where they charged Lam Chang Nam and caused the suspension of the SUHAKAM inquiry. Such proceedings were used to

achieve an ulterior objective, namely, the disruption of the SUHAKAM's scrutiny and inquiry, as stated by Su Tiang Joo J.[38]

4.5 Common Challenges on Current Complaint Institution

Throughout the discussion, we found that the main issue of all complaint institutions is the enforcement power. All the institutions above, which are PCB, EAIC, IPCC, and SUHAKAM, only have the power to recommend to the government. And in many instances, the government does not follow the recommendation but ignores it most of the time. The level of positive response by ministers and government administration to an ombudsman's recommendations is the "key indicator" of the institution's effectiveness. If the work and recommendations of the institution are ignored or unreasonably criticised by the executive branch and public administration, the effectiveness of the institution will suffer (Reif, 2004, p. 408). This causes almost all complaint institutions in Malaysia to be ineffective in terms of enforcement. This shows us that the mode of recommendation by the ombudsman institution might not be suitable for Malaysia, where many government agencies do not follow the recommendation.

Another common challenge faced by all the above complaint institutions is a lack of structural independence. Except for PCB and IPCC, which were directly mentioned in the above passage as having been criticised for a lack of independence, EAIC and SUHAKAM also face the same issue. Both EAIC and SUHAKAM commissioners are appointed by YDPA via advice of the Prime Minister.[39] This structure aligns with what scholars classify as an "executive ombudsman" rather than a "classical" one, as they serve at the pleasure of the elected executive. Such an appointment always leads to a public perception that the commission is not truly independent of the government, as Mills (1998, p. 426) suggested: "The executive ombudsman, being accountable to the government's chief executive officer, is not, in fact, independent of the government. While the individual can operate in an impartial manner, they may not be considered by the public as being so when they serve at the pleasure of one elected executive. The degree to which the individual is impartial in dealing with the citizens they serve is largely dependent upon the values of the elected official to whom they are accountable." In fact, SUHAKAM was once downgraded from "A" to "B" in 2009 due to the lack of clear and transparent appointment and dismissal processes for commissioners, which weakened the independence of the institution (Renshaw et al., 2011, p. 166).

[38] *Koh Keng Joo & Anor v. Tan Sri Dato' Seri Khalid bin Abu Bakar & Ors* [2025] Malayan Law Journal Unreported 4081 (Malaysian High Court), para. 135.

[39] Enforcement Agency Integrity Commission Act 2009, s. 5(1) and Human Rights Commission of Malaysia Act 1999, s. 5(2).

4.6 Upcoming challenges for the Ombudsman Bill

The upcoming bill is said to be tabled in early 2026; therefore, this section will only be a prediction of the challenges of the bill, as the bill has not been tabled at the time of writing of the article. The upcoming bill would cover maladministration, misconduct, whistleblower protection, and freedom of information, all aimed at safeguarding the public's right to lodge complaints, improving service delivery, and upholding high standards of integrity in the public sector, said MACC ("Malaysia to Establish Ombudsman", 2025).

Based on the above challenges, which cannot be addressed by the Malaysian government, although many years have passed since the establishment of these institutions, we may say that the upcoming Ombudsman Bill will have similar issues as all these complaint institutions have. The first issue is enforcement power, as based on the experience it has had before, the Malaysian government will be less likely to follow the recommendations made by the ombudsman. Therefore, the ombudsman will face a big issue with efficiency and even be criticised as a 'toothless tiger' again. Although the power of recommendation is the main component of the ombudsman internationally, Malaysia does not seem to be suitable for such recommendations. This issue is the most important issue that needs to be addressed, based on the previous experience.

Another issue is structural independence. Following the previous experience by the complainant institution, we can foresee that the same will be in the ombudsman bill: the right to choose the ombudsman will be passed into the hands of the Prime Minister, which might cause a bad public perception that the Ombudsman, instead of a 'watchdog' of government, might become a 'lapdog' of government, which will only investigate those who are against the government but not the government itself.

There is also a certain concern about jurisdiction. The upcoming ombudsman will have jurisdiction over the public services authority. It is simple and clear that the Ombudsman will have jurisdiction over the Federal Government and departments under it. But since it is an institution established by the Federal Government, can it have jurisdiction over the public service of the state? If the bill included the public service of the state, the bill may be deemed unconstitutional, as the Ninth Schedule List II has already provided some sectors that shall not be interfered with by the Federal Government (Linggaraj, 2024, p. 68). Currently, the Ombudsman will supervise the state agency only if they agree to be supervised, as Datuk Seri Azalina Othman said in parliament (Amin, 2025). This arrangement, however, gives rise to further legal uncertainty. It is unclear how long such consent may remain effective, and if there are any changes of circumstances, for example, the establishment of a state ombudsman, can the Ombudsman continue to supervise the state agency? Furthermore, ambiguity remains regarding the scope of bodies subject to the Ombudsman's supervision. It is unclear whether the Ombudsman's jurisdiction should align with the broad concept of "public bodies" as recognised in judicial review, or whether the Bill should instead specify, in express terms, the departments and agencies subject to oversight.

5. Recommendation

This Section will discuss the recommendations made by the author to strengthen the Ombudsman Bill and reform the current complaint institution.

5.1 Recommendation on the bill

To address the issue of enforcement, it is important to change the classical recommendation power that commonly lies with the ombudsman to a power that is no longer a recommendation, but compulsory to follow. Although it is a common practice that a classical ombudsman shall not have the power to make a binding recommendation, clearly Malaysia's situation is not suitable for such a nature, as recommendations by a complaint institution, such as EAIC, were often not heeded by government bodies such as the police (Faruqi, 2019). One instance can be seen in the recent 50 misconduct cases involving workers in public agencies, which are being investigated by EAIC, where only about half of the agencies involved had implemented the commission's recommended disciplinary actions (Vethasalam, 2025). Therefore, to make the ombudsman more accountable and effective, it is important to make the recommendations made by the ombudsman binding. If the ombudsman's findings were binding, so the argument goes, then in future ombudsman disputes it would no longer be open to a public body to prevaricate through a political rejection of the ombudsman's findings. Instead, the focus in the dispute will be more on whether or not to implement the ombudsman's recommendations (Kirkham, 2011). If the government doesn't want to make the recommendation binding, the ombudsman shall also have a certain mechanism to ensure that its recommendation will be lastly reported to Parliament. For example, in Australia, 99% of recommendations by the Commonwealth Ombudsman are followed. If recommendations are not accepted, or other appropriate remedial action is not taken within a reasonable time, the Commonwealth Ombudsman can inform the Prime Minister and make a special report to Parliament. That is the ultimate legislative sanction possessed by the Ombudsman and has rarely been utilised (Yeom, 2017).

To address the second issue, which is regarding structural independence, one way that may be suggested is that we may have a special select committee to recommend a person who is suitable to be the Ombudsman and let the Prime Minister advise YDPA to appoint him as the Ombudsman. This is the way it was practised long ago in New Zealand, which should be suitable for Malaysia. In New Zealand, a special select committee, namely the Officers of Parliament committee, is chaired by the Speaker of the House and comprises three members from each side of the House. The committee would have the task of recommending the appointment of officers of Parliament and holding each officer accountable for their performance and the effective discharge of their functions. The Speaker, through the Officers of Parliament Committee, is required to consult with all the political parties represented in the House and implement an appropriate process for the appointment of new officers of Parliament. Lastly, the Governor-General will appoint the one who is recommended by the Officer of Parliament (Ferguson, 2010). In fact, we may utilise the Special Select Committee on Major Public Appointments. This special select

committee was set up by the Pakatan Harapan Government in December 2018, but it had been criticised for not actually being used during the appointment of a MACC officer (Gafoor, 2019). Another way to simply solve this issue is to follow the Sarawak Ombudsman Ordinance, to allow the YDPA himself to appoint the ombudsman without the advice of the Prime Minister.[40] In this way, YDPA will act as a check-and-balance mechanism and will appoint a person who does not have executive control.

To address the last jurisdiction issue, the bill may not need to include the state authority, only the federal government and the department. Malaysia may learn from Australia to have an Ombudsman at both the state and federal levels. The first Australian State Ombudsman was established in 1971, which is the Western Australia Ombudsman, and the federal ombudsman, Commonwealth Ombudsman, was established in 1976 and has proved successful in terms of structural effectiveness (Stuhmcke, 2012). Another way to know which department is under supervision is easy: specify every department that is under the supervision of the ombudsman in a single schedule, like the Hong Kong Ombudsman Ordinance.[41]

5.2 Reform on the current structure

Since both the PCB and EAIC will be abolished after the passage of the ombudsman bill, no recommendations are made to these institutions.

For IPCC, reform is 100% needed. Certain issues, like investigative powers, enforcement powers, and structural independence, are the main concerns that the IPCC needs to address. However, instead of amending the law itself, another way of reform that is more popular in society is to abolish the current IPCC Act and enact an IPCMC Act, which can be based on the 2019 Bill, which did not pass, or even the old 2005 Bill. Both bills are similar in fact and basically settle all the current issues faced by IPCC. For example, S. 31(1) of the IPCMC Bill 2019 stated that the Commission shall have disciplinary authority over any misconduct committed by any member of the police force, unlike the current IPCC Act, which has no power on the IPCC's recommendation. Like the structural independence in S. 6(2) of the IPCMC Bill 2019, no person shall be appointed as a member of the Commission if he is or was a member of the police force, or if he is a member of the public service. Replacing the IPCC Act with the IPCMC Bill 2019 will, in fact, strengthen the power, independence, and reliability of the Commission compared with the current IPCC. With slight changes to the IPCMC Bill 2019, such as the misconduct in the bill covering S. 96 and S. 97 of the Police Act, the old IPCMC Bill 2019 would be adequate to resolve the issues faced by the current IPCC. Parliament may also take less time to table the bill, as a model is there.

Meanwhile, for SUHAKAM, an amendment is needed for the HRCMA. Like the new ombudsman bill, the recommendation power must be amended to force all public

[40] Sarawak Ombudsman Ordinance 2023, s. 5(1), which stated Yang di-Pertua Negeri of Sarawak may appoint an Ombudsman in the Sarawak Ombudsman without any advice.

[41] The Ombudsman Ordinance (HK), Sch 1.

authorities to follow the recommendation compulsorily. With such an amendment, SUHAKAM will never be a toothless tiger again, but a powerful tiger, as the recommendation cannot be simply disregarded by the authority as in the past. Any public authority that is not satisfied with the recommendation may apply for judicial review, just like the ombudsman, which we discussed above. With such an amendment, SUHAKAM will only be effective in the enforcement power. While section 12 of HRCMA is intended to prevent overlapping jurisdiction between the courts and SUHAKAM, there is substantial evidence that this provision creates practical difficulties. In particular, it has raised problems in cases involving habeas corpus applications and has, at times, been abused by public authorities to avoid or delay public inquiries by the Commission (Samsudin et al., 2022). Therefore, HRCMA must be amended to remove these enabling provisions that effectively open the way for a consistent misuse or abuse of law to circumvent, terminate, or otherwise make a mockery of any serious inquiry into human rights infringement and violation that SUHAKAM might undertake (Ramakrishnan et al., 2000).

6. Conclusion

The existing complaint institutions, namely PCB, EAIC, IPCC, and SUHAKAM, display high case-resolution rates on paper but are structurally ineffective. The issue facing by these institutions include limited or non-binding enforcement powers, non-structural independence from the executive, limited enforcement power, and unclear jurisdiction. These issues cause the findings and recommendations of these institutions to be ignored or only partially implemented, reducing these institutions to advisory roles rather than effective oversight mechanisms.

Therefore, a new and structurally effective Ombudsman is needed to address these weaknesses, and it must avoid repeating the same problems faced by existing complaint institutions. The Ombudsman should be established as an independent body, free from executive control, and equipped with stronger enforcement powers to ensure that its findings and recommendations are taken seriously by public authorities. Clear jurisdictional boundaries must also be provided to prevent overlap and uncertainty. Without these structural improvements, the new Ombudsman will only be said to be a new "toothless tiger", becoming another advisory body with limited practical impact, rather than an effective mechanism for promoting accountability and good administration in Malaysia.

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The authors declare that they have no conflict of interest in this study.

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