Ombudsman Malaysia to boost transparency, accountability

Ombudsman Malaysia is an elevation of PCB’s status to make it more independent and efficient

Should be empowered to deal not only with public and quasi-government bodies, but also the private sector

The formation of Ombudsman Malaysia, which is set to replace the Public Complaints Bureau (PCB), will result in greater transparency and accountability as the country moves into the era of a new Malaysia.

The ombudsman will be empowered by The Ombudsman Act, which is expected to be tabled in Parliament soon, to play a more effective role in addressing a wide range of public complaints.

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The government, in line with the formation of Ombudsman Malaysia will also have the ombudsman set-up for public complaints in Malaysia,” says Sujatha Sekhar Naik, CEO of Securities Industry Dispute Resolution Centre (Sidrec).

“It’s a natural progression in a democracy with the evolution from the current avenue provided by the Public Complaints Bureau to the ombudsman body which will make the complaint procedure accessible to citizens,” she adds.

Sujatha is of the view that the proposed Ombudsman Act will be answerable to Parliament. “If the Ombudsman malfunctions, there will be no appeal from him,” she says.

Sujatha adds that in some countries, the power and authority of the ombudsman have gradually evolved as a result of changes initiated by their governments after they realised the important role it played and the valuable independent and objective insight and feedback the ombudsman was also able to contribute to the legislative and executive branches.

Sujatha is of the view that the critical factors of independence and accountability will play a significant role in the success of the proposed Ombudsman Malaysia. “A welcome avenue for the public to lodge any complaints regarding the public sector. Perceived independence is in practical terms, as important as actual independence in gaining public confidence,” she says.

No overlap

Ombudsman for Financial Services (OFS) CEO Shahariah Othman welcomes the effort to establish Ombudsman Malaysia and believes its role will not be redundant.

“It’s a good move ... it’s just that we still don’t have much detail on this proposed scheme after the initial announcement,” Shahariah tells FocusM.

The ombudsman body would be the preferred avenue for the public to lodge any complaints regarding the public sector, says Sujatha.

In other countries, the powers and authorities of an ombudsman have increased as a result of changes initiated by their governments related to public authorities such as government departments or agencies, when needed.

And importantly, one that is not overly cumbersome and provides the assurance of impartiality and fair treatment,” she tells FocusM.

She adds that the existence of an independent ombudsman would usually also act as a deterrent or as a check to temper any overreach or other administrative misconduct by public officials or public institutions. It supports the existing public governance and enforcement fabric and promotes accountability.

“So what do you (have to) put into place? We do not as yet have details on the proposal so we should wait for that, but I would assume that the proposed legislation will provide the mandate and scope of the ombudsman and will set out its powers, independence and oversight by Parliament among others,” she explains.

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“Based on our understanding from media reports, the Ombudsman Act will be tabled in Parliament. As far as we’re concerned, there wouldn’t be an overlap because the OFS role is very focused on financial services.”

Shahariah adds that an ombudsman system will commonly be based on several guiding principles. In the case of OFS, they are globally-accepted principles: independence, fairness, transparency, accountability, accessibility, effectiveness.

Comparing OFS’ role in dispute resolution, she notes that OFS (an affiliate of the central bank) is essentially an alternative dispute resolution for consumers to lodge complaints on banking products and services so that “people can come to us to resolve disputes instead of going to the court. We’re supposed to provide an effective and efficient dispute resolution avenue if you go to an alternative, it would be more restrictive factors such as costs.”

Meanwhile, Sujatha says Ombudsman Malaysia is an elevation of PCB’s status to make it more independent and efficient in attending to public complaints.

“What the ombudsman role is elevating it to another level and it is a powerful addition to public governance,” she adds.

Umbrella body?

Asked if Ombudsman Malaysia will become the umbrella body specifically for existing dispute resolution organisations such as Sidrec (approved by the Securities Commission Malaysia) and OFS (approved by Bank Negara), Sujatha says it is unlikely.

“It’s been proposed to go to another level and it is a powerful addition to public governance,” she adds.

Ombudsman in politics

A nombudsman is a state official appointed to provide a check on government activity on the behalf of the citizen, and to oversee the investigation of complaints of improper government activity against the citizen.

If the ombudsman finds a complaint to be substantiated, the government body may get rectified. If the ombudsman report is published making recommendations for improvement.

Further redress typically involves financial compensation. Ombudsmen in most countries have the power to initiate legal proceedings or prosecution on the grounds of a complaint.

This role is sometimes referred to as a “tribunincian” role, and has been traditionally fulfilled by elected representatives. The embassy chosen would usually be a very senior, experienced and accomplished individual who is independent and commands respect across political lines.

The major advantage of an ombudsman is that he or she examines complaints from outside the offending state institution, thus avoiding the conflicts of interest inherent in self-policing.

Critics describe the ombudsman as “relics of absolutism, designed to iron out the worst excesses of administrative arbitrariness, while keeping the power structures intact.”