

Role of the Attorney-General under the Charities Act and as Public Prosecutor

The media reported the Commissioner of Charities regulatory action to remove eight City Harvest Church leaders from office on Wednesday (10 April 2013). The media reports explained the removal process, which includes consent by the Attorney-General's (AG) to the removal.

Six out of these eight office holders are also facing criminal proceedings in court.

The media also sent a query to the Attorney-General's Chambers to find out more about the AG's role in the regulatory action (under the Charities Act) and his role as the Public Prosecutor.

AGC's statement to the media was as follows:

The AG performs a role in the regulatory action (which is provided for under the Charities Act) which is different from that of the Public Prosecutor in the criminal proceedings (as provided for under the Constitution).

Under the Charities Act, the COC conducts the inquiry, invites representations from the parties and members of the public, considers all facts and circumstances, and then decides whether he wishes to make a removal order in respect of any individual. It is only if the COC decides to make a removal order that the COC seeks the AG's consent, as provided under the Charities Act. It is a "safeguard" before the removal order is made. If the COC decides not to remove any individual, the role is not triggered.

In the criminal proceedings, CAD conducts the investigations to gather the evidence. The AG's role as Public Prosecutor (under the Constitution) is to decide if the case is a proper one to prosecute, and then to present the prosecution's case before the Court. The outcome is determined by the Judge.

The two sets of proceedings serve different objectives – the regulatory action is concerned with, inter alia, the protection of assets of the charity, while the criminal proceedings are concerned with enforcement of criminal laws. The issues are not identical, and the threshold for proof is different.