

Yes, the AG must act to charge NFC directors

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COMMENT The director of Bukit Aman's Commercial Crime Investigation Department Syed Ismail Syed Azizan is a brave man. Why?

Because he has said clearly and categorically that there is enough evidence to charge the directors of the National Feedlot Corporation (NFC) with criminal breach of trust.

I like a brave Malaysian, especially if he or she is a civil servant. I believe that it's only when civil servants show courage and integrity that the rakyat can hope to get justice and fair play in their dealings with the government.

Syed Ismail (left) knows that the police, the Malaysian Anti-Corruption Commission - or any enforcement agency in the country for that matter - do not have the power to lay charges regardless of the evidence.

That is the prerogative of the attorney-general. Despite this, Syed Ismail has been willing to tell the people there is in fact enough evidence to charge someone.

This is an act of courage. It is not the action of someone with an ulterior motive, as has been suggested by the family involved in the NFC.

In my years at the Bar and in government, I often heard that "such-and-such a case was presented to the Attorney-General's Office but no action was taken".

No one knows the actual reason for this inaction - we are told only that under the constitution, the attorney-general has absolute discretion whether or not to charge someone.

So it is possible that, in many cases, enforcement agencies such as the police have recommended prosecution but the attorney-general has refused to pursue the case.

Crown prosecution services

Our practice is entirely different from that of other Commonwealth countries, where there are crown prosecution services consisting of lawyers who act independently of the attorney-general.

Their independence is based on the trust given to them that they will work in the public's interest.

They work in close collaboration with the police, so when the police in the United Kingdom (for example) say that they have evidence, it would be unthinkable for anyone else, even the prime minister, to suggest that the attorney-general might decide differently.

On the other hand, our Prime Minister Najib Abdul Razak has made remarks that cast doubt on whether the family of Shahrizat Abdul Jalil (the Women, Family, and Community Development Minister) will ever be prosecuted. Najib has talked about the "absolute power" of the attorney-general, and not the police, to determine if the government will prefer a charge against Shahrizat's family.

The past has shown that when political leaders speak like that, we know that no charge is forthcoming. It would indeed be disappointing if our "reformist" prime minister should prefer to pre-empt the attorney-general's decision.

Najib should instead give full support and praise to the police for an investigation into a case involving at least one powerful politician. But somehow, Najib always seems to get the wrong end of the stick.

So to Syed Ismail, I don't think you will ever become the inspector-general of police, but it may be a small comfort to know that your decision to make your investigation public sets a good precedent.

After this, we hope to hear more from the heads of investigating teams. We hope to see them declare their findings publicly. We can then see how far the prime minister will go to defend his attorney-general's discretion.

Syed Ismail, I will shake your hand anywhere I see you. And there are thousands like me who will do the same.

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