

A travesty of justice

Malaysian judge amends charges in Anwar's trial

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16 January 1999

The latest twist in the trial of former Malaysian deputy prime minister Anwar Ibrahim serves to underscore the contrived nature of the charges against him and the political nature of the case. In the middle of the trial, the presiding High Court judge Augustine Paul on Wednesday took the highly unusual step of permitting the prosecution lawyers to amend the four charges of corruption to make it far easier for them to prove their case.

Anwar is charged with having used his official position to direct Special Branch police to force two individuals--Azizan Abu Bakar, the former driver for Anwar's wife, and Ummy Halfida Ali, sister of his former private secretary--to retract their written accusations of sexual misconduct against him. If convicted, he faces a jail term of up to 14 years and a fine of 20,000 ringgit (\$US5,260) on each charge.

The amended charges now allege that Anwar sought to protect himself from "embarrassment" rather than "criminal action or proceedings" and refer to the "allegations" against Anwar. The apparently minor changes in wording mean that the prosecution no longer has to prove that there is any truth in the statements made by Azizan and Ummy, only that Anwar misused his position by directing the police actions against them.

For weeks lurid accounts of Anwar's alleged sexual activities have been circulated in the government-run media in an effort to publicly discredit him. In the trial itself, the prosecution dramatically produced a soiled mattress in court and a government forensic expert who claimed that his analysis showed that it had been used for sexual intercourse between Anwar and Shamsidar Taharin, the wife of his former private secretary.

Having exploited the sexual scandal to the full, the prosecution now claims these allegations are not central to their case. Judge Paul overruled the protests of defence lawyers, allowed the amendments and then ordered that evidence related to the sexual allegations be expunged from

the court record. As a result, Anwar's defence team is not permitted to challenge any of the expunged evidence in court.

The cross-examination of key witnesses over the last month not only exposed the flimsy character of the sexual accusations against Anwar but also indicated of the direct involvement of Prime Minister Mahathir Mohammad and other ministers in the case.

* The driver Azizan alleged that he had been sodomised by Anwar in 1992, leading to sensational newspaper headlines of him being a "sex slave". His testimony revealed that for six years he had made no allegations and continued to visit and maintain friendly relations with Anwar and his family after leaving their service. He only made the allegations against Anwar after being approached by the other accuser Ummy, who was attempting gather gossip to support her own claims. She drew up his sworn statement and convinced him to sign it.

On August 24, 1998, just a week before Anwar was sacked, Mahathir organised a private meeting with Azizan through the director of the police Special Branch. While details of the meeting remain sketchy, Mahathir indicated that the police were now going to investigate his complaint and offered him police protection.

* Ummy is clearly a central figure in the case against Anwar, having alleged that he had an affair with her brother's wife. She is a businesswoman who has close connections with the ruling United Malays National Organisation (UMNO). Her advertising company has ties with Megat Junid, now domestic trade and consumer affairs minister, who formerly headed a government agency carrying out an anti-drug campaign in Malaysian schools. The agency had a five-year contract with Ummy's company valued between one and two million ringgit a year.

Ummy met with Mahathir's close political crony Daim Zianuddin before formally sending her own and Azizan's statements to Mahathir, Zianuddin and the actress Norzilah

Jalil, the wife of Megat Junid. Ummy also admitted that after Anwar's trial had commenced she had spoken at a public function alongside two UMNO members--Ghafar Baba and Tamby Chik--known for their hostility to Anwar.

* Evidence concerning the testing of the mattress cannot now be challenged by Anwar's defence lawyers in court. But even in the course of cross-examination, government chemist Lim Kong Boon cautioned that the forensic evidence was not conclusive, saying: "I'd like to warn the court that there is such a thing as a prosecutor's fallacy where DNA is concerned. DNA should not be the sole foundation for finding a person guilty."

Criminal investigations officer Mohamad Rodwan Mohamad Yusof said he could not guarantee that the mattress had not been tampered with. No photographs had been taken when it was seized and it was kept for four months before being sent for testing. Furthermore the police had no records as to who had had access to the mattress during that time.

The amendments to the charges against Anwar come at a crucial point in the trial, which has now been running for nearly 10 weeks. The prosecution has presented its evidence and, after hearing the summations of the opposing sides, the judge is to decide whether or not Anwar has a case to answer. Judge Paul grudgingly allowed the defence team an adjournment in order to re-write their statement.

The about-face by the prosecution is undoubtedly connected not only to the legal weaknesses of their case but also to the political crisis it has provoked for the government. Mahathir sacked his deputy last September 2, claiming he was not morally fit to hold office, and then expelled him from UMNO.

Anwar was only arrested on September 20 after he began to address large protest rallies and to call for the resignation of Mahathir. He was held without charge for nine days under the country's draconian Internal Security Act (ISA) before being taken to court, showing visible bruising to his face and neck. In addition to the present four charges, he faces another of corruption and five of sexual misconduct involving homosexual activity, which is illegal in Malaysia.

Mahathir initially claimed that Anwar's injuries were self-inflicted. But facing widespread condemnation, the government was forced to hold an inquiry into accusations that the police had beat Anwar unconscious on the first night of his detention. The report and its conclusions have remained highly confidential for weeks. However, on January 5, the Attorney-General Mohtar Abdullah publicly admitted that the police were responsible for Anwar's injuries. Two days later, police chief Abdul Rahim Noor tendered his resignation. None of the police involved have been identified.

The trial of Anwar has opened up rifts in the ruling coalition, which consists of UMNO, the Malaysian Chinese Association (MCA), the Malaysian Indian Congress (MIC) and several smaller parties. The Gerakan party, a coalition member, publicly criticised the police for the assault on Anwar. President of the human rights group Aliran, P. Ramakrishnan, has called on Mahathir and the attorney general to resign unless "those responsible for assaulting Anwar" were identified by the end of the month.

At the heart of the break between Mahathir and Anwar were sharp differences over the economic policies to be pursued in response to the Asian economic crisis and the slump in the Malaysian economy. As police witnesses revealed in the course of the trial, the police only activated the case against Anwar after sharp disagreements emerged in the course of an UMNO conference last June. On the day before Mahathir sacked Anwar, the government imposed a series of currency and capital controls in direct opposition to the IMF's demands-- backed by Anwar--for a further opening up of the Malaysian economy.

Despite a purge of Anwar supporters from UMNO, divisions still exist within the party. Mahathir only filled the vacant position of deputy prime minister last week, appointing one of his loyal supporters and long-time Foreign Minister Abdullah Ahmad Badawi. Mahathir had held off making an appointment as he feared that to anoint a deputy and therefore likely successor might intensify moves for his replacement. Mahathir also used the opportunity to appoint Daim Zainuddin as Finance Minister, a position he had held himself since firing Anwar from the post.

The longer Anwar's trial has proceeded the more it has become a focus for opposition to Mahathir both inside and outside the ruling coalition and the more is at stake for the government in its outcome. The decision to amend the charges and effectively quash the rights of the defence team to refute damaging sexual allegations against Anwar is clearly in response to mounting government pressure for a conviction.



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