

# Trial of Malaysian opposition leader begins

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Malaysian opposition leader Anwar Ibrahim's trial on the criminal charge of sodomy began last Wednesday. Proceedings had been scheduled to start on Tuesday but were delayed after defence lawyers made a final attempt to compel the prosecution to make its evidence available, a move that was rejected by the trial judge.

The Kuala Lumpur High Court was packed with Anwar's supporters, journalists and foreign diplomats. More Anwar supporters gathered outside. Solicitor General Mohd Yusof Zainful Abidin read the charge under Section 377B of the Criminal Code, which provides for 20 years imprisonment under the country's reactionary anti-homosexual laws.

A conviction would effectively end Anwar's political career and undermine the opposition Peoples Alliance or Pakatan Rakyat (PR), which made significant inroads against the ruling Barisan Nasional (BN) coalition at the 2008 national election. Anwar pleaded not guilty and has accused Prime Minister Najib Razak of a frame-up.

The case before Judge Mohamad Zabidin Mohd Diah started with Anwar's accuser, former aide Saiful Bukhari Azian, giving a lurid account of the alleged sexual encounter. Led by questions from the solicitor general, the witness detailed how 63-year-old Anwar allegedly pressured him to have sex at unit 11-5-1 in the Desa Damansara Condominium between 3.01 p.m. and 4.30 p.m. on June 26, 2008.

In Anwar's previous trial on similar charges in 2000, the prosecution had to change the time and date of the offence three times after defence lawyers proved Anwar could not have been present or that the building in question did not exist at that time. While Anwar was found guilty by the judge, the conviction was overturned by the Federal Court in 2004 on the grounds that the prosecution evidence was "unreliable".

Last Thursday the trial was closed to the media and the public at the request of the defence because of the nature of the evidence being heard. Later in the day the entire court proceeded by convoy to inspect the unit where the offence allegedly occurred. Despite the closed nature of the hearing, the pro-government *Utusan Malaysia* ran photographs of the visit to the apartment. The judge rejected calls by defence lawyers on Friday to admonish the newspaper over the photos and an earlier headline that implied Anwar had sodomised Saiful more than once.

Yesterday the defence team moved to have the judge disqualified on grounds of bias. Anwar told reporters: "The local media has condemned me as they did in 1998 [when Anwar was first charged with corruption and sodomy] without [giving the public a] chance to listen to my reply. Clearly it is a political trial." The judge adjourned the trial to hear the bias application.

It is unlikely that the judge will uphold the application. Like the media, the judiciary has a long record of pro-government bias. In 1998, in the midst of the Asian financial crisis, Anwar, then deputy prime minister and finance minister, fell out with Prime Minister Mahathir Mohamad over the implementation of the International Monetary Fund's pro-market policies. Mahathir sacked Anwar and expelled him from United Malays National Organisation (UMNO)—the leading party in the ruling coalition. Anwar was arrested and convicted on trumped-up charges after he began to organise anti-government rallies.

Anwar's defence has already been compromised by the refusal of the courts to provide access to prosecution evidence including witness statements, video material, doctor's notes, medical reports and DNA specimens in possession of the prosecution. Anwar has expressed concerns that the police might manufacture evidence. The original medical examination of Saiful by a hospital doctor found no physical evidence of sexual activity.

A 2006 amendment to the Criminal Procedure code requires that prosecution evidence be made available to the defence. Last year a High Court judge ordered the prosecution to hand over the material in the Anwar case, but an Appeal Court overturned the decision. On January 29, the nation's highest court, the Federal Court, denied a further appeal by Anwar's lawyers.

The political character of the case is highlighted by its timing. The charge first emerged in July 2008 as Anwar was seeking to enter parliament through a by-election. He had been excluded from the March 2008 general election as his 1999 corruption conviction banned him from political activity until the following month. Despite the new charge, Anwar easily won the by-election.

The BN government, then led by Prime Minister Abdullah Badawi, had already suffered a devastating electoral setback. The opposition increased its parliamentary representation in the 222-seat national parliament from 19 to 82, ending the government's two-thirds parliament majority and its ability to alter the constitution. The opposition also took power in 5 of the country's 13 states.

Saiful, Anwar's alleged victim, is a vulnerable figure with ties to the UMNO leadership. Opposition leaders allege he was planted on Anwar's staff. Shortly before Saiful made his allegations public he had a private audience with then deputy prime minister Najib, supposedly to discuss a university scholarship. Anwar's lawyers plan to subpoena Najib, who has denied any involvement.

Najib took over as UMNO leader and prime minister from Abdullah last April. He has aggressively sought to undermine the opposition through a combination of intimidation and sordid manoeuvres, on the one hand, and adopting aspects of the PR's policies, on the other.

Early last year the BN recaptured control of the Perak state government through a series of backroom deals for several opposition assembly representatives to switch sides. UMNO also sought to move against the opposition-controlled Selangor state government on corruption charges. State government adviser Teoh Hock supposedly fell to his death while under protracted questioning by officers of the Anti-Corruption Commission last July.

UMNO is playing the race card as well. In December, a High Court ruling allowed the use of the term "Allah" for God in a Catholic newspaper. The decision was followed by fire bombings of Christian churches. Anwar defended the court ruling, but the government has been silent on the issue and the church attacks, thus tacitly endorsing the Malay Muslim chauvinism.

At the same time, the Najib government has attempted to accommodate the business interests to which Anwar has been appealing. At the heart of the bitter struggle between Anwar and Mahathir in 1998 were sharp differences over economic policy. In opposition to Anwar's calls to open up the Malaysian economy, Mahathir imposed a series of currency and capital controls. While the Malaysian government subsequently removed most restrictions, foreign and local investors have been pressing for further changes.

Anwar has been advocating an end to the country's systematic official discrimination in favour of Malays in education, business and public sector jobs. Sections of the country's corporate elite regard these measures as a serious impediment to the integration of Malaysia into the global economy. The international financial crisis that erupted in 2008 has only made the issue more urgent. Najib has made some cautious changes to economic policy to encourage foreign investment, but Malaysia last year suffered the third largest outflow of portfolio capital of any emerging market.

The economic crisis will only add further fuel to the already sharp rivalry between the rival camps of the ruling elite and strengthen the government's determination to use the present trial to politically destroy the opposition leader.



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