

Judge endorses prosecution case in Malaysian opposition leader's trial

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Malaysian High Court judge Mohamad Zaidin Mohd Diah ruled on Monday that the prosecution had established a *prima facie* case in the trial of opposition leader Anwar Ibrahim and rejected an application by defence lawyers to dismiss the charge of sodomy.

The ruling, like the case itself, was a highly political one. Prime Minister Najib Razak's government is exploiting the charges to smear Anwar and undermine the opposition while Najib considers whether to hold early national elections. The main prosecution witness, former Anwar aide Saiful Bukhari Azlan, is known to have met with Najib before Anwar's arrest.

The next court session is set for June 6 to June 30. Defence lawyer Sanakara Nair announced that Anwar would be the first of dozens of witnesses, who could include the prime minister himself. The defence team has also lined up foreign medical experts to refute the questionable forensic evidence presented by the prosecution.

Defence lawyers had pointed to the inconsistencies in the evidence that Saiful had a sexual liaison with Anwar on June 26, 2008. Under Malaysian law, homosexuality is illegal and carries a jail term of up to 20 years. The defence pointed out that the chain of evidence for critical DNA testing had been corrupted, that Saiful had met with Najib and police officials around the time of the alleged incident, and that Anwar had an alibi.

The trial judge brushed aside the well-documented defence arguments. He ruled not only that a *prima facie* case had been established but went further. "There is nothing improbable about (Saiful's) evidence. His evidence is reliable," the judge declared. He stated that the DNA evidence corroborated Saiful's testimony and

that it had been established that both men were in the condominium at the time and date in question.

Anwar told his supporters that the judge's ruling was not unexpected. "But what is really shocking is that he has virtually prejudged the case," the opposition leader said. Anwar declared that the opposition coalition, the Peoples Alliance (PR), would not be distracted by the trial but would "be on the offensive" as the defence case was presented.

After the ruling, the human rights group, Lawyers for Liberty (LFL), which has exposed constitutional and judicial abuses in Malaysia, denounced the trial as "a sham" and said it had "absolutely no credibility whatsoever". The statement pointed out that the defence had been denied access to important documents throughout the pre-trial and trial period.

The group disputed the judge's claim that Saiful's evidence was supported by expert witnesses. LFL quoted the original medical report issued by the Kuala Lumpur General Hospital on June 28, 2008, which stated there were "no conclusive clinical findings suggestive of penetration to the anus/rectum and no significant defensive wound on the body of the patient".

The LFL concluded: "The present case is but the most extreme and obvious example of the dishonest and unlawful cooperation between supposedly independent state apparatuses—the judiciary, the police, the Attorney-General's Chambers and other state agencies like the chemist department and hospitals—in manufacturing and perverting evidence in order to get Anwar at all cost."

This is not the first time that Anwar has been tried on trumped-up charges. As finance minister, he came into

conflict with Prime Minister Mahathir Mohamed in 1998 during the Asian financial crisis. When Anwar championed International Monetary Fund (IMF) demands for market reform, Mahathir dismissed his deputy and implemented currency and capital restrictions to protect businesses associated with the ruling United Malays National Organisation (UMNO).

Anwar and his supporters were expelled from the UMNO. When he began to organise mass protests against official corruption and the government's anti-democratic methods, Anwar was arrested, physically beaten by the country's police chief and charged with sodomy and corruption. He was convicted on both charges.

Anwar's conviction for sodomy was overturned by the Federal Court in 2004 on the basis that the decision was "unreliable". As in the current case, Anwar's defence lawyers demonstrated a number of glaring inconsistencies in the prosecution evidence, including that the first building in which the incident was said to have taken place did not exist at the time. However, the appellate courts upheld the corruption conviction that resulted in Anwar's jailing for six years and a ban on holding office until 2008.

The latest charge against Anwar was laid in 2008 as he was seeking to re-enter parliament. The ruling UMNO-led Barisan Nasional (BN) had suffered a serious setback in national elections in March that year. Anwar's PR coalition had won power in 5 of Malaysia's 13 states and boosted its representation in the national parliament from 19 to 82.

Since his elevation to the premier's job on 2009, Najib has focussed on using all means available to undermine the opposition and restore the BN's two-thirds parliamentary majority so that it can make constitutional changes. UMNO-led coalitions have held power in Malaysia since formal independence in 1957 and have not hesitated to use the state apparatus, including the courts, to maintain their position.

While it tries to present a picture of stability, the government is confronting political and economic uncertainties amid the continuing global economic crisis. Najib has attempted to boost foreign investment through a series of limited pro-market reforms. However, the country's annualised growth rate was only 4.6 percent in

the first quarter, compared with 10.1 percent for the corresponding period last year.

Like other countries in the region, the population is being hit by rising food and energy prices. The consumer price index rose by an annualised 3.2 percent in April, up from 3 percent in March. Food and non-alcoholic beverages increased by 4.9 percent and transport by 5.3 percent.

Najib is no doubt concerned that the rising social tensions fuelled by deteriorating living standards will only assist the opposition parties and compound the political problems facing his government.

One factor helping the government in its persecution of Anwar is the lack of virtually any criticism from Washington. In 1999, the Clinton administration seized on the Anwar case as a political lever, putting pressure on Kuala Lumpur to adhere to the IMF's pro-market policies. Now the Obama administration is intent on establishing closer ties with Malaysia and other South East Asian countries in order to counter growing Chinese influence.

Visiting Malaysia on Wednesday, US Deputy Treasury Secretary Neal Wolin expressed Washington's delight at the Najib government's economic reforms so far and praised its desire for stronger trade and investment relations. No mention was made of the court decision two days earlier to proceed with Anwar's trial on politically dubious charges.



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