

# Malaysia's highest court jails opposition leader on trumped-up charge

By John Roberts  
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A five-judge panel of the Federal Court, Malaysia's highest judicial body, on February 10 upheld a Court of Appeal decision to overturn a High Court acquittal of opposition leader Anwar Ibrahim in 2012 on the trumped-up charge of sodomy. Anwar was immediately consigned to jail to serve out his five-year sentence.

The ruling, enforcing Malaysia's reactionary anti-homosexual laws, was a political one. It underscored the continued subservience of the courts to Prime Minister Najib Razak's United Malays National Organisation (UMNO), which has autocratically ruled for 58 years since the country's formal independence from Britain.

A large riot police contingent was present outside the Kuala Lumpur court to control hundreds of supporters of Anwar and his opposition People's Alliance (PR). Inside the court, the five judges left as the 67-year-old Anwar denounced the verdict. Anwar told the judges that "in bowing to the dictates of your political masters, you have become partners in the murder of the judiciary."

The judges heard the case over eight sitting days last year then took more than two months before delivering last week's verdict. Despite their declaration last year that the case was a complicated one, and the delay in issuing their ruling, the judges provided no written judgments outlining their reasoning, which would be normal in a major case.

The court dismissed Anwar's contention that he was the victim of a political conspiracy involving Najib and the government. Without any examination of the prosecution case, the judges simply declared that there was overwhelming evidence for the conviction and that the claim of a conspiracy was "a mere allegation unsubstantiated by any credible evidence."

As soon as the decision was announced, the prime

minister's office issued a statement declaring that the courts were independent and calling for the verdict to be accepted. The police have begun to use the country's anti-democratic laws to crack down on critics. Cartoonist Zulkiflee Anwar Alhaque was detained last Tuesday for a series of allegedly seditious tweets on the case and police named two opposition parliamentarians for investigation under the Sedition Act.

The only legal option left to Anwar is to appeal to the King for a pardon. Such an application would involve an admission of guilt. The verdict will exclude Anwar from any participation in the next scheduled national election in 2018, which was the government's intention all along. By removing Anwar from political life, it hopes to destabilise the opposition coalition.

In the original trial and subsequent proceedings, the prosecution relied on one witness, Saiful Bukhari Azian, a former Anwar aide, who claimed that Anwar had sexual intercourse with him in June 2008. The prosecution maintained that DNA evidence corroborated Saiful's statements.

The defence presented evidence that Najib, who was then deputy prime minister to Abdullah Badawi, and his wife and senior police officers, met with Saiful *two days prior* to the alleged sexual encounter. These meetings with senior UMNO figures continued after the alleged act, before Saiful formally reported it to police.

In attendance at Saiful's meeting with Najib was the chief prosecutor in Anwar's trial, Muhammad Shafee Abdullad, who also happened to be Najib's lawyer. Anwar's defence lawyers called on the court to force Shafee to step down as prosecutor and for Shafee, Najib and his wife to be called as witnesses, but were repeatedly turned down.

The High Court trial judge, Mohamad Zabidin Mohd

Diah, ruled that Saiful was a credible witness in May 2011, but seven months later acquitted Anwar as the prosecution case crumbled when it was clear that the DNA evidence was corrupted.

The DNA sample was supposedly obtained in a medical examination more than two days after the alleged act. The sample had not been frozen initially as required and prosecution witnesses admitted there were up to 10 other DNA profiles in the sample. At least one police officer was proven to have tampered with the sample. Expert forensic testimony discredited the evidence.

A major factor in the Najib government's ability to jail Anwar on a trumped-up charge is the acquiescence of Washington, which is intent on establishing closer economic and strategic relations with Malaysia.

This was evident in the aftermath of the 2013 national election, which the Najib government would have lost but for a widespread gerrymander. The opposition won 51 percent of the vote to the government's 47 percent, but only 89 parliamentary seats as against 133 for the ruling coalition.

Hundreds of thousands of Malaysians took part in the largest demonstrations in the country's history, denouncing the anti-democratic character of the election. Anwar and other opposition figures used the mass protests to appeal to the "international community"—that is, particularly Washington—to intervene.

However, Obama congratulated Najib on his election "victory," effectively giving Najib the green light to crack down on the rallies. The US State Department issued a pro-forma statement raising concerns about election irregularities, then buried the issue. Anwar, who was always concerned to ensure that the rallies did not spiral out of control, promptly called them off.

At the time of the election, the Brookings Institute, a US think tank, noted that the Obama administration's relations with Najib's government were warming. "Najib has fundamentally repositioned Malaysia internationally," it stated. "He has moved away from the old UMNO policy of seeking to divide Asia from the United States and has seen the United States as an important partner for Malaysian and ASEAN."

Last April, Obama made the first trip to Malaysia for an American president since 1966 and signed a "Comprehensive Partnership" with Najib, but

pointedly refused to meet with Anwar. To emphasise the closeness of their relationship, Obama and Najib both holidayed in Hawaii last December, played golf together and reportedly discussed the international situation.

Malaysia, which sits adjacent to the Malacca Strait, is strategically vital for the Obama administration's "pivot to Asia" and its preparations for war against China, which include the ability to mount a blockade of Chinese shipping through South East Asia.

It is not surprising that the US issued only a perfunctory statement on the Federal Court decision. National Security Council spokesperson Bernadette Meehan told the media that the US was "deeply disappointed" in Anwar's conviction and that the case raised "a number of serious concerns about the rule of law and fairness of the judicial system in Malaysia." Undoubtedly the issue will be quickly buried.

The response is in marked contrast to Anwar's arrest and frame-up on bogus charges of sodomy and corruption in 1998, when US Vice President Al Gore strongly supported Anwar and condemned his persecution. Amid the 1997–98 Asian economic crisis, the US was pressuring the Malaysian government to implement the International Monetary Fund's far-reaching pro-market prescriptions to open up the country to foreign investment. As finance minister, Anwar agreed with the IMF's demands, but was sacked, arrested and charged by UMNO Prime Minister Mahathir Mohamad, who was intent on imposing capital and currency controls to protect UMNO-related companies.

Both then and now, Washington's attitude has not been determined by concerns over legal and democratic rights, but rather US economic and strategic interests in Asia.

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