

# Lawyers Head For Showdown With Mahathir

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**KUALA LUMPUR**—The widening rift between the Malaysian government and the country's legal community is nearing breaking point over the suspension of six Supreme Court judges.

A total of 1,002 members of the nearly 2,500-lawyer Malaysian Bar on Saturday endorsed resolutions calling for the removal of the interim head of the Supreme Court and for the intervention of the country's nine royal families to help settle the dispute.

The bar's meeting was preceded by several days of largely passive protest, with lawyers wearing white armbands in court bearing the words, "Justice is dead" and buttons saying, "Justice for Judges?"

Courtroom decorum also was abandoned Friday after High Court Judge Ajaib Singh refused to grant a hearing to suspended Lord President Mohamed Salleh Abas, who is seeking to prevent a government tribunal from investigating five charges of misconduct leveled against him by Prime Minister Mahathir Mohamad.

## A Noisy Walkout

Lawyers jeered when Judge Ajaib Singh delivered his ruling, with several dozen disrupting the hearing by staging a noisy walkout from the packed courtroom.

Lawyers and political analysts fear the escalating controversy over the suspension of Tun Salleh and the subsequent suspensions of another five Supreme Court jurists last week will provide the administration with a pretext to further emasculate judicial independence and to curb the bar, which has been increasingly critical of the prime minister's seven-year-old government.

The lawyers and analysts argue that the legal rift is, in part, a byproduct of Dr. Mahathir's own political battle within his United Malays National Organization (Baru), or New UMNO. They note that the generally uncordial relationship between the Mahathir administration and the legal community became even more tense just days after Tun Salleh's suspension on May 26.

The lord president decided in May that a full nine-member Supreme Court, a panel of unprecedented size, should hear an appeal by Dr. Mahathir's political rivals. The appeal, if successful, could threaten the prime minister's grip on New UMNO, which is the dominant force in the ruling National Front coalition.

## Attack on Bar's Leadership

Education Minister Anwar Ibrahim, a political protege of Dr. Mahathir, said Saturday that the bar's leadership is "defending its own group of people and has formed a theory that we are not defending the judiciary." He added that the "Bar Council has never, for instance, supported any major policies implemented by the government."

Dr. Mahathir has long complained that the judiciary has usurped the law-making prerogative of the government by issuing rulings contrary to the intentions of executive and parliamentary decisions, a contention he bases on several successful legal challenges to the government.

To circumvent judicial interpretation and the application of common-law principles to rulings on legal cases involving the government, the administration has increasingly resorted to legislation that shields the government from the review and the discretion of the court.

Such provisions include mandatory sentences upon conviction, the prohibition of legal challenges to executive orders and the denial of the right of appeal against flawed government detention orders.

Lawyers and political analysts also note that if the six suspended jurists are dismissed, the prime minister could be in a position to stack the country's highest

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legal tribunal with his handpicked nominees.

The constitution permits the prime minister to advise the king on judicial appointments after consulting the Conference of Rulers, representing the heads of Malaysia's royal families.

The first jurist to face possible dismissal is Tun Salleh, the country's highest ranking jurist. A six-judge government tribunal has already drafted its 52-page report for King Mahmood Iskandar ibni Ismail, who may, on the panel's recommendation, sack the lord president. The king suspended Tun Salleh in May.

The tribunal has been blocked from presenting its findings and recommendation to the king by the Supreme Court, which July 2 issued a temporary restraining order preventing the panel from complying with its constitutional mandate.

## Refused to Testify

The five judges who unanimously issued the order were suspended last week by the king, acting on the advice of Tun Salleh's interim replacement, Chief Justice of Malaya Abdul Hamid Omar, who also is the chairman of the tribunal that investigated the allegations of misconduct against the lord president. (Tan Sri Hamid is the country's No. 2 jurist and is next in line to succeed Tun Salleh.)

Tun Salleh refused to testify before the tribunal on the grounds that the creation and composition of the panel violated the constitutional guidelines under which such investigatory bodies are established. Instead, he sought a High Court order prohibiting the tribunal from proceeding.

Tun Salleh's legal challenge, however, suffered a setback Friday, when Judge Ajaib Singh rejected his petition. He said the lord president's application for a prohi-

bition order "has no grounds whatsoever."

Judge Ajaib Singh maintained that Tun Salleh's contention that the king initiated moves to sack him — and not Dr. Mahathir, as stipulated under the constitution — "is wholly fallacious."

He explained that copies of seven communications between the king and Dr. Mahathir showed that the prime minister complied with constitutional guidelines by submitting the charges of misconduct

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against Tun Salleh to the king, who then agreed that an investigating tribunal be established.

Confusion, however, over who actually initiated moves to sack Tun Salleh persists.

The prime minister's department had earlier stated that the king initially demanded that Tun Salleh be dismissed because the 56-year-old monarch "took exception" to a letter from the lord president complaining of Dr. Mahathir's persistent criticism of the judiciary.

But to conform with constitutional provisions for the removal of judges, Dr. Mahathir advised the king to await his formal presentation of charges against the lord president and then agree that a tribunal be

empaneled to investigate his allegations.

On Tun Salleh's contention that the composition of the tribunal was flawed by unsuitable panelists who were chosen by a prime minister biased against the judiciary, Judge Ajaib Singh said, "I am afraid these allegations are baseless" and "cannot hold water."

Saturday, Tun Salleh's lawyers appealed to the Supreme Court. A hearing has yet to be scheduled.

In the meantime, the Supreme Court's restraining order remains in force, despite the suspension of the five jurists who issued the order and now await their own tribunal investigation into charges of misconduct leveled against them by Tan Sri Hamid. The judges were accused by Tan Sri Hamid of "gross misbehavior" in hastily deciding to block the tribunal.

## Resignation Call

Attorney General Abu Talib Othman said Friday that the government hasn't decided whether to ask the Supreme Court to lift its restraining order or to wait for the outcome of Tun Salleh's appeal against the High Court ruling.

With both matters pending, the bar on Saturday called for the resignation of Tan Sri Hamid on the grounds that he "interfered in the administration of justice and committed contempt of court" for recommending to the king that the five jurists be sacked.

The legal body's leadership council intends to meet this week to form a panel of lawyers to institute contempt proceedings against Tan Sri Hamid.

The bar also resolved to present its views on the suspensions to the king and the other members of the Conference of Rulers, with the intention that the royal leaders devise a "fit and proper" resolution to the legal controversy.