

UMNO's Legality Questioned in Hearing

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KUALA LUMPUR — A legal challenge seeking to overturn the leadership elections of Malaysia's dominant political party has raised the possibility that the party itself could be deemed an illegal organization by the country's High Court.

Lawyers representing 11 dissident members of the party, the United Malays National Organization, have contended in a suit filed last June that the participation of election delegates from party branches not approved by Malaysia's registrar of societies and other illegal delegates has violated the law and UMNO's constitution. The dissidents are seeking to have last April's party polls declared invalid and fresh elections held.

The contention of the dissidents is based, in part, on a provision of Malaysia's Societies Act, which states that "no registered society shall establish a branch without the prior approval of the registrar." Lawyers for both sides have agreed that delegates from illegitimate party branches did participate in the early stages of the delegate-selection process leading up to the final leadership polls.

Focal Point

But on Wednesday, the fourth day of the hearing on the suit, a suggestion made last week by a lawyer representing UMNO's mainstream members suddenly emerged as the focal point of the hearing. The lawyer, G. Sri Ram, had suggested that the provision cited by the dissidents should be considered along with a subsequent section of the act. That provision states: "Where a registered society established a branch without the prior approval of the registrar, such registered society and the branch so established shall be deemed to be unlawful societies."

Making this provision an issue dramatically broadened the proceedings from simply an election challenge to a possible ruling on the party's legitimacy, with the implication that UMNO — the backbone of the ruling National Front coalition — is an illegal party.

Raja Aziz Addruse, a lawyer representing the dissidents, called Mr. Sri Ram's suggestion a "kamikaze defense... a do-or-die sort of thing." He said that with the shifting of the hearing toward a court ruling on UMNO's legitima-

cy "the affect would be quite drastic... with far-reaching consequences."

"Maybe they (in Parliament) were not thinking about UMNO" at the time the act was drafted and approved by the legislative body, High Court Judge Harun Mahmud Hashim told Raja Aziz. The act covers virtually all organizations in Malaysia from political parties to charities.

Lawyers for the dissidents had sought to avoid a broad interpretation of the Societies Act by focusing only on the unlawful branches that selected delegates in the three-tier polling process of the party's triennial elections. The participation of delegates from those branches at subsequent divisional meetings tainted the entire election procedure leading up to the final general assembly, and therefore fresh polls should be held, they maintain.

A High Court ruling that UMNO's leadership violated provisions of the societies act and that, therefore, the party should be declared an unlawful society would effectively negate last April's UMNO elections, said Raja Aziz. But short of "considering such a drastic concept," the lawyer urged Judge Harun to resolve the case "in the most reasonable sort of way."

Raja Aziz cited two legal decisions that set precedents for a narrower interpretation of the act. One decision, in particular, stemmed from a similar election challenge involving illegal branches within the Malaysian Indian Congress, a member party of the ruling coalition. Malaysian courts in two instances narrowly ruled that the unapproved branches tainted MIC's leadership elections, but avoided any consideration of the legality of MIC itself.

"Both courts," said Raja Aziz, "chose only to concentrate on the illegal branches" and not the entire party. A broader ruling on the Societies Act, he added, might mean that "everything goes, including UMNO, including the elections."

In the UMNO polls last year, Prime Minister Mahathir Mohamad narrowly escaped defeat in the closest elections in the party's 42-year history. Dr. Mahathir garnered the support of only 51% of the 1,479 election delegates, retaining his post as party president with a victory margin of just 43 votes over his challenger, former Trade and Industry Minister Razaleigh Hamzah. Had he lost, many political analysts believe he almost certainly would have

had to give up the premiership, which customarily accompanies the UMNO presidency.

The case has generated some anxiety among Malaysians. UMNO still is badly split after the bitterly contested elections and the subsequent purging of Dr. Mahathir's UMNO opponents from government and party posts. Party members and political analysts speculate that UMNO again might face another heated election tussle if the dissidents succeed in overturning the April leadership polls.

On other aspects of the case, Raja Aziz on Wednesday dismissed earlier claims by Mr. Sri Ram that complaints by the dissidents of voting irregularities were filed late under UMNO guidelines or that the dissidents were of "unclean hands" and essentially were partly culpable for the polling misdeeds because they were aware of the irregularities while participating in the preliminary stages of the election process.

Raja Aziz argued that the complaints of several dissidents had been filed within the required reporting limit. Several other dissidents, he added, weren't immediately aware of the polling irregularities, but they reported the misdeeds as soon as they were aware of them.

Election Delegates

In addition, he maintained that the participation of the election delegates from unapproved branches "had materially affected" the polling results.

Each of UMNO's 133 divisions sent 11 delegates to the UMNO general election assembly in April. Lawyers for the dissidents and the party's mainstream members have agreed that 30 branches within four larger divisional groupings were illegal. These divisions were responsible for sending 44 delegates to the leadership elections in Kuala Lumpur. Given Dr. Mahathir's winning margin of just 43 votes, lawyers for the dissidents maintain that a reversal of only 22 votes would have unseated the prime minister as president of his party.

Lawyers for both sides said the hearing should be completed today. Judge Harun's ruling is expected soon after the conclusion of the proceedings. An appeal to the Supreme Court, the country's highest legal tribunal, by the losing side will likely follow the ruling, the lawyers added.