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Malaysia's Ruling Party Declared Illegal Court Decision Leaves Doubts About Future of Present Leadership

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KUALA LUMPUR — The United Malays National Organization — Malaysia's dominant political party and the backbone of the country's ruling National Front coalition — was declared an illegal society by the High Court.

Judge Harun Mahmud Hashim's oral ruling Thursday effectively negates UMNO's leadership elections last April, in which Prime Minister Mahathir Mohamad was narrowly re-elected as the party's president and retained the premiership, which customarily accompanies the leading party post.

The full implications of Judge Harun's ruling weren't immediately clear. Malaysian lawyers were uncertain whether it would affect the national and local electoral standing of UMNO officials, the traditional dominance of the party in the National Front or its ownership of a multitude of corporate and party assets.

Written Ruling

Thursday night, Dr. Mahathir told reporters: "I remain the P.M. . . . The judgment doesn't affect the running of the government." He declined to discuss the decision further until he reads Judge Harun's written ruling.

Political analysts said they doubted that other parties in the ruling coalition would challenge UMNO's standing while it sorts out its legal problems and regains its legitimate status. In addition, they said Judge

Harun's ruling is unlikely to diminish UMNO's control of the government, uninterrupted since independence was gained from the British in 1957.

"The implications are not known to us," said Raja Aziz Addruse, a leading Kuala Lumpur lawyer who represented UMNO dissidents seeking to overturn the party's leadership elections last April. The legal

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suit filed by the dissidents resulted in the High Court decision Thursday.

What is nearly certain is that — short of retrospective legislation passed by Parliament to restore UMNO's legal standing immediately — the party now faces the daunting task of re-registering the entire 1.4 million-member organization from top to bottom to comply with the Societies Act, said lawyers involved in the case that led to the High Court ruling.

Following re-registration, UMNO must begin anew a complex election process, beginning at the party's lowest level of

about 8,000 branches and working up to a party general assembly to select a new leadership, the lawyers said.

With UMNO still deeply divided after last year's bitterly fought leadership elections, new polls threaten to revive antagonism toward the prime minister and his administration, political analysts said.

Also, Judge Harun's finding that UMNO is illegal because it violated Malaysian law through procedural mistakes may fuel charges by Dr. Mahathir's political opponents of administrative incompetence in the party.

Possible Reshuffle

Despite the administrative headaches UMNO now faces, several analysts suggested that Dr. Mahathir and his supporters may use the ruling further to strengthen their grasp on the party by weakening the opposition during the re-registration process. They said Dr. Mahathir's political lieutenants might be in a position to screen members during re-registration and perhaps demote or even remove party opponents.

Judge Harun said of his ruling: "It's a hard decision to make." But he added, "The decision has been taken out of my hands. Parliament has already decided."

He was referring to the Societies Act, approved by Parliament in 1966 and subsequently amended five times. It was unquestionably established during the five-day hearing that 30 UMNO branches not registered with the country's registrar of

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societies participated in the party's 37th general elections process, which culminated last April with the re-election of Dr. Mahathir and most of his chief supporters.

The participation of those unapproved branches, particularly with the knowledge of members of UMNO's leadership, proved to be the party's legal undoing.

A provision of the Societies Act states: "Where a registered society establishes a branch without the prior approval of the registrar, such registered society and the branch so established shall be deemed to be unlawful societies."

A subsequent provision in the act further supports Judge Harun's contention that UMNO is an illegal organization by defining "unlawful societies" as any organization with unregistered branches or any organization that establishes a branch without first securing the approval of the registrar.

Also established during the hearing was that some UMNO officials were aware of the unapproved branches at least several months before the April party polls, including party Secretary-General Sanusi Junid, who also is Malaysia's agriculture minister, and several other party divisional leaders. That, too, may be considered a crime under the act.

"Any office-bearer and any person managing or assisting in the management of any unlawful society shall be guilty of an offense and shall be liable on conviction to imprisonment for a term not exceeding five years, or to a fine not exceeding M\$10,000 (US\$3,902), or to both," a provision in the act states.

Existence Known

The existence of "these 30 unapproved branches was known," said Judge Harun, based on the facts agreed to by lawyers from both sides in the hearing and on documentary evidence submitted. "Nobody can plead ignorance that they existed, right to the top."

Judge Harun added: "That's what the law is The law was made by our own Parliament. UMNO knew what they were doing at all times. They have always been in a majority" in the legislative body.

The judge's ruling emerged from an elections challenge filed by 11 UMNO dissidents. In a legal suit filed last June, the

dissidents charged that the participation of election delegates from unregistered party branches and other illegal delegates in UMNO's elections process last year violated Malaysian law and the party's constitution.

Among the nine requests sought by the plaintiffs were court orders declaring UMNO's party polls invalid and seeking fresh elections within three months of the court's ruling.

Judge Harun's decision effectively gave the plaintiffs what they wanted, but without granting any of their requests. "I don't think I can grant (the requests) because UMNO is an unlawful society," he said. "Deemed an unlawful society last year, it remains unlawful."

He added that because UMNO violated the law before the party polls were held, there was "no election at all It's a nullity."

Executive Lineup

Presumably, once UMNO has been legally re-registered, the party's leadership will revert immediately to the executive lineup in place before the elections last year, lawyers said. Dr. Mahathir would maintain his posts as president and Malaysia's prime minister.

Lawyers said that under this likely scenario, former Deputy Prime Minister Musa Hitam, who narrowly missed re-election in April as UMNO's deputy president to Abdul Ghafar Baba, would regain his party post. Deputy Prime Minister Ghafar would move down to his former post as a party vice president. All other leadership positions would revert to their pre-polls lineup.

Lawyers for the UMNO dissidents said they don't see any reason for appealing Judge Harun's ruling. The dissidents' objective was to have the party elections declared invalid and fresh polls held, and Judge Harun's ruling provides for that.

Lawyers representing the party mainstream, including Datuk Sanusi, also don't foresee an appeal; the suit essentially was dismissed by Judge Harun in that he didn't grant any of the dissidents' specific requests. "What's to appeal against?" said Zaki Azmi, one of the lawyers representing the party majority.

However, the plaintiffs' lawyers said they didn't intend to provoke such a ruling.

That's because their challenge was based partly on the provision of the Societies Act that states: "No registered society shall establish a branch without the prior approval of the registrar."

Lawyers for both sides had agreed that delegates from illegitimate party branches participated in the early stages of the delegate-selection process leading to the final leadership polls.

On that basis, the dissidents contended that the entire polling process was tainted by the presence of delegates from unapproved branches, and therefore the party elections should be invalidated and new polls held.

But Wednesday, the fourth day of the hearing, an earlier suggestion by G. Sri Ram, a lawyer representing UMNO's mainstream, emerged as the focal point of the hearing. The comment dramatically broadened the proceedings from simply an elections challenge to a possible ruling on the party's legitimacy.

Mr. Sri Ram had suggested that the provision cited by the dissidents should be considered along with the subsequent section of the act that deems societies with unapproved branches unlawful. However, Raja Aziz urged Judge Harun to ignore the broader provision and rule only on the unapproved branches, not UMNO's legitimacy.

Raja Aziz on Wednesday had 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 legitimacy, "the effect would be quite drastic . . . with far-reaching consequences." Thursday, Raja Aziz said, "Now you see the danger of such a defense."

Escaped Defeat

In the UMNO polls last year, Dr. Mahathir escaped defeat in the closest elections in the party's 42-year history. He garnered the support of only 51% of the 1,479 election delegates, retaining his post as party president with a margin of 43 votes over his challenger, former Trade and Industry Minister Razaleigh Hamzah.

Many political analysts say that had he lost, Dr. Mahathir almost certainly would have had to give up the premiership.

Judge Harun's ruling is bound to generate increased anxiety among Malaysians, said political analysts, who had maintained that the case itself cast a pall over the future stability of UMNO's leadership.

With the ruling, UMNO is certain to face another heated elections tussle. Whether Dr. Mahathir's opponents in the party will be able to regroup for another leadership challenge is uncertain, political analysts and party members said.

Tunku Razaleigh and Datuk Musa, both of whom have had a history of opposing one another for various party posts, settled their differences last year in an effort to unseat Dr. Mahathir. They ran, respectively, for the two top party posts, leading their supporters against the prime minister's faction.

Both lost, and Datuk Musa's supporters say allies of Tunku Razaleigh sabotaged the elections by spoiling their ballots. Datuk Musa lost the race for the UMNO deputy presidency to Mr. Ghafar 739 to 699 — a difference of 40 votes. There were, however, 41 spoiled ballots cast, which could have reversed the election for Datuk Musa. In the polling for the party presidency, Dr. Mahathir beat Tunku Razaleigh 761 to 718, with no spoiled ballots cast.

In the meantime, Judge Harun suggested that Parliament consider "special laws for parties, just as there is a special law for trade unions," so that courts in the future aren't forced again to make such a ruling. "We need special laws," he said. "Maybe