

Mahathir Wins Court Battle Over Party Status

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KUALA LUMPUR - Malaysian Prime Minister Mahathir Mohamad won a decisive legal judgment in the courtroom campaign waged by his political rivals.

The Supreme Court on Tuesday dismissed an appeal by Dr. Mahathir's opponents seeking to overturn a High Court ruling in February that outlawed the United Malays National Organization.

The decision by the country's highest legal tribunal and last court of appeal effectively crushes any legal chance of resurrecting UMNO as a vehicle for rallying opposition against Dr. Mahathir's New UMNO, created soon after the old party was declared illegal.

In addition, the court dismissed an earlier High Court suggestion for resolving UMNO's legal snafu. The High Court had recommended that the party leadership slate elected in 1984 be returned to power with a mandate to rectify the irregularities that led to the organization's illegality. Had the recommendation been upheld, Dr. Mahathir would have faced the prospect of sharing party power with many of his rivals.

Other Actions Threatened

The lawsuit dismissed by the Supreme Court was the linchpin of seven separate, but related, court actions filed within the last year aimed at thwarting Dr. Mahathir's rapidly increasing political dominance. Lawyers said the dismissal cripples the chances of success for the other actions.

Moreover, the decision greatly enhances the opportunity for Dr. Mahathir's New UMNO to gain legal control over the vast assets of its outlawed predecessor without fear of being blocked by the courts.

Control of old UMNO's assets was assumed in February by an official assignee, who is legally required to safeguard the property until a successor party proves to the courts that it has recruited a majority of the disenfranchised members and whose

Datuk Shahrir is contesting as an independent in the UMNO stronghold, where the party was founded more than 40 years ago and where dislike of the prime minister runs deep. He will be vying in a three-corner contest against a not-yet-identified member of Dr. Mahathir's New UMNO and Johore lawyer Abdul Razak Ahmad, deputy chairman of the Partai Sosialis Rakyat Malaysia.

Victory for Datuk Shahrir may inspire other opponents of the prime minister. Several other parliamentarians have suggested that they are waiting in the wings to stagger their resignations, which would force

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New UMNO into a string of campaign battles.

If implemented, the strategy would be a significant annoyance for Dr. Mahathir, but probably not a serious threat, political analysts said.

With unrivaled control over the vast government machinery and purse, Dr. Mahathir already holds an advantage over his powerless detractors when it comes to dispensing patronage and state largesse, the analysts said. In addition, Dr. Mahathir still has the backing of the other 14 parties in the ruling National Front coalition, of which New UMNO remains the backbone, despite its troubles.

Other advantages for the prime minister are control, through the government or New UMNO, of Malaysia's three national television stations and most major newspapers, a burgeoning economy and the disunity of the rival factions opposed to his administration.

"Like the legal challenges, I'm confident Mahathir will weather the political chal-

lenges, therefore, couldn't sue an unlawful group. (The act governs nearly all non-profits organizations.)

The dissidents later sought to overturn Judge Harun's ruling by appealing to the Supreme Court, but ran head-on into the widening rift between Dr. Mahathir and the judiciary. The first victim of the rift was former lord president and the country's top jurist, Mohamed Salleh Abas.

On May 26, just days after Tun Salleh ordered a full nine-member Supreme Court - a panel of unprecedented size - to hear the appeal, he was suspended by King Mahmood Iskandar ibni Ismail. He was

sacked Monday by the monarch after a tribunal found validity in the five charges of misconduct leveled against him by Dr. Mahathir.

Rather than a full court hearing, this week's appeal went before a five-judge panel headed by Judge Abdul Hamid Omar, the country's No. 2 jurist and the man next in line to succeed Tun Salleh. (Tan Sri Hamid also headed the tribunal investigation of the former lord president.)

Based on UMNO's clear-cut violations of several provisions in the Societies Act, the Supreme Court ruled that "we have no hesitation in saying that we are in total agreement" with Judge Harun's findings that the party is illegal, said Judge Hashim Yeop Abdullah Sani, who drafted and read the court's unanimous, 10-page decision.

"It is trite law that where the words of a statute are clear there is no room for the court to go beyond the expressed language of the statute," Judge Hashim added. He said Judge Harun "was absolutely

correct in his interpretation" of the act's provisions.

But the Supreme Court overruled Judge Harun on one important aspect of his written decision, which was drafted about two months after he outlawed UMNO. Judge Harun had suggested that UMNO straighten out its legal mess by turning over control of the party to the leadership slate elected in 1984, which then would legally reconstitute the suspect branches that led to his declaration of illegality.

The recommendation, if pursued, would have meant that Dr. Mahathir and many of his rivals would resume their policy-making leadership roles, thereby perpetuating the feud inside UMNO.

Judge Hashim said Judge Harun "failed ... to carry the interpretation to its logical conclusion. As a result, his additional finding ... to the effect that the office-bearers elected ... in 1984 would continue to be the lawful office-bearers of UMNO is in our view a finding which cannot be supported by law and unwarranted by the evidence."

The Name May Remain

UMNO may be legally dead, but if Dr. Mahathir has his way, the name may survive.

Two former UMNO dissidents have secured a temporary High Court injunction blocking two New UMNO-owned newspapers from dropping the word "new" when referring to the party, arguing that it may cause confusion among Malays in deciding who is the rightful heir of the outlawed organization.

Despite the injunction, Dr. Mahathir proclaimed Monday: "A certain group had successfully filed an injunction in the court to stop some newspapers from dropping the word baru (new). From now on, we call the party UMNO. It is not that we want to run down the courts, but this is a political field where the people's emotions must be taken into consideration."

party constitution closely resembles that of its predecessor.

Dr. Mahathir has maintained that New UMNO meets both requirements, but he hasn't disclosed when his party will seek to acquire the assets. An attempted acquisition likely will be greeted by a stalling legal challenge, however slim the chances of its success in light of Tuesday's Supreme Court decision.

"With the total we have now, we have the right to claim the estate owned by UMNO because our membership has more than exceeded half the previous party membership," Dr. Mahathir said Monday, while revealing that New UMNO has signed up 931,361 members. He didn't say how many of the participants were previously enlisted in UMNO, which according to court documents had an estimated 1.4 million members before it was declared unlawful.

"It looks like our legal options are running out," said a legal adviser to some of Dr. Mahathir's rivals, adding that Tuesday's court decision "won't help the other suits."

With a restricted legal avenue to challenge Dr. Mahathir, the prime minister's rivals may more vigorously pursue a riskier and head-on political confrontation. One option is for rival members of Parliament to resign, thereby requiring a series of midterm elections. (Under Malaysian law, an election for a parliamentary seat must be called within 60 days of a vacancy.)

The first indication of whether such a strategy would be successful will become apparent later this month. Former Welfare Minister Shahrir Samad, an outspoken critic of Dr. Mahathir, resigned from Parliament on July 1, triggering an Aug. 25 election for his seat in Johore Bahru, capital of Johore state.

lenges," a Kuala Lumpur lawyer said, noting that the prime minister doesn't legally have to dissolve Parliament and call another general election until 1991. "In the meantime, he'll cope with the piecemeal by-elections as he further strengthens his grip on the country."

Party Polls Questioned

The intense political rivalry between Dr. Mahathir and his opponents sired the lawsuit that led to the Supreme Court ruling. The court challenge arose from a suit filed in June 1987, in which 11 UMNO dissidents contended that the participation of delegates from illegal party branches tainted the party's hotly contested leadership poll two months earlier.

The dissidents all backed a bid by former Trade and Industry Minister Razaleigh Hamzah to unseat Dr. Mahathir as UMNO president. Tunku Razaleigh lost by only 43 votes, out of more than 1,400 votes cast in the party election.

Soon afterward, Dr. Mahathir further embittered his rivals by accepting the resignations of Tunku Razaleigh and several other cabinet officials and by sacking several other government leaders aligned with the prime minister's UMNO opponents. A witch hunt against other rivals ensued, deepening the political split within the strictly Malay party.

The dissidents urged the High Court to declare the April party polls illegal, as well as to reinstate the leadership slate elected in 1984 and to call for a fresh election. They argued that the participation of the illegal delegates may have provided the slim margin of victory for Dr. Mahathir.

But on Feb. 4, Judge Harun Mahmud Hashim stunned the nation by dismissing the suit on the grounds that the undenied existence of 30 unapproved branches rendered UMNO an illegal organization under the country's Societies Act and that the dis-