

**The world is watching Sodomy II, reminds Karpal  
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Senior lawyer Karpal Singh has reminded the judge presiding over the Anwar Ibrahim trial that the case is under worldwide scrutiny.

hillary clinton america state dept 231208In applying for High Court judge Justice Mohamad Zabidin Mohd Diah to voluntarily recuse himself, Karpal said the comments made by United States Secretary of State Hillary Clinton (right) and the presence of US embassy officials observing the trial proves that.

He also said this is the first time an application has been made to recuse a judge following his (judge's) attempt to intimidate a counsel.

"Your lordship is under close scrutiny, and Malaysia's legal system is also on trial as a result of this case.

"Hilary Clinton has called for a fair trial. The presence of the US embassy officials in the trial as observers is also proof of that," he said.

Karpal said if there is a real danger of bias, then the judge should withdraw himself.

He also pointed out a Federal Court finding, where former Court of Appeal president, the late Justice Abdul Malek Ahmad, who had reprimanded the then-trial judge Augustine Paul.

"In the judgment, Abdul Malek had commented Paul had acted as if in defence of the public prosecutor," he said.

"I am not trying to threaten Yang Arif by suggesting the trial may be overturned, but there is this finding of fact on the-then trial judge," he said.

Verbatim reading of contentious words

Karpal also read the verbatim court proceedings notes, the subject of their complaint against Justice Zabidin. The judge triggered the action when he did not abide by a Supreme Court decision that all documents related to expert witnesses - on which the court could form an opinion - should also be provided to the defence.

Judge: What you said can be constituted as contempt.

Karpal: The issue of contempt of court does not arise as I have to ensure the interests of my client.

Judge: The case of (lawyer) Zainur Zakaria (charged for contempt) is clear.

Karpal: The threat of contempt is unwarranted. You have to look at it objectively. To threaten us at this stage before filing (recusal application) is not right.

Judge: I am not saying contempt.

Karpal: To intimidate counsel is a serious matter. To say it is contempt is unwarranted. We

have a duty to perform to our client. This threat of contempt Yang Arif should withdraw.

Judge: Okay, I withdraw that.

Karpal: It is not proper for Yang Arif to have said that.

Judge: Okay! Okay! It's not proper.

Karpal said it was not proper for Zabidin to intimidate a counsel and that was why Anwar wanted the judge to be disqualified.

Judges must be impartial

Karpal said judges and magistrates must ensure justice must not only be done but manifestly be seen to be done.

They, Karpal said have to be fair and impartial, and the lawyer cited a High Court judge KC Vohrah case, who agreed to recuse himself voluntarily in hearing a trial in line with accepted norms.

Karpal also referred to the Judges Code of Ethics 2009, where it demands that judges perform their duty without bias and prejudice.

"Under the code, judges can be subject to disciplinary proceedings if found to be biased. I am giving your lordship a gentle reminder, your lordship must carefully consider, if your lordship insists on carrying on, you must be prepared for the consequences."

"A judge cannot act as he pleases as they are now subject to new laws, legislation and convention," he said.

Karpal also referred to the Judges Ethics Committee Act 2010, where judges are required to perform their duty without prejudice and as stated in section four of the Act, judges could be subjected to a hearing in matters relating to discipline but does not involve the removal of the judge.

He also said judges should also abide by the Bangalore Principles of Judicial Conduct 2002, which stipulates the need for judicial integrity.

"Principles of impartiality and the performance of duty without prejudice should be adopted by all judges," he said.

Reflecting on the intimidation made by Justice Zabidin, Karpal said the court must understand what is going through Anwar's mind following the threat.

"This has certainly an effect on him as he wished for an independent, fair and impartial hearing," he said.

This right, Karpal said is also enshrined in Article 5(1) of the constitution where all persons are subject to a fair trial.

Poser over Yusof's condition

Solicitor-general II Mohd Yusof Zainal Abiden who is leading the prosecution team was

conspicuous by his absence today.

Following Karpal's submission, DPP Mohd Hanafiah Zakaria, told Justice Zabidin that they needed time to prepare submission as Yusof is unwell.

As a result, Zabidin allowed the case to resume at 8.30am tomorrow for the prosecution to reply.

It is learnt Yusof had a fall this morning before coming to court resulting in him hurting his leg. It is uncertain whether he suffered a sprain or fracture.

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