

Why Did They Free Anwar?

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Anwar's acquittal and discharge could not have earned the judiciary any brownie points. Neither did the trial judge, Justice Zabidin Mohd Diah, come across as someone capable of blazing a new trail in proactive justice.

In fact, the court proceedings only disappointed Malaysians the way the judge denied the defence the many crucial notes they were entitled to, dismissed their right to question the Prime Minister and his wife by granting their application not to appear as witnesses, and refused to recuse himself as the presiding judge by dismissing Anwar's application that he was biased in the proceedings.

He even strengthened this belief by concluding at the end of the prosecution case that Saiful was a "truthful and credible witness" without even hearing the defence side of the case. The bias was so blatant and so obvious.

Who can forget the doctor who testified under oath at the trial? He wilfully refused to refer to his notes in a deliberate attempt to deny the defence his notes.

In spite of Karpal Singh coaxing him to refer to the notes while testifying, he stubbornly refused to look at his notes. The question arises, why would he want to deny the defence access to his notes? Was he coached not to refer to his notes? What was in those notes that would have been helpful in Anwar's defence that they desperately wanted to hide?

Again, the way Anwar's DNA was obtained was questionable and unethical. In spite of Anwar having assured the police that he would turn up at the police station to give his statement, he was waylaid, arrested and taken to the police station as if he was a common criminal. And they unnecessarily kept him overnight to obtain his DNA surreptitiously. Indeed that was how they obtained his DNA.

Anwar's objection to the admission of his DNA was initially allowed because it was obtained by trickery. But later the judge allowed the DNA as an exhibit following the prosecution's appeal.

So when the judge acquitted Anwar at the end of the trial, his decision was a clear contradiction to the way the case had progressed and proceeded. Going strictly by the court proceedings, Anwar should have been convicted. There were no two ways about it. The court decision took everyone by surprise.

The entire proceedings went against Anwar thus allowing an injustice to prevail. It created the unmistakable impression that the court was colluding with the executive to put away Anwar for good.

Widespread anger

So why was Anwar freed?

While the prosecution went all out to obtain a conviction, the powers-that-be could not ignore the sentiment on the ground. There was wide-spread anger and frustration among a wide-ranging spectrum of the population.

I was on my way to keep an appointment at the General Hospital in Penang on 9 January, when I was informed of the outcome, moments after the judge had delivered his verdict to acquit and discharge Anwar. I met so many people at the hospital, the majority of whom were Malays and who were total strangers. When I told them that Anwar was freed, all of them without an exception praised God and were openly very happy.

I called my friend in Kuala Lumpur and related my experience with these people. I was told that this euphoria was not confined to Penang only but was felt everywhere in KL and elsewhere in the country.

With this kind of sympathy and support for Anwar, a guilty verdict and a prison sentence would have outraged all these people. The backlash arising out of this injustice would have punished the Barisan Nasional mercilessly in the 13th General Elections.

Political motive?

According to many observers, it was a political decision to go after Anwar with this trumped up charge as he was seen as a threat to the BN's continued domination of Malaysian politics. Now it was also a political decision to free him in order to mollify the public anger against the BN.

But if this was their strategy for the time being, will they allow Anwar the freedom to roam around the country, galvanising the people and spreading the wings of Pakatan all over Malaysia?

It is very likely that they would want to appeal this verdict and knowing the trend of the judiciary – you win round one and lose round two – the appeal would be allowed. In this way they can keep Anwar tied down with the court cases and continue to harass him giving him little rope to campaign effectively.

But this raises a serious issue. Who will decide if the prosecution should appeal? Following the norm, that decision is with the Attorney General, Abdul Gani Patail. But would that be fair to Anwar?

In the first sodomy trial, Manjit Singh who was representing Nallakaruppan revealed that Gani Patail had asked Nallakaruppan to incriminate Anwar offering a plea bargain. This incident should disqualify Gani Patail from deciding on the question of appeal. Apparently there would be a case of conflict of interest.

But the best decision is for the executive and the judiciary to accept the decision of the High Court and bring a closure to this unhappy event. There would be no justification for wasting countless hours of the court and unnecessarily incurring huge further costs in pursuing this case.

If the AG proceeds with the appeal, the inevitable conclusion would be that it is a case of political vendetta against Anwar, plain and simple. It would debunk the claim made by some that the verdict showed the judiciary is independent. It would only establish the fact that nothing has changed in the judiciary. The rot has permeated beyond repair and redemption.

Hope only lies in a change of government for a better Malaysia and a better future for Malaysians.

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