

**Government DNA expert's analysis is lacking, Anwar's lawyer tells court**  
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The defence in Datuk Seri Anwar Ibrahim's sodomy appeal at the Federal Court today said DNA evidence could not be accepted as the only proof of the opposition leader's alleged crime against a former aide.

Co-counsel Ramkarpal Singh continued the second day of the defence's submissions by telling the apex court that DNA samples were only part of corroborative evidence.

"(The) fallacy that is so easy to fall to is that there is too much reliance on DNA evidence. It is often forgotten that DNA evidence has to be part of corroborative evidence," he said.

He said the DNA analysis by government chemist, Dr Seah Lay Hong, was lacking. When testifying at the trial, Seah did not provide notes, guidelines or documents to prove that her work was in accordance with international standards.

She had also been "evasive" when answering questions, Ramkarpal said, and the contradictions in her analysis rendered her analysis "unsafe".

The defence team was also "seriously disadvantaged" during the trial as it could not respond to her evidence because the documents that the DNA expert had relied on were not tendered.

There was a list of information that was not disclosed to the defence, Ramkarpal added.

He said that in all court cases where DNA was tendered as evidence, the standard documents disclosed were the actual chemist's report, the summary of the findings and a technical report.

"We were given none of this," he said. "We needed these information. Not for us to read it at home but for us to show our experts."

He said the Court of Appeal was wrong to have dismissed the expert witnesses brought by the defence – two Australians, Dr Brian McDonald and Dr David D Wells, who were also DNA experts.

The Court of Appeal's written judgement had dismissed them as "armchair experts"

on the grounds that they were not present when the government chemists did their tests of the samples. The appellate court had also regarded them as foreigners who were merely giving their opinion as opposed to providing factual analysis.

Ramkarpal said it was common for one expert to comment on another's work, adding, that it was "rare that the work of an expert is supervised by another".

"(The Court of Appeal came to the conclusion) without at all considering their evidence. Except for an insignificant reference, nowhere have they cited the experts' evidence (in their judgement)," he said.

Anwar's defence team has so far been building a case to show that the complainant, Mohd Saiful Bukhari Azlan, was not a credible witness by highlighting gaps and contradictions in his testimony, as well as in the items used by police investigators to obtain Anwar's DNA.

"(These) are the corroborative evidence that needs to be taken into account by the court even if the DNA evidence is deemed satisfactory," Ramkarpal said.

His co-counsel and sister, Sangeet Kaur Deo, had earlier submitted to the court that three items taken from Anwar's prison cell were unlawfully obtained. The items were a toothbrush, plastic water bottle and a towel – allegedly used by Anwar when he was held overnight in the lockup.

There was also no proof, Sangeet had said, that Anwar had actually used the items.

Ramkarpal is submitting that the DNA found in Saiful's rectum, although a match with DNA on the three items from the lockup, could not be accepted. The DNA on the lockup items have been tagged as belonging to a "Male-Y" and it was not conclusive that "Male-Y" was Anwar.

A five-member bench, led by Chief Justice Tun Arifin Zakaria, is hearing Anwar's appeal.

Anwar, 67, was sentenced to five years' jail by the Court of Appeal in March this year but has obtained stay of execution pending the outcome of his appeal in the Federal Court which will be heard today and tomorrow. He is out on bail of RM10,000 in one surety.

In January 2012, the High Court, after a lengthy trial, acquitted Anwar of the charge after calling for his defence.

The prosecution has also filed a cross appeal to enhance the jail term which could be extended up to 20 years.

The opposition leader is alleged to have performed carnal intercourse on his former aide, Mohd Saiful Bukhari Azlan, at an apartment in Damansara on June 26, 2008. This is the second sodomy charge against him.

The first was in 1998, after he was sacked from government. He was then accused of sodomising his former driver and acquitted by the Federal Court in 2004.

This time, Anwar's political career could come to an end if the apex court upholds the Court of Appeal 's conviction and sustains the sentence.

Anwar's defence team of 14 lawyers is led by retired federal court judge Datuk Seri Gopal Sri Ram. – October 29, 2014.

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