

**No proof of sexual assault, court hears in Anwar's sodomy appeal**  
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The Court of Appeal failed to consider the testimony of the first doctor who examined Datuk Seri Anwar Ibrahim's alleged sodomy victim, defence for the politician told the Federal Court today.

Former Pusrawi doctor, Dr Mohd Osman Abdul Hamid, was the defence's witness during the trial of Anwar's alleged sodomy, and the first to examine the complainant, Mohd Saiful Bukhari Azlan, after the alleged assault.

Co-counsel Ramkarpal Singh said that Dr Osman had not found any trace of tear or injury on Saiful consistent with sodomy.

"When he examined Saiful, he found Saiful's anus to be normal," Ramkarpal told the apex court today, where Anwar is seeking to overturn his conviction. Dr Osman's finding on Saiful was despite the latter's complaint that he was in pain, Ramkarpal said.

The lawyer also said that Dr Osman's testimony differed from three other doctors who examined Saiful later.

The prosecution did not call Dr Osman to testify, but they also did not impeach him if they doubted his testimony.

Ramkarpal argued that the High Court judge and the Court of Appeal took as "gospel" the testimony of three government doctors – Dr Mohd Razali Ibrahim, Dr Siew Sheue Feng and Dr Khairul Nizam – that penetration did take place.

He argued that it was merely an assumption.

He said the three doctors prepared their report two days after receiving the chemists' DNA report. The doctors had said that they "could not initially comment on whether penetration took place without knowing from which site the samples were taken from".

However, they changed their minds – that penetration could possibly have taken place – in court when they were shown samples labelled by investigating officer Supt Jude Pereira, Ramkarpal said.

"In the circumstances, there is no doubt that there were no physical or clinical

findings such as tear marks on the anus of Saiful or defensive wounds... suggestive of penetration since four doctors reached the same conclusion on this score," he said.

Ramkarpal also submitted that government chemists Dr Seah Lay Hong and Siti Aidora Saedon were biased witnesses because they did not hesitate to speculate in circumstances that favoured the prosecution.

He said that the chemists had a bias that the Court of Appeal did not consider.

Ramkarpal said Dr Seah had speculated when answering questions on stains on Saiful's trousers and underwear.

"If there were seminal stains found on the back of the underwear, surely it would have come into contact with the trousers and there would also be seminal stains on the trousers. Yet, none were detected on the trousers.

"Dr Seah refused to commit to such a clear and obvious suggestion," Ramkarpal told the court.

He also noted the discrepancy in the length of time the alleged sodomy took place. Saiful had told the court that it lasted five minutes, but he had told the investigating officer and doctors at the Kuala Lumpur Hospital that it was for 30 minutes to the extent that he was in pain.

If it had been for so long, there should have been physical evidence of tear and injury, yet this was not the case in Dr Osman's findings, Ramkarpal submitted.

Earlier, Ramkarpal had submitted that DNA samples used in the sodomy trial had been contaminated by a third person, which the defence contends is the investigating officer, Supt Jude Pereira, who handled both Anwar's and Saiful's samples.

The defence also attacked the government chemists who ran DNA profiles on the samples, saying they did not follow procedures and also failed to investigate the presence of a third party's DNA.

In the first two days of the hearing, the defence had challenged Saiful's credibility as a witness, pointing out contradictions between his testimony and other evidence, and also sought to demolish the link between DNA profiles found on items supposedly used by Anwar in the police lock-up and the samples taken from Saiful's rectum.

Anwar's defence team of 14 lawyers is led by retired Federal Court judge Datuk Seri Gopal Sri Ram.

A five-member bench led by Chief Justice Tun Arifin Zakaria is hearing the appeal.

Anwar was acquitted by the High Court in January 2012 after a lengthy trial.

This was overturned by the Court of Appeal in March this year and his five-year jail

sentence was given a stay of execution pending the outcome of his appeal in the Federal Court.

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 Saiful, his former aide, at an apartment in Damansara on June 26, 2008.

This is the second sodomy charge against Anwar. The first was in 1998, after he was sacked from government while still holding the posts of deputy prime minister and finance minister. He was then accused of sodomising his former driver and eventually 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. – October 30, 2014.

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