



Inter-Parliamentary Union

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Malaysia

MAL/15 - Anwar Ibrahim

Decision adopted by consensus by the IPU Governing Council at its 197th session (Geneva, 21 October 2015) ¹

The Governing Council of the Inter-Parliamentary Union,

Referring to the case of Dato Seri Anwar Ibrahim, a member of the Parliament of Malaysia, and to the decision adopted at its 194th session (March 2014),

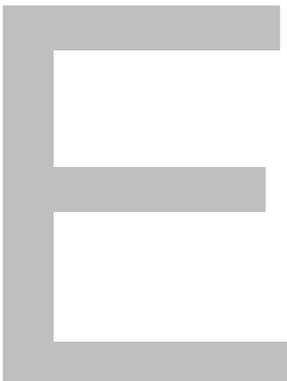
Taking into account the report of the Committee delegation (CL/197/11(b)-R.1) which, at the invitation of the Malaysian parliamentary authorities, went to Malaysia (29 June–1 July 2015) to gain a better understanding of the issues at hand in the Malaysian cases, raise existing concerns and examine possible avenues for progress; *considering* that the delegation was allowed to meet with Mr. Anwar Ibrahim in prison; *also taking into account* the information provided by the leader of the Malaysian delegation to the 133rd IPU Assembly (October 2015) and by one of the complainants at two separate hearings with the Committee on 17 and 18 October 2015 respectively,

Recalling the following information on file:

- Mr. Anwar Ibrahim, Finance Minister from 1991 to 1998 and Deputy Prime Minister from December 1993 to September 1998, was dismissed from both posts in September 1998 and arrested on charges of abuse of power and sodomy; he was found guilty on both counts and sentenced, in 1999 and 2000 respectively, to a total of 15 years in prison; on 2 September 2004, the Federal Court quashed the conviction in the sodomy case and ordered Mr. Anwar Ibrahim's release, as he had already served his sentence in the abuse of power case; the IPU had arrived at the conclusion that the motives for Mr. Anwar Ibrahim's prosecution were not legal in nature and that the case was built on a presumption of guilt;
- Mr. Anwar Ibrahim was re-elected in August 2008 and May 2013 and became the de facto leader of the opposition *Pakatan Rakyat* (The People's Alliance);
- On 28 June 2008, Mohammed Saiful Bukhari Azlan, a former male aide in Mr. Anwar Ibrahim's office, filed a complaint alleging that he had been forcibly sodomized by Mr. Anwar Ibrahim in a private condominium; the next day, when it was pointed out that Mr. Anwar Ibrahim, who was 61 at the time of the alleged rape and suffering from a bad back, was no physical match for a healthy 24-year-old, the complaint was revised to claim homosexual conduct by persuasion; Mr. Anwar Ibrahim was arrested on 16 July 2008 and released the next day; he was formally charged on 6 August 2008 under section 377B of the Malaysia Criminal Code, which punishes "carnal intercourse against the order of nature" with "imprisonment for a term which may extend to 20 years" and whipping; Mr. Anwar Ibrahim pleaded not guilty to the charge and, in addition to questioning the credibility of the evidence against him, pointed to several meetings and communications which took place between Mr. Saiful and senior politicians and police before and after the assault to show that he is the victim of a political conspiracy;

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The delegation of Malaysia expressed its reservations regarding the decision.



- On 9 January 2012, the first-instance judge acquitted Mr. Anwar Ibrahim, stating that there was no corroborating evidence to support Mr. Saiful's testimony, given that "it cannot be 100 per cent certain that the DNA presented as evidence was not contaminated"; this left the court with nothing but the alleged victim's uncorroborated testimony and, as this was a sexual crime, it was reluctant to convict on that basis alone;
- On 7 March 2014, the Court of Appeal sentenced Mr. Anwar Ibrahim to a five-year prison term, ordered that the sentence be stayed pending appeal, and set bail at 10,000 ringgits,

Considering that, on 10 February 2015, the Federal Court upheld the conviction and sentence, which Mr. Anwar Ibrahim is currently serving in Sungai Buloh Prison in Selangor; as a result of the sentence, he will not be eligible to run for parliament for six years after he has completed his sentence, ie until July 2027,

Taking into account the report of the IPU observer, Mr. Mark Trowell QC, (CL/197/11(b)-R.2), who attended most of the hearings in the case in 2013 and 2014 and the final hearing on 10 February 2015; the rebuttal of his report by the authorities and the response to the rebuttal by Mr. Trowell,

Considering that the complainants affirm that the case against Mr. Anwar Ibrahim has to be seen against the backdrop of the uninterrupted rule of Malaysia by the same political party, UMNO, and the fact that in the 2013 general elections that monopoly was shaken by a united opposition which was able to obtain 52 per cent of the popular vote, although – according to the complainant, due to widespread gerrymandering and fraud – this did not translate into a majority of seats for the opposition; the complainants also point out that the alliance that Mr. Anwar Ibrahim was able to set up and keep together fell apart after he was incarcerated,

Considering that the Malaysian authorities have repeatedly stated that Malaysia's courts were fully independent and that due process had been fully respected in the course of the proceedings against Mr. Anwar Ibrahim, including by offering the counsel for defence many opportunities to present their arguments,

Considering that, on 30 April 2015, Mr. Anwar Ibrahim applied for a fresh judicial review of his conviction, under Rule 137 of the Federal Court rules, on grounds of unfairness, with the applicant asking for the adverse judgement to be set aside and a new bench constituted to rehear the appeal; in his nine-page affidavit, Mr. Anwar Ibrahim listed a number of grounds warranting a review of his case; he alleged, among other things, that the extraordinary swiftness, timing and content of the statement made by the Prime Minister's Office (PMO) on the day of his conviction gave the impression that it knew of the result of the case even before the court's ruling, which is normally subject to secrecy; the affidavit also points out that it is not the practice of the PMO to issue such a statement in any other criminal appeal; in the grounds to support his application, Mr. Anwar Ibrahim claimed that the judgement ought to be reviewed because the release of the PMO's statement on the date of judgement which sought to justify his conviction rendered the judgement objectively deficient; the affidavit also criticized the conduct of lead prosecutor Mr. Muhammad Shafee Abdullah who, according to Mr. Anwar Ibrahim, had conducted a "road show" following his conviction, thereby lending weight to his claim that his trial was backed by UMNO and that he was the victim of a political conspiracy,

Considering also that, on 10 June 2015, Mr. Anwar Ibrahim's lawyers filed an application to have the Federal Court hear retired senior police officer Mr. Ramli Yusuff's testimony to the alleged conspiracy to cover up the infamous "Black Eye" incident in 1998 during Mr. Anwar Ibrahim's detention before his first sodomy trial ("Sodomy I"); Mr. Ramli Yusuff had given evidence on 27 May 2015 in a separate case about his refusal to aid the then Assistant Inspector-General of Police, Tan Sri Musa Hassan, in a purported bid to fabricate evidence falsely showing that Mr. Anwar Ibrahim had self-inflicted his injuries; Mr. Ramli Yusuff had also said that he refused to lodge a police report falsely claiming that Mr. Anwar Ibrahim had lodged a false report of an assault by the then Inspector-General of Police, Mr. Tan Sri Rahim Noor; Mr. Ramli Yusuff claimed that the then Inspector-General of Police had said that he had been sent by the then Attorney General, Tan Sri Mohtar Abdullah and the then lead prosecutor of the case, Mr. Abdul Gani Patail, who subsequently became, and until very recently was, the Attorney General of Malaysia; Mr. Anwar Ibrahim said that the police officer's evidence was credible and of crucial importance, adding that the Federal Court would not have rejected his defence of a political conspiracy had the additional testimony been available to him earlier,

Considering that, on 24 February 2015, Mr. Anwar Ibrahim's family submitted an application for a royal pardon; on 16 March 2015 the Pardons Board rejected the application unofficially through an affidavit in reply; the family again submitted a petition for a royal pardon on the basis of a transgression of justice on 12 October 2015,

Considering that, since his imprisonment on 10 February 2015, Mr. Anwar Ibrahim has been examined by Dr. Jeyaindran Tan Sri Sinnadurai, who is also the Deputy Director General of Health; Mr. Anwar Ibrahim had been complaining to Dr. Jeyaindran about the pain in his right shoulder since early March 2015; however, according to his family, he was only sent to hospital in Kuala Lumpur after four months, namely on 2 June 2015; although the physician who examined him recommended intensive physiotherapy, this recommendation was not implemented, except for a few days from 7 to 12 July 2015; currently, according to Mr. Anwar Ibrahim's family, physiotherapy rarely takes place - once every few weeks, despite the constant pain; Mr. Anwar Ibrahim's medical report had been referred to Prof. Dr. Ng Wuey Min, Associate Professor at the University Malaya Medical Centre, an orthopaedic shoulder specialist who had treated him before; he concluded that the problem affecting Mr. Anwar Ibrahim's right shoulder was serious and may require arthroscopic surgery to ensure long-term healing; Mr. Anwar Ibrahim's family affirms that, on 21 August 2015, Mr. Anwar Ibrahim's family was informed that, on that very same day, the orthopaedics specialist, Dr. Fadhil, had met Mr. Anwar Ibrahim in prison and merely prescribed strong painkillers to manage the pain, the dose subsequently being doubled by Dr. Jeyaindran,

Considering that Mr. Anwar Ibrahim's family consider that Dr. Jeyaindran should not be in charge of Mr. Anwar Ibrahim's health treatment for the following reasons: (i) he was a witness who testified during the trial against Mr. Anwar Ibrahim; (ii) he is also the personal physician to the current Prime Minister of Malaysia; (iii) he has failed to implement any necessary treatment, which he personally recommended, namely intensive physiotherapy; (iv) he lacks the expertise in the area of Mr. Anwar Ibrahim's health problems; (v) the family affirms that Dr. Jeyaindran has taken three months to allow Mr. Anwar Ibrahim to be examined and for an MRI of his right shoulder to be taken, which has contributed to the pain becoming chronic and affecting his left shoulder; (vi) the family considers that Mr. Anwar Ibrahim needs to be taken immediately to the University Malaya Medical Centre hospital for a thorough examination by Prof. Dr. Ng Wuey Min of his right and left shoulder problems, including all tests such as MRI, etc, so that he can give an authoritative judgement as to effective treatment,

Recalling that, while in detention during the first sodomy trial ("Sodomy I"), Mr. Anwar Ibrahim suffered a severe spinal injury and developed symptoms of spinal cord compression; his plea for medical help then was not heeded,

- 1 *Thanks* the IPU trial observer and the parliamentary authorities for their extensive comments on the trial against Mr. Anwar Ibrahim;
- 2 *Thanks also* the Malaysian authorities, in particular the parliamentary authorities, for receiving the on-site mission and for facilitating the fulfilment of its mandate; *appreciates* that the mission was given the opportunity to meet with Mr. Anwar Ibrahim, albeit – contrary to its procedure – not alone;
- 3 *Is deeply concerned* about the trial observer's conclusion that, in light of the procedural irregularities and the evidence available, Mr. Anwar Ibrahim should have been acquitted; *considers* in this regard that the detailed official rebuttal does not dispel the serious concerns about the credibility of the alleged victim, the DNA evidence and the dubious circumstances surrounding the alleged sodomy;
- 4 *Fears* that Mr. Anwar Ibrahim's conviction, which precluded him from participating in parliamentary life for more than a decade, deprived the opposition of its main leader and ultimately led to the disintegration of the united opposition, may be based on considerations other than legal;
- 5 *Sincerely hopes* therefore, all the more so in light of new facts presented by his legal counsel and family, that the efforts to obtain a judicial review or royal pardon will bear fruit; *wishes* to be kept informed of progress in this regard;

6. *Is deeply concerned* that Mr. Anwar Ibrahim may not be receiving the treatment he needs in an effective and timely manner; *calls* on the authorities to do everything possible to address this situation, including by allowing him to be cared for by a doctor of his own choice and to receive the recommended long-term treatment to avoid irreparable damage to his health, if need be through surgery abroad; *wishes to receive* the views of the authorities on this point;
7. *Requests* the Secretary General to convey this decision to the competent authorities, the complainant and any third party likely to be in a position to supply relevant information;
8. *Requests* the Committee to continue examining this case and to report to it in due course.