

# Malaysian judge orders the release of two opposition detainees

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11 June 2001

A Malaysian High Court decision on May 30 to free two opposition leaders held without trial under the country's Internal Security Act (ISA) is a further sign of the dissatisfaction in ruling circles with the government of Prime Minister Mahathir Mohamad.

The two detainees—N. Gobalakrishnan and Abdul Ghani Haroon—were among 10 activists rounded up prior to and after an opposition rally on April 14 called to mark the second anniversary of the conviction of opposition leader Anwar Ibrahim on bogus corruption charges. Most of the 10 are members of the opposition Parti Keadilan Nasional (National Justice Party) formed by Anwar's wife Wan Azizah.

Without presenting a shred of evidence, the Malaysian police chief alleged that the opposition figures had been trying to obtain explosives and firearms and “were planning militant actions to topple the government”. Prior to the High Court decision, all 10 had been held for nearly two months, unable to speak to their lawyers or families.

Judge Hishamudin Mohd Yunus ordered the release of the two prisoners and directed police not to re-arrest them for at least 24 hours. In a 28-page ruling, Hishamudin issued a stinging rebuke to the police, and by implication to the Mahathir government. “Those police officers responsible for the detention of the applicants must wake up to the fact that the supreme law of this country is the constitution and not the ISA,” he said.

“The arresting officer cannot parrot the provisions of the [ISA] for detaining the applicants. He must show that he has reason to believe that the applicants had acted or were about to act in a manner prejudicial to the country,” Hishamudin continued. “To deny the detainees and their families access to one another and to their lawyers for such a long period is cruel, inhuman and oppressive... The denial to counsel is not only unjust but it also makes a mockery of the right to apply for habeas corpus.”

Malaysia's Bar Council, representing 8,000 lawyers, hailed the decision and called for the abolition of the ISA, describing it as “not only antiquated but draconian”.

The Mahathir government struck back almost immediately, launching an appeal against Judge Hishamudin's ruling. On June 2, Deputy Prime Minister Abdullah Ahmad Badawi, who

is also the country's home minister, announced that he had found that a case existed to hold four of the original 10 detainees for two years. Keadilan vice-president Tian Chua, Keadilan youth chief Mohamad Ezam Mohd Nor, Keadilan council member Saari Sungip, and activist Hishamuddin Rais have been transferred to the Kamunting detention camp in Perak. Police have since released a further two detainees.

A series of protests have demanded the release of the detainees and abolition of the ISA. Last Friday a demonstration of more than 500 gathered at the National Mosque in Kuala Lumpur before being dispersed by police. Yesterday a small group of protesters chanted “Abolish ISA! Release all ISA political prisoners!” outside the Kamunting detention camp.

The judge's decision to openly challenge the police in a case with obvious political ramifications is highly unusual. Mahathir, like previous Malaysian prime ministers, has used the repressive ISA to incarcerate political opponents for lengthy periods on the most tenuous of grounds. Just as routinely, the Malaysian judiciary has rubberstamped the police actions. In another high court decision on April 25, habeas corpus applications by five other detainees were rejected.

The last significant opposition to Mahathir from Malaysia's handpicked, conservative judiciary was in the late 1980s in the midst of a bitter struggle in the ruling United Malays National Organisation (UMNO). In May 1988, Mahathir prevailed upon the king to suspend the president of the Supreme Court just prior to hearings on two key cases: one involving control of UMNO, and the second involving a government appeal against a judge's decision to release an ISA detainee.

The Supreme Court president was ultimately dismissed for “misbehaviour” along with two other Supreme Court judges. Having made clear that even the mildest independence would not be tolerated in the judiciary, Mahathir amended the ISA so as to virtually eliminate the possibility of court challenges to its use. Currently the police can detain anyone broadly deemed to constitute a threat to national security for a period of 60 days without access to their lawyers. The government can then hold the detainee indefinitely without trial—subject only to a review every two years.

Judge Hishamudin's decision is another indication of the sharp divisions in Malaysia's ruling elite that erupted nearly

three years ago with the sacking of Anwar Ibrahim. In the wake of the Asian economic crisis, Mahathir clashed with Anwar over the direction of economic policy and in September 1998 imposed a series of capital and currency controls to shore up the position of faltering Malaysian companies. Anwar had championed a further opening up of the Malaysian economy as demanded by the IMF.

When Anwar refused to resign, Mahathir dismissed him as finance minister and deputy prime minister and then expelled him and his supporters from UMNO. After he began organising anti-government rallies, Anwar was arrested, originally under the ISA, and then charged with corruption and sexual misconduct. He was found guilty by the presiding judge in two trials and is currently serving 15 years jail.

None of the issues that provoked the leadership rift, however, have been resolved. Anwar has continued to be a focus of opposition protests against the government's corruption and anti-democratic methods. While retaining a two-thirds majority at the 1999 national elections, the ruling UMNO-led coalition lost support, particularly among Malay voters, fueling further discontent in government ranks.

Mahathir has attempted to shore up his position by trying to distance the government from corruption allegations. He has announced that the "very wealthy" should not hold party posts and an UMNO disciplinary committee has dismissed six senior party officials on corruption charges. In April, Mahathir's own son Mokhzani, who is an assistant treasurer in UMNO-Youth, sold his interests in two listed companies. Last month the UMNO Supreme Council announced that the party's divisional heads would no longer receive preferential treatment in the awarding of government contracts.

The clearest indication that Mahathir is intent on giving UMNO a political facelift is the resignation of his close associate Daim Zainuddin, who took over as finance minister following the ousting of Anwar. Daim, a wealthy businessman, is identified with businesses closely connected to UMNO that prospered under the Mahathir government. He has been under fire over his involvement in the bailout of Malaysia Airlines and the use of pension funds to underwrite an internet listing.

The *Far Eastern Economic Review* recently commented on the tensions between the two men: "Analysts say that Mahathir began distancing himself from Daim after it became clear that two business deals associated with the finance minister were terribly unpopular. Mahathir associates also allege that Daim 'undermined' the premier by complaining about his children's business interests and implying, at meetings with individual businessmen, editors and UMNO politicians, that Mahathir ran both party and government arbitrarily."

Daim has been "on leave" since April. Mahathir announced the finance minister's resignation on June 2 and Daim is also believed to have quit his posts as Special Functions Minister and UMNO treasurer. Daim appears to have left without any public criticism of Mahathir, but his departure, whatever the

immediate short-term political gains for the government, leaves the prime minister even more isolated. Mahathir has yet to appoint a replacement finance minister and has taken over the post temporarily himself.

The growing tensions in Malaysian ruling circles are related in part to the country's deteriorating economic situation. Following the ousting of Anwar, Mahathir could claim his policies of capital and currency control had helped to revive the economy, which grew by around 8 percent last year. The recovery in Malaysia like other South East Asian economies was, however, largely driven by a surge in exports, to the US in particular.

With growing signs of recession in the US as well as Japan, the growth rate has begun to decline. In the first quarter of this year, the GDP increased at an annualised rate of only 3.2 percent and there have been 12,000 layoffs in the Information Technology (IT) sector alone. Electronics and IT account for nearly 60 percent of Malaysia's exports. The country's foreign exchange reserves have fallen to the lowest levels since the 1997-98 crisis and share prices have fallen by 16 percent since the beginning of the year.

The decline of Malaysia's economic fortunes inevitably puts a question mark over the economic policies championed by Mahathir. Speculation is rife that the government will be compelled to devalue the ringgit, which has remained pegged at 3.80 to the US dollar since 1998, even as other Asian currencies have fallen in value.

As *AsiaWeek* noted: "Politics figures here too. Mahathir had defied conventional economic wisdom in devising the peg, which he proudly credits for protecting the economy from global volatility. A revision will be a tacit admission of failure... [However], the harsh realities of global economics will likely leave Mahathir with no choice but to swallow his pride... The challenge for Mahathir will be to find a way to explain to the Malaysian public why it makes sense to devalue the currency—and why it took him so long to admit the need to do so."

Disagreements in ruling circles over economic policies have the potential to trigger broader protests over the lack of democratic rights and demands for decent living standards. In the past, Mahathir has been able to rely on his firm control over the government and the state to back the suppression of protests and dissent. The ruling by Judge Hishamudin reveals that he can no longer count on the judiciary, many of whom owe their jobs to UMNO, to automatically rubberstamp his autocratic methods of rule.



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