

Malaysian court rules: no evidence to justify political detentions

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23 September 2002

A ruling in Malaysia's highest court, the Federal Court, on September 6 has revealed the blatantly political character of the continued detention of four opposition figures on trumped-up allegations of "terrorism" and "subversion". The four have been held without trial for over a year under the country's notorious Internal Security Act (ISA).

A five-judge panel, which included the country's Chief Justice Mohamed Dzaidin Abdullah, ruled that the police had failed to provide any evidence to justify the prisoners' initial six-month detention under the ISA and therefore had unlawfully detained them. At the same time, on the basis of a technicality, the court did not order the release of the prisoners.

The four detainees were among a group of 20 opposition members rounded up in April 2001. Police claimed that the oppositionists "were planning militant actions to topple the government" of Prime Minister Mahathir Mohamad and were trying to obtain explosives and firearms. Ten were detained under the ISA, which provides for the 60-day detention of anyone designated as a threat to security.

After the initial period elapsed, Home Affairs Minister Abdullah Ahmad Badawi issued an order for their further detention for two years. Under the ISA, the order is renewable and there is no requirement for formal charges or appearance before a court. Neither the police nor the government provided evidence for the allegations.

The four detainees belong to the opposition Keadilan party, formed by the wife of Anwar Ibrahim, Malaysia's jailed former deputy prime minister. They are Keadilan vice president Tian Chua, youth leader Ezam Mohamad Noor, council member Saari Sungib and party member Hishmamuddin Rais. The legal appeal also included Raja Petra Kamarudin, leader of the Free Anwar Movement, but he has been released.

Responding to the court decision, Mahathir studiously

ignored its finding that the police had no basis for holding his political opponents. Instead, he claimed, the ruling demonstrated that, contrary to its critics, the Malaysian judiciary was independent and impartial. "We don't have to be apologetic about our endeavour to uphold the rule of law whilst maintaining a disciplined stand in maintaining security and order," he said.

In fact, the Federal Court was very careful in its criticisms. While pointing out that the police had no evidence to justify the initial arrests, the judges made no ruling on the decision by Home Affairs Minister Badawi to order a two-year extension. Badawi is deputy prime minister and heir apparent to Mahathir who is due to retire next year. As a result of the court decision, the detainees must make another appeal and, in the meantime, will remain locked up.

Mahathir was aware of the lack of evidence against the opposition members at the time of the arrests. He justified the use of the ISA by declaring: "They could have been arrested under normal laws, but normal laws require certain evidence and procedures and processes which is, I suppose, from the police point of view not effective in preventing something from happening."

The timing of the arrests last year was politically significant. Mahathir was under siege not only from the opposition parties but also within his own United Malays National Organisation (UMNO), the main party of the Barisan Nasional coalition government.

In the national elections in November 1999, UMNO had lost electoral support amongst its base in the ethnic Malay majority. A key issue was the persecution of Anwar Ibrahim who was ousted from his positions in 1998, expelled from UMNO and then jailed when he began to campaign against the Mahathir government. He fell out with Mahathir over the direction of economic policy following the 1997-1998 Asian financial crisis.

Keadilan, and in particular the Islamic fundamentalist

Parti Islam se-Malaysia (PAS), gained ground at the expense of UMNO. In the aftermath of the election, tensions began to emerge within the ruling party itself.

The police roundup of oppositionists took place just prior to a protest rally to mark the second anniversary of Anwar's conviction. The arrests were widely denounced in Malaysia by opposition parties, human rights groups and even the normally compliant, pro-government Malaysian Trade Union Congress.

Mahathir's political fortunes began to revive after the September 11 attacks in the US. UMNO exploited the situation to associate PAS with terrorist groups and defend the ISA as an essential instrument for national security. The party's electoral fortunes also revived in the state elections and by-elections.

At the same time, Mahathir improved relations with Washington. The Clinton administration publicly criticised the Malaysian government over the jailing of Anwar and pressured it to implement the IMF's economic restructuring measures that Anwar had championed. Following September 11, however, Mahathir gave cautious support to Bush's "global war on terrorism" and was hailed as a key moderate Muslim leader when he visited the White House this year. The US administration has dropped any criticism of Mahathir's anti-democratic methods.

But Mahathir's position is far from secure. As the US prepares to invade Iraq, he has been compelled to criticise the latest US and British air raids. In doing so, he is clearly concerned at mounting opposition, particularly among Muslim Malays, to the US invasion of Afghanistan and the impending aggression against Iraq.

As a result, the government intends to keep a tight lid on its political opponents, including the four prisoners. And while the Federal Court has expressed misgivings about the lack of evidence against the detainees, its decision to keep them in custody indicates that the judges were not willing to challenge the government directly.



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