Scant media coverage as Malaysia keeps Anwar in jail

John Roberts
4 September 2003

On August 19, Malaysia's Court of Appeal issued a 206-page judgment rejecting a legal appeal by former Deputy Prime Minister Anwar Ibrahim against his conviction in 2000 on charges of sodomy. Anwar, who has just completed the mandatory portion of a six-year sentence for a corruption conviction, must now serve a further nine years on the sodomy charge.

When Anwar was first arrested in September 1998, bashed by police and then hauled before the courts on trumped-up charges, these blatantly anti-democratic measures provoked a furore in the international media and in foreign capitals. The latest legal decision against Anwar and its contrived character have been all but ignored.

The written judgment was issued on a Saturday outside normal court sitting time, four months after the court rejected the appeal. At the close of the hearing in April, the judges refused to give their reasons for denying Anwar's appeal, stating these would be given in a written form at an unspecified later date.

When the appeal was rejected in April, several hundred demonstrators, a relatively large number given Malaysia's repressive public order laws, reacted angrily. The out-of-hours release of the appeal judges' arguments, designed to thwart further protests, indicates that Anwar's jailing remains a highly sensitive political issue for the government of Prime Minister Mahathir Mohamad.

The reasons for Anwar's arrest were not his alleged corruption or sexual misconduct but deep divisions over economic policy in the ruling United Malays National Organisation (UMNO) following the 1997-98 Asian financial crisis.

In dismissing the appeal, the three judges used a provision of Malaysia's Courts of Judicature Act, which states that in exceptional cases "that the Court of Appeal may, notwithstanding that it is of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no substantial miscarriage of justice has occurred".

In other words, the judges threw out Anwar's appeal even though the points raised in his petition might have been factually correct and legally valid. Their judgment on particular points raised by Anwar's lawyers simply confirmed the political character of the decision to keep one of Mahathir's rivals in jail.

The judges insisted that the trial judge, Arifin Jaka, had done everything possible to test the credibility of Anwar's driver Azizan Abu Bahar, the principal prosecution witness and alleged victim of the sodomy. Azizan only made his allegation in 1997 after rifts began in UMNO and did so at the urging of Ummi Halfilda Ali, a businesswoman with close ties to Anwar's political rivals.

Justice Pajan Singh Gill, the presiding judge in the appellate court, rejected the defence allegation that Azizan had rehearsed the detail of his evidence from a movie he had seen. According to Gill, no one, and certainly not "a mere driver," could have withstood the cross-examination during the trial or the trial judge's scrutiny of the witness's "demeanour". The Court of Appeal judges simply ignored defence evidence pointing to bribes and incentives offered to Azizan, including a company directorship with his own driver.

In the course of the trial, the date of the alleged offence was changed three times. At first, it was May 1994, then May 1992. When defence lawyers proved that the apartment building where the sodomy was alleged to have occurred, had not been built at that time, trial judge Arifin allowed the prosecution to make another change to a three-month period between

© World Socialist Web Site

January and March 1993. As part of his defence, Anwar's lawyers accounted for his whereabouts at the time in question—7.45 p.m.— for every day over that period.

Justice Gill dismissed the changes of time as being of no real consequence. The appeal court also found nothing wrong with the fact that the charges were amended after the trial began. The underlying issue—that the changes of time exposed the trumped-up character of the case against Anwar—was ignored.

The political character of the decision was highlighted by the promotion of Justice Gill to Malaysia's top court. During the appeal hearings, the Mahathir government announced that Gill had been appointed to the Federal Court, ahead of five more senior Court of Appeal judges—a move that was denounced by the Malaysian Bar Association.

The international response to the Court of Appeal decision is in sharp response to the protests that erupted in 1998 to Anwar's arrest. Then US Vice President Al Gore and the European Union were among those that went on record condemning the political nature of the charges and demanding his release. The scant attention paid to the latest proceedings reflects a sharp shift in political priorities, particularly of the Bush administration in Washington.

The real concern of Gore and others was never about democratic rights as such. In the aftermath of the Asian financial crisis, "democracy" was a convenient means to press for an end to "corruption" and the opening up of economies to foreign investment. In Malaysia, these moves cut directly across business interests associated with UMNO, provoking growing opposition to Anwar, who championed the IMF's restructuring policies.

In 1998, Anwar, who was finance minister and heir apparent to Mahathir, was sacked from his positions and expelled from UMNO after opposing the imposition of capital and currency controls. His subsequent public campaign against government corruption and nepotism gained growing popular support, culminating in an unprecedented demonstration of 50,000 in Kuala Lumpur in September 1998. That evening around 200 riot police surrounded Anwar's house and arrested him.

Anwar's detention and trials was widely covered in the international media, including comments on the anti-democratic character of Malaysia's Internal Security Act (ISA)—colonial-era legislation that provides for indefinite detention without trial. Five years later, the continued detention of Anwar and the continuing abuse of democratic rights in Malaysia are skipped over with barely a mention.

In the name of the "global war on terrorism," the Bush administration has introduced measures that provide for detention without trial. Hundreds of alleged "terrorists" have been held in Guantanamo Bay in Cuba for months and years in circumstances that make the Malaysia ISA seem like a model of due legal process. Moreover, the autocratic Mahathir government has, despite its muted criticisms of the US invasion of Iraq, forged close ties with the Bush administration.

In May 2002, Mahathir was warmly received at the White House and praised for his cooperation in the "war on terrorism". The "co-operation" includes information extracted from dozens of suspects detained without trial under the ISA and much needed political support for Washington by a government in a predominantly Muslim country. As a result, the previous concerns about the treatment of Anwar were dropped.

Following the loss of the appeal, Anwar's lawyers intend to take his case to Malaysia's highest court—the Federal Court. But this body has already rejected his appeal on the corruption charge, and, unless there is a dramatic change in the political winds, will no doubt back the appellate court's latest ruling.

To contact the WSWS and the Socialist Equality Party visit:

wsws.org/contact

© World Socialist Web Site