

# In a highly political decision, Malaysian court frees Anwar Ibrahim

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In an unexpected ruling on September 2, the Malaysian Federal Court, the nation's highest judicial body, freed former deputy prime minister Anwar Ibrahim after overturning his conviction on a charge of sodomy. Anwar had already served six years after being convicted on a charge of abuse of power in April 1999. He was about to start serving the nine-year sentence for the sodomy charge, imposed in 2000.

Thousands of well-wishers greeted Anwar when he returned home after his release. Later a crowd of several thousand waited to farewell him at the airport when he left for Germany. He has undergone surgery there for a back injury sustained during a police beating following his arrest in 1998.

The media in Malaysia and internationally hailed the court decision as a sign that under the rule of Prime Minister Abdullah Ahmad Badawi, the judiciary had gained some independence and genuine political reforms were underway. Badawi succeeded Mahathir Mohamad in October 2003 when the latter retired after 22 years as both the head of government and the main ruling party, the United Malays National Organisation (UMNO).

The *New York Times* reported the decision as "the clearest sign yet of a new era" since Badawi's installation and election victory in March. The *Melbourne Age* headlined its editorial comment as "A political prisoner freed at last" and declared that the event "signals, perhaps, a new direction" for Malaysia.

The praise for Badawi is closely linked to the perception of him as a foreign investor-friendly prime minister who has continued his predecessor's cooperation with Washington in the "war on terror". Malaysia's share price index jumped on the news of Anwar's release. "The court's decision to free Anwar will boost investor confidence in Abdullah's administration and his style, and will likely be a positive catalyst for asset prices," Rajeev Malik, a JPMorgan Chase economist, commented.

The Federal Court's 2-1 decision to set aside Anwar's conviction because the prosecution evidence was "unreliable" must be one of the great understatements of judicial history. The fabricated and self-contradictory nature of the "evidence" was obvious in the original trials, both for sodomy and the related case of corruption (abuse of power), and in the failed appeals in the appellate court.

The Federal Court itself ignored the gaping holes in the prosecution case on corruption and ruled in July 2002 that it would uphold the conviction. It decided last week, however, to consider reviewing that ruling only to dismiss the appeal today. By allowing the corruption conviction to stand, the court has effectively barred Anwar from any involvement in political activity until 2008.

The Federal Court quashed the sodomy conviction of Anwar and his co-defendant Sukma Darmawim Samitaat Madji but had to do so in a way that covered up the political character of the lower court decision. The defence branded the alleged "victim", Azizan Abu Bakar, a liar during the appeal. In the course of the initial case, Azizan was compelled to change the time and date of the alleged sexual activity three times as the defence was able to expose the concoction. In the case of one date, the apartment that was supposedly the scene of the crime had not even been constructed.

The Federal Court judgment skirted around these issues by declaring that "Azizan may not be a liar but his evidence may or may not be reliable" and finding the case unproven. Having overturned the sodomy charge, however, the corruption charge is also shakier. Anwar is alleged to have used his position as a government minister to obtain the assistance of the police special branch to pressure Azizan and another witness to change their story.

Just as the initial convictions were politically motivated so too was the decision to overturn the sodomy charge. The Malaysian media gave some indication of the thinking in ruling circles. The *Star* quoted UMNO official Razak Baginda as saying: "It's time to bury the Anwar ghost." An UMNO politician from Kedah state said he was glad the matter had been brought to a close. "Otherwise, it was like something hanging over our head. Now we can look up freely."

The divisions opened up in the ruling elite in 1998 were certainly deep-going. Following the Asian economic crisis of 1997-98, Anwar, who was also finance minister, moved to implement International Monetary Fund (IMF) demands for free market reform. But the opening up of the Malaysian economy threatened politically powerful but economically-vulnerable business interests clustered around UMNO.

Mahathir sought to block these measures by imposing

currency and capital controls. When Anwar refused to implement the policies or to resign, he was dismissed then expelled from the party along with his supporters. Anwar, however, did not go quietly and began to organise protest rallies against government corruption. This brought to the surface widespread seething resentment over UMNO's autocratic rule and the economic privileges of the politically well connected.

Confronting the danger of a growing opposition movement, Mahathir moved against Anwar. He was arrested immediately following a large rally in Kuala Lumpur to demand democratic and economic reforms. He was first held under the country's notorious Internal Security Act (ISA) and only later charged with abuse of authority and sodomy.

Anwar's detention merely compounded UMNO's political problems, as opposition parties exploited popular resentment over the arrest and the impact of the economic downturn. A loose coalition was formed that included the Islamic fundamentalist Parti Islam se-Malaysia (PAS); the Democratic Action Party (DAP), based largely on the ethnic Chinese and Indian communities; and the National Justice Party (Keadilan) founded by Anwar's wife, Wan Azizah Wan Ismail.

At the 1999 national elections, UMNO lost ground in particular to PAS, which gained control of two state legislatures—adding control of Terengganu to that of Kelantan in rural Malay heartland. Despite a gerrymander, number of opposition seats rose from 22 to 45, mostly at the expense of UMNO rather than its allies in the ruling coalition.

In the national election in March this year, the electoral situation reversed. PAS lost 20 of its 27 seats in the national parliament, and the UMNO-led coalition regained control in Terengganu and almost toppled PAS in Kelantan. The National Justice Party lost four of its five parliamentary seats. DAP had already left the opposition coalition after PAS's reactionary demand for an Islamic state proved highly unpopular among its ethnic Chinese and Indian supporters.

The September 11, 2001 terrorist attacks proved to be a godsend for the Mahathir government. It allowed the prime minister to repair relations with Washington, damaged by his refusal to implement the IMF's economic restructuring demands. Mahathir publicly denounced the US invasions of Afghanistan and Iraq, which were deeply resented in Malaysia, but he co-operated behind the scenes with the Bush administration's "war on terror". In return, the White House shelved its criticism of Anwar's jailing.

Mahathir and Badawi as home minister used the "war on terrorism" to crack down on political opponents and to undermine PAS. Some 90 people were rounded up and detained without trial under the ISA, including prominent PAS leaders, as the government sought to associate the party with terrorism. No evidence has been presented against any of these detainees.

At the same time, the government adopted some of the economic reforms espoused by Anwar, further undercutting

support for opposition parties in the ruling elite. Mahathir removed long-time Anwar rival Daim Zainuddin from the cabinet in 2001, signalling a shift away from previous economic policies. More than anyone else, Zainuddin, a wealthy businessman in his own right, represented the so-called crony capitalists threatened by Anwar's reforms.

After succeeding Mahathir, Badawi accelerated this shift in a bid to attract foreign capital. He cancelled a major rail infrastructure project that Mahathir had awarded to a well-connected tycoon and promised a major crackdown on corruption. No longer immediately threatened by the opposition parties, the government is now seeking to lay the "Anwar ghost" to rest.

The decision to free Anwar points to concerns in ruling circles about future economic and political instability. The economy's growth in 2003 was heavily dependent on government spending packages and the export of electrical and electronic exports to the US, Japan and Europe. Increased foreign investment is desperately needed to maintain growth rates and allow for the expansion of the services sector, tourism and information technology. But like other South East Asian economies, Malaysia faces sharp competition from China for investment. The release of Anwar is aimed at sending a further signal to global capital that Kuala Lumpur is adopting an unambiguously investment-friendly posture.

At the same time, Badawi confronts political uncertainty at home. The hostility that erupted over Anwar's imprisonment revealed deep-seated hostility to UMNO's anti-democratic methods and to underlying social inequality. Those sentiments, far from going away, have been intensified. The broad opposition to the US invasions of Afghanistan and Iraq has not been satisfied by the government's posturing against Washington's actions.

The role that Anwar will play is not clear. He has adopted a conciliatory tone toward his jailers, stating after his release that, while he would seek to promote reforms, he would not rule out discussions with UMNO. He cautiously supported Badawi, telling the *New York Times*: "I have not excluded the possibility of endorsing whatever positive policy changes that have been embarked on by Abdullah (Badawi)."

For his part, Badawi denied reports he had done a deal with Anwar and told the media: "I have no intention of bringing him back to UMNO." Whatever the immediate twists and turns, however, it is clear that Anwar's release is aimed at healing a dangerous rift in the ranks of the ruling class as it faces uncertain times ahead.



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