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Malaysia: In Final Appeal, Anwar Must Get Fair Hearing

Malaysia's highest court must give Anwar Ibrahim a fair trial, Human Rights Watch, Amnesty International, and the International Commission of Jurists said today. On May 10, the Federal Court of Malaysia will hear the final appeal of the former deputy prime minister, who has been in jail since 1998 on politically motivated charges of corruption and sodomy.

"Judicial independence has been a serious concern in Malaysia for decades," said Linda Besharaty-Movaed, Legal Advisor for ICJ's Centre for the Independence of Judges and Lawyers. "This hearing is a tremendous opportunity for the Malaysian Federal Court to squarely rectify the defects of the past trial and ensure that, this time, Anwar's appeal is in full accordance with fair trial standards."

The hearing represents Anwar's final opportunity for judicial redress. The court will also hear the final appeal of Sukma Darmawan, Anwar's co-accused and adopted brother. Anwar has now served his sentence for the corruption conviction. If he loses his appeal before the Federal Court, he will have to serve out the remainder of his term for sodomy, and will not be eligible for release until April 14, 2009.

"This is Anwar's last chance at freedom," said Ingrid Massage, director of Amnesty International's Asia Program. "It is time that the injustices that marked the arrest, trial and imprisonment of Anwar Ibrahim be set right."

Anwar was initially held under Malaysia's draconian Internal Security Act (ISA), and was beaten by the former national chief of police while in custody. He was convicted of corruption and sodomy following two separate trials in 1999 and 2000 respectively and sentenced to consecutive terms of six and nine years.

Both the trials and appeals were marred by serious violations of due process. The prosecution repeatedly amended the charges against Anwar in an apparent attempt to nullify Anwar's alibi, and government witnesses made contradictory statements about their contact with the accused. One of Anwar's lawyers faced contempt proceedings when he tried to thwart the fabrication of evidence by the prosecution, and the prosecution relied on coerced "confessions" by Sukma Darmawan and others who later testified that they made their statements under threat of physical abuse from the police.

"Anwar was put in jail because of Mahathir's political vendetta against him," said Sam Zarifi, Deputy Director of Human Rights Watch's Asia Division. "The Federal Court needs to make sure that Anwar will finally get what he should've gotten in 1998: a chance to answer the charges against him without the outcome being a foregone conclusion."

The ICJ is an international non-governmental organisation comprising sixty of the world's most eminent jurists and has a worldwide network of national sections and affiliated organisations

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In addition, Anwar Ibrahim is seeking to reverse previous rulings by lower courts that have refused him release on bail pending a final ruling of his sodomy appeal. Malaysian courts usually grant bail in the absence of any indication that the accused is a flight risk or a likely repeat offender. As a former deputy prime minister, Anwar and his attorneys argue that he is unlikely to fall into either category.

Malaysian and international human rights organizations have repeatedly called for Anwar's release, expressing concern that the charges of "corrupt practices" (interference in a police investigation) and sodomy subsequently brought against him were a pretext to remove him from public life. Anwar's dismissal followed policy disagreements with Mahathir and rumors of a leadership challenge to the Prime Minister when Mahathir's popularity was at an all-time low. Amnesty International regards Anwar as a prisoner of conscience.

The ICJ's *Justice in Jeopardy: Malaysia 2000* report, published jointly with the International Bar Association, the Commonwealth Lawyers Association, and the Union internationale des avocats, concluded that executive influence severely compromised the independence of the judiciary during Anwar's first two trials.

On Monday, the Federal Court will also hear the appeal of Anwar Ibrahim's co-accused, Sukma Darmawan, against his sentence of six years and four strokes of the cane. Malaysian and international observers have raised serious concerns about Sukma Darmawan's treatment: that he was prosecuted solely to secure a conviction against Anwar Ibrahim; that his complaints of ill-treatment, threats, and sexual humiliation by police to coerce a "confession" have not been fully investigated; and that the police who allegedly mistreated him have not been held to account. If his appeal is rejected, Sukma could soon face caning by prison officials.

Anwar Ibrahim's health has deteriorated while in detention, and he suffers from increasing pain due to a spinal injury apparently aggravated by the beating inflicted on him by the then-national police chief in 1998. His medical condition has not responded to the limited treatment available to him in jail. Anwar has worn a neck brace at his court appearances and has often had to be helped into the courtroom by police.

Malaysia's National Human Rights Commission, SUHAKAM, has called for Anwar to be allowed to travel abroad, on the recommendation of medical doctors to receive the recommended specialized medical treatment unavailable in Malaysia. According to SUHAKAM, there are no provisions in Malaysian law that would prohibit him from doing so.

International observers from the following organizations will monitor Anwar's trial:

- Marzuki Darusman, Inter-Parliamentary Union (IPU);
- Desmond Fernando, Chairman of the Sri Lanka National Commission of Jurists, Former President of the International Bar Association (IBA);
- Mark Trowell, QC, Australian Bar Association and International Commission of Jurists.

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