



Rule of Law in Jeopardy: Joint Report from Malaysia

Malaysia's powerful executive has acted without regard for the essential elements the rule of law, concludes a joint report of the Commonwealth Lawyers' Association, The International Bar Association, Centre for the Independence of Judges and Lawyers of the International Commission of Jurists, and Union Internationale des Avocats released in April.

"Justice in Jeopardy: Malaysia in 2000" examines the relationship between the executive, the Bar Council and judiciary in Malaysia and finds that in cases of political or economic importance to the executive, there are serious concerns among the profession and the general public that the judiciary is not independent. It finds that government has increasingly threatened the autonomy of the bar and the relationship between bar and judiciary is strained.

The organisations urge the Government of Malaysia to recognise the independent constitutional position of the judiciary and to refrain from speaking out publicly against the Bar Council and its members. The Bar Council has welcomed the report.

Since its visit, the Malaysian government has announced the formation of a national Human Rights Commission and the report applauds that development.

The report expresses concern about the fairness of the trial of former Deputy Prime Minister Anwar Ibrahim, and the independence and impartiality of the trial judge.

It cites the use of contempt proceedings against lawyers practising their profession as a serious obstacle to the ability of lawyers to render their services and concludes that certain provisions of Malaysian legislation fall well below international standards.

"Justice in Jeopardy" is based on the conclusions of a fact-finding mis-

sion which visited Kuala Lumpur in April 1999 to examine legal guarantees for the independence of the judiciary and their practical effect, and lawyers' ability to render their services freely. Their yardsticks were the 1985 UN Principles on the Independence of the Judiciary and the 1990 UN Basic Principles on the Role of Lawyers.

The mission met with the Chief Justice, President of the Court of Appeal, a Deputy Minister in the Prime Minister's Department, officers of the Bar Council, UN Special Rapporteur on the Independence of Judges and Lawyers, senior lawyers and representatives of non-governmental organisations.

A copy of the report is available at www.ibanet.org.



Karpal Singh

CLA will Observe at Karpal Singh Sedition Trial

Malaysian human rights lawyer and opposition leader, Karpal Singh will go on trial July 18 on sedition charges arising from the defense of his client, former Deputy Prime Minister Anwar Ibrahim. The CLA will co-operate with the International Bar Association to delegate an observer at the trial, CLA President Cyrus Das told Clarion.

"This may be the first time in common law history that a sedition charge has been based on words spoken by an advocate during the course of a trial," says Das.

A lawyer for more than 30 years and an opposition member of Parliament since 1978, Singh was a featured speaker at the Commonwealth Law Conference in Kuala Lumpur in September.

Days before his address to the conference, Singh had been in court with Ibrahim who was charged with sodomy, adultery, and corruption after his political struggle with Prime Minister Mahathir came to a head in September 1998. Ibrahim had been in custody since his arrest and as the trial neared its end in September 1999 there were concerns about his health. The defence team had evidence that Ibrahim was suffering from arsenic poisoning and Singh called for an inquiry into his client's in-custody treatment.

The charge against Singh is that he said "It could well be that someone out there wants to get rid of him... even to the extent of murder. I suspect that people in high places are responsible for the situation."

A year earlier, following his arrest, Ibrahim had been severely beaten and although the Prime Minister had speculated publicly that the injuries were self-inflicted, a Royal Commission concluded that the beating was inflicted by the Malaysian Chief of Police.

The sedition charge against Singh carries a penalty of up to \$5,000 and three years' imprisonment.

At its annual meeting in March, the Bar Council of Malaysia passed a series of resolutions calling on the government to respect the independence of the bar and the right of advocates to represent their clients without fear of civil or criminal prosecution.

The repeal of the Sedition Act is recommended by the CLA and other international legal organisations in their report "Justice in Jeopardy: Malaysia in 2000."