Malaysian government continues persecution of opposition leader

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The Malaysian government is continuing its prosecution of opposition leader Anwar Ibrahim through the courts following a High Court ruling on December 1 dismissing an application for the sodomy charges against him to be struck down. The case has been scheduled to begin on January 25.

Anwar's lawyers had called on the High Court to halt the prosecution case on the grounds that medical evidence proved the allegations against their client to be false and politically motivated. Defence lawyer Sankara Nair said Anwar would appeal the decision and seek a postponement of the trial, pending the outcome of a further appeal regarding access to prosecution evidence.

Anwar told the London-based *Financial Times* that he was dealing with an oppressive political system and had to prepare for the worst. "It is not the courts, it is [the government]," he said. "Their political masters will instruct them that I be convicted." Anwar said the opposition Peoples Alliance or Pakatan Rakyat (PR) had already made plans to fight the next election in 2013 if he were in jail.

In his December 1 decision, Judge Mohamad Zabidin sidestepped the defence argument about the medical evidence by stating that the prosecution might have other evidence to prove its case. The judge rejected out of hand defence claims that the case was a "malicious prosecution".

The defence team is involved in a second appeal to obtain video material, medical reports, doctors' notes, witness statements and DNA specimens held by the prosecution. The request is based on a 2006 amendment to the Criminal Procedure Code that requires the prosecution to hand over any documents to be tendered in evidence and a written statement of any facts favourable to the defence. The parliamentary committee that drew up the amendment said it was designed to "prevent trial by ambush".

The Appeal Court last month overturned an earlier High Court ruling in favour of Anwar, saying that there were "limits" to the kind of evidence that should be produced before trial and the DNA request did not fall under the amendment. The prosecution provided no written statement of facts, claiming it had come across nothing favourable to the defence.

The case against Anwar has all the hallmarks of a frame-up designed to destroy him politically and end his political career. The charges by a former Anwar aide, Saiful Bukhari Azian, suddenly emerged in July 2008 as the opposition leader sought a seat in parliament through a by-election. Despite being charged, Anwar won the seat.

From the outset, opposition politicians insisted that Saiful, a university drop-out, was a government plant. He made his allegations shortly after meeting Najib Razak, then deputy prime minister and now prime minister. Najib admitted meeting Saiful but claimed implausibly that the discussion was about a scholarship. Already the prosecution has been forced to change the charges from sexual assault to a consensual homosexual act, which still carries a jail term of up to 20 years.

Anwar faced the same charge in 1998 after falling out with former prime minister Mahathir Mohamad over the government's response to the 1997-1998 Asian economic crisis. Anwar, then deputy prime minister and finance minister, advocated tearing down long-standing protectionist measures and implementing the free-market restructuring demanded by the International Monetary Fund and international investors.

Mahathir introduced currency and capital controls to

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protect Malay businesses that depended on the patronage of the ruling United Malays National Organisation (UMNO), which was threatened by the opening up of the economy to foreign competition. Anwar was sacked from his posts and expelled from UMNO. When he initiated opposition protests, the government responded by having him arrested on trumped-up charges of corruption and sodomy. He was found guilty of corruption in 1999 and sentenced to six years imprisonment. In 2000, he was found guilty of sodomy and sentenced to a further nine years.

In 2004, the Federal Court overturned the sodomy conviction and ordered Anwar's release. It upheld the corruption conviction, however, which, under Malaysia's electoral laws, rendered Anwar ineligible to stand for political office until April 2008. Prime Minister Abdullah Badawi called national elections for March 2008 but the ruling coalition suffered a major electoral setback despite Anwar being unable to stand. The opposition PR alliance increased its seats from 19 to 82 in the 222-seat parliament and won control of five of Malaysia's 13 state parliaments.

At the time of his arrest, Anwar boasted that he would get the support of enough defectors to form a new government. In response, Prime Minister Najib has been following a two-track policy—using the state apparatus to crack down on the opposition while at the same time seeking to appropriate some of its economic and social policies.

The year began with a government campaign to wrest back control of Perak state from the opposition through sordid parliamentary manoeuvres and court cases. Following opposition protests in May, the police searched the offices of the opposition Democratic Action Party (DAP)—one of three parties in the PR opposition alliance—allegedly looking for "seditious" material.

In July, as part of an operation to undermine the PR state government of Selangor state, Malaysian Anti-Corruption Commission (MACC) officials hauled Selangor government advisor Teoh Hock to their office for questioning. After 28 MACC officers interrogated him for nearly 10 hours, Teoh Hock died when he "fell" from the building in still unexplained circumstances.

The opposition's ability to make substantial gains in last year's election rested on the support of substantial sections of big business that backed Anwar's call for the lifting of impediments to foreign investment. Prime Minister Najib has made concessions to foreign investors to undercut the opposition and also to shore up the Malaysian economy, which shrank by an estimated 2.5 percent for 2009.

Najib has relaxed laws that gave preference to ethnic Malay businesses in investment deals, including the removal of foreign investment caps in the finance sector and tourism. The impact has been limited, however. Between 1990 and 2000, Malaysia secured over half of all foreign investment to the three important regional economies—Malaysia, Thailand and Indonesia. In 2008, the share dropped to less than 30 percent.

In a further move last week to appease investors, Najib moved to shore up government finances by announcing a new goods and services tax of 4 percent for 2011. The government had replaced a universal fuel price subsidy with one based on a vehicle's engine size. The budget deficit stands at 7.4 percent of GDP, a 20-year high.

Facing growing popular resentment and opposition over rising prices, the Najib government is all the more likely to resort to police-state measures against the opposition and to press ahead with the prosecution of Anwar.

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