Who Killed the Judge - And Why?

Last week's murder sent a clear message to Indonesia's judiciary.

By Tim Lindsey

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Last Thursday Indonesian Supreme Court Deputy Chief Justice (General Crime) Syafiuddin Kartasasmita, 60, was murdered by assassins. Driving himself to work from his home in North Jakarta, the judge was shot 5 times in the head and chest through his car window by two men on motorbikes. His car smashed into roadside shops, seriously injuring a bystander.

The Jakarta police have been evasive about what was clearly a professional hit. But the press quickly linked it to high-profile - and highly controversial - cases Kartasasmita recently decided, all involving the inner circle of former President Soeharto, now reviled for his corrupt and dictatorial rule. The killing was interpreted as a warning from the Soehartos to leave them alone.

Justice Kartasasmita had indeed been responsible for deciding corruption cases involving Soeharto's son, Hutomo 'Tommy' Mandala Putra and a Soeharto crony, Mohamad 'Bob Hassan', an ethnic Chinese timber tycoon and Minister for Trade in Soeharto's doomed final cabinet.

Tommy was sentenced to 18 months in jail by Kartasasmita and fined A$6 million in September last year. He promptly disappeared and is still on the run today. Bob Hasan was not so lucky. Soeharto's former golfing partner is now serving 6 years on Nusakambangan prisonisland, his sentence extended recently following an unsuccessful appeal.

But this explanation is not entirely satisfactory. It ignores the fact that Kartasasmita was also the judge who accepted Soeharto's 'Pinochet' defence, deciding that he was too ill to face charges relating to the corruption and violence of his years in power. Instead he released the widely-hated former General from house arrest and effectively handed him immunity from prosecution. It also ignores the fact there are currently no charges or investigations pending against other Soeharto family members, who are free to come and go as they please - and retain access to their massive bank accounts, fat from the 32 years of the father's corrupt rule.

So, if the Soehartos were sending a message, it is not clear why. Is there another reason for Justice Kartasasmita's assassination?

One possibility relates to another of Kartasasmita's jobs as Deputy Chief Justice in charge of crime. In this capacity he had been put in charge of the Ad Hoc Human Rights Court set to open in August to try human rights abuses including those committed by members of TNI (the Indonesian military) in East Timor and elsewhere. The list of suspects is a role call of the military elite, including its former king-pin, Wiranto. These are some of the wealthiest and most powerful men in Indonesia and they have been lobbying government hard to abort the trials.
Indonesia's new President, Megawati Soekarnoputri, enjoys a good relationship with the armed forces, who united to back her successful move to replace the addled and increasingly incompetent President Abdurrahman 'Gus Dur' Wahid. And, like most Indonesians, she has never supported freedom for East Timor. She would certainly not be keen to jail senior military figures, even those implicated in the devastation of East Timor following its vote for independence in 1999.

However, Megawati's new government, like its predecessor, is under enormous international pressure to convict precisely those people. If Indonesia cannot deliver results, then the alternative threatened is an international tribunal, along the lines of that used to deal with war criminals in Former Yugoslavia, including Slobodan Milosevic. Megawati would be well aware that any Indonesia government that agreed to deliver senior officers to an international tribunal on East Timor would earn the resentment of the military and would struggle to retain power in the face of popular perceptions of another affront to national sovereignty.

This means that however unattractive it may be, her government needs to rapidly deliver human rights convictions. Some senior officers must now be jailed through Indonesia's own legal system - even if only to keep foreigners out of Indonesian affairs. The Ad Hoc Human Rights Court therefore now has a momentum of its own. The trials will probably go ahead.

Unfortunately, the new Court's powers are not clear. The new Act that sets it up makes abuse of human rights a criminal offence - for the first time in Indonesian history - and it does so retrospectively. Human rights offences committed before the Act was passed can now be tried. This would allow the new Court to reopen Soeharto-era killings in East Timor and Aceh, something that sends a chill down military spines. There is a catch, however. Recent amendments to the Constitution pushed through under army auspices prohibit laws from operating retrospectively.

The military have already indicated that they will rely on the Constitutional amendments to fight human rights charges. If they succeed, then the accused soldiers will have to be re-charged under general criminal law (for murder, assault, arson etc) which applied at the time and the evidentiary requirements will be much harder to satisfy, making it almost impossible to get convictions. When the Court opens this month, the judges will have to decide whether they have retrospective power or not.

With Kartasasmita's death, it looks like the military are starting their defence early. Some sources suggest that the gun used was only available to the military. This sending a very clear message to the judges who will have to decide the retrospectivity issue: find for the military or suffer the consequences - a bullet in the head.

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