Playing by the rules

Abu Bakar Bashir’s release from jail does not mean Indonesia is soft on terrorism, caution

Tim Lindsey and Jeremy Kingsley

While politicians and commentators around the world are rushing to express their horror at the release from an Indonesian jail of Abu Bakar Bashir, the spiritual leader of Jemaah Islamiah, Bill Leak’s cartoon on this page yesterday reflects popular Australian outrage that Schapelle Corby got 20 years for a bag of marijuana, while Bashir did only 30 months for the Bali bombing of October 2002. The common refrain is that Indonesia is soft on terror.

This is not true. The Indonesian Government sees JI and other terrorist groups as enemies because they seek to overthrow the republic and create a new system based on their hardline interpretation of sharia. Since 2002, Indonesia law enforcement has detained more than 200 suspected terrorists, with many already tried and convicted. Has any country outside a war zone got a better record?

Among those in jail are the gang responsible for the first Bali attack, led by death-row inmates Imam Samudra, Muhiklas and Amrozi. The notorious bomb-maker Azahari was killed in a shootout with police last year and his protege, Noordin Mohammed Top, is the target of a massive manhunt.

So, if Indonesia is so serious about stamping out terrorism, why was Bashir’s stay in jail so short? The answer is tied to the democratic transition Indonesia has undergone since Suharto fell in 1998. Its often corrupt, incompetent courts are now under heavy scrutiny. Rule of law has become a popular mantra and judges can no longer simply lock up people the Government doesn’t like, as was routine under Suharto. Evidence matters now.

Corby was jailed for 20 years because the evidence in court was overwhelming. By contrast, while few doubt Bashir’s guilt, the evidence at his trials was extraordinarily flimsy.

Video link evidence from Singapore didn’t comply with the rules, and the prosecution relied on witnesses who refused to testify or gave irrelevant evidence.

Evidence that Bashir was the titular head of JI didn’t help — it is, unfortunately, still legal in Indonesia. Charges relating to the Marriott Hotel bombing were hampered by the fact that he was in jail at the time of the blast, and the anti-terror laws don’t apply to the Bali attack. In the end, the courts seem to have convicted him of a vague criminal conspiracy largely on the basis of police reports alleging that, while in The Philippines, Bashir told Amrozi (who did not testify) that undertaking an event in Bali was up to him because he knew the situation in the field. Hardly a smoking gun.

As one of his lawyers said, Bashir could not be convicted on this untested evidence in a criminal trial in Australia or the US.

The prosecution’s problems were compounded by the US withholding key witnesses, despite a demand from the court that they be produced. This did huge damage to the prosecution, so much so that the fact Bashir was jailed at all is a demonstration of how desperate the Indonesian judges were to put him away.

As to his release, there was little that authorities could do. Bashir served his time and got the usual remissions available to all other prisoners 12½ days in his case. It would surely be wrong to ask for anything else in an emerging rule-of-law system. Or perhaps the critics would prefer a return to the Suharto era, when enemies of the state could be locked up or even disappear without a word from the top?

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