



Failure of justice in Indonesia

The acquittal of the man many believe was behind an infamous assassination is an outrage

explain Tim Lindsey and Gemma Parsons

ON New Year's Eve, the notorious South Jakarta District Court gave Indonesia an unwelcome new year gift. Acting seemingly with legal propriety, it acquitted Muchdi Purwopranjono, the man many Indonesians believe ordered the murder of one of their most respected human rights advocates, Munir Said Thalib.

Muchdi, as he is known, is a former head of the Kopassus, Indonesia's infamous special forces, who became deputy head of BIN, Indonesia's national intelligence agency. But even President Susilo Bambang Yudhoyono thinks Muchdi did it.

In fact, Yudhoyono announced soon after the verdict that he would ask the Attorney-General and the police chief to personally explain why the case against Muchdi had collapsed.

It's not hard to understand why so many people think Muchdi is guilty. Munir was poisoned on a Garuda flight from Singapore to Amsterdam in 2004. The prosecution says that Muchdi masterminded a BIN plot carried out by Polycarpus Priyanto, a "corporate security" officer covertly assigned to Munir's flight by BIN.

It was possible to do this thanks to the connivance of the former head of Garuda, Indra Setiawan, now serving a year-long jail sentence for his involvement in the murder.

Polycarpus is also in jail, serving a 20-year jail sentence for the murder after Indonesian courts found he had laced Munir's orange juice with arsenic, causing him to die in agony midflight.

So why did the court acquit Muchdi with, as we put it, seeming legal propriety?

The answer is that by the time the prosecution sat down there was no evidence on which any competent court anywhere could properly have convicted him.

Almost all witnesses for the prosecution either failed to materialise or revoked testimonies given in the earlier trials of Setiawan or Priyanto. Incredibly, none of them was under official protection, and five even retracted statements they provided during initial investigations.

Budi Santoso, a former staffer of Muchdi and star prosecution witness, is a good example. He told detectives during the initial murder investigation that Polycarpus admitted to him that Muchdi ordered him to kill Munir. But despite 14 summonses, Budi did not appear.

He is said to be stationed at the Indonesian embassy in Afghanistan on transfer from Pakistan, encouraging gossip that he struck a deal to stay away.

The only other significant evidence submitted — records of 40 phone calls between Polycarpus and Muchdi in the period leading up to Munir's murder, including one on September 7, 2004, the day Munir was killed — were rejected by the judges on unclear grounds. Muchdi's enemies say smoking-gun voice recordings of these calls were given to prosecutors but, inexplicably, not submitted to the judges.

So our description of the legal propriety is qualified by two very significant questions. First, why did the judges prevent records of the 40 phone calls being tabled, and exactly what was said in them? And second, why did so many witnesses recant?

There may be legitimate answers to both questions, but the absence so far of a written judgment doesn't help to explain them and, as in many post-authoritarian societies, Indonesians are, understandably, experienced conspiracy theorists. The result is most assume that witnesses, prosecutors and the judges were got at by spooks armed with the traditional mix of credible threats of violence and huge bribes.

Usman Hamid, Munir's successor as head of KontraS (Commission for the Disappeared and Victims of Violence), is unequivocal about this: he released a statement calling the decision "obscene" and "full of intimidation", and claiming the judges were under pressure from "powerful parties".

Speaking to us soon after the verdict, Munir's widow, Suciwati, similarly said the judges were "corrupted, gutless and weak", grieving that the result added the loss of justice to the loss of her husband.

The prosecution has already flagged an appeal to the provincial High Court. From there further appeals would run on cassation to the Supreme Court and then to a final Supreme Court PK (internal review). At each level the court can reverse previous findings and consider new evidence, such as missing witnesses or the 40 phone calls.

But why might the result be any different in a higher court? The answer lies in the commitment of Suciwati, Hamid and their supporters, who have campaigned ceaselessly since Munir's assassination, including a tour of Australia.

They can be confident of huge impact in Indonesia, because the country faces legislative and presidential elections this year.

These will be free and fair, and Yudhoyono and his predecessor, Megawati Sukarnoputri, are polling within a few points of each other. This gives Suciwati nationwide leverage because Yudhoyono is running again on a platform of cleaning up corruption, bureaucratic reform and improved accountability.

The problem for him is that the convictions of Polycarpus and Setiawan make it clear that all roads lead to BIN.

So if Muchdi didn't order the assassination, then who did? Was it,



Australian
09/01/2009
Page: 12
General News
Region: Australia
Circulation: 140000
Type: National
Size: 374.49 sq.cms
MTWTF



for example, his boss, BIN chief M. A. Hendropriyono, an equally forbidding New Order military hold-over? And more important still, what was the state intelligence service doing knocking off activists anyway? Surely all that was supposed to have stopped under Yudhoyono.

Suciwati puts the President's dilemma in a nutshell: "Observers rely on very narrow indicators to measure Indonesia's democratic progress, things like press freedom and ratification of international human rights instruments, but what we should really be looking at is the strength of the rule of law in this country and whether the Government is serious

about reforming the police, the judiciary and the military intelligence. There needs to be clear regulation in this area: I pay tax, I have a right to demand this."

The Munir case isn't going to go away if Suciwati has anything to do with it.

"I will campaign to the end," she says. "Judge me by what I do, not just by what I say. Everyone's rights must be protected, even if they express opposing views. If Munir was still here he would stand up and criticise the Government and hold it accountable for the human rights of its citizens."

So Suciwati, Hamid and their supporters now aim to build public pressure on the appeal court judges to such a point that it can overwhelm any dirty tricks that the other side may try.

Yes, it's not much of a way to build the rule of law and judicial independence in a fledgling democracy, but it may just be enough to finally put a murderer away and symbolically bury Suharto-era military impunity.

Tim Lindsey heads the Asian Law Centre at the University of Melbourne, where Jemma Parsons is a principal researcher.