

Indonesian editor jailed under repressive libel laws

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In a case that has serious implications for democratic rights in Indonesia, the Central Jakarta District Court sentenced Bambang Harymurti, editor of the weekly newsmagazine *Tempo*, on September 16 to one year's jail for defaming a well-known business tycoon. The alleged victim was Tomy Winata, who has business interests in banking and real estate and is widely known to be well connected to country's political elite as well as having friends in the police and military.

The criminal case arose out of an article published in *Tempo* in early March 2003 that had also been the subject of an earlier civil defamation action. The state prosecutors adopted a similar position to that of Winata. The article, they claimed, implied that Winata had gained financially from, and may have been responsible for, a fire in February 2003 that destroyed hundreds of kiosks at the Tanah Abang textile market in Central Jakarta.

The magazine cited a source as saying that in December 2002 Winata had proposed a multi-million redevelopment of the area to the city administration. The prosecutors alleged that the article violated sections of the Indonesian Criminal Code against defamation and a 1946 law prohibiting the publication of a report that could provoke public disorder. They called for a two-year jail sentence.

Two journalists, Ahmad Taufik and Iskandar Ali Thamrin, were tried with Harymurti but were acquitted. Harymurti is free pending an appeal.

The severe sentence was imposed despite the Jakarta High Court having overturned earlier civil rulings in favour of Winata against *Tempo*. The jail term was even more surprising given the article in question contained a denial by Winata of any involvement in the planned redevelopment and a denial by the city authorities that any development had been approved.

Indonesian law makes prosecution difficult if the person allegedly defamed has been given a chance to deny the allegations.

During the trial, Winata claimed he had not spoken to *Tempo* to make the denial. But the defence presented a tape recording of a *Tempo* journalist interviewing Winata, three witnesses who were present during the phone interview, an expert witness who testified that the voice on the tape was Winata's and PT Telkom records showing a call to Winata's mobile phone when the conversation was said to have taken place.

The defence called for the trial to be suspended to allow for the prosecution of Winata for perjury—a procedure that is allowed under Indonesia's court rules. But the court simply brushed the motion aside, telling the defence to take their perjury charges to the police.

Speaking to journalists after the trial, prosecutor Robert Tacoï belittled evidence that Winata lied in court, saying: "Indeed the voice on the cassette resembled Tomy's voice, but it is insignificant. The expert witnesses... did not directly witness the occurrence of the interview with their own eyes. They only analysed it... Regardless of the witnesses' information, Tomy Winata said he was never interviewed in connection with the article."

The prosecution justified the public disorder charge by saying that the article could have led to Winata being threatened by Tanah Abang residents or sparked unrest among employees of his Artha Graha business organisation.

In fact, the only violence occurred in March 2003 when a gang of about 200 people claiming to be Winata's supporters attacked the *Tempo* offices and assaulted staff. The thugs talked Harymurti into going to the Central Jakarta police station to resolve the matter. He was assaulted there, as police stood by and

watched, and, was only saved by journalists who rushed to his aid.

One of the gang was eventually charged for the assault but was acquitted. Winata escaped prosecution by denying that the thugs had acted with his knowledge. According to the *Laksamana.net* report, however, he later admitted that a senior police officer had phoned him at the time of the assault to ask permission to take action against the attackers.

The case has sparked protests from journalist and human rights groups, in Indonesia and internationally. The Paris-based Reporters Without Borders website listed 32 press organisations from Indonesia, Asia, North America and Europe that condemned Harymurti's conviction and sentence.

Their statement declared the sentence was "a breach of the right to freedom of expression... [which] if not reversed, will undoubtedly have a severe chilling effect on freedom of expression in Indonesia." It called for the removal of criminal sanctions in defamation matters.

Amnesty International expressed concern "that the imposition of criminal sanctions and excessive fines may lead to much greater caution and self-censorship from the media in their reports about influential figures which will, in turn, negatively impact upon the public's right to know and the facilitation of open debate on issues of public interest."

During the Suharto dictatorship the same laws were used to muzzle critics of the regime and its business allies. One of the most sensitive subjects was any reportage of the massive looting of the national economy by the Suharto family and its close cronies in business and the military.

After the fall of the Suharto dictatorship in May 1998, a degree of press freedom opened up. Confronted with a mass movement of students, workers and others, the military and state apparatus, including the police and courts, were compelled to pay lip service to democratic rights. But the so-called reformers—such as Megawati Sukarnoputri—ensured that no fundamental reforms took place. Indeed, under her presidency, attacks on basic press freedoms have intensified.

The military has imposed an effective media blackout on its huge counter-insurgency operation launched in May 2003 to suppress separatists in province of Aceh. Last November the US-based Human Right Watch

issued a report entitled "Aceh under Martial Law: Muzzling the Messengers: Attacks and Restrictions on the Media" that detailed the methods, including outright thuggery, used by stifle any serious coverage of the military's brutal operations.

In June, the Indonesian government expelled two staff members of the Brussels-based International Crisis Group (ICG). The ICG had issued critical reports on military repression in Aceh and Papua. A prominent role in this expulsion was played by National Intelligence Agency (BIN) chief Ahmad Hendropriyono. He told the Indonesian media at the time that up to 20 non-government organisations were under surveillance for damaging the country's reputation. He pointedly warned that a "return to the old measures" might be necessary to deal with unwanted criticisms.

The conviction and jailing of Harymurti is meant to reinforce the warning to the media as a whole. With the installation of retired general Susilo Bambang Yudhoyono as president later this month, the military and state apparatus will feel even less restraint as it seeks to muzzle any, even limited, media exposure of the activities of the country's ruling elites.



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