

Indonesian cleric convicted of conspiracy in Bali bombings

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18 March 2005

Under considerable international pressure, an Indonesian court convicted Islamic extremist cleric Abu Bakar Bashir on March 3 of the charge of conspiracy over the 2002 Bali bombings. Bashir was sentenced to 30 months imprisonment, but acquitted of the more serious charges of ordering the bombings in Bali and on the JW Marriott Hotel in Jakarta in August 2003.

The US and Australian governments immediately criticised the sentence. A statement from US Embassy official Max Kwak declared: “[G]iven the gravity of the charges on which he was convicted, we’re disappointed at the length of the sentence.”

Australian Foreign Minister Alexander Downer announced that he had instructed Canberra’s ambassador to explain to Indonesian officials why the sentence was too light. Labor opposition leader Kim Beazley went even further declaring that Bashir should spend the rest of “his miserable life in jail”.

These demands ignore both the lack of evidence linking Bashir to the terrorist attacks and the limited charge on which he was convicted. Highlighting the political character of the trial, Australian academic Tim Lindsey from the Asian Law Centre wrote in the media “[G]iven the weak case against him, that Bashir was convicted at all indicates how desperate the Indonesian authorities were to nail him.”

Bashir was first detained in 2002, within a week of the Bali bombings, after Washington and Canberra brought intense diplomatic pressure to bear on President Megawati Sukarnoputri. The two governments insisted, even before a criminal investigation was underway, that the attack was the work of Jemaah Islamiyah (JI) and that Bashir was responsible. Megawati issued a special presidential decree enacting draconian new anti-terrorism measures, including the provision for lengthy police detention without trial that was used to arrest Bashir.

Bashir was first tried in 2003 on charges unrelated to the

Bali bombings. He was accused of involvement in a series of church bombings in 2000 and of plotting to assassinate Megawati. The court, however, was compelled to dismiss the terrorist charges for lack of evidence, but found Bashir guilty of treason and breaking immigration laws and sentenced him to four years in jail.

Washington and Canberra responded by demanding tougher measures. After completing his sentence, Bashir was immediately rearrested. Based on what the prosecution claimed was new evidence, he was put on trial a second time last October for the Bali and Marriott Hotel bombings. From the outset, Bashir denied any involvement in the attacks or that he was the leader of JI.

To establish Bashir’s role in JI, the prosecution paraded dozens of witnesses in court. All but one failed to make any link between Bashir and JI.

Imron Bashaqi testified in mid-December that he had heard second hand that Bashir had taken over as JI leader after the death of Abdullah Sungkar in 1999. But he then dealt a devastating blow to the prosecution case by withdrawing a previous statement that he had seen Bashir at a military training camp in the Philippines in 2000. Bashir’s alleged attendance at the camp was central to the prosecution case.

The only witness to provide any direct testimony against Bashir was Mohammad Nasir Abbas, an alleged JI leader in Malaysia. He said that Bashir had sworn him into JI at Solo in Indonesia in 2001. Abbas testified that Bashir was at the Philippines training camp and addressed course graduates as head of JI. Abbas also related a conversation in which Bashir said he had met Osama bin Laden.

At the time of his court appearance, Abbas had spent 10 months in an Indonesian prison on immigration charges and was in protective police custody. According to an article in the *Age* (Melbourne) newspaper, Abbas was given an immunity deal in exchange for his testimony. In court, he refused to answer questions from Bashir’s

defence lawyers on inconsistencies in his statements.

The five presiding judges did not centrally rely on his evidence in bringing their verdict. Instead they used a secondhand account of a conversation between Bashir and convicted Bali bomber Amrozi, in which reportedly Bashir declared “I leave it up to you” when told of an impending “event” in Bali. The allegation, which was denied by Bashir, was contained in a police report of the interrogation of Mubarak, also convicted over the Bali bombing. Neither Mubarak nor Amrozi were called as prosecution witnesses.

On the basis of this dubious police report, chief judge Sudarto declared that Bashir had “been legally and convincingly proven of engaging in a sinister conspiracy that led to fire and the death of others.” Bashir’s legal team filed an appeal on March 8, challenging the conviction on the grounds that it was based on a single piece of evidence of “doubtful” value.

The prosecution was unable to call two key figures—Riduan Isamuddin, also known as Hambali, and Omar al Faruq—both of whom are being held by the US in secret locations. According to American authorities, both are high-level members of Al Qaeda, with links to JI, and have implicated Bashir in terrorist activities. Al Faruq was handed over to the US in June 2002 by Indonesian security. Hambali was transferred to US custody after being captured in southern Thailand in August 2003.

Neither al Faruq nor Hambali have been brought before any court. Evidence from al Faruq’s interrogation leaked to the US media indicates that he was subject to torture. Nothing has been heard of Hambali for more than a year. To allow either to testify in an Indonesian court would immediately call into question the Bush administration’s blatant flouting of basic democratic rights and the methods used to extract information.

If these two men are who Washington claims they are, there are additional reasons for not allowing them to testify and be cross-examined in open court. Many unanswered questions remain about terrorist attacks in Indonesia, including the Bali bombings—in particular about the role of the Indonesian military. While the JI was clearly involved in the Bali attack, the Indonesian armed forces (TNI) has a long history of manipulating various militias and gangs, including Islamic extremist groups, to carry out political thuggery.

Evidence from Hambali and al Faruq could also prove politically damaging to Washington. Hambali could shed light on the history of US involvement with Islamic extremist networks in South East Asia and the Middle

East going back to the mid-1980s when he, along with hundreds of others, took part in the CIA-sponsored anti-Soviet jihad in Afghanistan.

There are also indications that the Bush administration would have preferred to avoid a public trial for Bashir. In his media comment, Australian academic Tim Lindsey referred to the claims of former State Department translator Fred Burks who stated he was present when White House official Karen Brooks tried to pressure Megawati to “render” Bashir. The CIA practice of “rendering”, which is now being openly discussed, involved the transfer of prisoners to third countries for torture under US supervision.

Bashir’s actual culpability for the Bali bombings remains unclear. Bashir and Abdullah Sungkar formally founded JI in the early 1990s while in exile in Malaysia. He certainly bears responsibility for the reactionary Islamist politics that guides JI and is used to justify horrific terrorist attacks. But it remains to be proven that he was directly involved in ordering, or even giving his blessing to, the Bali and Marriott Hotel bombings.

The conviction of Bashir was a political decision in line with the Indonesian administration. Like Megawati, President Susilo Bambang Yudhoyono, a retired general, is using the “war on terrorism” to forge closer ties with Washington, and in doing so comes under pressure to take harsher measures against Bashir and other Islamist groups. At the same time, he faces continuing hostility, not only from Bashir’s immediate supporters, but from a broad layer of the population opposed to the US occupation of Afghanistan and Iraq. The court decision is a bid to appease the US while at the same time avoiding further inflaming public opinion at home.



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