

Two sedition prosecutions for criticising the Indonesian government

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Two cases before the Indonesian courts are a return to the legal methods used by the Suharto dictatorship to suppress political dissent. Two political activists are facing possible jail terms under sedition laws dating back to the Dutch colonial period, for criticising President Susilo Bambang Yudhoyono and Vice President Jusuf Kalla.

State prosecutor Ardyanto asked the South Jakarta district court on October 19 to convict and jail university student Fahrur Rohman for six months. He told the court the student was “legally and convincingly guilty of insulting the president as stated in the criminal code”.

Yesterday, the three judge panel convicted Fahrur and sentenced him to three months and 23 days imprisonment. The term was equal to the time spent in jail, so he was immediately released to the cheers of his supporters present in court.

Fahrur from the Syarif Hidayatullah State Islamic University was charged following a peaceful pro-democracy demonstration in June. The students were protesting against the slow pace of democratic reforms since Suharto’s overthrow in 1998, and the government’s decision in May to drop all charges against the former president.

According to the prosecution, Fahrur’s “crime” was to state that the president and vice president had lost the people’s trust and should resign. Posters and fliers for the protest were submitted as evidence. According to press reports, Fahrur read a statement to the court entitled, “Yudhoyono and Jusuf Kalla are an anti-critic government”.

In second case, the Constitutional Court was asked in September to throw out charges against lawyer and Islamic activist Eggi Sudjana, who was accused of defaming Yudhoyono under the penal code (KUHP),

Articles 134 and 136.

Sudjana reported entrepreneur Hary Tanoesudibjo to the Corruption Eradication Commission (KPK) for supplying expensive cars to four of Yudhoyono’s close political allies, including the president’s son. Sudjana asked the court to nullify the penal code articles as violations of his constitutional rights to freedom of speech and information.

Sudjana told the court the laws meant he could not be critical of the government. He pointed out that under presidents B.J. Habibie and Abdurrahman Wahid there had been no prosecutions under these articles. He asked why they were now being invoked in “the era of the SBY [Yudhoyono] administration?”

These crude attempts to silence political critics lay bare the real state of affairs behind the claims that Indonesia is now a democracy. Suharto stood aside in 1998 amid continuing demonstrations but the state apparatus built up under his dictatorship, including the army, police, courts and laws, remained largely intact. Faced with mass resentment and hostility, politicians, generals and bureaucrats were all compelled to adopt a “democratic” façade but the changes were superficial.

The so-called reformers Wahid and Megawati Sukarnoputri were critical in preserving the state and enabling the junta’s Golkar party and the army to resume a dominant role in political life. Megawati relied heavily on the military in her protracted efforts to impeach Wahid in 2001. She appointed Yudhoyono, a Suharto-era general, as her chief security minister.

Under Megawati, significant inroads were made into the limited democratic rights established after the fall of Suharto. Her administration exploited the Bush administration’s “war on terror” to strengthen the military’s relations with the US. After the Bali bombing in October 2002, she bowed to pressure from

Washington and Canberra to introduce draconian anti-terrorist laws, reestablishing detention without trial.

As coordinating security minister, Yudhoyono was responsible in 2003 for relaunching a vicious war against separatist guerrillas in Aceh and stepping up repression in Papua. He won the 2004 presidential election by capitalising on the widespread opposition to Megawati generated by the country's deepening economic and social crisis. Vice-president Kalla is a leading Golkar figure.

The use of sedition laws to intimidate political critics and opponents is one index of the increasingly anti-democratic character of the regime in Jakarta. The latest two cases bring the total to at least 13 over the past three years, six of them under Yudhoyono. At least two people are currently in jail.

A new criminal code is being drafted to further strengthen the state apparatus.

Indonesian Legal Aid Institute Foundation chairman M. Patra Zen warned earlier this year that the government is “trying to extend its power through the [new] criminal code”. He pointed to four features in particular that undermine democratic rights: capital punishment, defamation and public disorder, state secrets and the prohibition of Marxism and communism.

Zen noted that KUHP Article 308 directly mimics Suharto's use the charge of “defamation” to take legal action against any government opponent. The article states that “anybody who published obscure, excessive and incomplete news that could prompt public disorder could be sentenced to one year in prison”.

According to the Indonesian Press Council, the new code contains more provisions than previously for restricting press freedoms—49 as opposed to 32. A Freedom of Information Bill has languished in the Indonesian parliament since November 2001.

An Amnesty International study of the new associated Criminal Procedure Code (KUHAP) identified a number of areas where the rights of the accused are undermined. Its concerns included the failure to explicitly refer to the presumption of innocence and to require that charged persons be informed of their rights and be brought promptly before a court. As a result, suspects can be held for lengthy periods in police custody, opening the way for coercion and torture.

The accused will have the right to a lawyer, but access is limited to normal working days. The right to a court-appointed lawyer does not apply to anyone suspected of a charge carrying a sentence of five years jail or less.

Even more coercive measures are being considered under new laws covering the intelligence service and state secrets. Any person branded “a threat to the nation”, will be denied even the limited rights proposed under the new criminal code. These include the right to legal counsel, the right to remain silent, the right to bail and the right to outside communication.

Article 28 explicitly ends the presumption of innocence and chillingly defines a suspect as an “object of interrogation” who can be held in military prisons. Detention without trial can be extended for up to nine months on the orders of the director of the country's notorious state intelligence service (BIN).



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