

Indonesian prosecutors launch limited civil action against Suharto

John Roberts
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Indonesian state prosecutors launched a civil suit against former Indonesian strongman Suharto on July 9, claiming \$US1.5 billion in restitution and damages for state funds plundered during his regime's 32-year rule up to 1998.

The case alleges that the ex-president forced state banks, other institutions and businesses to contribute money to his Supersemar Foundation, ostensibly to finance social welfare projects, including education scholarships. Large sums were transferred to companies owned by members of the Suharto family and their cronies.

Prosecutors told the media that six similar foundations controlled by the Suharto family might be pursued depending on progress in the first case. Transparency International estimates that the Suharto financial empire, built on a variety of corrupt practices, including extortion and theft, is worth \$35 billion. Other estimates put the figure as high as \$45 billion.

The latest decision to go after a small part of the Suharto loot is highly political. It is also somewhat risky, given the association of many in the government, including President Susilo Bambang Yudhoyono, with the Suharto junta. It is possible that Yudhoyono has decided to take his chances in order to boost his government's anti-corruption standing and his own flagging popularity prior to the 2009 presidential election.

The announcement did not produce the reaction Yudhoyono wanted. Adnan Topan Husodo of Indonesian Corruption Watch told the *Jakarta Post* on July 10: "The public expected the Attorney General to go further by filing a criminal case against Suharto. We don't have any reports showing the success rate of civil lawsuits."

The London-based *Economist* commented: "In

Indonesia the suit was greeted with bored scepticism. Few expect Mr Suharto to lose even this small part of his rumoured fortune. Debate focused more on which bit of the chronically corrupt legal system will yield to pressure to ensure a Suharto victory."

The magazine added: "The cynicism is understandable. Efforts to prosecute Mr Suharto for corruption foundered in 2000, when doctors declared him unfit to stand trial. His youngest son, known as 'Tommy', is the only one of his six children to be convicted of corruption (and, later, of having one of the judges murdered). Mr Suharto's half-brother and his golf partner have both been briefly and comfortably jailed for misusing money from a government reforestation fund."

Even the limited civil action appears to have met resistance within the Indonesian government. On May 7, Yudhoyono carried out a major cabinet reshuffle, which included both Justice Minister Hamid Awaluddin and Attorney General Rahman Saleh. With an eye on the 2009 elections, he declared that the cabinet changes would improve the "effectiveness and performance of the cabinet in the next two and a half years".

Saleh was replaced by Hendarman Supandji, who was described in a press release from the Indonesian Embassy in Canberra as a "tough minded career prosecutor". Hendarman made his name as deputy Attorney General for Special Crimes and head of the Team for the Eradication of Corruption. His appointment clearly points to Yudhoyono wanting to raise his "anti-corruption" profile.

According to the *Jakarta Post*, the Supersemar investigation began under Saleh but had remained on the backburner until the cabinet reshuffle. Hendarman immediately announced he would file charges against

Supersemar by July 22, indicating that the case against Suharto was at least one consideration behind the cabinet changes.

The new case against Suharto coincided with unsubstantiated allegations that Yudhoyono and Vice President Jusuf Kalla accepted illegal election funding during the 2004 election campaign. Yudhoyono has rejected the accusations as a slander. Quite possibly the Suharto family and its supporters dredged up the insinuations to damage Yudhoyono, whose popularity has slumped sharply from 67 percent in late 2006 to 49 percent in March.

There is widespread popular hostility to Suharto and the many atrocities carried out by his junta following the seizure of power in a bloody CIA-backed coup of 1965-1966. Since Suharto's downfall in 1998, none of his successors have even suggested his prosecution for torture, arbitrary detention and murder of hundreds of thousands of Communist Party members, trade unionists, ordinary workers and peasants during and after the coup. Yudhoyono, like other top generals, does not want his own record put in the public spotlight.

The limited legal efforts to pursue Suharto for corruption have been necessitated by the demands of the international investors for "greater transparency". Criminal charges over the misappropriation of funds stalled after the court accepted that he was too sick to stand trial. Last year after coming under considerable political pressure, the Yudhoyono administration dropped criminal charges against Suharto, now 86.

Suharto's son "Tommy" was convicted in 2002 of ordering the murder of Supreme Court judge Syafiuddin Kartasamita, who refused to accept a bribe over corruption charges. Despite the seriousness of the crime and the fact that the two hit men received life sentences, Tommy was sentenced to just 15 years. There was public outrage provoked by the luxurious conditions of his confinement and he was released in October 2006.

Suharto still carries considerable political clout through the networks of patronage in the military and state apparatus developed over three decades. His junta's party, Golkar, remains one of Yudhoyono's essential political allies. Vice President Kalla is a prominent Golkar member.

By sidestepping criminal prosecutions, Yudhoyono is

hoping to avoid a bruising confrontation with the Suharto clan while demonstrating to international investors that measures are being taken to end corruption. The day after the civil case against his father was launched, prosecutors announced that Tommy Suharto would again be investigated for embezzlement from the country's clove management agency.

The political charade was not lost on the Suharto family. Family lawyer O.C. Kaligis described the legal action against Tommy Suharto as a stunt. "It's all just for political ends to keep people happy. Why wasn't he prosecuted earlier if he'd done anything wrong?"

Yudhoyono is no doubt hoping to stem falling foreign direct investment (FDI) and reinvigorate his grand plan to attract \$US426 billion in investment for 2004-2009, including \$123 billion to revamp the country's infrastructure. Realised FDI fell in 2006 to \$5.98 billion from \$8.91 billion in 2005. The growth rate of 5.5 percent for 2006 was well below Indonesia's regional rivals. Vietnam, for instance, grew at 8.2 percent last year.

Whether the legal moves against the Suharto family do anything to raise investor confidence in Indonesia remains to be seen.



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