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No. 15/2011 dated 10 February 2011

Indonesia's Trials and Tribulations: The Case of Abu Bakar Ba'asyir

By Sulastri Osman

Synopsis

With hardliner Abu Bakar Ba'asyir once again in the spotlight facing multiple charges of terrorism, Indonesian authorities have to instil public confidence in its revised anti-terrorism laws to maintain credibility and stem religious extremism. An open and transparent trial has never been more crucial.

Commentary

JUDGEMENT TIME will soon come. Abu Bakar Ba'asyir, the firebrand Indonesian cleric widely considered the spiritual leader of Jemaah Islamiyah, is currently awaiting trial that will in all probability begin in a few days' time. Confronted on charges of leading and financing paramilitary activities of the Lintas Tandzim cell of unexpected alliances in Aceh that was uncovered last year, prosecutors said Ba'asyir will be tried for mobilising people for terror acts. The charge carries the death sentence under the country's recently revised Anti-Terrorism Law.

How the judiciary manages his latest trial will have significant implications for the country's attempts to rein in religious extremism as well as its long-term counterterrorism efforts. Not least, it will have an impact on how Indonesia ultimately moves forward as a cohesive multi-confessional democratic nation under the spectre of terrorism.

Sticking to the law

So far, things are looking well for the rule of law. The police handed Ba'asyir, who was arrested August last year, over to the prosecutors on 10 December 2010. Under the criminal code procedure, they have 60 days to hold him before trial begins. The dateline expires today (10 February 2011) and prosecutors have signalled that the office will register the case with the district court by then. Any further detention of the 72-year-old cleric will scream human rights abuse; the controversy will not bode well for a law enforcement that has been under scrutiny of late for heavy-handed counterterrorism measures.

Ba'asyir's coming appearance in court will not be his first. He had stood trial at least twice before on terrorism charges. The authorities, however, have had trouble making the charges stick, much to the ire of its international partners in counterterrorism; and if the outcome is similar this time round, Ba'asyir will emerge a bigger martyr than ever within his circle.

But with the recently amended anti-terror bill that criminalises preparatory acts for violence, those espousing extremist rhetoric – in this case, militant Islam – can now be held accountable for inciting. This says a lot about Indonesia's current commitment against provocateurs like Ba'asyir, particularly considering the significant sway the charismatic religious leader has over his followers.

That said, the new preventive edict is not without controversy, and justifiably so. It smacks of anti-subversion laws taken advantage of during the Suharto period and presents new challenges to the fledgling democracy. Hard-won civil liberties often face pressures under demands to respond to terrorist attacks despite the best of the government's intentions to stem violence. The standing test for Indonesia is to ensure that new powers set in place are not abused in order to make good the current case against Ba'asyir. Among other concerns, the authorities have to make clear when and how the new laws will be used, particularly when it comes to intra-regional violence.

Open and public trial

Ba'asyir's trial can be a key early-stage point to walk this talk. The viability of the revised anti-terror law has to be put through the most rigorous of tests – that of public opinion, both domestic and international, with the former as priority. An open and public trial is therefore crucial.

To its credit, Indonesia has done rather well on that account, for instance, with the trials of the Bali bombers and others after them. But transparency has never been more important especially so now that the military – with its infamous history of power politics, corruption and human rights abuse – have been inducted into the new counterterrorism outfit that makes up the National Anti-Terror Agency (BNPT).

For a start, because Ba'asyir's court appearances have tended to attract massive throngs of supporters from across Java, the hearings may be relocated from the South Jakarta district court to the larger Agriculture Ministry's compound in Central Jakarta. The new arrangement will reportedly allow for better security. The larger compound will also provide more room for the expected swell of people.

Critics question the wisdom of the court to accommodate Ba'asyir's supporters, who will in all probability make spectacles of themselves and turn the entire affair into a media circus. If his previous trials, or the trials of other high-profile terrorist suspects were anything to go by, the crowds will be an assembly of rabble-rousers who will take the opportunity to interrupt the proceedings and undermine the justice process. The episode will be spun into yet another case of religious prejudice to add to their repertoire of anti-Muslim conspiracies.

Let them – so long as their remonstrations do not manifest in violent tantrums.

An open prosecution showcases a good example of justice in progress and helps underscore an unbiased judiciary confident in fine police work; it also demonstrates how terrorist suspects are dealt with by the laws of the land. For the rest of Indonesia, a public trial for Ba'asyir serves as a reaffirmation that suspects, if convicted, are punished for their wrongdoings despite Muslim sensitivities -- just like any others who break the law, and that their conduct, though political and somewhat religiously motivated, is not above criminality.

In this regard, there are two things in particular that the bench will have to convince watchers: that Ba'asyir is once again presented before them because evidence speaks against him, not because of political pressures from beyond the borders; and that it is the deed of violence, or the encouraging of violence that is punishable by law, not personal convictions. Any impressions otherwise will prove costly for the government.

Inevitably, people will take sides and for a hodgepodge of reasons beyond religion. But nothing lesser should be expected from a budding democracy.

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