

IN BRIEF: POLITICAL

It is clear that if its efforts are to succeed, Jakarta will have to hire clean, well-trained prosecutors to take on extradition cases. In this respect President Yudhoyono is already sending out the right message, by announcing that the powerful Indonesian Corruption Eradication Commission (KPK) will lead this legal charge. But KPK prosecutors will also have to be backed up with proper funding and a genuine government commitment to bringing fugitives to justice.

By signing the treaty, Singapore has finally acknowledged its responsibility in the war against Indonesian corruption, the source of so much of its neighbour's problems. However, if the agreement is not implemented seriously by both parties this important symbolic step will remain just that.

Human rights nil, intolerance 1

The Supreme Court's decision is out for an Indonesian housewife and it does not bode well for efforts to protect human rights in the country.

Almost exactly a year ago, Lilis Maemudah was the innocent victim of a sharia-inspired regulation issued by her local government in Tangerang. Waiting at a bus-stop one night after working a part-time job, Lilis was arrested on suspicion of soliciting and was later processed and fined by a district court judge.

Aimed at reducing vice in the area, the bylaw made it possible for police to arrest women for prostitution for simply being out alone at night. The regulation was part of a package of decrees based on a fundamentalist interpretation of Islamic law, which also included stricter controls on alcohol, a ban on all public displays of affection and an obligation for local government employees to wear Muslim dress on Fridays.

Refusing to be cowed by the humiliating conviction, Lilis teamed up with the Advocates Against Bylaw Discrimination (KANTIF) to take the local regulation to the Supreme Court. Their case rested on the regulation's contravention of several higher laws, including those in the Criminal Code. Lawyers argued that arresting people without evidence breached specific clauses within the code that protect suspects' rights to a fair trial.

On April 13 this year, the court finally issued a ruling on the regulation. Lilis and KANTIF had lost, and the regulation stood.

In some ways the significance of the court's decision for women like Lilis has been diluted by the typically lax implementation of regulations in this country. According to Dedi, a member of KANTIF, the regulation is rarely enforced these days after it became a political hot potato for the Tangerang administration.

However, Dedi also notes that a successful outcome at the court would have set an important precedent for other restrictive sharia-style bylaws passed in the country. "If the Supreme Court had found in our favour, people who felt aggrieved by similar local regulations in other areas of Indonesia could have held it up as an example to fight them with," Dedi said.

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Since the *Report* first investigated the issue of sharia-based local regulations in May 2006 (Vol. VIII, No.8), the number of religiously inspired bylaws passed in the regions has risen dramatically. Dedi estimates they have increased ten-fold and points out that Christians are also beginning to get in on the act. “There is a local government in Manokwari in West Irian Jaya which recently finalised a local regulation based on the bible, forbidding people from wearing Muslim headscarves in public,” he said.

Dedi says KANTIF is mystified by the reason the court’s judges gave for their verdict. Ruling that the case was outside their authority, the decision upheld the right of local governments to create such laws. But precedents have already been set where the court has thrown out other local regulations after the Home Ministry brought proceedings against them. However, these bylaws were generally tax-related.

“I’m very surprised by the Supreme Court’s decision,” Professor Sahetapy, the head of the government’s National Law Commission told the *Report*. “It seems to have been engineered for political reasons ... The national penal code already prohibits prostitution. If Tangerang were really just trying to stop prostitution, they should enforce that.”

By announcing that the prostitution regulation is within the “legal political sphere” of the “local legislature and executive”, the Supreme Court has effectively decided that it is a political issue, which must therefore be settled through a political process. This is indeed what now seems to be happening, with KANTIF’s only further avenue for action to lobby the Home Ministry in the hope that it will persuade the president to issue a decree against such regulations.

The principles encoded within Indonesia’s higher laws are generally sound, but it seems that the courts remain either unable or unwilling to implement them when they deal with subjects that are politically sensitive. But if religious polarisation is to be avoided and the secular state enshrined in the Constitution is to be upheld, then it is up to both the politicians and the courts to lead the way.

Free from the mire

After many months of testimony, on April 24 a Sulawesi court ruled that gold miner PT Newmont Indonesia and company president Richard Ness were innocent of polluting Buyat Bay. While the verdict has been welcomed by the mining sector, the way the case against the company was pursued has raised serious concerns about Indonesia’s suitability as an investment destination.

Much of the media attention on the Newmont case has focused on the flimsy nature of the charges brought against the mining company. Even the most perfunctory examination of the state’s evidence suggests there was little reason for the authorities to take the firm to court. Put simply, the smoking gun in the case—Newmont’s alleged mercury and arsenic pollution of Buyat Bay—never existed.

A look at the chronology of the drawn-out litigation shows how the company