

IN BRIEF: POLITICAL

Supreme Court Chief Justice keeps his position

Supreme Court Chief Justice Bagir Manan won a second term in office on May 2 as his fellow Supreme Court Justices voted almost unanimously to retain him until 2008 when he reaches the mandatory retirement age of 67. Amid protests from independent watchdogs that it spells bad news for judicial reform, the *Report* looks at some of the issues surrounding his re-election.

As the final court of appeal in Indonesia with the right to overturn regulations issued by the legislature and the executive, the Supreme Court is fundamental to the system of democratic checks and balances. In recent years, the Supreme Court has been given greater powers in a bid to re-establish its independence vis-à-vis the executive.

During the New Order, Soeharto controlled the courts through the Ministry of Justice, which had responsibility for the organisational, administrative, and financial affairs of all lower courts, including the promotion and rotation of judges in the Supreme Court itself. After the gradual phasing in of a 1999 law on judicial reform, those powers now belong to the Supreme Court, effectively giving it a high degree of control over the future of judicial reform. The position of Supreme Court Chief Justice is therefore crucial and, with a chequered history behind him, many NGOs question whether Bagir Manan has the commitment to push through the reform so desperately needed in the judicial sector.

Bagir Manan was chosen as Chief Justice in 2001 amid a storm of controversy. As the first new Chief Justice during the *Reformasi* era, his appointment was heavily scrutinised by the DPR, who at that time had the right to conduct a fit and proper test of candidates before presenting a small selection to the president to choose one. The DPR nominated two candidates, one of which was Bagir Manan, but then President Wahid refused to choose either of them, stating that they were both tarred by their previous association with the New Order.

Under Soeharto, Manan had served as a director general in the Ministry of Justice and was a former administrator of the Golkar party, while the other candidate, Muladi, had served as Justice Minister. At the time another Golkar party cadre, Marzuki Darusman, had just been appointed the Attorney General and suspicion was rife that Golkar was engineering control of the key legal institutions to block reform.

To the delight of anti-corruption NGOs, but to the increasing dismay of the DPR, Wahid held out for over 9 months on the appointment of a Chief Justice, eventually submitting to the DPR and choosing Manan in May 2001. Many saw this as an attempt by Wahid to mend his relations with the DPR and more specifically as a compromise with then Golkar leader Akbar Tanjung in a bid to stall threats of impeachment. If that was the case, it did not work, because Wahid was impeached just two months later.

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In his first term Manan oversaw many controversial decisions at the Supreme Court, including the 2004 overturning of Akbar Tanjung's corruption conviction and the 2005 reduction of Tommy Soeharto's sentence from 10 to 15 years for murdering a judge. Manan also came under fire after accusations surfaced that he was involved in an attempt by Soeharto's half-brother Probosutedjo to bribe the Supreme Court into overturning his corruption conviction. The Supreme Court's disciplinary committee, under his charge, has also been under-performing, exonerating most of the judges that have been investigated for bribery allegations. However, he has been credited for his role in the creation of a far-reaching blueprint to reform the Supreme Court.

Whatever way Manan's performance is assessed to date, judicial watchdogs are dismayed by what they regard as the un-transparent process through which he was re-elected. He is the first Chief Justice to be directly elected by Supreme Court Judges under a 2004 law that was created to avoid the political overtones of his previous selection by the DPR.

In the long term, if the Judicial Commission retains its mandate to test Supreme Court judge candidates before they are submitted to the DPR then the direct election of the Chief Justice by those judges could begin to make more sense. In the meantime, however, one of the most important positions in judicial reform has just been decided by a tiny group of people who are themselves tainted by corruption.

Compensation to the poor for fuel price hikes

The Jakarta-based research institute, SMERU, has released an independent report monitoring the government's compensation programme to the poor for the rises in fuel prices. The massive programme, granting Rp 100,000 per month to over 15 million families living below the poverty line, has so far cost the government in excess of Rp 5 trillion. It began in October last year and is expected to run until September 2006.

The report, which interviewed 93 recipient families and 30 non-recipient families in five towns around Indonesia, gives a cautiously positive evaluation of the programme, with some important qualifications.

The process for poor families to receive payment includes the use of a census undertaken by the Central Bureau of Statistics, the issuance of an identity card, and then the withdrawal of the funds from the nearest post office.

Most of the problems identified by the research centred on the granting of the identity cards by the census takers. For example, there were instances of the census takers registering their own families or friends for the grants even though they were not eligible, or asking families for payment of transport expenses.

Other leakages were detected from post office staff taking a cut of the payments, claiming that the recipients had to pay extra for administration charges. A trade also seems to have developed in the identity cards. Since recipients have to wait three months in between each Rp 300,000 payment, some who