

INDONESIA

ELECTION MONITORING AND HUMAN RIGHTS

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As the 1997 parliamentary elections in Indonesia approach, the political atmosphere in Indonesia has begun to heat up and civil liberties are deteriorating. Since the first such election under the "New Order" government of President Soeharto in 1971, these elections have never been the "democratic festival" that the government would have both outsiders and its own citizens believe. With the army, civil servants (including schoolteachers) and workers in state enterprises effectively required to vote for the ruling party, Golkar, a Golkar victory is not in doubt. But the unusually blatant attempts by the government in 1995 and 1996 to silence or punish political dissent suggest it is worried that the 1997 elections may be more of a contest — or at least more of a vehicle for political protest — than has been the case in earlier years.

Another sign that some Indonesians consider the 1997 elections particularly significant is the fact that disparate pro-democratic elements decided early in 1996 that the one issue around which they could unite was the need for an election monitoring body, and so the Komite Independen Pemantau Pemilu or KIPP (the Independent Election Monitoring Committee), was established in Jakarta on March 15, 1996. The government's efforts to obstruct the formation of regional branches of KIPP in April and May 1996, and the targeting of opposition figures including both politicians and representatives of nongovernmental organizations, highlight continuing restrictions on the freedoms of expression, association and assembly in Indonesia. The tactics used by the government range from arrest of critics, to heavy-handed attempts to insert known loyalists into opposition organizations, to the branding of dissidents as communists through their alleged support for the long-banned Partai Komunis Indonesia or PKI (Indonesian Communist Party).

This report documents the attempts to restrict KIPP activities and intimidate those involved in Medan, Lampung, East Kalimantan and Jakarta. The most egregious instance of harassment of a KIPP activist is persecution since April of KIPP Secretary General Mulyana W. Kusumah on the grounds that he had been a member of a PKI-affiliated student organization when he was a high school student more than thirty years ago. It also examines the trial and conviction on May 8, 1996 of former opposition parliamentarian Sri Bintang Pamungkas for having insulted President Soeharto speech in Germany in April 1995.

Human Rights Watch calls on the Indonesian government to uphold the internationally recognized rights to freedom of association, assembly and expression, to cease the kind of harassment and intimidation of KIPP activists documented in this report, and in particular to cease the persecution of Mulyana Kusumah, and to end the practice of using the criminal charge of "insulting the President" against political critics. It also calls on those nations involved in the World Bank-led Consultative Group on Indonesia (CGI) to welcome the formation of KIPP. Bilateral aid agencies of CGI members countries should consider providing KIPP members with the necessary training so that professional independent monitoring and assessment of the entire Indonesian election process — not just the actual voting — can take place. Human Rights Watch also calls on the CGI to deplore publicly the verdict against Sri Bintang Pamungkas, on the grounds that attempts to restrict both academic debate and criticism of government practices and policies is antithetical to good governance.

THE POLITICAL BACKGROUND

Every five years, Indonesians go to the polls to elect over 400 members of the Dewan Perwakilan Rakyat, or DPR, the national parliament. Until 1995, election law stipulated that 400 seats were to be filled by elected representatives with another one hundred appointed by the armed forces. In 1995, a presidential decree stipulated that 425 were to be elected and only seventy-five appointed. The number of people drawn to the campaign rallies of the two small and usually tightly controlled opposition parties, the largely Muslim Partai Persatuan Pembangunan or PPP (United Development Party) and the Partai Demokrasi Indonesia or PDI (Indonesian Democratic Party), as well as the votes they draw on election day, can be a bellwether of the extent of popular discontent with the Soeharto government. More importantly, though, the parliamentary elections are a prelude to a meeting the following year of the Majelis Pemusyawaratan Rakyat or MPR, the People's Consultative Assembly composed of all members of the DPR together with 500 individuals appointed by the government, whose mission it is to select Indonesia's president and vice-

president. Since he came to power in 1966, President Soeharto has never been opposed; indeed, there has always been competition among government officials to see who can declare support for another term for him first and most fulsomely. Since 1988, however, the selection of vice-president has become a test of the relative power of Soeharto and the armed forces, as the question of who will eventually succeed Soeharto, only the second head of state Indonesia has had since independence, looms increasingly large.

The 1998 session of the MPR promises to be the focus of more intrigue than ever before. Most Indonesians assume that President Soeharto will "run" again for what could be his last five-year term, but the death of his wife, Mrs. Tien Soeharto, in April 1996 has introduced an element of uncertainty into that premise. Some analysts believe Soeharto in 1998 will not have as much desire to wield the power he will have held for more than thirty years, while others feel that he will be perceived as significantly weaker without the woman described as his closest political adviser. In any event, the question of political succession has become more urgent.

It is against this backdrop that the small pro-democracy forces are operating. Without much unity or common platform, without a clear leader and without an obvious mass base, they include what might be described as the liberal urban intelligentsia, including figures such as Abdurrachman Wahid, head of Indonesia's largest Muslim organization, the Nahdlatul Ulama, and Goenawan Mohamed, former editor of *Tempo*, a magazine banned in 1994; representatives of Indonesia's large nongovernmental organization (NGO) movement; some retired army officers; and students, most notably those involved in Solidaritas Mahasiswa Indonesia untuk Demokrasi or SMID (Indonesian Student Solidarity for Democracy) and its various worker and peasant affiliates. Some of the pro-democracy activists have publicly thrown their support to the PDI and its chairman, Megawati Soekarnoputri (Soekarno's eldest daughter) but virtually all have identified with or welcomed the creation of KIPP, the election monitoring body — which has increasingly been viewed by officials as anti-government in orientation.

ELECTION MONITORING IN INDONESIA

KIPP was founded on March 15, 1996 by about fifty prominent lawyers, intellectuals, NGO leaders, journalists and members of SMID, the student activist organization. Inspired by NAMFREL, the election monitoring body that helped bring down Ferdinand Marcos in the Philippines in 1986 and Pollwatch, the Thai organization set up after the May 1992 military crackdown, it was conceived initially as more of a tool for rallying democratic groups than as a technical body that could actually make a difference on election day. (After all, in Indonesia the undemocratic nature of the elections is deeply rooted in the political system, and what happens at the polls, while important, is only a tiny part of the problem.)

Goenawan Mohamed was named president of the newly formed KIPP, and Mulyana W. Kusumah, until April director of the Indonesian Legal Aid Institute, was named secretary general. In joint statement, they declared:

The establishment of our committee reflects our desire to voluntarily contribute to the processes of democracy, and support the call for an honest and fair election through a direct and secret ballot.¹

Those in attendance at KIPP's inauguration included many men and women associated with political dissent or a history of challenging accepted thought: Nurcholish Majid, Arbi Sanit, Zumrotin, Ridwan Saidi, Mochtar Pakpahan, Permadi, Ali Sadikin, Ponke Princen (all members of the KIPP advisory board) and Adnan Buyung Nasution, Gaffar Rahman, Amartiwati Saleh, Arief Budiman, Dahlan Ranuwijarjo, Lukman Sutrisno, Marsilam Simanjuntak, Nursyahbani Kacasungkana and Father Hardoputranto. An editorial in the English-language *Jakarta Post* on March 19, 1996 noted:

The establishment of the KIPP is [...] a fresh hope for the public. At last the voice of conscience has emerged and cried "Enough is enough." The age of real democracy is coming and consequently all will have to abide by its new values.

¹"Goenawan chairs new independent poll watchdog." *Jakarta Post*, March 16, 1996.

Soesilo Sudarman, coordinating minister for politics and security affairs, argued that the creation of KIPP was unnecessary because there already was a government monitoring body, Panitia Pengawas Pelaksanaan Pemilu or Panwaslak (Committee for Supervising the Implementation of the Elections) but it could be accepted as long as it did not disturb the activities of the state body.² Attorney General Singgih warned that according to existing regulations, Panwaslak was the only election monitoring organization in Indonesia, and if KIPP tried to interfere with the election, "We will smash it."³ KIPP met with strong disapproval from the armed forces' Commander-in-Chief Gen. Feisal Tanjung and Minister of Information Harmoko, who is also chairman of Golkar, the ruling party. It was welcomed by the chief of social political affairs for the armed forces, Lt. Gen. Syarwan Hamid, who said he saw KIPP as "a positive intention from members of the public who want to make the election smooth and better."⁴

But whatever the reaction in Jakarta, the official response to KIPP in the provinces, where more than thirty branches had been set up by early May, was almost uniformly negative. Moreover, because KIPP membership often tended to coincide with the leadership of local human rights organizations, the banning or intimidation of KIPP branches became a convenient pretext for lashing out at activists as well.

Central Java

On March 23, a meeting to announce the establishment of a KIPP branch in the central Javanese city of Solo was broken up by the head of the Colomadu police station and twenty men on the grounds that the organizers had no permit. One of the founders, Trijo, was subsequently called to the local [district] office of social and political affairs to explain his actions. The regional military commander, Col. Slamet Supriadi of Korem (military resort) 074, said that organizations without clear structures or aims would not be tolerated. Other KIPP branches were established in the central Javanese cities of Pekalongan and Batang without difficulty, however.

Lampung

² "Jrus Melawan KIPP," *Forum Keadilan*, Vol. V, No.2, May 6, 1996.

³ "Government warns election watchdog," *Jakarta Post*, March 19, 1996.

⁴ "Election Watchdog," *Jakarta Post*, March 19, 1996.

In the Sumatran province of Lampung, the first police summons of KIPP members took place. On March 26 at 9:30 a.m., a young activist named Bambang Ekalaya was preparing to proclaim the establishment of the Lampung branch of KIPP at a ceremony at the Marco Polo Hotel in the city of Bandar Lampung. Some 150 invitees had already arrived, but they found the meeting had been canceled, allegedly because it had not been authorized by the owner of the hotel. In fact, according to the organizers, the owner had not only agreed to the meeting but had accepted a downpayment on rent of the room where it was to be held. Four intelligence officers from the regional military command (Korem 043, the Black Garuda) in Lampung then escorted Bambang to their headquarters, where he was questioned and asked to sign a statement. He refused to do so and was allowed to go home. Human rights lawyer Sahzan Syafri of the Indonesian Legal Aid Institute's Lampung branch, who was another founder of KIPP-Lampung, was also questioned. The next day, Bambang received a summons from the provincial police, stating that he was suspected of violating Article 510 of the Penal Code (holding a meeting without a permit), but he refused to go. If KIPP was welcomed in Jakarta, he reasoned, why was a different stance being taken in the provinces?⁵

In the end, KIPP-Lampung was established, but with another Legal Aid Institute activist, Abi Hasan, as head instead of Bambang Ekalaya. On April 6, and again on April 29, 1996, six of the institute's lawyers who were also active in KIPP were summoned by police for questioning in connection with KIPP's formation. While none of the lawyers was detained, the questioning itself was a form of harassment.

The harassment may have been linked to an earlier incident on March 19, 1996 when military intelligence from the district military command in Bandar Lampung summoned seventeen students from a private nursing academy for questioning. The students had taken part in a demonstration the day before to protest the expulsion of a student and demand clarification of their own academic status, since the government claimed the institute was not properly licensed. The students were initially accompanied by two Legal Aid Institute lawyers, Sahzan Syafri and Abi Hasan, when they responded to the summons, but the district commander ordered the two to leave. They did so, under protest, only to discover later that Tabrani, one of their student clients left behind, had been subsequently questioned about his role in the demonstration for fifteen hours and had been beaten and kicked in the process. His military interrogators threatened to get him a prison term of between two and ten years if he took part in any more demonstrations. The two lawyers protested the violation by the district military command of the right of the students to freedom of expression through demonstrations and the ill-treatment of Tabrani. The same two lawyers, Abi Hasan and Sahzan Syafri, became key figures in KIPP.

Medan

A suspicious fire that caused extensive damage to the Legal Aid Institute's office in Medan, North Sumatra, in the early hours of April 22, 1996, apparently the result of molotov cocktails thrown in the window, is almost certainly linked to the meeting there the day before to establish a North Sumatra office of the independent election monitoring body. Human rights lawyers believe the perpetrators were members of a government-linked gang, Pemuda Pancasila (Pancasila Youth), but there is no conclusive proof.

On April 21, shortly after 3:00 p.m., a meeting got underway at the Legal Aid Institute on Jalan Hindu, Medan, to form the Panitia Independen Pemantau Pemilu or PIPP. The name was almost identical to KIPP and means exactly the same, but the founders were being cautious. About two weeks earlier, the provincial military commander of North Sumatra had invited a number of NGO activists to lunch and made it clear he would not be happy if an attempt were made to set up a branch of KIPP in Medan. To avoid overtly crossing him, the activists decided to call their branch PIPP rather than KIPP (they later abandoned the fiction and renamed it KIPP after all).

About thirty people attended the Sunday afternoon meeting, with most of the major Medan NGOs represented. It was a follow-up to an earlier meeting on April 2, which had resulted in the formation of the Committee of 11, composed of NGO activists from North Sumatra as well as students. Shortly before they met again, Alamsyah

⁵"Ujian Pertama untuk Peran KIPP," *Forum Keadilan* (Jakarta) Vol.V, No.1, April 22, 1996, p.21.

Hamdani, head of the Medan branch of the Legal Aid Institute, had sought a permit for the meeting from municipal police headquarters in Medan, but it was not given. According to the head of police intelligence there, Maj. Lutfi Lubikanto, the request for the permit had to be made seven days before the date of the activity.

The election monitors nevertheless gathered at the legal aid office, but it turned out there were more demonstrators outside than participants inside. Around 2:00 p.m., three posters had appeared outside the office saying:

1. KIPP, TOPP [see below], PIPP cannot be established in Medan
2. Leave the election to Panwaslak [the state election supervision body]
3. Members of the public: don't be influenced by the establishment of TOPP, KIPP and PIPP.

At 3:10 p.m., the meeting opened with the singing of the Indonesian national anthem. Shortly afterwards, several of the demonstrators outside threw stones at the office. Several dozen people were taking part in the demonstration, most of them linked to the Indonesian Muslim Students Association, HMI. Then several voices could be heard shouting, "Break it up! Break it up!" This time stones were thrown at the office windows, breaking several. Despite the fact that plainclothes police were in evidence in the crowd, no attempt was made to stop the stone-throwing, although two men were later arrested for their role in it. Maj. Lutfi, the police intelligence head, was in the Legal Aid Institute's office, trying to persuade Alamsyah Hamdani to stop the meeting because it did not have authorization. The meeting was halted for a while as the two men negotiated. Just before 4 p.m., a group of young men calling themselves KIPPRAH (Komite Independen Pemantau Pemilu Rakyat Anti Huru-Hara or the Anti-Riot Independent Election Monitoring Committee), put up a poster in front of the office that read, "Election, YES! Honest and fair, YES! Let's observe the election ourselves...A fair election shouldn't be observed by a certain group. The pro-election public shouldn't be swayed by the anti-election public. KIPPRAH doesn't fool the people."

At 4:00 p.m., the PIPP meeting broke up to move to a different location. They had just finished naming their founding committee. The meeting continued at Jalan Sisingamangaraja, Medan until just before 6:00 p.m., when KIPP North Sumatra was declared officially established. Participants left to go back to their homes.

That night, at about 2:30 am a fire broke out at the Legal Aid Institute's office, destroying the front wall and causing some Rp.40 million (US\$18,000) worth of damage. Some broken bottles around the center of the fire suggested that molotov cocktails had been tossed in the broken windows. The police suggested it was an electrical fire caused by a faulty wire and therefore was accidental and not arson, but fire investigators insisted that the fire started from the floor, not the ceiling, and therefore could not have been electrical in origin.

Two youths arrested in connection with the stone-throwing, Kamerun and Hasan, are believed to be linked to Pemuda Pancasila or another army-linked gang, Pemuda Pancamarga, but as of mid-May, there was no hard evidence of those links.

East Kalimantan

On April 22, 1996 in Samarinda, East Kalimantan, an NGO called Plasma working on environmental and indigenous rights was raided by ten officials, eight police and two immigration officers. While the ostensible reason for the raid was the presence of an Australian volunteer — whose travel, residency and work documents were fully in order — observers believe one reason for the raid may have been the establishment a few weeks before of the local manifestation of KIPP: in this case, Aliansi Independen Pemantau Pemilu or AIPP. Intelligence officers took the opportunity of the raid on Plasma to confiscate several documents on Plasma's human rights activities and take staff to the police office for questioning. A warrant was not presented until the following day.

ACCUSATIONS AGAINST MULYANA W. KUSUMAH

Beginning in mid-April, old accusations began to resurface that Mulyana W. Kusumah, the secretary general of KIPP, had been involved as a high school student in 1965 in Ikatan Pemuda Pelajar Indonesia or IPPI (Association of

Indonesian Student Youth), a group that was considered an *onderbouw* or affiliate of the now-banned Partai Komunis Indonesia or PKI (the Indonesian Communist Party). Mulyana denied the accusations, but whether they were true or not was beside the point. To accuse anyone of being tainted by an affiliation with a nonviolent association he may have had as a teenager more than thirty years earlier is ludicrous; the fact that such an accusation can still restrict the rights and jeopardize the career of Indonesian citizens is appalling. One of the many explanations given by the Indonesian press for why the military should begin making public statements about Mulyana in April was that it was a convenient way of discrediting KIPP as a Communist-inspired movement.

The potency in Indonesia of the accusation of having links in 1965 to the PKI, however anachronistic, should not be underestimated. Members of "banned organizations" — the PKI and its affiliates — are considered to have been supporters of the attempted coup on the night of September 30, 1965 that was marked by the murders of six army generals and led to a wave of army-encouraged killings of suspected PKI members that led as many as a half-million Indonesians dead by the end of 1967. Those suspected of having been members of an *organisasi terlarang* or OT, a banned organization, have no right to vote. They are under constant surveillance, often face restrictions on their freedom of movement, and have to report regularly to the police. Under Ministry of Home Affairs Instruction No.32 of 1981 on the Guidance and Supervision of Ex-Detainees and Criminals Linked to the September 30, 1965 PKI Movement and its implementing regulations, they are banned from holding jobs in the civil service, which includes all teachers in government schools and universities, and from publishing articles in mass-circulation newspapers or other publications.

Mulyana W. Kusumah is now forty-eight. He was seventeen when he was alleged to have been a member of IPPI at the government high school he attended in Bogor, West Java. He graduated from the economics faculty at the University of Indonesia in 1968 and has been a lecturer there since 1970. Between 1983 and 1996, he held a variety of positions at the Legal Aid Institute, and he has written extensively on issues of human rights and criminology.

The charge linking Mulyana to a banned organization has been around for some time. It came up before the Asia Pacific Economic Cooperation (APEC) summit in Jakarta in November 1994 when Mulyana's house was surrounded by intelligence agents for several days. It reemerged in a document from the Bogor social and political affairs office No. 200/06-Sospol dated April 18, 1996 and signed by Didi Wiardi, head of the office, that was publicized immediately in the Golkar newspaper, *Suara Karya*.

Lieutenant Colonel Herman Ibrahim, head of public relations for the internal security agency, Bakorstanas, in West Java said Mulyana's background had been known since 1971. At that time, the Bogor prosecutor's office had sent information to the Bogor social and political affairs office, noting that Mulyana was classified as Group C among members of banned organizations, indicating "reasonable grounds for suspicion" of involvement in the September 30, 1965 coup attempt. (Group A members, including officials of the PKI and its affiliates, were tried and sentenced, sometimes to death; Group B members were detained for years without charge but in most cases, there was not enough evidence to try them. Group C members, who numbered in the hundreds of thousands, were guilty only by association with a banned organization.) The Bogor social and political affairs office said it had issued alerts on Mulyana in 1987 and 1992 (both election years). "We just watch him. As long as he doesn't engage in anti-government activities, we let him alone," according to the head of information for the West Java division of the army.⁶ Newspapers and magazines that published Mulyana's writings were told in April 1996 not to publish him any longer.

In the meantime, Mulyana notes that he was cleared of links to the PKI in several background screenings he had to undergo when he was hired as a lecturer with the University of Indonesia. Lieutenant General Soeyono, head of the internal security secretariat, claimed there was no ulterior motive with respect to Mulyana's case. "Reports backed by hard data have to be circulated so all parties can be vigilant," he said.⁷

⁶"Balada Dadang Dari Bogor," *Sinar* (Jakarta-based news weekly), May 4, 1996, p.70.

⁷ Ibid.

THE GOVERNMENT'S RESPONSE TO KIPP

In addition to harassing KIPP activists and stopping KIPP meetings, another methods the government has used to counter the new organization's popularity is to set up rival organizations. On April 10 in Jakarta, an organization called Tim Obyektif Pemantau Pemilu or TOPP (Team for Objective Election Monitoring) was set up by Ruhut Sitompul and others from the government-backed organization mentioned above in connection with the Medan fire, Pemuda Pancasila. Ruhut complained that KIPP was based on liberal democracy rather than Pancasila democracy, but he denied TOPP had been set up on the orders of Golkar, even though most of its founders were Golkar activists.

On the same day, in Surabaya, Badan Independen Pengawas KIPP or BIP-KIPP, the Independent Body for Monitoring KIPP, was set up by two protegés of the East Java governor, Basofi Sudirman. The governor is on record as saying he believed the main objective of KIPP was to denigrate the government. BIP-KIPP drew its support from the East Java branch of the government-sponsored youth organization, KNPI. The creation of TOPP and BIP-KIPP appears to have been coordinated, as two days earlier, one of the founders of TOPP, Kristia Kartika, met with one of the founders of BIP-KIPP, Susanto, in Surabaya to discuss strategy.⁸ Moreover, one of the founders of BIP-KIPP, Hengky Bambang Widodo, admitted that the establishment of the new body was prompted by the government's desire to get KIPP out of the way.⁹

In Solo, on April 7, the Institute for the Study of the Independence of KIPP (Lembaga Pengkajian Independen KIPP or LPI-KIPP) was set up by Heru Notonegoro, a Golkar official, who is convinced that KIPP is an anti-government body, and has said that if KIPP tries to influence the public through the mass media, LPI-KIPP will use the same tactics against it.

THE TRIAL OF SRI BINTANG PAMUNGKAS

The sentencing of outspoken former parliamentarian Sri Bintang Pamungkas on May 8, 1996 to two years and ten months in prison on charges of insulting President Soeharto was not initially related to pre-election politics, but the timing of the verdict, together with the almost simultaneous announcement by Sri Bintang that he had founded a new political party called the United Democratic Party, inevitably colored and was colored by the pre-1997 maneuvering.

Sri Bintang was found guilty of insulting the President in the responses he gave to student questions following a lecture he gave at the Berlin Technical University in Germany on April 9, 1995. The charges were absurd, a clear violation of freedom of expression as well as a demonstration of the weakness of the rule of law in Indonesia, and the verdict simply served to make the Soeharto government look foolish.

As a member of parliament for the PPP (United Development Party) and an economist, Sri Bintang Pamungkas had become well-known for his trenchant criticisms of Soeharto government policies, so much so that his own party decided to expel him from office in early 1995, a decision that was confirmed by Presidential Decree No.159/M of May 8, 1995. It was therefore not surprising that he became a popular speaker, particularly among student and activist groups. He was invited by various student associations in Germany to make a speaking tour of Dortmund, Cologne, Aachen, Frankfurt and Berlin in April 1995 at the same time that President Soeharto was to make a state visit there in connection with a trade fair in Hanover.

⁸"Ujian Pertama untuk Peran KIPP," *Forum Keadilan*, Vol.5, No.1, April 22, 1996, p.21.

⁹ *Ibid.*

President Soeharto's visit was marked by a series of demonstrations, first in Hanover on April 1 and 2, and a more serious one in Dresden on April 6, when the protestors surrounded the bus in which he was riding and physically rocked it, hurling epithets at the President as they did so. The President was furious, and when he returned to Indonesia, he blamed the demonstrations on Indonesians who were selling out to foreigners and demanded a full investigation. Three prominent Soeharto critics were traveling in Germany at the time: a student leader, Yeni Rosa Damayanti; an editor and writer, Goenawan Mohamad; and Sri Bintang Pamungkas, and the investigation focused on all three.

Sri Bintang had observed the demonstrations in Hanover but never went to Dresden at all. He gave the lecture in Berlin three days after the Dresden demonstration and returned to Indonesia on April 12, 1995. On April 15, he was summoned for questioning. Sri Bintang insisted that as a member of parliament (the order confirming his expulsion had not yet been issued), he could only be investigated if the president of Indonesia so authorized. On April 19, he was shown a letter from the President but it was signed by the cabinet secretary and not by President Soeharto, and Sri Bintang has maintained ever since that all subsequent legal proceedings against him were invalid. At the same time that Sri Bintang received his first summons, police also requested the attorney general to revoke his passport, and a one-year travel ban was consequently imposed, effective April 17, 1995. Sri Bintang immediately challenged the decision in the Jakarta administrative court and won the first round against the government in December 1995.¹⁰ The attorney-general appealed the decision.

But in the meantime, the bizarre criminal case proceeded. On May 5, Sri Bintang was summoned to police headquarters as a suspect, facing the prospect of being formally charged with the capital offense of planning to kill the President (Article 104 of the Criminal Code) as well as attacking and insulting the President (Articles 131 and 134). It was clear by this time that Sri Bintang and no one else was being held responsible for the Dresden demonstration, even though the German organizers of the demonstration took full responsibility and Sri Bintang had never set foot in Dresden.

Police continued their questioning of Sri Bintang through June, and when they finally turned the case dossier over to the public prosecutor on August 24, the charge of planning to kill the President had been dropped, and the prosecution focused only on the allegedly insulting remarks made during the lecture in Berlin on April 9, 1995. Thus, a case that had been concocted to find a scapegoat for the Dresden demonstration and appease presidential fury ended up having no connection with the demonstration at all. The case was submitted to the Central Jakarta district court on October 20, 1995, and Sri Bintang's trial began on November 8.

In the course of the long, expensive and often nonsensical trial, the prosecution raised four sentences that Sri Bintang allegedly uttered in the question-and-answer session following the Berlin lecture:

- "So, as for Soekarno and Soeharto, they're both the same, they both have deviated, whatever the pretext, whether the Indonesian Communist Party or the CIA, it's still a pretext."
- "But the essence is that they deviated from the Indonesian Constitution. If people do that, they'll either fall from power or be overthrown."
- "So you mentioned before about Soeharto and Soekarno that they were both dictators."
- "As for Pak Harto [Soeharto], he was anti-democratic from the beginning."

Even if Sri Bintang Pamungkas had made the remarks as stated — and some were taken out of context, where Sri Bintang was repeating or elaborating on student questions to make sure he understood them — it takes an extraordinary degree of contempt for the rule of law and fear of falling out of presidential favor to turn them into the basis for criminal charges. The only witnesses flown in from Germany by the Indonesian government to attest to the veracity of the comments were four men known to be working with the Indonesian consulate in Berlin, one of whom

¹⁰ The relatively new administrative courts have shown much more independence than the ordinary civil courts in Indonesia. It was an administrative court that overturned the Ministry of Information's 1994 ban on the magazine *Tempo*.

had taped the lecture and another one of whom owned the tape recorder. None could remember what came before or after the remarks, none complained at the time that they felt offended, and none asked any questions themselves during the lecture.

The guilty verdict was a foregone conclusion, and the only issue was the length of the sentence. The prosecution asked for a four-year term, saying the only mitigating factor was the fact that Sri Bintang had never been sentenced. By contrast, there were seven aggravating factors, including:

- the accused made the statements overseas, tarnishing the Indonesian nation in the eyes of the international community;
- the accused obstructed the investigation process by giving tortuous answers and explanations;
- the accused did not confess his deeds as a responsible person should have;
- the accused showed no remorse;
- the accused was fifty-one years old and should have known better.

The final sentence was thirty-four months. Sri Bintang has appealed the verdict and will remain at liberty while the appeal is being heard.

CONCLUSIONS

The trial of Sri Bintang Pamungkas represents what the pro-democracy forces in Indonesia, including the founders of KIPP, are fighting against: arbitrary exercise of power, abuse of the legal system, restrictions on the right to freedom of expression, retaliation against critics, and the relative impotence of the legislative and judicial branches of government.

Both the decision to prosecute Sri Bintang and actions taken against KIPP members and branch offices show an intolerance for dissent and a premium on loyalty bordering on obsequiousness that reflects poorly on the government. On the other hand, the hero status increasingly given dissidents like Sri Bintang, the welcome given to the occasional foray by Indonesian courts into the uncharted territory of judicial independence, and the instant popular appeal of KIPP beyond Jakarta suggest that there is a growing demand on the part of many Indonesians for more meaningful political participation and that continuing restrictions on basic political and civil rights in Indonesia are unacceptable.

The build-up to the 1997 elections is already bringing this basic contradiction between government action and popular will to the fore.

Human Rights Watch/Asia

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