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Justice: In a verdict that will have lasting ramifications for Indonesia's image, the Jakarta Intercultural School (Jis) educators Neil Bantleman of Canada and Ferdinant Tjiong of Indonesia received jail sentences of 11 years from the Supreme Court, after state prosecutors appealed the previous High Court acquittal. Justices under Artidjo Alkostar produced the verdict despite a dearth of evidence, no adult witnesses, dubious allegations, highly irregular legal proceedings and ample reason for doubt. Bantleman and Tjiong will have one last opportunity for a special form of appeal, a 'judicial review' (peninjauan kembali, or 'PK')

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JUSTICE

The Supreme Court convicted the Jakarta Intercultural School (Jis) educators Neil Bantleman and Ferdinant Tjiong to 11 years in prison for child sex abuse. Bantleman, a joint Canadian and UK citizen, had faced an international travel ban pending the verdict, after having previously won acquittal at the lower-level Jakarta High Court. Tjiong and Bantleman have surrendered themselves and entered East Jakarta's Cipinang Prison.

The panel of three justices was under Artidjo Alkostar, while its other members were Suhadi and Salman Luthan. Defense lawyers say that the court named the panel members only on 22 February, and the verdict came forth on 24 February. The lawyers say that this is a suspicious irregularity, and that the justices lacked time to consider the case properly.¹ The case against Bantleman and Tjiong stood out for the lack of any physical evidence and the absence of testimony from witnesses other than three kindergartners. Irregularities marked the initial district court trial, which convicted the defendants a year ago. Last August, High Court judges faulted the lower court for ignoring exculpatory evidence and they acquitted the pair.

The defendants and the school also won a defamation case in Singapore and a civil suit last year. In the civil case, in which the parent of an alleged victim sought US\$125 million in damages from Jis, South Jakarta District Court Judge Haswandi said the plaintiffs "didn't give any clear detailed information about when and how" the assaults happened.²

However, at the same time, courts issued convictions for five cleaning staff employed by a contractor to Jis. Upon the initial arrest in April 2014, one of the custodians died in police custody, and police have yet to investigate suspicions that the death was attributable to torture. The other custodians cited pressure to sign confessions. The five cleaning staff received 7-8 year sentences in August 2015.

Late last year, a separate corruption case embroiled O. C. Kaligis, the lawyer who sought the damages from Jis on behalf of the parents of the purported victims. Kaligis is serving a sentence for channeling bribes to judges from the governor of North Sumatra.

¹ New York Times , "Indonesia's Top Court Rules Against", 25 Feb 2016, <http://tinyurl.com/gmr4whv> .

² New York Times , "Indonesian Court Rejects Sex Abuse Suit", 10 Aug 2015, <http://tinyurl.com/jokdv55> .

State prosecutors apprehended Tjiong and placed him in Cipinang Prison on 25 February. Bantleman, who had been in Bali...flew to Jakarta and entered custody with the Attorney General's Office (AGO) on 26 February.

The Canadian government, which took office recently, reacted to the Supreme Court verdict promptly. Foreign Minister Stephane Dion said:

“This decision is unjust, given the many grave irregularities throughout the various proceedings in this case and the fact that all evidence presented by the defence has systematically been rejected. Mr. Bantleman and Mr. Tjiong were not provided the opportunity to demonstrate their innocence. Despite Canada’s repeated calls for due process, this case was not handled in a fair and transparent manner.”³

Dion added that the case has “serious implications” for the reputation of Indonesia as a safe place for Canadians to work and travel.

A statement also came forth from the US ambassador, Robert Blake, on 25 February:

“We are shocked and disappointed by the decision announced by the Supreme Court to sentence two international school teachers. In August 2015, the [Jakarta] High Court found that there was not sufficient evidence to support the teachers’ conviction. It is not clear what evidence the Supreme Court used to overturn the High Court’s decision. The international community continues to closely follow this case. The outcome of the legal process will impact international views about the rule of law in Indonesia.”⁴

The school, Jis, reiterated that no abuses ever occurred. Jis Director Sinta Sirait said, “We find it hard to fathom how baseless accusations with no solid and credible evidence could result in such an unjust verdict.”⁵

ANALYSIS: There will be a backlash in sentiment towards Indonesia as the result of this verdict, because it demonstrates the irresponsible and capricious nature of the legal system. In the past, waywardness often occurred in the legal system, but the Supreme Court was generally reliable, serving as a bulwark that contained excesses. No such bulwark now exists. The verdict will have wide-ranging implications (see ‘Outlook’ section, below). First, for real and genuine cases of child sex abuse, the egregiously poor handling of the various Jis allegations will inevitably complicate matters – by compounding, for instance, the tendency for the public to doubt the veracity of abuse claims. The head of the National Commission on Child Rights (Komnas Anak) anticipated this by warning last year that the Jis case must not wrongly incriminate innocent figures (see Ref Wkly 15-03-13). More generally, because the verdict affects a joint Canadian-UK citizen, as well as Jakarta’s premier international school, it is particularly consequential for international perceptions and attitudes toward Indonesia. The verdict highlights the lack of safeguards and the unpredictable legal vulnerabilities that affect operating conditions for all those engaged in Indonesia. Bantleman and Tjiong will have one more opportunity for an extraordinary appeal, or ‘judicial review’ (peninjauan kembali, or ‘PK’). This instrument examines the procedures and circumstances of the decision-making in the three verdicts to date. Typically, filing a PK requires either the introduction of new evidence (‘novum’), or the identification of error or neglect on the part of judges. Given the neglected evidence and irregularities of the case, ample grounds exist for initiating a PK, which would then undergo consideration by a Supreme Court panel. However, the time frame for bringing about a PK may be lengthy,

³ Ctvnews.ca, “Neil Bantleman's family 'stunned' after acquittal”, 25 Feb 2016, <http://tinyurl.com/hvgyqxq> .

⁴ US Embassy website, http://jakarta.usembassy.gov/news/pr_160225en.html .

⁵ New York Times , “Indonesia’s Top Court Rules Against”, 25 Feb 2016, <http://tinyurl.com/gqrdlom> .

perhaps over a year. Moreover, given the course of matters thus far, the prospects for overturning the case will be uncertain. And until then, Bantleman and Tjiong will face grim conditions, as convicted child rapists in Cipinang.

If reasonable doubt were the standard for weighing whether to accept charges of criminal wrongdoing, such doubt would exist many times over in the cases Bantleman, Tjiong and the five cleaning staff.

Prosecutors wrongfully applied charges, allegations were vague and contradictory, the cases lacked adult witnesses or physical evidence, judges applied unprecedented gag orders and ignored exculpatory evidence, the lawyer for the civil-case plaintiffs became a corruption convict, and the accusers had clear pecuniary motives as they sought US\$125 million in damages.

Jis Case: Cleaning Staff Sentences, 2015	
Defendant	Sentence
Agun Iskandar, Virgiawan Amin, Zainal Abidin, Syahril	8 years each
Afrischa Setyani	7 years
Azwar	Died during questioning; not sentenced

Among the procedural irregularities in the trials, several stand out. First, in the initial charges, state prosecutors ironically failed to cite Indonesia’s new child-protection statute, Law #35/2014 on Child Protection. In Indonesian jurisprudence, charges from prosecutors must cite the specific statutes that the accused allegedly violated. In this case, in charges filed in November 2014, prosecutors cited Law #23/2002 on Child Protection.⁶ In fact, the previous month, parliament had replaced Law #23 with Law #35. The lawyers pointed out that prosecutors perpetrated an error that should be fatal for their case, by charging Bantleman and Tjiong using a law that was no longer valid – grounds for judges to dismiss the case at its outset. Instead, judges overlooked the issue.

Next, in the 2015 district court case, Head Judge Nuraslam Bustaman imposed an unprecedented gag rule, prohibiting litigants from discussing the case publicly.⁷ She also prohibited embassy officials from entering the courtroom to perform consular duties.⁸

Another consistent feature of the Jis cases has been the vague nature of the allegations. In particular, the accusers never established specific times and locations for the alleged abuses. The allegations have also been illogical and they have varied with time.

Furthermore, the cases had no witnesses other than three small children. Indonesian criminal law requires that witnesses be adults, but judges ignored this and decided that the testimony of a small child is acceptable, based on a controversial interpretation of a 2010 Constitutional Court ruling.

⁶ Hukumonline.com, “Pengacara Guru JIS Sebut Jaksa Salah Gunakan Undang”, <http://tinyurl.com/kcq8v7u> .

⁷ Hukumonline.com, “Hakim Larang Pengacara Bicara, Istri”, 8 Jan 2015, <http://tinyurl.com/kspqcbc> .

⁸ The Star, “Second alleged child victim testifies at Indonesian trial of teacher”, <http://tinyurl.com/olfd7r> .

Jis Cases: Chronology of Proceedings

Year	Month	Cleaning Staff	Two Educators	Jis
2014	March	Six accused of repeated gang-rape of 'MAK' (6) in school bathroom, from Jan-March 2014, although RSCM and RSPI Hospital tests detected no abuse.		Faces US\$12.5m suit from the boy's parents.
	April	Six detained, four signed confessions without counsel present. A fifth, a woman with counsel, did not sign, nor did a sixth, Azwar.		School accused of allowing abuse of 'AL', even though Singaporean hospital examination showed no signs of abuse.
	May	Azwar dies in custody, reportedly in suicide. Suspicions of torture go uninvestigated. Others recant confessions.	Tjiong accused of raping 'AL'	
	June		Bantleman accused of raping 'DA'. Bantleman, Tjiong and Jis Principal Elsa Donohue accused of abusing all three alleged victims.	Suit increased to US\$125m.
	July		Bantleman & Tjiong arrested based on testimony of children.	
	Dec	Sentenced to 7-8 years.		
2015	April		District court issues 10-year sentences.	
	July		Won Singapore defamation case against a parent who issued allegations.	
	Aug	Lose appeal to Supreme Court.	Won acquittal from Jakarta High Court, which faults District Court for having ignored hospital tests.	Suit rejected by judge because plaintiffs "didn't give any clear detailed information about when and how" assaults happened.
	Dec			Plaintiffs' lawyer, O. C. Kaligis, convicted of corruption in separate case.
2016	Feb		Supreme Court overturns High Court, issues 11-year sentences.	

Source: *New York Times*, *Ref Wkly* research

Experts have noted that child-abuse cases typically involve one perpetrator abusing multiple children, but in these cases at least eight adults allegedly abused no more than three children – a highly unusual circumstance that merits questioning. The abuses allegedly occurred dozens of times, but the prosecution never established that any witnesses noticed suspicious activity, despite large numbers of people in a bustling school, and numerous perpetrators allegedly acting on repeated occasions.

A particularly noteworthy aspect of the saga is the unexplained death of a defendant, a janitor, in police custody. Charges initially emerged against cleaners working at Jis, and one of these, Anwar, died on the day of his arrest in April 2014, allegedly in a suicide. However, according to the other five cleaners arrested, police had applied torture. Upon the return of Azwar's corpse to his relatives, his body bore marks on the face, including large bruises and broken lips.⁹ Police, pressured by the National Police Commission (Kompolnas), pledged to conduct an internal investigation, but no results have come forth.¹⁰

Pecuniary motives also provide cause for questioning the legitimacy of the case. Initially, the mother of the six-year-old boy 'MAK' made allegations against the cleaners, while filing a US\$12.5 million suit against the school. It eventually became clear that the cleaners worked for a contractor, the Danish company ISS, and that the school had no liability for them. Only then did the parent unveil new allegations against three Jis educators: Bantleman, Tjiong and the principal, Elsa Donohue. The parent also increased the civil suit claim to US\$125 million. The parent used the legal services of Otto Kaligis, who has since become a corruption convict in a separate case prosecuted by the independent Anti-Corruption Commission (KPK).

The child 'MAK', in his testimony that was central to the case, said that Bantleman took a plane to the sky to obtain a magic stone, and that the teacher used it to anesthetize the injury from rape.¹¹ The boy also said that after being assaulted, he feared visiting the bathroom, and therefore always asked a teacher, Marina, to accompany him – even though this was no longer MAK's teacher during the period when the abuses allegedly occurred. A defense lawyer also noted that neither of the alleged victims have exhibited any adverse reactions or signs of trauma when they saw Bantleman or Tjiong in person in the legal proceedings. The parent of another alleged victim, 'DA', testified in court that the perpetrators had multiple tattoos, which neither Bantleman nor Tjiong have. Court testimony about the location and timing of the alleged attacks repeatedly changed and differed from initial police reports. Two teachers of the alleged victims, Neal Murphy and Allan Dee, testified in court that the three children never appeared sick or disturbed even while dozens of gang-rapes allegedly occurred.¹²

When the parents of the alleged victims initially issued their allegations, they said that an accomplice was the Jis Primary School Principal, Elsa Donohue. She allegedly helped Bantleman and Tjiong to drug and rape the boys, while video-taping the abuse during schooldays, in an administrative office which is glass-paned on all sides. The parents later

⁹ Asian Correspondent, "Jakarta International School child sexual", 8 Sept 2014, <http://tinyurl.com/ldlmjqc> . See also: Okezone, "Polisi Akhirnya Investigasi Kematian", 8 May 2015, <http://tinyurl.com/pkmdjwb> .

¹⁰ Gresnews, "Kabut Misteri Kematian Azwar Jis", 24 Setp 2015, <http://tinyurl.com/jgun5qu> .

¹¹ Kompasasia, "Kejanggalan Terus Bermunculan dari Kasus JIS?", 8 Jan 2015, <http://tinyurl.com/k7vvbfj> .

¹² Gresnews, "Wali Kelas TK Bantah Dakwaan Jaksa", 19 Jan 2015, <http://tinyurl.com/hu9dkl7> .

Jis Case: Absurdities	
Items in Indictment	<ul style="list-style-type: none"> • Bantleman possessed a “magic stone” that anesthetized victims • Multiple rapes by Bantleman and Tjiong took place at different times, in different locations, but affected the same three victims • Bantleman’s rapes took place in a staff kitchen and in a “secret room” that investigators never found • The rapes took place “at a particular time between January 2013 and March 2014” • The female principal administered a blue drink to drug the victims • Victims showed severe signs of abuse, even though multiple pediatric examinations found no such signs
Initial testimony dropped from indictment	<ul style="list-style-type: none"> • Rapes took place in Bantleman’s office (which has four glass walls) • The principal videotaped the rapes
Sequence of allegations	<ul style="list-style-type: none"> • Allegations arose from two mothers; at a parents meeting in April 2014, Mother 1 alleged that cleaners perpetrated abuses, while Mother 2 alleged that staff did so; later, Mother 1 added that staff had also abused her son, while Mother 2 became a witness to the case against the cleaners
Cleaners confessions	<ul style="list-style-type: none"> • Police swiftly arrested six cleaners; four quickly signed confessions; one of the two who refused died in custody, purportedly by suicide, but there has been no autopsy, nor police investigation • The four who signed confessions retracted them, claiming torture
<i>Source: Sydney Morning Herald, The Australian¹⁵</i>	

ceased making these charges. However, one parent continued accusing Tjiong of having taken part in the gang-rapes by cleaners in a bathroom. There is no evidence that police ever questioned school staff who were routinely present near the bathroom and office in question.¹³

In late 2014, the government’s quasi-independent National Commission on Human Rights (Komnas Ham) raised three points of concern. Based on the commission’s inquiry, these pertained to: the credibility of MAK; the process of questioning the cleaning staff by police (and alleged torture); and procedural aspects in the South Jakarta District Court. The Komnas Ham member Nurcholish urged judges to handle the case impartially.¹⁴

In July 2015, Jis and the educators won a defamation lawsuit in Singapore against a mother of an alleged victim. The parent had broadcast messages to other Jis parents, accusing staff members of sexual assault.

In both criminal trials, medical evidence presented by police conflicted directly with the findings of multiple hospital examinations. The cases of the prosecutors rested on claims by the Police Hospital (RSBP) that the three boys suffered anal trauma. The RSBP examinations reportedly occurred in June and July 2014, several months after the alleged rapes.

¹³ New York Times , “Indonesian Court Rejects Sex Abuse Suit”, 10 Aug 2015, <http://tinyurl.com/hf7bn93> .

¹⁴ Liputan6.com , “Komnas HAM: Majelis Hakim Harus”, 20 Dec 2014, <http://tinyurl.com/13z98qh> .

¹⁵ SMH, “Two Jakarta International School teachers charged”, 2 Dec 2014, <http://tinyurl.com/qyekje8> ;

The Australian , “Student rape case engulfing top Jakarta school”, 8 Nov 2014, <http://tinyurl.com/hewtogh> .

Meanwhile, examinations conducted by a range of reputable hospitals – including several examinations conducted in March, soon after the alleged abuse, showed no signs of abuse. Defense attorneys accused the prosecution of fabricating the RSBP evidence, and Tjong's wife attempted to file charges against the hospital for perjury.

The alleged victim 'AL' also underwent a thorough examination, under full sedation, at the KK Hospital for Women and Children in Singapore; examiners conducted a detailed internal scope and concluded that 'AL' could not have suffered multiple cases of sodomy, as alleged. However, prosecutors countered with testimony from an expert witness, Chairul Huda, who asserted that the KK Hospital exam was invalid because it was a photocopy, and therefore contravenes stipulations in the Criminal Code regarding valid documentary evidence. The defense lawyer Hotman Hutapea noted that the report was, in fact, an official document from the Singapore High Court. Nonetheless, judges rejected the exam. Huda, meanwhile, has long worked as a special aide to senior police commanders, including the national chief.¹⁶ Prosecutors had used both Huda and the lawyer Kaligis as experts in cases against the KPK.¹⁷

In the case against the cleaners, the prosecution further argued that four of the male cleaners suffered HSV-2 ('herpes'), which is contagious, and meanwhile the alleged victim, 'MAK', also has HSV-2, thereby proving that rape occurred. Judges accepted this questionable logic. However, police and prosecutors used an inaccurate form of test to support their claims that MAK has HSV-2 (see Ref Wkly 15-05-15).¹⁸ Furthermore, the police obtained the medical assessment of MAK from a doctor in the remote suburb of Bekasi; later, the doctor's supervisors disclaimed the doctor's report and faulted him for unprofessional conduct.¹⁹

Later, in the civil case, police were obliged to reveal results from a second test, conducted at RSBP, proving that MAK does not possess HSV-2; in the earlier criminal trial of the cleaners, police and prosecutors concealed this test. Its disclosure would have disproved the central tenant of the prosecution's case against the cleaners. An expert who heads the Eijkman-Oxford Clinical Research Unit in Jakarta, John Kevin Baird, emphasized the importance of these test results: "The importance of this fact to both the criminal and civil cases in the JIS affair is obvious – the only objective physical evidence that the boy had been sexually assaulted is an error. It does not exist."²⁰ Moreover, given the highly contagious nature of the HSV-2 virus, MAK's lack of it virtually disproves that he could have, as alleged, suffered rape by the four men on multiple occasions.²¹ Another forensic medical expert, Dr. Ferryal Basbeth, asserted that the case against the cleaners was a fabrication.²² The conduct of the police and prosecutors in the case against the cleaners should provide ample reason for doubt about the allegations made against the educators.

¹⁶ Detik.com, "Kredibilitas Saksi Ahli OC Kaligis dan Chairul", 20 April 2010, <http://tinyurl.com/hn4nupr> .

¹⁷ Detik.com, "Kredibilitas Saksi Ahli", op. cit.

¹⁸ Jakarta Globe , "Evidence Clearing JIS Janitors 'Withheld'", 10 May 2015, <http://tinyurl.com/nmvpdgc> .

See also: Okezone, "Bukti Visum Kasus JIS Tidak Valid", 28 April 2015, <http://tinyurl.com/nmmpuqq>.

¹⁹ Liputan6.com, "Kasus Perdata JIS, Penggugat Gunakan Surat?", 14 May 2015, <http://tinyurl.com/hfjk6v9> .

²⁰ Jakarta Globe , "Evidence Clearing JIS", op. cit.

²¹ Jakarta Globe , "JIS victim does not have herpes, says", 20 Nov 2014, <http://tinyurl.com/otqjtof> .

²² Okezone, "Bukti Visum Kasus JIS Tidak Valid", 28 April 2015, <http://tinyurl.com/nmmpuqq> .

Prosecutors also relied heavily on input from expert witnesses, furnished by police, who assessed the claims made by the children as well as the psychological traits of the defendants. Defense lawyers highlighted reasons to doubt the professional credentials and acumen of the prosecution's experts: for instance, the two main psychiatrists used by police also served, simultaneously, as counselors employed by the families of the alleged victims.²³ Defense lawyers therefore questioned their independence. In addition, the experts were clinical psychiatrists, rather than forensic psychiatrists, and therefore their expertise pertained to treatment, rather than analysis to reconstruct past events. High Court judges acknowledged these concerns, but Supreme Court justices apparently set them aside. Two other prosecution witnesses were psychologists from an institute managed by the police. Defense lawyers noted that one of these, Setyani Ambarwati, testified at one point during the trial that, "Children cannot possibly lie".²⁴

In December 2015, a coalition of civil society groups released study findings that concluded that, "law enforcement officials and the courts have failed to uphold justice" in the cases.²⁵ Putri Kanesia, a representative of the Committee for Missing Persons and Victims of Violence (Kontras), noted irregularities in legal proceedings. She said that judges accepted testimony from a child, even though police and parents gave directions to the child on what to say and indicate during the critical 'crime reconstruction' process. She added that judges disregarded evidence that could have benefited the defendants.

BOTTOM LINE: In a particularly high-profile case, a tragic miscarriage of justice for two Jis educators, and five cleaners, underscores deteriorating legal certainty.

²³ Liputan6.com, "Kuasa Hukum Guru JIS Sebut Saksi Ahli Tak", 22 Jan 2015, <http://tinyurl.com/nbuepeh> .

²⁴ Liputan6.com, "Kuasa Hukum Guru", op. cit.

²⁵ Hukumonline, "LSM: Kasus JIS Terkesan Dipaksakan", 1 Dec 2015, <http://tinyurl.com/h5wchx2> .

OUTLOOK

The consequences of the Widodo administration's neglect of institutional reforms is apparent following the miscarriage of justice in the case of the two educators from the Jakarta Intercultural School (Jis), Neil Bantleman and Ferdinand Tjong. The new president, despite having been known as an institutional reformer earlier in his career, has largely avoided clean governance initiatives for the bureaucracy, especially in legal-system institutions. He has also retained a cabinet that includes a host of inept or poorly suited figures, including a representative of Surya Paloh's National Democrat (Nasdem) Party, Prasetyo, as attorney general.

Having won a popular mandate from the people to better execute the nation's laws, President Widodo had ample cause to instruct Prasetyo to drop the case against the Jis educators after their High Court acquittal. Instead, Prasetyo appealed. The Widodo administration has now won their conviction in the Supreme Court – a victory that defies logic, offends justice, damages the cause of child protection, and undermines investor confidence at a time when economic opportunities were improving. Bantleman and Tjong might yet eventually win another acquittal through a Judicial Review (PK), which would mitigate the damage somewhat, but those prospects are far from certain, and in any event such an outcome is months away. In the meantime, the affair has demonstrated that organizations operating in Indonesia are vulnerable to unpredictable and severe legal calamities.

Ordinarily, a costly lapse in the performance of a government institution might bring about steps for reform – but the president has shown no such inclination thus far, despite repeated legal-system controversies over the past year. Replacing the attorney general with a figure more attuned to rational jurisprudence would mark an improvement. The president can also work to bring about the appointment of a national police chief who supports reform. Ultimately, however, severe problems afflict the judiciary – which is a separate and independent branch of the government.

Since the passage of the 2004 Supreme Court Law, which the Golkar Party promoted aggressively, the performance of the judiciary has deteriorated. In particular, the law allows Supreme Court justices to elect their own chief justice, rather than requiring (as had been the case before) that the executive and legislative branches collaborate to appoint the judicial system's paramount figure. In effect, the judiciary now seems virtually impervious to accountability. The lack of adequate checks on this branch fosters conditions in which verdicts can lack any sound logic or evidence-based grounding.

The Jis verdict affects Indonesia's bi-lateral relationship with an important ally, Canada, while delivering a blow to the premier international school and, more generally, the entire international-school sector. With the case having impacted the careers and lives of two respected educators, schools will face increased difficulty recruiting teachers, and the quality of the atmosphere for pupils in the schools is also likely to suffer. This can be a significant factor deterring international organizations – and investors – from engaging with Indonesia. Ironically, this occurs just as the Widodo administration had been making gestures about welcoming foreign support for development.

Administration officials have been striving to produce economic policy packages and deregulation measures that tweak rules governing commerce and investment. However, the circumstances of the Jis case underscore the futility of better policymaking, in a context where legal certainty is lacking. Re-writing the texts of regulations matters only insofar as state personnel implement and execute the rules with good faith. Economic actors need reason for confidence that rules will prove valid and applicable. The Widodo administration is, on one hand, attempting to encode a better regulatory framework to encourage development; but, on the other hand, the continued neglect of institutional reform increasingly renders legal-system outcomes unpredictable and even surreal. Better regulatory texts, amid a lack of adequate legal recourse in practice, will have limited impact on actual operating conditions.

Administration officials, and the president himself, have also discussed Indonesia's potential willingness to join the US-led Transpacific Partnership (TPP). However, the pact emphasizes the importance of instituting legal-system safeguards, and the condition of Indonesia's legal system is arguably incompatible with the TPP. Discussions of Indonesia's TPP entry seem overly wishful in the absence of long-overdue institutional reforms.

In fact, the Jis verdict is an indicator that legal uncertainty is actually worsening, from levels that were already highly problematic. This is consequential for the economic outlook. The verdict should, in theory, affect the appraisals of international credit-risk monitoring agencies, which determine whether Indonesia should attain investment-grade status. Some may argue that a child sex-abuse case involving a teacher has no bearing on business conditions – but, in fact, the case provides revelations about the state of jurisprudence, which in turn is indeed relevant to assessing risk for operations in Indonesia. Ultimately, higher country-risk perceptions elevate costs for all business activities, retarding development.

During the Yudhoyono era, presidential leadership on institutional reform existed at times – albeit rarely and sporadically. President Yudhoyono identified the existence of a “legal-system Mafia”, and he briefly commissioned a Task Force for Combating Legal Mafia. Widodo, meanwhile, is a figure who has emerged through successive popular democratic elections, which renders him free from elite entanglements and well-positioned to override special interests on behalf of the electorate. An irony, however, is that he has eschewed institutional reforms, focusing instead on economic policy tweaks.

Conceivably, the damage wrought by the Jis verdict may finally impel Widodo to assert presidential leadership against what his predecessor identified as ‘legal Mafia’. Inherent potential therefore exists for long-overdue progress. Considerable improvement could result from measures to change key personnel and strengthen strategic institutions, such as the under-used Judicial Commission and Ombudsman. Although parliament is fragmented, the president has worked to curry favor from parties, and he could at least attempt to use some of this political capital to revise legislation pertaining to the judiciary.

However, in practice, no signs of such initiatives are apparent. On the contrary, the president has struggled to date to simply defend and parry attacks on the few legal-system elements that still function reliably (namely, the Anti-Corruption Commission, or ‘KPK’, and its attendant Corrupt Crimes Court, comprised predominantly of ad hoc judges recruited from outside the ranks of the regular judiciary).

Rectifying at least some of the legal system's glaring dysfunctions should by no means be a difficult task to accomplish, nor an unreasonable goal to set. It remains unclear why the administration continues to neglect such a fundamentally vital topic. Until signs emerge of greater attentiveness from the president – in the form of more fitting personnel appointments and support for transparency and accountability – legal certainty will likely continue to deteriorate. Risk in the operating environment will increasingly overshadow attempts at economic policy reform, weighing on development.

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