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## **Maintaining order: Public prosecutors in post-authoritarian countries, the case of Indonesia**

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Maintaining Order:  
Public Prosecutors in Post-Authoritarian Countries,  
the case of Indonesia

*To my late father, Abah H. Abdul Syukur (1941-2006)  
Completing this book was nothing compared his tireless struggle  
to educate and take care of our family*

# Maintaining Order

*Public Prosecutors in Post-Authoritarian  
Countries, the case of Indonesia*

PROEFSCHRIFT

ter verkrijging van  
de graad van Doctor aan de Universiteit Leiden,  
op gezag van Rector Magnificus prof. mr. C.J.J.M. Stolker,  
volgens besluit van het College voor Promoties  
te verdedigen op donderdag 21 januari 2021  
klokke 10.00 uur

*door*

Fachrizal Afandi

geboren te Malang, Indonesië

in 1981

Promotoren:           prof. dr. A.W. Bedner  
                              prof. dr. J.H. Crijns

Promotiecommissie: prof. dr. M.A.H. van der Woude  
                              prof. dr. W.J. Berenschot (Universiteit van Amsterdam)  
                              prof. dr. T. Santoso (Universitas Indonesia, Jakarta,  
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## Acronyms and Glossary

|                        |                                                                                                                       |
|------------------------|-----------------------------------------------------------------------------------------------------------------------|
| ABRI                   | <i>Angkatan Bersenjata Republik Indonesia</i> or Indonesian Armed Forces                                              |
| ARD                    | <i>Algemeene Recherchedienst</i> , or General Criminal Investigation Service                                          |
| BADIKLAT               | <i>Badan Pendidikan dan Pelatihan</i> or Prosecutor Training Body Camp                                                |
| BAKORPAKEM             | <i>Badan Koordinasi Pengawas Aliran Kepercayaan Masyarakat</i> or the Board for the Monitoring of Mystical Beliefs    |
| BAP                    | <i>Berkas Acara Pemeriksaan Penyidikan</i> or Investigation Files                                                     |
| BAPERJAKAT             | <i>Badan Pertimbangan Jabatan dan Kepangkatan</i> or Board of Advisers on Position and Rank                           |
| BARESKRIM POLRI        | <i>Badan Reserse Kriminal Kepolisian Republik Indonesia</i> or Indonesian National Police Criminal Investigation Body |
| BKR                    | <i>Badan Keamanan Rakyat</i> or Armed Forces                                                                          |
| BNN                    | <i>Badan Narkotika Nasional</i> or National Anti-Narcotics Agency                                                     |
| DPR                    | <i>Dewan Perwakilan Rakyat</i> or House of Representative or Parliament                                               |
| DRP                    | <i>Dinas Reserse Pusat</i> or Directorate of Central Investigation                                                    |
| Één en Ondeelbaar      | One and indivisible                                                                                                   |
| <i>Ekspose perkara</i> | Public Prosecutor's Case Expose                                                                                       |
| FORKOPIMDA             | <i>Forum Komunikasi Pimpinan Daerah</i> or the Regional Coordination Council                                          |
| <i>Gelar Perkara</i>   | Case Expose                                                                                                           |
| GOLKAR                 | <i>Golongan Karya</i> , or the Functional Group Party                                                                 |
| HIR                    | <i>Herziene Inlandsch Reglement</i> or Amended Indonesian Legal Procedure                                             |
| HPP                    | <i>Hakim Pemeriksa Pendahuluan</i> or Examining Judge ( <i>Rechter Commissaris</i> )                                  |
| ICJR                   | Institute for Criminal Justice Reform (Indonesian NGO)                                                                |
| ICW                    | Indonesia Corruption Watch                                                                                            |
| IPS                    | Indonesian Prosecution Service or <i>Kejaksaan Republik Indonesia</i>                                                 |

|                         |                                                                                                                          |
|-------------------------|--------------------------------------------------------------------------------------------------------------------------|
| IR                      | <i>Inlandsch Reglement</i> or the Native Legal Procedure                                                                 |
| IS                      | <i>Indische Staatsregeling</i> or the Dutch East Indies Constitution.                                                    |
| <i>Jaksa</i>            | Public Prosecutor / Native Prosecutor in the Colonial time                                                               |
| <i>Jaksa Fungsional</i> | Prosecutor's Operator                                                                                                    |
| <i>Jaksa Agung</i>      | Chief Prosecutor is both of the Prosecutor General and Attorney General                                                  |
| <i>Jaksa Peneliti</i>   | Examining Prosecutor                                                                                                     |
| <i>Jaksa Struktural</i> | Prosecutor's Manager                                                                                                     |
| JAM                     | <i>Jaksa Agung Muda</i> or Deputy Chief Prosecutor                                                                       |
| KAPOLRI                 | <i>Kepala Kepolisian Republik Indonesia</i> or The National Police Chairman                                              |
| <i>Kejaksaan Agung</i>  | Supreme Prosecution Office                                                                                               |
| <i>Kejaksaan Negeri</i> | District Prosecution Office                                                                                              |
| <i>Kejaksaan Tinggi</i> | High Prosecution Office                                                                                                  |
| KODAM                   | <i>Komando Daerah Militer</i> , or the military headquarters in the area                                                 |
| KOMJAK                  | <i>Komisi Kejaksaan</i> or The Prosecution Commission                                                                    |
| KOMNAS HAM              | <i>Komisi Nasional Hak Asasi Manusia</i> or National Human Rights Commission                                             |
| KOMPOLNAS               | <i>Komisi Kepolisian Nasional</i> or The National Police Commission                                                      |
| KOPKAMTIB               | <i>Komando Operasi Pemulihan Keamanan dan Ketertiban</i> or Operations Command for the Restoration of Security and Order |
| KORPRI                  | <i>Korps Pegawai Republik Indonesia</i> , or the Indonesian Civil Servant Corps                                          |
| KPK                     | <i>Komisi Pemberantasan Korupsi</i> or Corruption Eradication Commission (CEC)                                           |
| KUHAP                   | <i>Kitab Undang-Undang Hukum Acara Pidana</i> or the code of Criminal Procedure                                          |
| KUHP                    | <i>Kitab Undang-undang Hukum Pidana</i> or the criminal code                                                             |
| LAPAS                   | <i>Lembaga Pemasyarakatan</i> or Prison                                                                                  |
| LBH                     | <i>Lembaga Bantuan Hukum</i> or Legal Aid Institute                                                                      |
| LeIP                    | <i>Lembaga Kajian dan Advokasi untuk Independensi Peradilan</i> or Indonesian Institute for Independent Judiciary        |
| LKPS                    | <i>Latihan Kemiliteran Pegawai Sipil</i> or Military Civil Service Training                                              |
| LP                      | <i>Laporan Polisi</i> or Police Report                                                                                   |
| MA                      | <i>Mahkamah Agung</i> or Supreme Court                                                                                   |
| <i>Magistraat</i>       | Magistratur or the Judicial officer                                                                                      |



|                              |                                                                                                                                                                                                                                                                                                                                                                                                                                |
|------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| MAHKEJAPOL                   | A consultative forum of law-enforcement offices; <i>Mahkamah Agung</i> (Supreme Court), <i>Departemen Kehakiman</i> (Department of Justice), <i>Kejaksaan Agung</i> (Supreme Prosecution Service), and <i>Polisi</i> (Police). Now, the term MAHKEJAPOL has been changed into MAHKUMJAKPOL, since the Ministry of Justice has been renamed The Ministry of Law and Human Rights ( <i>Menteri Hukum dan Hak Asasi Manusia</i> ) |
| Malari                       | <i>Malapetaka Lima belas Januari</i> or the Fifteenth of January Riot                                                                                                                                                                                                                                                                                                                                                          |
| MAPPI FH UI                  | <i>Masyarakat Pemantau Peradilan Indonesia Fakultas Hukum Universitas Indonesia</i> or Indonesia Judicial Monitoring Society, University of Indonesia Law School                                                                                                                                                                                                                                                               |
| MK                           | <i>Mahkamah Konstitusi</i> or Constitutional Court                                                                                                                                                                                                                                                                                                                                                                             |
| MLHR                         | Ministry of Law and Human Rights or <i>Kementerian Hukum dan Hak Azasi Manusia</i> (KEMENKUMHAM)                                                                                                                                                                                                                                                                                                                               |
| MoU                          | Memory of Understanding                                                                                                                                                                                                                                                                                                                                                                                                        |
| MPR                          | <i>Majelis Permusyawaratan Rakyat</i> or People's Consultative Assembly                                                                                                                                                                                                                                                                                                                                                        |
| NGO                          | Non-governmental Organisation                                                                                                                                                                                                                                                                                                                                                                                                  |
| NIP                          | <i>Nomor Induk Pegawai</i> or civil servant ID number                                                                                                                                                                                                                                                                                                                                                                          |
| NRP                          | <i>Nomor Registrasi Pokok</i> or military registration number                                                                                                                                                                                                                                                                                                                                                                  |
| <i>Officier van Justitie</i> | The Dutch Public Prosecutor                                                                                                                                                                                                                                                                                                                                                                                                    |
| OM                           | <i>Openbaar Ministrie</i> or the Dutch Prosecution Service                                                                                                                                                                                                                                                                                                                                                                     |
| Orde Baru                    | New Order                                                                                                                                                                                                                                                                                                                                                                                                                      |
| P-19                         | IPS form that is attached to a document, when a prosecutor passes files back to investigators                                                                                                                                                                                                                                                                                                                                  |
| PAMGAL                       | <i>Pengamanan dan Penggalangan</i> or Security and Preconditioning                                                                                                                                                                                                                                                                                                                                                             |
| <i>Pangreh Pradja</i>        | Native Police                                                                                                                                                                                                                                                                                                                                                                                                                  |
| PARMIN                       | <i>Partisipasi Kriminal</i> or Criminal Participation                                                                                                                                                                                                                                                                                                                                                                          |
| PEMDA                        | <i>Pemerintah Daerah</i> or Local Government                                                                                                                                                                                                                                                                                                                                                                                   |
| <i>Penahanan</i>             | Detention                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <i>Penangkapan</i>           | Arrest                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <i>Penetapan Tersangka</i>   | Suspect Determination                                                                                                                                                                                                                                                                                                                                                                                                          |
| <i>Pengacara</i>             | Advocate / Attorney / Lawyer                                                                                                                                                                                                                                                                                                                                                                                                   |
| <i>Pengeledahan</i>          | Search                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <i>Penyelidikan</i>          | Preliminary Investigation                                                                                                                                                                                                                                                                                                                                                                                                      |
| <i>Penyidik khusus</i>       | Special Investigator                                                                                                                                                                                                                                                                                                                                                                                                           |
| <i>Penyidikan</i>            | Investigation                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <i>Penyitaan</i>             | Confiscation                                                                                                                                                                                                                                                                                                                                                                                                                   |
| PERJA                        | <i>Peraturan Jaksa Agung</i> or Chief Prosecutor Regulation                                                                                                                                                                                                                                                                                                                                                                    |

|                           |                                                                                                                                                                                           |
|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| PERKAP                    | <i>Peraturan Kepala Kepolisian</i> or National Police Chairman Regulation                                                                                                                 |
| PERMA                     | <i>Peraturan Mahkamah Agung</i> or Supreme Court Regulation                                                                                                                               |
| PERPPU                    | The Government Regulation in Lieu of an Law                                                                                                                                               |
| PERSADA UB                | <i>Pusat Pengembangan Riset Sistem Peradilan Pidana Universitas Brawijaya</i> or UB Centre for Criminal Justice Research                                                                  |
| PERSAJA/PJI               | <i>Persatuan Jaksa-Jaksa</i> or Association of Prosecutors, the term PERSAJA has been changed into PJI ( <i>Persatuan Jaksa Indonesia</i> ) or Indonesian Prosecutor Association in 1993. |
| Petrus                    | <i>Penembak Misterius</i> or Mystery Shooters                                                                                                                                             |
| PK                        | <i>Peninjauan Kembali</i> or Review                                                                                                                                                       |
| PNBP                      | <i>Penerimaan Negara Bukan Pajak</i> , or Non-Tax State Revenues                                                                                                                          |
| PPATK                     | <i>Pusat Pelaporan Analisis Transaksi Keuangan</i> or Centre for Financial Transaction Reports and Analysis                                                                               |
| PPKI                      | <i>Panitia Persiapan Kemerdekaan Indonesia</i> or Indonesian Independence Preparatory Committee                                                                                           |
| PPNS                      | <i>Penyidik Pegawai Negeri Sipil</i> or Civil Service Investigator                                                                                                                        |
| PPPJ                      | <i>Pendidikan dan Pelatihan Pembentukan Jaksa</i> or public prosecutor's candidacy training                                                                                               |
| <i>Pra-Penuntutan</i>     | Pre-prosecution                                                                                                                                                                           |
| <i>Pra-Peradilan</i>      | Pre Trial Hearings                                                                                                                                                                        |
| <i>Procureur-Generaal</i> | Chief Prosecutor                                                                                                                                                                          |
| PROPAM                    | <i>Profesi dan Pengamanan</i> or the Police Internal Affairs                                                                                                                              |
| PULBAKET                  | <i>Pengumpulan Bahan Keterangan</i> , or Evidence Collection                                                                                                                              |
| RAPIM                     | <i>Rapat Pimpinan</i> or The Leadership Meeting                                                                                                                                           |
| RENDAK                    | <i>Rencana Dakwaan</i> or Indictment Plan                                                                                                                                                 |
| RENTUT                    | <i>Rencana Tuntutan</i> or Sentencing Demand Plan                                                                                                                                         |
| <i>Requisitoir</i>        | <i>Tuntutan</i> or a Sentencing Demand                                                                                                                                                    |
| <i>Rezeki</i>             | Money obtained via illegal or corrupt activities                                                                                                                                          |
| RIB                       | <i>Reglemen Indonesia yang Diperbarui</i> or Amended Indonesian Legal Procedure                                                                                                           |
| RO                        | <i>Reglement op De Rechterlijke Organisatie en Het Beleid der Justitie S.1847: 23</i> or Law on the judicial organisation                                                                 |
| RR                        | <i>Reglement op bet beleid van de Regering in Nederlandsch-Indie</i> or <i>Regeringsreglement</i> or the Dutch East Indies Constitution                                                   |
| RUPBASAN                  | <i>Rumah Penyimpanan Barang Sitaan</i> or State's confiscated goods storage houses                                                                                                        |

|                           |                                                                                                                                              |
|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| SBY                       | Soesilo Bambang Yudoyono, Former Indonesian President                                                                                        |
| SEJA                      | <i>Surat Edaran Jaksa Agung</i> or Chief Prosecutor Circular Letter                                                                          |
| <i>Seponereng</i>         | Prosecutorial Discretion on criminal case dismissal for public interest                                                                      |
| SIMKARI                   | <i>Sistem Informasi Manajemen Kejaksaan Republik Indonesia</i> or Online IPS Managerial Information System                                   |
| SKCK                      | <i>Surat Keterangan Catatan Kepolisian</i> or the Police Certificate of Good Conduct                                                         |
| SKPP                      | <i>Surat Ketetapan Penghentian Penuntutan</i> or Decree on Dismissal of a Prosecution for Technical Reasons                                  |
| SOB                       | <i>Regeling Op De Staat Van Oorlog En Beleg</i> , or Law on Emergency Situations                                                             |
| SP3                       | <i>Surat Perintah Penghentian Penyidikan</i> or a Letter Ordering the Cessation of an Investigation                                          |
| SPDP                      | <i>Surat Pemberitahuan Dimulainya Penyidikan</i> or the notification letter to open the investigation                                        |
| SPRINDIK                  | <i>Surat Perintah Penyidikan</i> or Investigation Order                                                                                      |
| SV                        | <i>Reglement op de Strafvordering</i> or the Dutch Criminal Code                                                                             |
| <i>Terdakwa</i>           | Defendant                                                                                                                                    |
| <i>Terpidana</i>          | Accused                                                                                                                                      |
| <i>Tersangka</i>          | Suspect                                                                                                                                      |
| TP4                       | <i>Tim Pengawasan, Pengamanan Pemerintahan dan Pembangunan</i> or Team for Guarding and Securing the Government and its Development Projects |
| <i>Tri Krama Adhyaksa</i> | Three doctrine of the IPS; <i>Satya</i> means loyalty, <i>Adhi</i> implies professionalism, and <i>Wicaksana</i> means to use power wise.    |
| <i>Upaya Paksa</i>        | Coercive Measures                                                                                                                            |
| VOC                       | <i>Vereenigde Oostindische Compagnie</i> or the Dutch East India Company                                                                     |
| Waskat                    | <i>Pengawasan Melekat</i> or permanent performance control                                                                                   |
| WvS-NI                    | <i>Wetboek van Strafrecht voor Nederlandsch-Indie</i> / WvS-NI or the Dutch East India Criminal Code                                         |