

The trial of Amrozi

By Colin McDonald QC*

It was his smile that so appalled Australia and the western world. It was his smile that so alarmed and discomfited Indonesia. It was his smile that became the hallmark of Amrozi bin Nurhasyim after his arrest, during his trial, at the time of conviction and after his sentence to death by firing squad. Although not the mastermind behind the Bali bombings, Amrozi became the most notorious of the many suspects charged. Although the century is just into its third year, the trial of Amrozi is likely to emerge as one of the trials of the century.

The stark, simplistic and unsubtle medium of television magnified Amrozi's smile and carried it into the homes of Australia, Indonesia and the world. Amrozi gained the sobriquet of the 'smiling assassin' and the 'smiling bomber'. Whilst Americans are used to media, especially television, coverage of criminal trials, Indonesia is not. Nevertheless, a component of the lasting notoriety of Amrozi's trial is that it had the world's largest Muslim nation glued to its TV sets awaiting daily the presentation of evidence and defence theatrics.

By the quirky criteria that make for famous criminal trials, Amrozi's trial had most of the elements. The nature and enormity of Amrozi's crimes was staggering by any grisly standard - 202 innocent people, 88 of them Australians, murdered by obliteration and incineration whilst at leisure or at work on a tropical island that had hitherto been known as a paradise of peace and tranquility. Beyond the huge death toll another 325 persons were wounded and injured, some grievously and no less than 423 separate properties were destroyed or damaged. There was intrigue and treachery, intrepid detective work, a manifest lack of remorse and an in-depth trial, a failed appeal, further appeal and constitutional challenge.



Amrozi is escorted to the court room in Denpasar, 6 August 2003.
Photo: AFP Photo / Putu Pastika

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Beyond the usual ingredients of famous trials, the trial of Amrozi had an extra and compelling element. Like the trial of Eichmann in Jerusalem and the Kosovo trials in the Hague, the trial of Amrozi involved the exposé of the uncivilised devastation of extremism and bigotry. What the trial of Amrozi did was canvass, sometimes in graphic detail, the major contemporary political issue confronting Indonesia, all modern Islamic nations and the western world - the threat of criminals who espouse extremist Islamic views. The trial confirmed that the conflict sparked off by the Bali bombings and the earlier bombings in Jakarta in 2000 concerned itself more with the world of ideas than the battle plans of generals and military interventions.

In a civil law system most evidence is admitted and it is a matter for the judges what weight is to be given to it later. Also, given the Indonesian civil law system, the trial was not characterised by decisive, or triumphant cross examinations. However, in exploring the issue of political terrorism and in the battle of ideas, the trial was sensational. Under the calm guidance of the Chief Judge I Made Karna, a Balinese Indonesian, the five member court examined the evidence carefully and made gentle points concerning religious values, respect for human beings and freedom that was a foil to the irrational bigotry often mouthed by Amrozi.

The trial of Amrozi was important because it demonstrated in the normal public court forum the persuasive capacity of objective evidence and the importance of reason. In selecting witnesses for trial, the prosecutors no doubt had their eye on the wider national and international issues of the threat posed by Islamic extremists. In their presentation of evidence and the mix of witnesses, the prosecutors quietly, deftly proved their case both legally and in the forum of public opinion.

In providing the statement of Mrs Endang Isnani and calling her testimony, the prosecutors exposed the criminal lie behind the politico/religious slogans of Amrozi and the other Bali bombers. Mrs Isnani was a mother of three young boys, a Muslim, widowed and left destitute by the bomb blasts. Her husband, Aris Manandar, was incinerated outside the Sari Club. She was quoted as saying - and no doubt a Muslim nation listened to what she said:

I wanted to show him that he had not only killed foreigners, but Muslims as well. We were also the victims of his terrible crime. But he showed no remorse or regret for his actions, and just sat smiling, and he really broke my heart that day.



Amrozi arrives at the Nari Graha court house in Denpasar for the second day of the trial. Photo: Renee Nowytarger / News Image Library

The testimony of Ms Isnani and other Muslim witnesses was compelling, not in the way the ample forensic evidence pointed to guilt, but in the wider war of ideas and morals. The testimony reminded Indonesians of all faiths that Amrozi was no freedom fighter. Amrozi's smile and comments were shown for what they were - banal and evil. The smile and the slogans failed to convince the national jury. A skeptical Muslim nation was convinced by the power and weight of the evidence. The Indonesian prosecutors produced a decisive victory in the battle for the hearts and minds of believers and non believers alike. If lack of public protest and the Indonesian national press was any guide, the nation by and large accepted the death penalty as just. The death penalty is a rarity in Indonesia.

Like those who attacked the World Trade Centre in New York on 11 September 2001, the criminals involved in the Bali bombings had three aims: to terrorize Americans and other westerners; secondly, to polarise the world and separate Muslim from non Muslim and thirdly, to undermine the Indonesian Government and the secular state. In acting as they did they certainly achieved their first aim. But the detection and trial of Amrozi helped thwart them in their other two aims.

Indonesia is no stranger to terrorism; it has lived and survived with it since it became a nation. Amrozi and his colleagues follow in a strong tradition in Indonesia of rebellion against the 1945 Constitution and the secular republic. Throughout the 1950s and early 1960s *Darul Islam* movement conducted a

guerilla war against the republican government. Some *Darul Islam* supporters were mere opportunistic local bandits, but the hard core of the movement were supporters of an Islamic state which rejected modern representative institutions and sought the imposition of Islamic law by force.

So, Amrozi's motivation, misguided as it no doubt was, has in some ways a history as old as the Republic of Indonesia itself. In bringing Amrozi to justice, the prosecutors were not only bringing an alleged criminal to answer for an alleged crime, they were asserting the power of the secular state to protect itself against Islamic extremists.

Amrozi's trial demonstrated not just the zeal and depth of the commitment of extremists and their threat to security, both physical and political. Amrozi's trial developed an importance far beyond the tactics employed in the Denpasar courtroom.

After recent governmental denials that there was a terrorist problem, the Bali bombings cemented awareness that terrorism did exist in Indonesia. The national government reacted with determination and quiet courage. The task to find the bombers and bring them to justice accelerated. Indonesia welcomed foreign police and forensic expertise in helping to find those responsible.

That there was a trial at all was the result of extraordinary detective work by Indonesian and foreign police. The speed with which arrests were made and the convincing nature of the evidence amassed, both forensic and confessional, was

impressive by any objective international standard. For Indonesia, the trial of Amrozi witnessed a transparency and professionalism in the task of evidence gathering which proved decisive in the trial itself as well as in the formation of public opinion. Non Indonesians are inclined to overlook this important point.

Before the detective work was revealed in cogent evidentiary form and made available for critical assessment by lawyers for Amrozi, Indonesia was awash with conspiracy theories. One theory had it that the Bali bombs were planted by the American CIA itself - a theory more readily accepted in a post colonial society which was well used to western exploitation. Hence, the intense curiosity which surrounded the unfolding of prosecution evidence contributed to the trial's significance.

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One of the most important aspects of the trial of Amrozi, and not only for debunking conspiracy theories, was the persuasive power of reliable and objective evidence openly exposed in the public hearing. The trial of Amrozi is a timely reminder that in the battle of ideas, open, public hearings with fair proceedings are one of society's most effective weapons against obscure thugs bent on changing national and international systems of government. In utilising the nation's normal public court processes Indonesia's response to terrorism is in contrast to that of America, which has opted for secrecy, open ended detention at Guantanamo Bay and military courts. So far the United States has not brought anyone to trial and Osama Bin Laden has not been caught. However, recently the US Supreme Court has agreed to judicial review of the detentions at Guantanamo Bay.

What must have been of great satisfaction for Indonesia was the stoicism and professionalism of the panel of judges who sat on Amrozi's trial. The judges listened patiently, at all stages of the trial, sometimes in the face of provocation from supporters and the defendant; their conduct of the case was exemplary by any standard. Here was another plus for Indonesia which has endured criticisms for judicial corruption for many years. A nation and a world conditioned by political hype and spin was being persuaded in an open court by the power of evidence which in its content had intellectual persuasion.

The process of gathering evidence for Amrozi's trial forced a re-examination of earlier bombings in Indonesia. Links with the earlier bombings of the Philippine Embassy on 1 August 2000 and the Jakarta Stock Exchange on 13 September 2000

were established and persons charged. Indonesia has become perhaps the first country in the world which can claim success in uncovering the conspiracy behind terrorist bombings and bringing the perpetrators to justice.

Amrozi angered families of the Bali bomb victims when he waved and laughed before the media, giving the thumbs up. Chief Judge I Made Karna, in handing down the death penalty, justified the five member panel's decision in a lengthy judgment on the basis that Amrozi had violated both the anti terrorist laws introduced in 2002 and long established homicide laws. The Chief Judge cited not just the massive loss of life, but referred to the racial and religious elements of the attacks and its effect of undermining Indonesia's secular state policy. He described Amrozi's acts as 'an extraordinary crime against humanity' deserving the ultimate penalty.

The trial of Amrozi demonstrated him to be a misguided, callow criminal. When Amrozi's first tier appeal was dismissed, the nation notionally breathed a sigh of relief. Then Amrozi's lawyers appealed further taking a constitutional point against the conviction based on a retrospective law. Apprehension levels rose. However, the ordinary legal processes were allowed to take their place. The nation awaits a ruling whether Amrozi's conviction is constitutionally valid.

For Australia and the western world there are lessons to be learnt from the Indonesian investigative process and the trial. No amount of military intervention will turn the tide against ignorance and racial and religious bigotry. Too much meddling could well influence public opinion in Muslim countries in the direction of the fundamentalists.

Amrozi's trial is an example of how to deal intelligently with the problem of international terrorism. The trial powerfully helped the cause of moderate Muslims in demonstrating how the Bali bombers had in fact smeared Islam. The strategies and tactics employed by the prosecutors brought home that the ultimate battle in dealing with terrorism is within the world of Islam. Amrozi, his smile and motivation notwithstanding, was shown to be a criminal and not a religious martyr. Importantly, Amrozi showed himself to be bigoted and ignorant.

At an important time in world history, Indonesia, a modern nation used to threats from Islamic fundamentalists has much to offer the wider world in its approach to dealing with the world's major political problem. By the use of normal public criminal processes, Indonesia has shown a way forward in the real war against terror. It has acted with candour and quiet determination. It has utilised its normal judicial processes. It is in this context Amrozi's trial is so significant.

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