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INDONESIA

THE APPLICATION OF THE DEATH PENALTY

November 1987

SUMMARY

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Amnesty International has repeatedly urged the Indonesian Government to abolish the death penalty and commute all remaining death sentences to lesser penalties. About 30 people remain under sentence of death, to Amnesty International's knowledge, although the true figure may be higher. The Indonesian Government does not publish statistics on death sentences.

This document analyzes which prisoners are most in danger of execution, provides background on how the death penalty has been used in Indonesia and outlines some of the cruel and inhuman practices associated with its use. For additional information see ASA 21/27/86 "Indonesia: Recent Executions and the Application of the Death Penalty" (of which this paper is an updated version) and ASA 21/23/85, "Indonesia: Prisoners Under Sentence of Death for Alleged Offences Relating to an Attempted Coup in 1965 or Membership of the Indonesian Community Party (PKI)".

This summarizes a 15-page document, Indonesia: The Application of the Death Penalty (AI Index: ASA 21/27/87), issued by Amnesty International in November 1987. Anyone wishing to have further details or to take action on this issue should consult the full document.

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INDONESIA: THE APPLICATION OF THE DEATH PENALTY

Summary

Use of the death penalty in Indonesia has increased sharply in recent years. Since the beginning of 1985, there have been 17 judicial executions. In the ten years before that, there were four. Amnesty International believes that many of those executed in recent years had unfair trials. Many had been awaiting execution for more than a decade and in some cases, for more than two.

Amnesty International has repeatedly urged the Indonesian Government to abolish the death penalty and commute all remaining death sentences to lesser penalties. About 30 people remain under sentence of death, to Amnesty International's knowledge, although the true figure may be higher, as the Indonesian Government does not make statistics on death sentences available.

This paper describes the categories of prisoners who are most in danger of execution, provides background on how the death penalty has been used in Indonesia and outlines some of the cruel and inhuman practices associated with its use. For additional information see ASA 21/27/86 "Indonesia: Recent Executions and the Application of the Death Penalty" (of which this paper is an updated version) and ASA 21/23/25, "Indonesia: Prisoners Under Sentence of Death for Alleged Offences Relating to an Attempted Coup in 1965 or Membership of the Indonesian Community Party (PKI)".

Executions in Indonesia

There has been a sharp increase in the number of judicial executions in Indonesia in recent years. In the five-year period 1975-79, there was one execution; in 1980-84, there were three; and in 1985-87, there have been 17. All but two of the 17 had been in detention for more than 15 years at the time of their execution.

The present government has thus shown itself to be more willing to use the death penalty than was its predecessor. During the first two decades of Indonesian independence, under the so-called "Old Order" of President Sukarno which ended in 1965, death sentences were imposed rarely and carried out only once, in a case involving three men accused of attempting to assassinate the President. They were executed on 28 May 1960.

The "New Order" of President Suharto came to power following an attempted coup in 1965 which the present Indonesian Government has blamed on the now-banned Partai Komunis Indonesia (PKI), Indonesian Communist Party. Some 60 people linked either to the PKI or to military units which

supported the coup effort were sentenced to death, either in special military courts (mahkamah militer luarbiasa, known as mahmillub) in which there was no right of appeal, or in regular civil or military courts in which prisoners could appeal their sentences to higher courts. No official figures on the number of prisoners sentenced to death or executed in connection with the coup attempt were, to Amnesty International's knowledge, ever made public but press reports indicated that ten people linked to the coup attempt were executed between 1965 and 1970.

After 1970, there were no executions for several years, leading one respected Indonesian legal scholar, Dr J.E. Sahetapy, to conclude in 1978 that Indonesia had de facto abolished the death penalty. That same year, however, a man convicted of premeditated murder, Oesin Batfari, who had been sentenced to death in 1967, was executed. Two years later, Hengky Tupanwael and Kusni Kasdut, two men convicted of murder and sentenced to death in 1964, were executed after President Suharto rejected their appeals for clemency. They had been on death row for 16 years.

Since 1980, executions have been more frequent, particularly of political prisoners, raising concerns about remaining prisoners under sentence of death. Appendix I contains a list of those prisoners who fall into three groups: PKI prisoners, Muslim activists and people convicted of common crimes.

The PKI Prisoners

One group of prisoners in danger of execution are the 19 men under sentence of death accused of involvement in the 1965 coup attempt or affiliation with the PKI. (See Appendix I). Of these, nine were members of the Indonesian army's Presidential Guard, known as the Cakrabirawa Unit, whose commander was alleged to have been a leader of the coup plotters. The other seven linked to the coup attempt had been officials of the PKI.

Amnesty International is concerned about their safety because thirteen of those executed since 1980 were men who had been associated with the PKI or its mass affiliates. All were in their late fifties or sixties, and most had been sentenced to death between 1965 and 1973. Various theories have been put forward for why the Indonesian Government waited so long before carrying out the executions, from bureaucratic inertia to the need to balance executions of leaders of the Muslim right with executions of key figures on the left. No explanation offered thus far is wholly convincing, and the executions of PKI leaders in 1985 and 1986 were carried out with no advance warning or publicity. Only after news reached the international press did the Indonesian government confirm that the executions had in fact taken place.

Mohammed Munir, the former head of the PKI-affiliated trade union SOBSI who was shot by a firing squad on 14 May 1985, was the first PKI prisoner executed in over a decade. He had been in detention since his arrest in July 1968 in South Blitar, East Java. There he and many others were accused of having organized an underground communist movement with the aim of engaging in armed opposition to the Indonesian government, the so-called "Blitar Rebellion". Mohammed Munir was convicted of rebellion and sentenced to death by a district court in Jakarta in 1973. His appeals to the Jakarta High Court and to the Supreme Court were rejected in 1981 and 1983 respectively, and his appeal for clemency to President Suharto was rejected in 1984. He was allowed to meet his wife and family for about three hours on the day of the execution.

Three other prisoners arrested in connection with the "Blitar Rebellion", Gatot Lestario, Djoko Untung and Rustomo, were executed between 1 and 3 July 1985 reportedly on the island of Madura, off the northeast coast of Java. Gatot Lestario, 59, and Djoko Untung had been arrested in January 1969 and sentenced to death by a district court in Blitar seven years later. Rustomo, 65, was arrested in 1968 and sentenced to death in Surabaya, East Java in January 1975.

Nine more executions of PKI prisoners followed in September and October 1986: Supono alias Pono, Syam Kamaruzaman, Bono Walujo, Sudiono (also spelled as Soediono and Soediyono), Tamuri Hidayat, Amar Hanafiah, Abdullah Alihami, Suyono Wiroatmodjo and Kamil. All are believed to have been tried in the special military courts, mahmillub, without right of judicial appeal.

Muslim Activist Prisoners

Members of Islamic organizations sentenced to death for subversion and murder are also at risk, given the recent executions of three men belonging to the "Imron Group". The "Imron Group" was a radical Muslim group which in 1981 hijacked an Indonesian airliner to Bangkok and later stormed a police station in Bandung, West Java, allegedly to obtain arms for the struggle to establish an Islamic state. The leader of the group, Imron bin Mohamad Zein, was executed in 1983. Salman Hafidz, executed in 1985, was sentenced to death two years earlier for armed robbery, murder and subversion in connection with the attack on the police station. A third member of the group, Maman Kusmayadi, was executed in September 1986.

The executed members of the "Imron Group" were all young men: Imron bin Mohamad Zein and Salman Hafidz were both 33 at the time of their deaths; Maman Kusmayadi was 29. A period of two years elapsed between their convictions and executions, in contrast to the more than 10 years that the PKI prisoners had been under sentence of death. Their executions were well-publicized in contrast to the almost total secrecy surrounding the PKI executions. Some observers believe the executions of the "Imron Group" were intended as a warning against Islamic terrorist activity.

Amnesty International believes that the one remaining member of the "Imron Group" on death row, Azhar bin Mohamad Sapar, is in danger of being executed; his appeal to the High Court was rejected in September 1985. Two other Muslim activists, Bambang Sisoyo and Abdullah Umar, accused of involvement in an organization known as "Komando Jihad" or the Holy War Command, await execution in Central Java, and Amnesty International is also concerned about their fate.

People Convicted of Criminal Offences

Although more death sentences are imposed for pre-meditated murder than for any other offence, executions of people convicted of criminal offences have been rare. In the years 1983-86, however, the government is believed to have resorted to extra-judicial executions of criminal suspects as part of a policy to cope with a rising crime rate; over 4000 youths are believed to have been killed during this period. While deaths in custody under suspicious circumstances of criminal suspects are still reported, the systematic killing of alleged criminals outside the legal process by official agents appears to have subsided. Amnesty International is not aware of any judicial executions of convicted criminals between 1980 and

October 1987.

At 12:30 am on 31 October 1987, however, two men were executed by firing squad. Both had been sentenced to death for premeditated murder in 1962 and had thus been awaiting execution for 25 years. Liong Wie Tong alias "Lazarus", aged 52 and Tan Tiang Tjoen, 62, were executed just after midnight in Krawang, West Java. One man had a family member present; the other no longer had any family left. Both had been detained in Cipinang Prison, Jakarta, in the years immediately following their sentencing.

The executions raise fears about the fate of others under sentence of death on criminal charges. Amnesty International is aware of seven such people, but the total may well be higher.

The Death Penalty in Indonesian Law

In Indonesia, the offences for which the death penalty is most often imposed are pre-meditated murder and subversion. By law, however, the death penalty may be applied to a wide variety of crimes, including some incorporated in the Criminal Code and some not. In the existing Criminal Code, the following offences may be punished by death:

- Article 104: attacks on the President or Vice-President
- Article 111(2): persuading another country to enter into hostilities or war
- Article 124(1): assisting the enemy in wartime
- Article 124 passim: causing, inciting or facilitating a riot
- Article 140(3): premeditated attack on the head of state or monarch of a friendly country which results in death
- Article 340: premeditated murder
- Article 365(4): violent robbery which results in serious injury or death
- Article 444: piracy on the seas which results in death
- Article 479: airplane hijacking (This was added to the Code as Law No.4/1976).

In addition to the above crimes, there are those for which separate legislation has been enacted to which the death penalty is also applicable. The most important of these is the so-called "Anti-Subversion Law", Presidential Decree No.11/1963, which permits the death penalty for anyone who engages in subversive activities, including undermining the authority of the state, disseminating feelings of hostility and distorting or deviating from the ideology of Pancasila. The death penalty is most frequently applied to people charged under this law.

Other laws relating to crimes not covered by the Criminal Code include:

1. Law No.5/1959, incorporated into Law No.6/1969, gives the Attorney General or his military equivalent the authority to increase the maximum allowable sentences for any act which endangers the provision of basic food and clothing supplies in times of national emergency. It specifies the death penalty for violations of Emergency Law No.7/1955, the Regulation on the Elimination of Corruption and certain crimes in the Criminal Code, all of which refer to crimes which impede government programs such as ensuring the stockpiling of food in times of shortage, maintaining the security of the public and the state, and continuing the struggle against economic and political imperialism. (The last clause referred specifically to the effort to acquire West Irian from the Netherlands in the early sixties and is no longer relevant.) Amnesty International does not know of anyone

having been executed under this law.

2. Law No.21/1959 increases the penalties for any crime which can cause economic disruption. One person was sentenced to death under this law but the sentence was not carried out.
3. Law No.31/1964 specifies the death penalty for those who reveal secrets related to Indonesia's atomic energy program.
4. Law No.12/1951 allows the death penalty for importing or illegally obtaining firearms, ammunition and explosives
5. Law No.9/1976 Article 36, 5b and 4b allows the death penalty for transporting narcotics, and illegally importing, exporting, offering with the intention of selling, buying, handing over or acting as an intermediary in the sale or trade of narcotics. At least four people have been sentenced to death under this law but no executions have been carried out.

The Appeals Process

A death sentence imposed by a district court (pengadilan negeri) may be appealed to a high court (pengadilan tinggi) and to the Supreme Court (mahkamah agung). A lesser sentence may also be raised to the death penalty in the appeals process as happened in June 1985 when a sentence of life imprisonment given to Abdullah Umar, a Muslim activist, was raised to death by an appellate court in Yogyakarta, Central Java. PKI prisoners sentenced to death by the special military courts set up in the late 1960s, however, did not have the right of appeal to any higher court, in violation of General Assembly Resolution 1984/50, "Safeguards guaranteeing protection of the rights of those facing the death penalty" which states that anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals shall become mandatory".

Delays in the appeals process are often lengthy.

Two men on death row in Cipinang Prison, Jakarta were not informed of the results of their appeal until almost two decades after the appeal was submitted. Simon Petrus Soleiman, 50, and Athanasius Buang, 48, had been members of the Cakrabirawa Unit. Both were arrested on 5 October 1965 and sentenced to death four years later by the Regional Military Court in Jakarta. Both appealed to the High Military Court on the same day their sentences were handed down, saying they were only carrying out orders. They received no news about the status of their appeals until 3 February 1987 when they were informed that both their first and second appeals had been rejected. They were apparently not aware of having made a second appeal. Both have appealed to President Suharto for clemency.

A prisoner may request clemency (grasi) from the President at any stage after the initial sentencing; many prisoners appear to wait until the appeals process has been exhausted before seeking clemency. If it is rejected, as often occurs several years after the request for clemency has been made, or if it is not sought, executions may be carried out. Death sentences are occasionally commuted to life imprisonment through a remissions procedure which is separate from the appeals process; Amnesty International has repeatedly expressed concern in recent years about the arbitrary fashion in which the remissions procedure has been applied.

Method of Execution

Death sentences are carried out by firing squad in Indonesia in accordance with Presidential Decree No. 2/1964 Relating to Methods of Carrying Out the Death Penalty, later incorporated in Law No. 5/1969. Provisions of that law include the following:

- the condemned person must be given 72 hours notice of the execution (a pregnant woman cannot be executed until 40 days after the birth of her child)
- the lawyer of the condemned person may attend the execution
- executions will not be carried out in public
- the firing squad will be composed of 14 members of the Mobile Brigade
- the condemned person may be accompanied to the place of execution by a religious counsellor
- the condemned person will be blindfolded unless s/he requests otherwise
- the condemned person may be executed standing, sitting or kneeling, and if necessary, their hands and feet may be bound
- the commander of the firing squad will give an order to get ready, and by raising his sword will signal the squad to aim at the condemned person's heart. A rapid lowering of the sword will be the signal to fire
- if the condemned still shows signs of life, the commander of the squad will order the non-commissioned officer to fire a last shot into the head of the condemned, directly over his/her ear.
- a doctor shall confirm the death
- arrangements for burial will be turned over to the family or friends of the executed person unless the prosecutor in the public interest decides otherwise
- the prosecutor must prepare a report on the execution

An Irrevocable Punishment

Amnesty International is unconditionally opposed to the death penalty as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading punishment, both of which are proclaimed in the Universal Declaration of Human Rights.

Amnesty International's opposition is based on several considerations. Despite the most careful legal safeguards, there is always a risk that an innocent person may be executed. That risk is exemplified by the case of a Malaysian, Chan Tin Chong, who is awaiting execution after having been sentenced to death in an Indonesian court for drug trafficking in 1985. Chan Tin Chong may have been convicted on the basis of false testimony. In June 1985 another Malaysian, Maniam Manusamy, was arrested in a Jakarta hotel after police found 420 grams of heroin in his possession. He claimed that he had brought it from Malaysia on the instructions of Chan Tin Chong who met him at the airport on his arrival from Kuala Lumpur. Chan Tin Chong was arrested later the same day. Maniam Manusamy received a life sentence, and Chan Tin Chong was sentenced to death for smuggling heroin into Indonesia. In August 1986, however, after Chan Tin Chong's first appeal had been rejected, Maniam Manusamy admitted having made false statements to police interrogators which implicated Chan. Moreover, he claimed that he had not brought the heroin from Malaysia but had obtained it at the hotel where he was arrested (Jakarta Post 14 August 1986). Chan Tin Chong may thus be innocent.

On 3 February 1987, the Indonesian Supreme Court rejected Chan Tin Chong's second appeal. The Court refused to consider the apparent evidence

of perjury on the part of the primary witness against him, saying that it could only consider technical questions such as whether the law had been correctly applied or whether the trial had been conducted according to proper procedures (Kompas 16 February 1987). Chan Tin Chong may still appeal to President Suharto for clemency, but it is not known whether he has done so.

Socioeconomic Status Can Affect Chances of Being Executed

Amnesty International is also concerned that those who lack the legal and financial resources needed to mount an adequate defence are more at risk of being sentenced to death than those who have adequate resources. This concern was expressed in an article on the death penalty in the Indonesian weekly Mutiara (27 August - 9 September 1986) in which an Indonesian critic of the death penalty was quoted as saying "Only the little fish get caught in the death penalty net. The big fish can protect themselves from the grasp of law because they have connections, money, and so on. The little fish have no influence at all."

Dr Sahetapy, the legal scholar mentioned above, suggests in a study on the death penalty that the social class of the victim in a murder case can influence the sentence given the murderer. In the case of Kusni Kasdut, the criminal executed in 1980, Dr Sahetapy believed he may have received the death penalty only because his victim was a person of high social standing in Jakarta.

Awaiting Execution: Cruel and Inhuman Treatment

Amnesty International believes that not only the execution itself but the experience of awaiting execution constitutes cruel and inhuman treatment. Two persons convicted of murder executed in 1987 had been under sentence of death for 25 years, and Tamuri Hidayat, one of the ten PKI leaders executed in 1986 for 19. Mohamad Munir, a PKI trade unionist executed in May 1985, had been in prison for 17 years and under sentence of death for more than 12.

According to a Reuter dispatch of 10 October 1986 regarding the PKI executions, the Indonesian Government attributed the length of time between sentencing and execution to "slow procedures" of the appeals process. While in earlier cases, this may have been true - in Kusni Kasdut's case, it took eight years for the High Court to reach a decision on an appeal from the lower court, for example - in the case of the nine men executed in September and October 1986, appeals to higher courts were not possible. The men could only request clemency from the President, and of the nine, eight did so shortly after being sentenced and one, Supono, never made a request.

As Haji Princen of the Institute for the Defence of Human Rights in Jakarta noted, "You don't leave 20 years to ask the President for a pardon. It is immensely cruel to keep people in prison and in uncertainty about their fate that long." (Guardian, 10 October 1986).

The Death Penalty As A Deterrent

Amnesty International is aware of the reasons advanced for retaining the death penalty, and of these the supposed value of capital punishment as a deterrent to crime is one frequently used in Indonesia. Amnesty International has not found any evidence to indicate that the death penalty serves to deter crime more effectively than other punishments. A working

paper on capital punishment prepared by the United Nations Secretariat for the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders noted:

"Despite much more advanced research efforts mounted to determine the deterrent value of the death penalty, no conclusive evidence has been obtained on its efficacy."

Dr J. E. Sahetapy concluded in 1978 in his doctoral dissertation entitled Suatu Studi Khusus Mengenai Ancaman Pidana Mati terhadap Pembunuhan Berencana (A Case Study on the Threat of the Death Penalty for Premeditated Murder) that the threat of the death penalty was not an effective deterrent to such murder in Indonesia.

Amnesty International's Appeals

Amnesty International has urged the Indonesian Government to abolish the death penalty and commute all existing death sentences in keeping with United Nations General Assembly Resolution 32/61 of 8 December 1977 in which the General Assembly reaffirmed that "the main objective to be pursued in the field of capital punishment is that of progressively restricting the number of offences for which the death penalty may be imposed with a view toward the desirability of abolishing capital punishment..."

The current trend in Indonesia, however, is not toward abolition of the death penalty but on the contrary, to increased application of it. Amnesty International is concerned that many of the prisoners now under sentence of death, particularly Azhar bin Mohamad Sapar of the "Imron Group" and the 16 prisoners linked to the 1965 coup attempt, may be executed in the near future.

Appeals by Governments and International Organizations

No government has, to AI's knowledge, made any appeal to the Indonesian authorities to abolish the death penalty generally. Several governments, however, have expressed their regret at the execution of political prisoners who had already spent many years in prison or have appealed to the Indonesian Government not to execute other such political prisoners. Such statements have come both from Europe and Australia as well as from the socialist bloc, including Afghanistan and China.

In October 1986, for example, after the execution of the nine PKI prisoners, the governments of Australia, France, the Netherlands, and the United Kingdom (UK) conveyed their regret at the executions to the Indonesian Government. The Australian government also mentioned its regret at the execution of the Muslim activist Maman Kusmayadi one month before. At a meeting between foreign ministers of the European Community (EC) and the Association of Southeast Asian Nations (ASEAN) in Jakarta on 21 October 1986, the UK foreign minister, acting on behalf of the EC, formally lodged a protest. After rumours of impending executions in December 1986 the EC governments made a further request to the Indonesian Government for clemency for the remaining prisoners under death sentence.

In 1985 and 1986 the European Parliament passed resolutions condemning the executions in Indonesia. The execution of Mohammad Munir was also publicly raised by two delegates to the Asia regional meeting of the International Labour Organization (ILO) in Jakarta in December 1985.

The Indonesian Government's Response

In reacting to appeals and protests over the executions, the Indonesian Government said that they constituted external interference in questions of domestic jurisdiction. The Indonesian Foreign Minister, Mochtar Kusumaatmadja, made the first official comment after a meeting with President Suharto on 6 June 1985. He said that the executions were a internal matter for Indonesia; that the actions of the PKI in 1965 had amounted to treason against the Indonesian people; and that if the President rejected petitions for clemency, then the executions would be carried out quickly.

Similar arguments were put forward by the Justice Minister, Ismail Saleh, in August 1985 when publicly confirming reports of executions. He said, "Whoever has gone through the existing process of law, from local district court, high court, and supreme court; if at the end his request for a pardon is turned down, his sentence must be carried out. This is for the sake of the certainty of the law...there is no need for foreigners to interfere with our domestic affairs, just as we don't want to meddle with other people's internal problems."

When resolutions condemning Indonesia were passed by the European Parliament in July 1985, other Indonesian officials questioned this response. The Chairman of the Supreme Court, retired general Ali Said, was quoted by the Indonesian newspaper Kompas as saying, "We don't need to get overly emotional and say it's a domestic problem in which they should not interfere." He said that the prisoners had not been executed for political or trade union activities but for rebellion, "We don't try politics, but rebellious acts." The pro-government newspaper Suara Karya maintained that the European Parliament was being misled by "anti-Indonesia" groups such as Amnesty International, and that the Indonesian Government should present the correct information to European politicians and public opinion.

At an ILO conference in December 1985 the Indonesian delegate responded to criticism of Mohammad Munir's execution by saying that Mohammad Munir "was convicted not because he was a labour leader but for the crime he had committed...He had been tried and convicted through normal court proceedings for conspiracy against the government." The delegate added "Execution is a part of the normal legal process in a civilized country."

In October 1986 after the execution of the nine PKI prisoners, Indonesian Government statements drew attention to the procedures in existence for appeal and clemency, even though many of these provisions had not been available to the nine men executed. An armed forces spokesman said that there had been a thorough review of clemency petitions, in accordance with the principles of humanitarianism and justice. The Foreign Minister, who said that the executions were "regrettable", also noted that the prisoners had been able to apply to the President for mercy, and emphasized that not all such petitions were refused. Shortly afterwards the Indonesian Government made public to foreign embassies in Jakarta a list of 12 former PKI prisoners who had been "reprieved". Most of these commutations had taken place in 1980.

Recent Developments on the Death Penalty

Despite the negative response of the Indonesian Government to appeals

to halt executions and abolish the death penalty, the drafting of a new Criminal Code provides an opportunity to restrict the application of the death penalty, as recommended by the United Nations.

The Criminal Code is now undergoing revision for the first time since independence; most of the existing Code is a direct borrowing from the Dutch Penal Code of the late 19th century. The draft, which is being prepared under the auspices of the Badan Pembinaan Hukum Nasional (BPHN, National Legal Development Agency), part of the Ministry of Justice, will shortly be ready to submit to the Indonesian parliament, the Dewan Perwakilan Rakyat (DPR). Since the 1987 session of the DPR was almost wholly preoccupied with the national parliamentary elections last April and the subsequent realignment of committees, the full debate on the Code may not begin in earnest until 1988. Amnesty International understands that the death penalty has been retained in the draft as it now stands but that the number of offences to which it is applicable may have been reduced. (As noted above, there are crimes not covered by the Criminal Code to which the death penalty is applicable as well, most notably subversion, so even removal of the death penalty from the Code would not mean abolition of capital punishment in Indonesia.)

At the same time, publicity surrounding several recent death sentences has given opponents of capital punishment in Indonesia the opportunity to make their views known. In March 1987 a man named Osman Hutagalung was sentenced to death in Padangsidempuan, North Sumatra for the murder of a woman and mutilation of her corpse. After the sentence was handed down and several stories appeared in the press with details about the crime, two prominent Indonesian lawyers announced publicly that they did not believe the death penalty was an appropriate punishment and did not feel it was an effective means of deterring crime. Haryono Tjitrosubono, head of the Indonesian Bar Association in Jakarta, stated that criminals were the product of the socio-economic situation and of a particular education and cultural system. There was a shared social responsibility for their acts, and society had a responsibility to try and rehabilitate them (Suara Pembaruan, 10 March 1987).

Another case which received extensive publicity was that of an Indonesian who was executed in Malaysia in 1986 on drug-trafficking charges, despite efforts of the Indonesian consul in Penang to save him. Ramli Kechik, who was hanged on 22 August 1986 in Taiping Prison thus became the first Indonesian to be executed for narcotics offences in Malaysia, and the Indonesian press noted that there was no outcry on his behalf the way there had been for the two Australians executed in Malaysia the month before.

APPENDIX IPRISONERS UNDER SENTENCE OF DEATH IN INDONESIA

As of November 1987, Amnesty International knew of 29 prisoners under sentence of death, although the actual total may be higher. These included 19 prisoners sentenced to death for alleged involvement in the 1965 coup attempt, three Muslim activists, and seven prisoners convicted of common crimes:

1. Ruslan Widjayasastra, aged 68, was arrested on 14 July 1968 and charged with subversion and criminal plotting against the state, both for alleged complicity in the 1965 coup attempt and for participation in what the government has described as an armed rebellion of a "New Style" PKI in Blitar, East Java, in 1967. Ruslan Widjayasastra is said to have been head of the Central Committee of the "New Style" PKI. He was sentenced to death on 15 July 1974 by the Central Jakarta Subversion Court and later appealed for clemency to President Suharto. The result of this appeal is not known but it is believed to have been rejected. Ruslan Widjayasastra is detained in Cipinang prison, Jakarta. Before the attempted coup, he had been a member of the central committee of the PKI, and deputy chairman of the peasants union, Barisan Tani Indonesia (BTI) and SOBSI, the PKI-led trade union federation.
2. Sukatno, 58, was arrested on 21 July 1968 in Blitar, East Java. Before the 1965 coup attempt, he had been the chairman of Pemuda Rakyat, the PKI youth organisation and a member of parliament. He was also a member of the Central Committee of the PKI. After the coup attempt, he went underground with other senior members of the PKI and, like Ruslan Widjayasastra above, was active in the so-called Blitar Rebellion. He was sentenced to death on 11 March 1971. He appealed against his sentence to the Supreme Court but it was rejected, and President Suharto reportedly rejected his appeal for clemency in 1982. Sukatno is detained at Cipinang prison, Jakarta.
3. Iskander Subekti, 66, was arrested on 31 July 1968 for his alleged involvement in the 1965 coup attempt and the Blitar Rebellion. He had been a member of the Central Committee of the PKI (foreign affairs section). He was sentenced to death on 22 December 1972. He appealed to the High Court against this sentence but the result of this appeal is not known. He is held in Cipinang prison, Jakarta.
4. Asep Suryaman, 61, was arrested on 28 September 1971 for his alleged involvement in the 1965 coup attempt. He was alleged to have been a member of the PKI "Special Bureau" responsible for building contacts for the PKI within the military. He was tried in Central Jakarta District Court on charges of plotting to carry out an attack with the intention of overthrowing the government and with armed rebellion against the state (articles 107 and 108 of the Criminal Code). He was sentenced to death on 27 August 1975. He appealed to the High Court against this sentence but the result is not known. Asep Suryaman is detained in Cipinang prison, Jakarta.
5. Satar Suryanto, aged 48, was arrested on 4 October 1965 for his alleged involvement in the 1965 coup attempt. He was sentenced to death on 19 April 1971. He appealed to the High Court against this sentence but the result is not known. Satar Suryanto is detained in Cipinang prison, Jakarta. Before his arrest he had been a sergeant in the Cakrabirawa (the

Presidential Guard). A battalion commander of the Cakrabirawa unit was one of the leaders of the coup attempt and chairman of the short-lived "Revolutionary Council" proclaimed on 1 October 1965. Many soldiers in that unit are believed to have taken part in the murder of six generals the night before.

6. Raswad, aged 52, was arrested on 4 or 5 October 1965 for his alleged involvement in the abortive 1965 coup. He was sentenced to death on 16 April 1968 by the Jakarta Military Tribunal in connection with the kidnap and murder of General Yani, one of the six army generals killed during the coup attempt. He appealed to the President for clemency but the result is not known. Raswad is detained in Cipinang prison, Jakarta. Before his arrest he had been a sergeant in Cakrabirawa.

7. I Bungkus, aged 50, was arrested on 8 October 1965 for his alleged involvement in the 1965 coup attempt. He was sentenced to death on 30 July 1971 by the Jakarta Military Court. He appealed to the High Court against this sentence but the result is not known. Bungkus is detained in Cipinang prison, Jakarta. Before his arrest he had been a sergeant in the Cakrabirawa.

8. Yohanes Surono, had been a sergeant in the Cakrabirawa unit of the army in 1965. Now 58, he was sentenced to death in 1979 by the Regional Military Court in Jakarta. His first appeal was rejected by the Military High Court on 5 July 1972; he was not informed of the decision until over a year later. The clerk of the Military High Court told him in August 1973 to sign a form authorizing the final cassation appeal which he did. He did not meet the clerk again until 26 December 1986 when he was told that his cassation was invalid because it did not include an accompanying memorandum and the signature was not sufficient. He appealed to the President for clemency on 9 February 1987 noting that he was illiterate in law and had just followed the clerk's instruction in making his appeal.

9. Simon Petrus Soleiman
10. Athanasius Buang

Simon Petrus Soleiman, 50, had been a sergeant in the Cakrabirawa unit, and Athanasius Buang, 48, had been a private. Both were arrested on 5 October 1965 and sentenced to death four years later, on 8 November 1969, by the Regional Military Court in Jakarta. Both appealed to the High Military Court the same day their sentences were handed down, saying they were only carrying out orders. They received no news about the status of their appeal until 3 February 1987, almost two decades later, when they were informed by a member of the Corps Kehakiman Militer (Military Justice Corps) that both their first and their second appeals (cassation) had been rejected. They were apparently not aware of having made a second appeal. Both have appealed to President Suharto for clemency.

11. Nurhayan (Noor Rachoyan), 49, had been a private in the Cakrabirawa unit. He was arrested on 5 October 1965 and sentenced to death by the Regional Military Court in Jakarta on 8 November 1969. He made an appeal immediately to the Military High Court but was notified on 3 February 1987 that his appeal had been made too late and that the statute of limitations had expired. He appealed to President Suharto for clemency on 9 February 1987. Detained in Cipinang prison, Jakarta, he suffers from diabetes and other ailments.

12. Sukardjo, 50, had been a member of the Cakrabirawa unit. He was

arrested on 5 October 1965 and sentenced to death by the Regional Military Court in Jakarta on 5 March 1969. He appealed to the Supreme Court but the result of this appeal is not known. He is detained in Cipinang prison, Jakarta.

13. Giyadi Wignyosuharjo, 60, had been a member of the Cakrabirawa unit. He was arrested on 4 October 1965 and sentenced to death by the Regional Military Court in Jakarta on 16 April 1968. He is reported to have submitted a request to the President for clemency but the result of this is not known. He is detained in Cipinang prison, Jakarta.

14. Marsudi, 52, had been a sergeant major in the airforce in 1965. The date of his arrest is not known. He was sentenced to death by an Extraordinary Military Court on 9 October 1968. He is reported to have appealed to the High Court, but the result of this is not known. He is detained in Cipinang prison, Jakarta.

15. Sukarman, 67, a former member of the Executive Committee of the Provincial Committee of the PKI for East Java. He was arrested in Blitar on 21 July 1968 and tried and sentenced to death by the Malang District Court on 31 May 1976. At his trial he announced that he would not appeal against his death sentence, but he was later reported to have submitted a request to the President for clemency in December 1982, although the result of this is not known. He is currently detained in Pamekasan prison, Madura, and he is said to be in poor health.

16. Suwandi, 64, the former secretary of the Provincial Committee of the PKI for East Java. He was arrested in Blitar on 9 June 1968 and tried and sentenced by the Malang District Court on 11 June 1973. He submitted a request to the President for clemency in September 1983 but the result of this is not known. He is currently detained in Pamekasan prison, Madura, and he suffers from a heart condition.

17. Mochtar Effendi Sirait, former PKI leader in North Sumatra, he was sentenced to death by a District Court in Kanbanjahe, North Sumatra, on 24 August 1974. He is detained in Tanjung Gusta prison, Medan.

18. Ismanto alias Suprpto, former PKI leader in North Sumatra, he was arrested on 31 July 1968 and sentenced to death by the Binjai District Court on 6 December 1974. He is detained in Tanjung Gusta prison, Medan.

19. Tohong Harahap, sentenced to death in connection with his alleged involvement in the attempted coup in 1965 and detained in Tanjung Gusta prison, Medan.

20. Azhar bin Moh Sapar, accused of involvement in the so-called "Imron Group", a group of Muslim activists which in 1981 hijacked an Indonesian airplane and later stormed a police station in Bandung, West Java, allegedly to obtain arms for the struggle to establish an Islamic state. He was charged with subversion and murder and sentenced to death in 1982. His appeal was rejected in September 1985. Three other members of the Imron Group have been executed, one in 1983, one in 1985 and one in 1986.

21. Bambang Sispoyo, 38

22. Abdullah Umar, 37

Both of the above are Muslim activists, accused of involvement in an organization known as Komando Jihad (Holy War Command), were convicted of

subversion for involvement in armed robbery and the killing of two men in January 1979. Abdullah bin Umar was originally sentenced to life imprisonment but was given the death sentence by the High Court in Yogyakarta in early June 1985 following an appeal. Bambang Sisoyo was sentenced to death on 1 June 1985. No further appeals have been made. The two men are presently believed to be detained in Nusakambangan prison, Cilacap, Central Java.

23. Chan Tin Chong, 30, a Malaysian national, was charged with drug-trafficking and sentenced to death in 1985. His appeal to the High Court in Jakarta was rejected in April 1986. Four months later his companion, who had been sentenced to life imprisonment, admitted to having given false testimony to government investigators which had implicated Chan Tin Chong. However, the Supreme Court refused to consider the new evidence, saying it could only consider technical and procedural questions, and it rejected his appeal on 3 February 1987. (For additional information, see ASA 21/08/87, Indonesia: Update on the Death Penalty.)

24. Capa P.K. Sidaruk, who was arrested in 1973 for murder was sentenced to death by a military court in Banten, West Java, in 1976 after reportedly being convicted solely on the basis of his confession. Capa Sidaruk appealed to the Supreme Court to review his sentence, but the appeal was only formally registered with the Supreme Court in October 1986 and no decision has yet been made.

25. Sgt. Isto Sukarta was convicted of murdering the son of his lover, Mrs Lince Lembong, and was sentenced to death by the military court in Bogor, West Java in March 1986. Mrs Lince Lembong herself was convicted of murdering her husband and was sentenced to death on 13 August 1986; her sentence was reduced to life imprisonment on appeal. Sgt. Sukarta, however, who escaped from prison in November 1986 and was recaptured in January 1987, had his first appeal rejected but has now appealed to the Supreme Military Court.

26. Osman Hutagalung, 40, was sentenced to death on 4 March 1987 by the District Court in Padang Sidempuan, Tapanuli Selatan, North Sumatra, for the murder and mutilation of a woman in his village who nine years earlier had caused Hutagalung to be imprisoned for 80 days for punching her in the nose. The murder took place in July 1986. The accused confessed to the killing and said it was in revenge.

27. Marsufin Abdi, aged 23, was sentenced to death on 23 June 1987 by the Jember District Court for murdering a close friend after a quarrel over money in November 1985. In November 1986 he had already been sentenced to eight years' imprisonment for the murder of a former girlfriend several years ago. In handing down the death sentence, the judge gave his opinion that the accused could not be rehabilitated into an Indonesian who would live in accordance with the state ideology Pancasila.

28. Ujang Jaka Somantri, aged 24, was sentenced to death on 7 September 1987 by the Pandeglang District Court for murdering a school student in November 1986.

29. Burhan bin Gingan, 28, was sentenced to death in August 1987 by Bengkalis District Court in Pekanbaru, Sumatra. He had been found guilty of murdering the wife and children of his former employer, the owner of a rice mill, on 19 September 1986. He had been detained since 24 September 1986.

APPENDIX II

Death Sentences imposed since 1976 in Indonesia of which
AI has received reports

<u>Date</u>	<u>Name</u>	<u>Charge</u>	<u>Status</u>
1976	Capa Sidarik	murder	not known
1978	Timzar Zubil	subversion	commuted 1986
1979	Suparlan	rape	not known
1981	Sgt. Edy Sampek	murder	escaped 1985
1982	Kaseng	murder	not known
	Imron bin Zein	hijacking	executed 1983
	Azhar bin Moh Sapar	subversion/murder	appeal rejected 1985
	Salman Hafidz	subversion/murder	executed 1985
1983	Maman Kusmayadi	subversion/murder	executed 1986
	Chang Sow Ver	drug-trafficking	reduced to 17 yrs
	Lee Wah Ceng	drug-trafficking	reduced to 17 yrs
	Sucianto	murder	not known
	Pudji Hadiatmoko	murder	not known
1984	Haji M. Nur	murder	not known
1985	Husni alias Yono	drug-trafficking	escaped 1985
	Chan Tin Chong	drug-trafficking	appeal rejected
	Bambang Sispooyo	subversion/murder	awaiting execution
	Abdullah Umar	subversion/murder	awaiting execution
1986	Sgt. Isto Sukarta	murder	on appeal
	Mrs Lince Lembong	murder	reduced to life imprisonment
1987	Osman Hutagalung	murder	believed on appeal
	Marsufin Abdi	murder	believed on appeal
	Ujang Jaka Somantri	murder	believed on appeal
	Burhan bin Gingan	murder	on appeal

Prisoners Executed Since 1978 in Indonesia

<u>Year Sentenced</u>	<u>Name</u>	<u>Charge</u>	<u>Executed</u>
1967	Oesin Batfari	Murder	1978
1964	Hengky Tupanwael	Murder	1980
1964	Kusni Kasdut	Murder	1980
1982	Imron bin Mohammed Zein	Subversion/Hijacking	1983
1982	Salman Hafidz	Subversion/Murder	1985
1973	Mohammad Munir	Rebellion	1985
1976	Gatot Lestario	Subversion	1985
1976	Djoko Untung	Subversion	1985
1975	Rustomo	Subversion	1985
1983	Maman Kusmayadi	Subversion/Murder	1986
1972	Supono"Pono"Marsudidjojo	Subversion	1986
1968	Syam Kamaruzaman	Subversion	1986
1968	Bono Waluyo	Subversion	1986
1973	Col. Sudiono	Subversion	1986
1967	Tamuri Hidayat	Subversion	1986
1967	Amar Hanafiah	Subversion	1986
1968	Abdullah Alihami	Subversion	1986
1966	Supono Wiroatmodjo	Subversion	1986
1967	Lt Kamil	Subversion	1986
1983	Maman Kusmayadi	Subversion/Murder	1986
1962	Liong Wie Tong	Murder	1987
1962	Tan Tiang Tjoen	Murder	1987