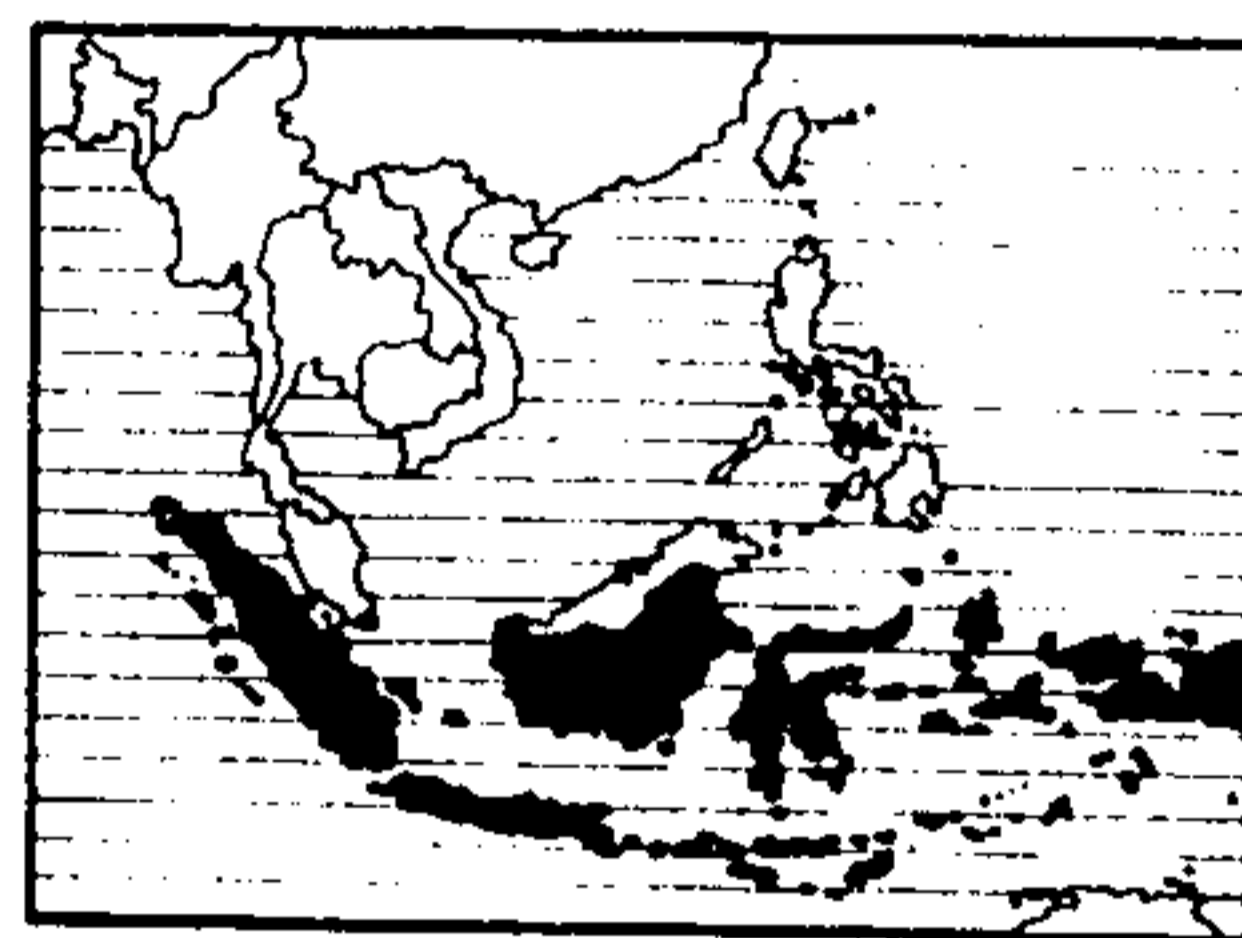


In three out of four cases involving the death penalty which came before the Supreme Court between February and May 1979, judges raised doubts about whether the death penalty was constitutional, and on 17 October 1979 the Supreme Court stayed all executions, pending judgment on a petition challenging its constitutional validity.



Indonesia

Amnesty International welcomed the Indonesian Government's further implementation, during 1979, of its plan to release political prisoners held without trial after their alleged involvement in the 1965 coup; it had always urged the unconditional release of B-category detainees who were, by definition, those whom the government felt unable to bring to trial and who were therefore neither charged with nor convicted of any crime. It asked the United Nations Human Rights Commission to keep the implementation of the release program under review, and the commission agreed to do so.

Amnesty International continued to be concerned about the restrictions imposed on these prisoners after release and about the detention of several hundred other political prisoners whose cases fell outside the scope of the release program. It was concerned also about reliable reports of severe violations of human rights in East Timor, including imprisonment without trial and executions.

In December 1976 the government had announced that it would begin, in December 1977, to release all those prisoners, detained for alleged involvement in the coup of 30 September 1965, who had not been tried and for whom no trial was planned. This "phased release program" of so-called B-category prisoners was to have been completed by the end of 1979.

From 27 April to 21 November 1979 a total of 7,135 B-category prisoners were released. Reports received by Amnesty International in November suggested that not all B-category detainees would be released by the end of 1979 as scheduled. In telegrams sent on 26 November to President Suharto and to the Foreign Minister, Mochtar Kusumaatmadja, Amnesty International requested confirmation of assurances it had received a few days earlier from the Foreign Minister. In a meeting at the Indonesian Embassy in London on 15 November 1979, during President Suharto's state visit to the United

Kingdom, Mochtar Kusumaatmadja had informed Amnesty International that all prisoners scheduled for release would be freed as planned. In November and December 1979, the government announced further releases, but 105 detainees, including the novelist Pramudya Ananta Toer, the poet Rivai Apin and a former member of parliament, Karel Supit, who according to the authorities had all been "uncooperative", were not set free until 20 December, by which time all other B-category prisoners had reportedly been released.

With the release of the 105, the government announced that all B-category detainees had been "returned to their families" and that the release program was completed. According to Admiral Sudomo, the Commander of the state security organization KOPKAMTIB (Command for the Restoration of Security and Order), speaking at a release ceremony in Yogyakarta on 8 December 1979, when all but the final 105 B-category prisoners had been freed, 32,989 people had been released between 1975 and 1979.

On 21 December, Amnesty International sent a cable to President Suharto welcoming reports that the government had set free all B-category prisoners, and asking for a list of names as confirmation of the latest releases. Although the authorities made no response to this request, Amnesty International has no reason to doubt their claim to have released all B-category prisoners from detention.

Amnesty International has, however, been concerned that as well as the normal problems of adjustment facing people who have been in detention for as long as 14 years — problems compounded in many cases by chronic ill-health directly attributable to prison conditions — those released from prison have had to face harassment from the administration and economic discrimination. Restrictions on those released from prison have taken the following forms: an outright ban on their employment in government service and in "vital industries"; a continuing informal requirement that for employment in any sector they have a "certificate of non-involvement" in the 1965 coup; a marking of their identity cards (which all Indonesians must carry) with a code identifying the bearer as former detainees. They have to give, as a condition of release, a pledge in writing to report to the authorities at any time and to abjure all claims to have been wrongfully imprisoned or ill-treated while in prison. They must report to the military authorities regularly — in the case of those most recently released, every week; if they wish to travel, they must apply for permission from KOPKAMTIB; they may not stand as candidates in elections; they may not submit books or articles for publication without permission from the authorities, nor may they speak at public meetings; finally, they have often been denied property or pension rights.

In addition, those who have been released have been warned that they are liable to re-arrest at any time and subjected to periodic summonses from the military authorities to receive instructions about new restrictions affecting their freedom of movement and expression and orders to fill in questionnaires, which among other things ask whether the respondent is willing to "transmigrate" — that is, to resettle in a remote area of the Archipelago.

Amnesty International believes that former prisoners have been so circumscribed by these restrictions that a general feeling of fear and uncertainty about their true status still prevails among them. Moreover, the practical consequence of these restrictions is to limit severely their ability to readjust to society. Possibly no more than five per cent of former detainees have been able to find regular employment since their release. A number of Amnesty International groups which have ceased working on Indonesian cases as a result of the releases will continue to appeal to the authorities to lift restrictions on those who have been released.

At the 12 April 1980 meeting of the Inter-Parliamentary Council, the Secretariat of the Inter-Parliamentary Union submitted a draft resolution about three former members of parliament, Eddy Abdurachman Martalogawa, Richard Paingot Situmeang and Karel Supit, expressing the hope that the remaining restrictions on their freedom and political rights would be lifted.

Some prisoners who have been formally released have not been permitted to return to their homes, despite their wish to do so. They are officially described as "transmigrants" who voluntarily resettled in areas outside Java. Although Amnesty International accepts that a number of them have voluntarily chosen the government's offer to join its "transmigration" program, it remains concerned that, in some instances, former prisoners have been resettled against their will. These include at least 35 people who married while in prison on Buru Island and who remain there with the official status of "transmigrants". These 35 are believed to be the only remaining inhabitants of the former Savanajaya Unit, where detainees who were joined by their families were settled, still remaining on Buru Island against their will after completion of the release program. In May 1979, Amnesty International appealed to the government on behalf of those among the 207 released Savanajaya detainees with families who wanted to leave Buru. In September 1979, 115 Savanajaya families left Buru for Java, although they had to pay their own expenses.

Other people have been refused permission to return to their homes from resettlement areas. The Indonesian news magazine *Tempo* reported the case of a man at present living in Amborawang, East Kalimantan: "He would like to go home and join his wife and

family . . . 'But the local command of KOPKAMTIB has asked us to stay here' says Kusdi, a former member of the Indonesian Peasants Front (BTI) . . . 'I can't go home and here there are no facilities'." Amnesty International has learned that 51 people formally released from imprisonment and resettled in Nanga-nanga, Kendari, South Sulawesi, have not been issued with identity cards and are therefore not able legally to move from the settlement.

Although the government has officially completed its release program, there are some 3,000 people whose present whereabouts are unknown. The number include some who may have been detained and others who are known to have been detained but who have not been either tried or released. Amnesty International has received information that more than 2,800 people detained on Java after the 1965 coup have not been released. They have neither been brought to trial nor are they awaiting trial and their present place of detention is unknown.

As regards the A-category prisoners, those against whom the government has alleged that there was direct evidence of involvement in the 1965 coup, according to official Indonesian figures, by December 1979, 1,014 had been tried. Of these, 262 had already completed their sentences. In November 1979 President Suharto issued an instruction to the Minister of Justice that political prisoners who had been sentenced were now eligible for remission on the same terms as criminal prisoners. Previously, political prisoners who had been tried had had to serve their full sentence. As a result of the new presidential instruction, 331 A-category prisoners who had been brought to trial received remission of sentence: 118 of them were released in December 1979. In addition, approximately 450 A-category prisoners who had not been tried were reclassified as B-category and released during 1979. At the end of that year, 23 A-category prisoners were still detained, awaiting trial. There were therefore 657 A-category prisoners, both tried and not tried, still officially acknowledged to be in prison at the end of 1979.

Amnesty International believes that a substantial number of those in A-category still imprisoned are prisoners of conscience, people who have neither used nor advocated violence. It believes that the sentences passed on all those already tried should be reviewed, on the grounds that, in all cases known to Amnesty International, a fair trial was denied the defendants. All A-category prisoners have been tried on vaguely defined charges under the 1963 Subversion Law, criticized in recent years by prominent Indonesian lawyers on the grounds of its "catch-all" nature. The government, recognizing these defects, is reported to have drafted a National Security Law to replace the Subversion Law.

While welcoming the government's November 1979 policy on

remission, Amnesty International has been disturbed to learn that the new regulation governing remission of sentence is not being applied uniformly. It knows of cases of people who would be eligible for release if the new regulation was being consistently applied but who are still in detention. In Balikpapan, East Kalimantan, for example, there are people still in prison whose sentences should have expired if their remission of sentence had been taken into account, but who are being held because an appeal by the prosecutor is still pending, despite the fact that some prosecutors have been instructed to drop pending appeals so that detainees may be released. In other cases, the sentence is counted from the date of sentencing rather than from the date of detention, even when the court handed down a sentence to run from the date of detention.

In addition to the political prisoners held in connection with the 1965 coup, there are other political prisoners in Indonesia, whose cases fall outside the scope of the release program and some of whom Amnesty International regards as prisoners of conscience. Among them are students and Moslems arrested in connection with the protests of 1977 and 1978 against the re-election of President Suharto, and people kept in detention for their alleged association with secessionist movements. In Aceh (northern Sumatra), approximately 125 people have been held in detention since 1977 and 1978 for alleged involvement in *Gerakan Aceh Merdeka* (the Free Aceh Movement). Many were reportedly tortured after arrest and most of them have not yet been brought to trial. Amnesty International continued to work on the cases of five people sentenced in 1978 in Irian Jaya (formerly Dutch New Guinea) on subversion charges, for circulating a petition calling for greater regional autonomy. One was released in early 1980.

In late January 1979 trials began in eight cities of 36 student leaders charged primarily with insulting the head of state, state officials and state institutions under laws taken over from the Dutch Colonial Code. The charges arose out of the protests of 1977 and 1978, which took the form of peaceful demonstrations and meetings, petitions to the government and the setting up of a mock parliament to discuss pressing issues of the day. The students and their lawyers have claimed that these activities were protected under Article 28 of the 1945 constitution which guarantees freedom of expression. By April 1979, 22 of the students had been sentenced to periods of imprisonment ranging from six months to two years and one had been acquitted. The sentences were far lighter than those demanded by the prosecutors; for example Irzadi Mirwan, who was the focus of an Amnesty International campaign in June 1979, was sentenced to 18 months, although the prosecutor had asked for six years. Among the first to be

sentenced were Mohammed Sholeh, Maqdir Ismail and Lala Mustafa, on whose behalf Amnesty International appealed in July 1979. In a number of cases, the court declared the students guilty of insulting state institutions but not guilty of insulting the head of state or of the most serious charge of having obstructed the government's development program for which the maximum penalty is death.

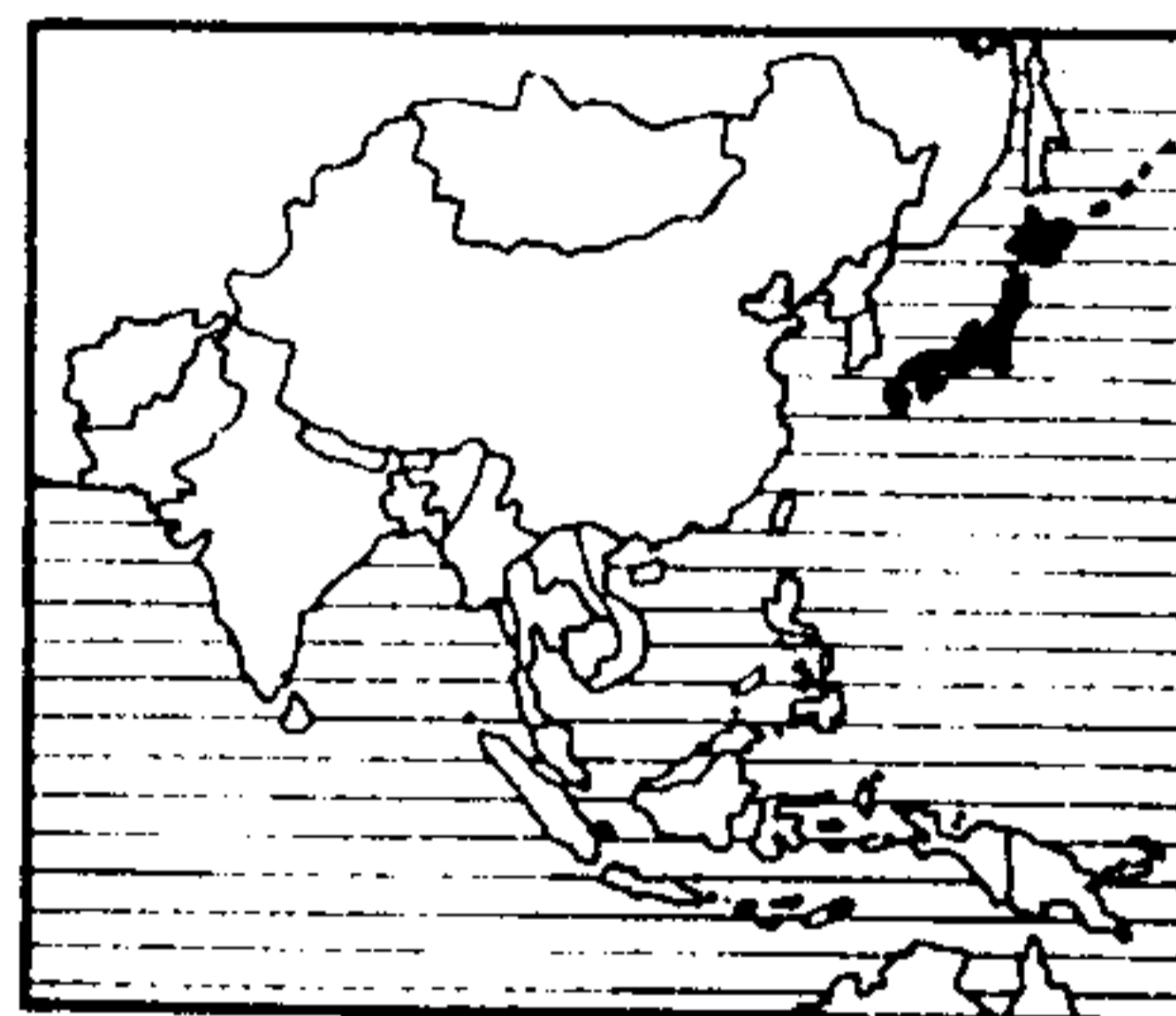
A number of prominent Moslem politicians and their followers also were arrested in the period before and after the presidential elections of March 1978, and some of them are still in detention. In February 1980, one of the detainees, the former Editor of the newspaper *Abadi* ("Eternal"), Soemarso Soemarsono, who had been adopted as a prisoner of conscience by Amnesty International, was put on trial on subversion charges.

Amnesty International is concerned also about violations of the human rights which come within its mandate that have occurred and are still occurring in East Timor. It has received reliable reports that, during 1979, a number of supporters of *Frente Revolucionaria do Timor Leste Independente* (Fretilin), the Revolutionary Front for an Independent East Timor, disappeared after capture or surrender under the terms of an amnesty guaranteeing their safety and may have been executed. Moreover, it believes that approximately 800 people were being held in prisons in the capital, Dili, alone, some of whom took no part in the fighting either before or after the Indonesian invasion of December 1975 and could therefore be regarded as prisoners of conscience.

In a letter to President Suharto on 28 April 1980, expressing concern about these human rights violations in East Timor, Amnesty International appealed for investigations into the whereabouts of people who have "disappeared" and into the conditions in which East Timorese were imprisoned. The letter asked also for the President's cooperation in ensuring that the International Committee of the Red Cross be permitted to expand its activities in East Timor to include the tracing of missing people and prison visits.

Amnesty International continued to be concerned about the application of the death penalty in Indonesia. On 5 January and 6 February 1980, two men convicted of murder, Henky Tupanwael and Kusni Kasdut, were executed. A telegram expressing the concern of Amnesty International about the execution of Henky Tupanwael was sent to President Suharto on 23 January 1980. After the second execution, on 11 February 1980, a letter was sent to the President expressing the deep regret of Amnesty International at his decision not to set aside the death sentence passed on Kusni Kasdut, on whose behalf it had already sent telegrams containing appeals for clemency. In the letter it was noted that Indonesia was a country where

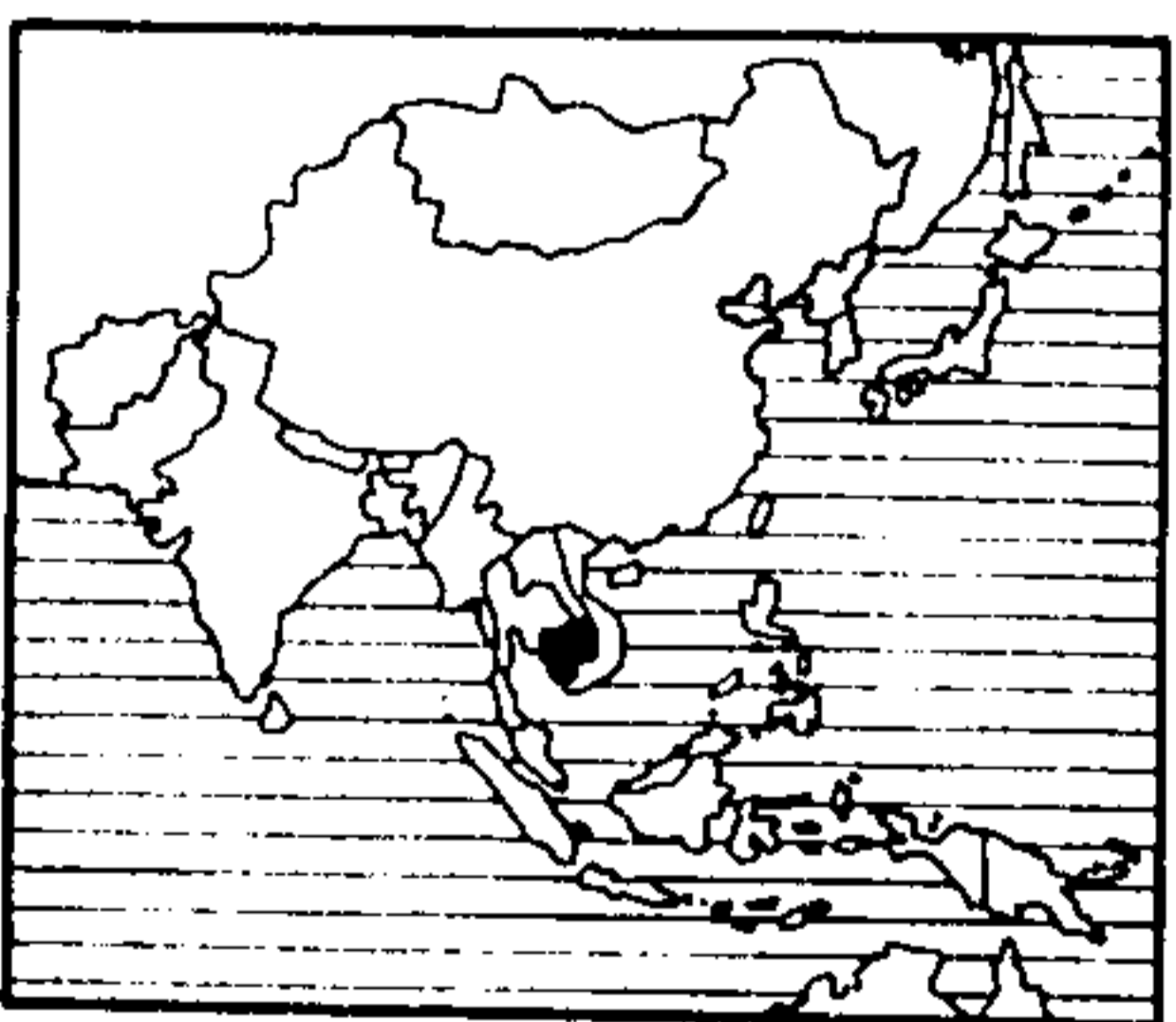
executions of common criminals had only rarely been carried out: before these executions in January and February 1980, the only known execution of a person sentenced in a civil court to have been carried out since independence in 1949 occurred in September 1978, when Husin bin Umar was executed. An estimated 35 people are, at the time of writing, under sentence of death: five of them have been convicted under ordinary criminal law and 30 were convicted under the Subversion Law.



Japan

Amnesty International has continued to be concerned about the use of the death penalty as a punishment for a number of criminal offences. At the time of writing, 19 people were known to be on death row, one of them since 1950. During the year, an unknown number of death sentences were passed; others were confirmed by the Supreme Court, but to the knowledge of Amnesty International none was commuted. The exact number of executions is not known because such information is not published by the authorities. Amnesty International urged the authorities to declare a moratorium on executions pending the abolition of the death penalty.

On 21 June 1979 Japan ratified the International Covenant on Civil and Political Rights and on Economic, Social and Cultural Rights.



Kampuchea

Amnesty International concerns centred on the forcible repatriation of Kampuchean refugees to Kampuchea where there was danger of their being imprisoned for political reasons, ill-treated or executed. Amnesty International was concerned also about the detention of people by the authorities of the People's Republic of Kampuchea (PRK) for the purpose of "re-education".

During the year, fighting continued between the forces of the

Government of the People's Republic of Kampuchea, established in Phnom Penh, and those of the Government of Democratic Kampuchea, usually referred to as "*Khmer Rouge*", which had been overthrown in January 1979. The latter still controls some areas of the country as well as refugee camps on the Thai border, while the population of other refugee camps along the border with Thailand are controlled by groups of anti-communist opposition forces. More than 150,000 Kampucheans have fled across the border into Thailand to escape the fighting and resulting food shortages.

After having received reliable reports that some civilian Kampucheans had been killed for either planning to escape to Thailand or on being returned from there to Kampuchea, Amnesty International cabled the Prime Minister of Thailand, on 30 April 1979, urging him to grant asylum to all Kampuchean civilians seeking refuge there. On 31 May 1979 Amnesty International also asked representatives of Democratic Kampuchea to "ensure the safety of those civilians who had forcibly been returned to its authority and to abjure any forms of reprisal". After about 40,000 refugees, the majority women and children, were forcibly repatriated at the beginning of June, Amnesty International again cabled the Prime Minister of Thailand, on 15 June 1979, urging him to grant temporary asylum to refugees who faced the risk of being returned.

The plight of the Indochinese refugees, their ever-growing numbers and the increasing inability of the countries to which they fled to cope with a situation of such immense proportions, led to an international conference in Geneva on Indochinese refugees. On 18 July 1979, Amnesty International cabled Dr Kurt Waldheim, the Secretary-General of the United Nations, at the opening of the conference expressing concern for Kampuchean refugees threatened with possible death, torture or political imprisonment, if returned to their country or not rescued from the border region where thousands were concentrated. It urged the conference to ensure that no further *refoulement* of Kampuchean refugees take place, that the tens of thousands forcibly repatriated during the previous months be allowed to re-enter camps in Thailand and that all participating countries make every possible effort to assist the Thai authorities to find a more lasting solution. Since May 1979, the national sections of Amnesty International had been urging the governments in their countries to facilitate such a solution, more especially when there were reports in early 1980 that groups of refugees were subjected to ill-treatment in the camps in Thailand and again faced increased danger of forcible repatriation.

In August 1979 a special tribunal established by the PRK tried *in absentia* Pol Pot and Ieng Sary, the Prime Minister and Foreign Minister in the overthrown Government of Democratic Kampuchea.