

despite disciplinary action being taken against a few of its members, there continued to be regular reports of human rights violations being committed by the SOG. In May, the NHRC asked the Chief Secretary of Jammu and Kashmir for specific information on the systems used by the state authorities to record and investigate allegations of "disappearances" and on measures taken to prevent further "disappearances". A substantive response to the Commission's request remained outstanding at the end of 2003.

Civilians continued to be targeted for gross human rights violations in Jammu and Kashmir and scores of allegations of human rights violations were made against the security forces, paramilitaries and "renegades" (former members of armed opposition groups working with the security forces).

Abuses by opposition groups

There were continuing reports of human rights abuses by armed opposition groups against civilians. In Jammu and Kashmir human rights abuses by militants persisted at a high level with a reported 344 civilians killed in targeted or indiscriminate violence by armed groups in the period from January to the end of November. On 24 March armed men shot dead 24 Kashmiri Pandits, including 11 women and two children, in the village of Nadimarg. In the states of the northeast, abuses included the torture and killings of non-combatants and attacks on civilians by *naxalites* (armed left-wing groups) in areas of Andhra Pradesh, Bihar, Madhya Pradesh, Orissa and West Bengal.

Human rights defenders

Human rights defenders continued to face accusations of "anti-national" activities, harassment by state agents, political groups and private individuals, including threats, preventive arrest and detention, and violence.

There were reports that following an assassination attempt on the Chief Minister of Andhra Pradesh in October, allegedly by *naxalites*, retaliatory harassment was initiated against human rights defenders. At least six members of the Andhra Pradesh Civil Liberties Committee (APCLC) were detained for questioning in October in connection with the assassination attempt and APCLC activists were put under constant surveillance and were repeatedly detained for questioning. In November there were growing concerns the APCLC could face a ban following statements by the Director General of Police indicating that the organization was sympathetic to the *naxalites*.

Death penalty

At least 33 people were sentenced to death in 2003. No executions were reported. India's highest courts have ruled that the death penalty can only be applied in the "rarest of rare" cases. In the absence of any more detailed definition, the interpretation of this phrase by judges varied greatly. The majority of those sentenced to death are poor and illiterate. The government of India does not publish statistical information about the implementation of the death penalty. Politicians

continued to make statements favouring the extension of the death penalty. In mid-2003 the Law Commission issued a questionnaire asking citizens to indicate which mode of execution should be used when executing those on death row.

AI country reports/visits

Reports

- India: Break the cycle of impunity and torture in Punjab (AI Index: ASA20/002/2003)
- India: Report of the Malimath Committee on Reforms of the Criminal Justice System – Some observations (AI Index: ASA20/025/2003)
- India: Abuse of the law in Gujarat – Muslims detained illegally in Ahmedabad (AI Index: ASA 20/029/2003)
- India: Open letter to the Chief Minister of Jammu and Kashmir on the failed promises of the Common Minimum Programme (AI Index: ASA 20/033/2003)

Visits

In 2003 AI continued to have an ongoing dialogue with the government of India about access to India for AI representatives.

INDONESIA

REPUBLIC OF INDONESIA

Head of state and government: Megawati Sukarnoputri

Death penalty: retentionist

UN Women's Convention: ratified with reservations

Optional Protocol to UN Women's Convention: signed

The human rights situation deteriorated in some areas as the government resorted to increasingly repressive methods against independence movements. Increases in the number of cases of extrajudicial executions, "disappearances", arbitrary detention, torture, sexual violence, forced displacement and destruction of property were reported following the declaration of a military emergency to combat the armed independence movement in Nanggroe Aceh Darussalam (NAD) in May. Military operations against both armed and peaceful independence activists in Papua also resulted in human rights violations, including arbitrary detention and torture. Elsewhere, the police employed excessive force against protesters. At least 30 prisoners of conscience were sentenced to terms of imprisonment. Trials of prisoners of conscience and political prisoners did not meet international standards for fair trial and there were reports that some detainees were tortured. Efforts to hold perpetrators to account for human rights violations suffered a major setback as the trials of individuals charged with committing crimes against humanity in

the Democratic Republic of Timor-Leste (formerly known as East Timor) ended without having delivered either truth or justice.

Background

Indonesia enjoyed a year of relative political and economic stability, but a lack of political will and pervasive corruption inhibited progress in key areas, including reform of the law and the judiciary. The decision to resort to military operations in NAD was regarded as a reflection of the growing confidence of the military and its renewed influence on government policy.

Security legislation

Legislation on Combating Criminal Acts of Terrorism was adopted. AI was concerned that the act of "terrorism" was not adequately defined and that the rights of suspects were not fully guaranteed under the law.

Over 100 people were arrested under the legislation. The majority were alleged members of *Jemaah Islamiyah* (Islamic Community), an organization which has pledged to use violent means to set up a pan-Islamic state in Southeast Asia and has allegedly been responsible for a number of bomb attacks in Indonesia, including at the Marriott Hotel in Jakarta in August 2003. Those arrested included three men who were sentenced to death for involvement in the bombings in Bali in October 2002 in which over 200 people died.

Others arrested included five senior members of the armed group, the Free Aceh Movement (GAM). The five represented GAM in peace negotiations with the government and were arrested in May on their way to talks with the government. All were found guilty of rebellion and acts of "terrorism" and sentenced to between 12 and 15 years' imprisonment. One complained of receiving death threats and suffering ill-treatment in police custody. AI was concerned that their trials may not have been fair.

Other concerns about lack of protection for suspects under this legislation were raised after reports emerged that a number of Islamist activists held under the security legislation had been tortured or ill-treated and that their families were not initially informed of their whereabouts.

Repression of pro-independence movements

A marked deterioration in the human rights situation in NAD followed the imposition of a military state of emergency on 19 May after the collapse of a peace process between the government and GAM. Tight restrictions on access to NAD by international human rights monitors, humanitarian workers and international journalists, as well as intimidation and harassment of local human rights activists and journalists, effectively prevented independent monitoring of the situation. According to official sources, over 1,100 people had been killed by the end of the year, including some 470 civilians. Local human rights organizations claimed that many more civilians were among the dead. Members of the National Commission on Human Rights (Komnas HAM) publicly

stated that both government security forces and GAM were responsible for human rights abuses and that they had documented cases of extra-judicial execution—including of children—arbitrary detention, torture, sexual violence and "disappearance".

Tens of thousands of people were displaced by the military operations, some by force. There were serious concerns for the security and well-being of internally displaced persons, including those in government-established camps where there were unconfirmed reports of sexual violence by the security forces.

The government claimed that 2,000 members of GAM had surrendered or been captured by the end of the year and several hundred brought to trial. Detainees were denied access to lawyers. There was concern that they were at risk of torture or ill-treatment, apparently routine in military and police custody.

GAM was responsible for human rights abuses, including kidnapping. Over 150 people were alleged to have been abducted by GAM after May, including local government officials and journalists.

Peaceful expressions of support for independence in Papua were prohibited. Several trials of individuals involved in flag-raising ceremonies or other symbolic actions took place. Three people were sentenced to imprisonment for up to two years or participating in a peaceful pro-independence ceremony in Abepura in December 2002. Nine others who participated in a similar ceremony in Manokwari in late 2002 were also sentenced to terms of imprisonment of up to 15 months. Other ceremonies in late 2003 resulted in the arrest of over 40 people, seven of whom were subsequently charged with rebellion.

Komnas HAM reported that seven people were killed during a military operation in Jayawijaya District in April to recover weapons and ammunition allegedly stolen from the military by members of the armed opposition group, the Free Papua Movement (OPM). Two soldiers were killed in the raid. Villagers were allegedly tortured and ill-treated, and houses and other property were destroyed or damaged during the operation. At least 30 people were detained, including human rights activists. One person died in custody, allegedly as a result of torture; others were reported to have suffered injuries. No one was held to account for these human rights violations, but 46 people were found guilty of offences related to the raid and were reportedly sentenced to up to life imprisonment. AI was concerned that their trials may not have been fair.

Prisoners of conscience and unfair trials

Thirty prisoners of conscience were sentenced to terms of imprisonment during the year. Nineteen people were charged under provisions in the Criminal Code that forbid insulting the President or government. The provisions contravene the right to freedom of expression.

Prisoners of conscience included labour and political activists and peaceful supporters of independence in NAD and Papua. Journalists were also put on trial. AI was concerned that trials of journalists represented a serious threat to press freedom in Indonesia.

Prisoners of conscience and political prisoners were convicted after unfair trials. Irregularities included incommunicado detention and denial or restriction of access to lawyers and family members. Cases of torture or ill-treatment of suspects were also reported

☞ Six members of the Governing Front of the Poor were arrested after participating in a demonstration in Kendari town, South Sulawesi, in January during which portraits of the President and Vice-President were burned. The six were reported to have been beaten, punched and slapped and had objects thrown at them while in police custody in Kendari. Access to legal representation was restricted. All were found guilty of insulting the President. They were sentenced to four months and 15 days' imprisonment, the time already spent in pre-trial detention. It appeared that there was no investigation into the allegations of torture and ill-treatment, although one police officer allegedly involved in the beatings was reportedly transferred to another police station

☞ Two editors of the daily tabloid *Rakyat Merdeka* were sentenced to suspended prison terms for publishing material deemed insulting to political leaders. Karim Papatungan was found guilty of defamation and sentenced to five months in jail for printing a cartoon considered insulting to a leading politician. Supratman was sentenced to six months' imprisonment for "insulting the President" after printing headlines critical of the government's plans to increase fuel and basic commodity prices

Human rights defenders at risk

Human rights defenders continued to be at risk, particularly in NAD where human rights organizations were among those publicly accused by the security forces of links to GAM. Two members of human rights organizations in NAD were believed to have been extrajudicially executed and three others "disappeared" during the year. At least 11 human rights activists were briefly detained under the military emergency. A workshop on human rights monitoring organized by Komnas HAM in NAD was broken up by the security forces in October. There was no progress on resolving the cases of 18 other human rights defenders believed to have been extrajudicially executed or who had "disappeared" in NAD since 2000.

Elsewhere charges of defamation were brought against several human rights defenders apparently to discourage them from carrying out their legitimate work

☞ Mukhlis Ishak, 27, and Zulfikar, 24, "disappeared" after they were arrested in March by plainclothed men believed to be from a military intelligence unit. The arrest, which was photographed, took place as the men were accompanying villagers demonstrating outside the office of the head of Birueen District, NAD. Both are members of the Link for Community Development, which assists internally displaced people

☞ A defamation suit against Inda Fatimaware, Director of the Indonesian Forum for the Environment (Wahli), was filed by the Police Commander of South

Sulawesi Province in October after three farmers were shot dead during land protests against a plantation company in Bulukumba District in July and October. Wahli had issued a press statement which accused the police of responsibility for the killings and called on the local police commander to resign

Accountability for human rights violations

The verdict in the last of 12 trials relating to the violence in Timor-Leste around the ballot on independence in 1999 was delivered in August. Major General Adam Damiri, former Regional Military Commander for Timor-Leste, was sentenced to three years' imprisonment. He was one of six people found guilty of crimes against humanity but, like the others, he remained free pending the outcome of an appeal against the conviction. He also continued in active service in the military. Twelve others were acquitted in trials that began in 2002. Problems with the earlier trials were not resolved and later trials were also characterized by weak prosecutions that failed to present credible cases in court. The failure to provide effective protection meant that many victims and witnesses from Timor-Leste were unwilling to appear before the court

Indonesia's reluctance to bring to justice those responsible for the violence in Timor-Leste in 1999 was reinforced by its continued refusal to transfer to Timor-Leste some 280 suspects who live in Indonesia against whom there were indictments issued by the Timor-Leste Prosecutor General. Among them were individuals charged with committing crimes against humanity

Other landmark trials began in September when 13 military officials, including the current commander of the Special Forces Command (Kopassus), appeared before a Human Rights Court charged in relation to the killing of Muslim protesters in Tanjung Priok, North Jakarta, in 1984. The trials were ongoing at the end of the year, but shortcomings similar to those that undermined the effectiveness and credibility of the Timor-Leste trials had already emerged, including allegations of intimidation of victims and witnesses.

Seven members of Kopassus were sentenced to between one year's and 42 months' imprisonment by a military tribunal after being found guilty of causing the death of the leader of the Papuan civilian independence movement, Theys H. Eluay, in 2001. The trials were criticized because command responsibility for the killing was not established and because of the light sentences. After the verdict the Army Chief of Staff publicly described the seven as "heroes"

There were a few investigations by the military into alleged human rights violations under the military emergency in NAD. However, these represented a tiny fraction of the total reported cases and the investigations were not considered sufficiently independent or impartial. Ten soldiers were known to have been convicted in military courts, including three soldiers who were sentenced to up to three and a half years' imprisonment for the rape of four women in North Aceh District in June.

The majority of alleged human rights violations were not investigated or, when they were, prosecutions did not follow. In October the US Senate voted to maintain a ban on training Indonesian armed forces because of lack of progress in the investigation into the killing of one Indonesian and two US teachers near the US-owned Freeport Indonesia mine in Mimika District, Papua, in August 2002. It was alleged that the military were involved in the attack.

Death penalty

At least 61 people were believed to be on death row, nine of whom were sentenced during the year. No executions took place.

Lack of judicial independence: report of UN Special Rapporteur

The report of the UN Special Rapporteur on the independence of judges and lawyers' visit to Indonesia in July 2002 was published. The report expressed extreme concern about the lack of a culture of judicial independence and of widespread corruption in the judiciary, police, prosecutors' offices and the Office of the Attorney General.

AI country reports/visits

Reports

- Indonesia & Timor-Leste: International responsibility for justice (AI Index: ASA03/001/2003)
- Indonesia: Protecting rights in Nanggroe Aceh Darussalam during the military emergency (AI Index: ASA21/020/2003)
- Indonesia: Protecting the protectors – Human rights defenders and humanitarian workers in Nanggroe Aceh Darussalam (AI Index: ASA 21/024/2003)
- Indonesia: Old laws – new prisoners of conscience (AI Index: ASA 21/027/2003)
- Indonesia: Press freedom under threat (AI Index: ASA 21/044/2003)

JAPAN

JAPAN

Head of government: Koizumi Junichiro

Death penalty: retentionist

UN Women's Convention: ratified

Optional Protocol to UN Women's Convention: not signed

A man reportedly suffering from a mental health condition was executed. An 86-year-old prisoner died after spending more than 36 years on death row. More than 55 prisoners had their death sentences confirmed by the Supreme Court and were at risk of execution. Reports of ill-treatment in prisons continued to be received. There were reports that prisoners were held in isolation for prolonged periods.

Background

The 9 November election saw Prime Minister Koizumi re-elected.

Peru formally requested the extradition of former Peruvian president Alberto Fujimori in connection with the murder of 15 people in 1991 at Barrios Altos, Lima, and the "disappearance" and murder of nine students and a university professor in Lima in 1992. The Japanese Foreign Ministry stated that Alberto Fujimori, in exile in Japan since 2000, is a Japanese citizen and so his extradition was prohibited under the Extradition Law, raising criticism that Japan was complicit in Alberto Fujimori's impunity.

Japan warned North Korea it could not expect substantial Japanese aid until the sensitive issue involving the alleged abduction of several hundred Japanese citizens by North Korean secret agents in the 1970s and 1980s was resolved. During a visit by Prime Minister Koizumi to Pyongyang in 2002, North Korea admitted to abducting 13 Japanese nationals.

A bill to extend the term of a special "anti-terrorism" law was passed in October.

Death penalty

One man was known to have been executed. Many prisoners under sentence of death spent years on death row, in solitary confinement or prolonged periods. Execution is by hanging and is carried out in secret and with little notification to prisoners and none to their families.

☞ Shinji Mukai was executed by hanging in Osaka detention centre in September. He was informed of his impending execution just a few hours before it was carried out; his family and lawyer received no warning. He was reportedly suffering from mental health problems and his lawyer was preparing an appeal for retrial at the time of the execution.

☞ In September, Tomiyama Tsuneki, an 86-year-old prisoner under sentence of death, died of kidney failure after spending 39 years in detention, 36 of them on death row.