

MEMORANDUM TO PRESIDENT SUHARTO AND THE GOVERNMENT OF INDONESIA
SUBMITTED ON BEHALF OF AMNESTY INTERNATIONAL

1971
ASA 21

Since the events of September 1965 a very large number of persons have been held in prisons and detention camps throughout Indonesia. Over five years their numbers have fallen substantially from the first estimate of over 200,000, but it is estimated that 90,000 still remain in prisons and camps uncharged and untried. It is claimed that those now in detention are suspected of communist sympathies.

While fully appreciating the extremely difficult and dangerous situation which faced the Indonesian Government in 1965 and 1966, it is considered that the continued detention of vast numbers of persons who are uncharged and untried clearly contravenes the provisions of the Universal Declaration of Human Rights and the norms of the Rule of Law. The continuance of this situation is obviously highly damaging to the image of Indonesia in the outside world: it also tends to prolong the memory and bitterness resulting from the tragic events of 1965. From discussions we have had with both the responsible civil and military authorities in Djakarta, we believe that the Indonesian Government appreciates the necessity of dealing with this problem.

One of the difficulties we have found in the course of our investigations is the absence of reliable public statistics as to the number of prisoners held. We understand that the untried prisoners, amounting to some 90,000, have been classified in the following categories:

Category "A"	5,000	This comprises prisoners whom it is intended to charge and try in the future.
Category "B"	10,000 to 15,000	These are prisoners whom it is not intended to try but who are suspected of being committed communists.
Category "C"	30,000	These are an undefined category of suspects whom the Government has announced it intends to release.
Category "X"	30,000 to 40,000	This is a new and somewhat ill-defined category of prisoners many of whom have been imprisoned in more recent times and who have not been classified.

Estimated total: 75,000 to 90,000

The imprecise nature of this estimate is due to the difficulty of obtaining reliable official statistics. It is strongly recommended that the Government should take steps to obtain and publish precise figures as to the numbers held. Unless this is done the Government itself and the international agencies which are prepared to help the Government will be faced with added difficulties in the formulation of release programmes.

In regard to the Category "A" prisoners the problem as we see it is that even if charges and evidence are available to put them on trial, the existing judicial machinery is totally inadequate to undertake the trial of 5,000 persons. It is understood that it is the intention of the Government to appoint five hundred new judges by 1974 for the purpose of undertaking these trials. Even if the Government does find it possible to appoint five hundred new judges and the necessary ancillary legal personnel within the course of the next two or three years, the trial of some 5,000 persons is bound to take another 10 years or so. This would mean that many of those awaiting trial will probably die before they are tried and that in a number of cases trials will take place only some 10 to 15 years after the events that form the basis of charges. This is obviously most

unsatisfactory. It is therefore suggested that a re-assessment of the cases of the 5,000 prisoners in Category "A" should be undertaken with a view to the release of those against whom there is no evidence and of those who even if guilty of some offence, could be regarded as having purged their offence by the 5 years they have already spent in prison. It is believed that if such a review of the Category "A" prisoners were undertaken, the number remaining for trial would be considerably reduced. The programme for the strengthening of the judicial machinery and the appointment of additional judges should in any case be proceeded with as the existing judicial machinery is insufficient by any standards. The existing judges, while dedicated, are overwhelmed with work.

In regard to the Category "B" prisoners it is suggested that in these cases too there should be a complete revaluation. It is completely contrary to the norms of the Rule of Law that persons suspected of being "communist" should be detained indefinitely without charge or trial. If any of them are alleged to have committed crimes, they should be tried.

In regard to Category "C" prisoners the Government announced in 1969 that it had decided that the Category "C" prisoners would be released in the beginning of 1970. Unfortunately, while a substantial number of these have been released in pursuance of the Government's decision, there still remain at least 30,000. Taking into account the Government's firm decision that these prisoners should be released it is urged that the time has now come to fix a definite target date by which all these prisoners will be set at liberty.

Alternatively, the Government may take a firm decision to release not less than 5,000 of these prisoners per month. Obviously the Government, having taken a firm decision that these prisoners should be released, the utmost speed should be exercised to give effect to this decision. In any event the future Government's programme in regard to prisoners should be announced at an early date.

The position of the Category "X" prisoners is very difficult to assess. Originally these prisoners had not appeared in any nomenclature of the prisoners held. They appear to comprise prisoners who had been arrested since 1966 and to include many prisoners arrested recently. The number of these prisoners seems to fluctuate. Little is known as to the exact causes of their detention. They do not appear to have been charged or convicted of any offence known to the law of Indonesia. Little is known as to the formalities, if any, which are required to permit the arrest or unlimited imprisonment of any person; they appear to be left very much to the uncontrolled discretion of local military officers. This of course is a highly unsatisfactory state of affairs. Very specific limitations as to the powers which can be exercised by the civil or military authorities during a period of national emergency have been laid down internationally. (See United Nations Covenant on Civil and Political Rights; Conclusions of United Nations Seminar in Jamaica (1967); European Convention on Human Rights (1950)).

The principal reason advanced by members of the Government for the slowness in the release of the Category "C" prisoners is the fear of physical reprisals by the local populations. There has been no evidence of such an attitude by the population in the very substantial releases which have taken place in the last year. It is confidently hoped that the President and members of the Government could offset any such danger by appealing to the population to facilitate the reintegration of the released prisoners into the life of the Indonesian nation.

We are also gravely concerned with the removal of up to 10,000 prisoners to the Moluccan island of Buru and the plan to transport prisoners to other such islands. The intention is that they should support themselves agriculturally, eventually be joined by those of their families who wish to do so, and that one day they will be able to leave the strict limits of their present detention camps and move freely inside the island. It is not envisaged that they will ever leave it. Other similar "resettlement" areas are planned off Sumatra and in Kalimantan

for "B" detainees. This plan is to be seen in the context of a national transmigration policy to alleviate population pressure on Java and develop the less populated areas of the Republic.

Without questioning the well-meaning motives which may have inspired this massive transportation of untried prisoners to island detention camps, it is a policy which is fraught with grave danger and which cannot be justified under any legal concept. The transportation for life of 10,000 prisoners, mostly males, without their families to camps on remote islands is clearly contrary to the laws of humanity and to justice. What is to happen to these vast penal settlements in the future? Is this the best way of eradicating the bitterness and dissension of the past? Is it wise to create substantial pockets of population, which will not unnaturally nourish resentment against the authorities who have transported them there? If any programme of resettlement for ex-prisoners is envisaged, this should be done on the basis of reintegration of the ex-prisoners into the life of the community and, wherever possible, on the basis of family grouping. Be it in regard to the question of release of prisoners or the problem of resettlement of ex-prisoners, it is probable that international bodies would be only too willing to provide technical assistance to the Indonesian Government for this purpose.

There is another problem related indirectly to the employment of ex-prisoners which should be mentioned. At present any Indonesian over the age of 15 who seeks employment, entry to education institutions, to marry, to move house, etc., must obtain from the police a "certificate of non-involvement"; i.e. in relation to the events of 1965. Certificates of non-involvement are not issued to former prisoners, former members of left wing organisations, families of prisoners or of those who died in 1965. Whether based on law or not this practice appears to be particularly invidious. It is certainly a factor which inhibits the rehabilitation of released prisoners; in the future it can only perpetuate national divisions.

The inherited economic and domestic difficulties have prevented the Government in many instances from providing adequate accommodation, food and medical facilities for the vast number of prisoners being detained. We are gravely concerned as to the health of many of the prisoners. For these reasons it is urgently hoped that full provisions will be made in the immediate future for regular visits to all the places of detention by qualified independent medical teams and that their recommendations will be implemented.

In relation to the treatment of all prisoners we would respectfully draw the attention of the Indonesian Government to the provisions of the United Nations Standard Minimum Rules for the Treatment of Prisoners. We appreciate that in the existing circumstances it will take some time before they can be fully put into operation in Indonesia. We would, however, urge that copies of these Rules should be supplied to the commandants of all military camps of detention where prisoners are detained. We would in addition urge that the Government should ensure the immediate application of at least the following rules set forth in the Standard Minimum Rules:

- Rule 20 (1) Administration's obligation to provide food of nutritional value adequate for health and strength
- 22-26 Qualified and regular medical care and treatment
- 31 Prohibition of "cruel and degrading" treatment
- 37 Regular family communication
- 44 (1) Obligation on prison authorities to inform family of prisoner's death or serious illness
- 44 (3) Prisoner's right to inform his family of his imprisonment

- 90 Untried prisoners' right to reading matter
93 Legal access

As far as we know, over the last five years, these provisions have not applied generally.

The concern of Amnesty International in making the propositions herein set forth was to put forward proposals which might be of assistance to the Indonesian Government in the solution of a problem which is of paramount importance for the future development and stability of the Republic of Indonesia. Amnesty International and indeed the other international organisations working in the human rights field would, we feel, be more than willing to extend any assistance in their power to the Indonesian Government to secure the constructive solution of these problems.

Amnesty International wishes to avail itself of this occasion to express its thanks and appreciation to the Government of Indonesia for the facilities which were extended to the two missions which visited Djakarta on behalf of Amnesty International in 1969 and 1970*.

Sean MacBride, S.C.
Chairman,
Amnesty International
Executive Committee.

- * July 1969 Professor Julius Stone, Challis Professor of International Law,
University of Sydney.
- October 1970 Mr. Sean MacBride, S.C., then Secretary-General of the International
Commission of Jurists and Chairman of the International Executive
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