

INTERNAL (for AI members only)

DP/SP/3/81

TO: All death penalty coordinators
All Indonesia co-groups
All Indonesia adoption groups for
information

FROM: Asia Research Department/Campaign Unit

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Amnesty International
International Secretariat
10 Southampton Street
LONDON WC2E 7HF
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DEATH PENALTY SPECIAL ACTION

INDONESIA: DR. SUBANDRIO AND OTHER PRISONERS UNDER SENTENCE OF DEATH

BACKGROUND

In October 1965, a group of middle-ranking army officers, in an attempt to overthrow the existing army leadership, kidnapped and killed six senior generals. The army reacted quickly and suppressed the coup attempt, holding the Indonesian Communist Party (PKI - Partai Komunis Indonesia) to blame for masterminding it, although it has never been clearly established what role the PKI did play in these events. In the weeks and months following the coup attempt, there ensued a massive purge of people associated with the PKI and other left-wing organisations, during which hundreds of thousands were arrested and, according to a government spokesman, more than half a million were summarily killed.

Amnesty International believes that more than 50 prisoners are under sentence of death for alleged involvement in the attempted coup of 1965 or for alleged involvement in subsequent attempts to revive the PKI. These prisoners fall into several different categories, including:

- 1) former senior government officials and military officers who were not members of the PKI but were alleged to have co-operated with the PKI in planning and carrying out the coup attempt;
- 2) former senior officials of the PKI;
- 3) former members of the Presidential Guard, the Cakrabirawa, who were said to have participated in the kidnapping and murder of the six generals;
- 4) persons allegedly involved in attempts to revive the PKI through armed struggle in the Blitar area of East Java following the banning of the PKI and the arrests and killings of its members after the coup.

Of those in category 1, the best-known is Dr. Subandrio, Deputy Prime Minister and Foreign Minister at the time of the 1965 events and one-time Indonesian Ambassador to London and Moscow. Dr. Subandrio, and presumably also all others under sentence of death for alleged involvement in the 1965 coup, was charged under the 1963 Presidential Decree on Subversion. He was tried before a specially created military tribunal (Mahkilub) where summary procedures were followed and no appeal to a higher court was allowed; prisoners sentenced to death could only appeal for clemency to the President. Dr. Subandrio was sentenced to death after being found guilty of collaborating in a conspiracy to overthrow the legal government and attempting to undermine the authority of the state after the coup. In his defence, Dr. Subandrio said that his actions at the time were intended to implement the then President's policies. After his trial, Dr. Subandrio was held at a military camp in Cimahi,

West Java, and was later transferred to Nirbaya prison in Jakarta, where he is still detained. Government officials have indicated that Dr. Subandrio's death sentence would not be carried out.

Dr. Subandrio's case illustrates a number of features common to the cases of prisoners under sentence of death for alleged involvement in the 1965 coup. In almost all cases, trial was before military courts, either the specially created Mahmilubs or, in the cases of a number of military personnel, in regular military tribunals, in neither of which were internationally recognised procedures guaranteeing a fair trial followed. Trial under the Subversion Decree of 1963, which was enacted into law in 1969, is regarded as of doubtful constitutional validity. Indonesian lawyers have argued that the decree should have lapsed with the recall of parliament in 1966. It has also been asserted that those who were tried after the enactment of the Subversion Law in 1969 (as were some of those now under sentence of death) were tried under a law which was used retroactively since their alleged offences dated to 1965-66, before the law was passed. In addition, Amnesty International believes that direct involvement in the coup attempt of 1965 on the part of many of those sentenced to death was not established in court but that the proceedings were aimed at generally discrediting people who had been closely associated with former President Sukarno or with the PKI. Those who do appear to have played some part in the kidnapping and murder of the six generals were for the most part ordinary soldiers, acting on the orders of superiors.

Of the death sentences imposed for alleged involvement in the 1965 coup attempt or in subsequent attempts to revive the PKI, relatively few have been carried out. Amnesty International believes that less than 10 of those sentenced to death by the courts have been executed, although many thousands were killed without process of law in the aftermath of the coup attempt. A recent letter from the Dutch Foreign Minister, C.A. van der Klaauw, to the Communist Party of the Netherlands relayed an assurance from the Indonesian authorities that the death sentences still outstanding would not be carried out. The same letter quotes Indonesian authorities as saying that no more than 31 persons are under sentence of death for having participated in the coup attempt and subsequent events. As noted above, Amnesty International believes that the true figure is considerably higher.

Although the Indonesian authorities have indicated that the death sentences would not be carried out, there are no avenues open to persons condemned to death to be granted commutation, remission and eventual release, once their petitions for clemency have been rejected. Under the terms of a remission decree issued in November 1979, political prisoners sentenced to imprisonment for life or lesser terms became eligible for remission of their sentences on the same terms as criminal prisoners. Despite the informal assurance that persons under sentence of death will not be executed, these prisoners are not eligible for remission and eventual release until their sentences are formally commuted, since prisoners under sentence of death do not fall under the terms of the remission decree.

(NOTE: The above background is EXTERNAL - for general distribution.)

RECOMMENDED ACTIONS

1. This action should be organised by the national section death penalty coordinator in consultation with the Indonesia Coordination Group in sections where these exist.
 2. Each national section should send up to 10 letters to President Suharto urging him on humanitarian grounds to commute all death sentences imposed for alleged involvement in the attempted coup of 1965 and subsequent events.
 3. Letters should state that Amnesty International believes that the number of prisoners under sentence of death exceeds official government figures. Letters should cite general arguments against the death penalty rather than arguments about particular legal circumstances in Indonesia (e.g. status of military tribunals, constitutionality of the Subversion Decree/Law) since the latter type of argument is unlikely to convince the Indonesian authorities.
- (NOTE: for your information only - a letter has been sent from the International Secretariat to President Suharto summarizing the arguments for commutation, enclosing a list of prisoners believed to be under sentence of death and asking for clarification of the status of those on the list - see enclosure. Copies of this letter may be distributed publicly.)
4. Copies of letters to the President should be sent to the Chairman of the Supreme Court and the Minister of Justice with a covering letter stating that in cases where appeals are still pending before the Supreme Court, action should be taken to commute the death sentence.
 5. Any local publicity about these cases can be brought to the attention of Indonesian diplomatic representatives in your country.

ADDRESSES

Letters to:

President Suharto
Istana Negara
Jalan Veteran
JAKARTA
Indonesia

Copies (with covering letter) to:

Major General Mujono
President of the Supreme Court
Mahkamah Agung (Supreme Court)
Jalan Lapangan Banteng Timur 1
JAKARTA
Indonesia

Major General Ali Said
Minister of Justice
Departemen Kehakiman
Pejambon 2
JAKARTA
Indonesia

Copies may also be sent to Indonesian diplomatic representatives in your country.

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Amnesty International
International Secretariat
10 Southampton Street
LONDON WC2E 7HF
England

DATE: 1 May 1981

DEATH PENALTY SPECIAL ACTION

INDONESIA

Text of Letter Sent by Amnesty International to President Suharto on 29 April 1981
and List of Prisoners Believed to be Under Sentence of Death

TEXT OF LETTER SENT BY AI TO PRESIDENT SUHARTO ON 29 APRIL 1981

"I am writing to you to urge respectfully that you exercise your powers of clemency in the cases of prisoners held under sentence of death for alleged involvement in the attempted coup of 30 September 1965 and subsequent events.

As you will be aware, Amnesty International has welcomed recent steps taken by your government to resolve the long-standing problem of the imprisonment of persons detained in connection with the events of 1965. In particular, Amnesty International was encouraged by the completion in December 1979 of the phased release program for untried prisoners and by the issue of a decree granting tried political prisoners eligibility for remission on the same terms as criminal convicts. Amnesty International remains concerned at the position of more than 50 persons sentenced to death for their alleged participation in the 1965 coup and subsequent events, who have not benefitted from these measures.

As Your Excellency will be aware, Amnesty International opposes the imposition and implementation of the death penalty in all cases without reservation. Amnesty International is part of a worldwide movement working for the abolition of the death penalty on the grounds that it is a punishment incompatible with international humanitarian standards, in particular with the guarantee of the right to life and the prohibition against all forms of cruel, inhuman or degrading treatment or punishment as proclaimed in the Universal Declaration of Human Rights. In its resolution of 8 December 1977 (32/61), the United Nations General Assembly expressed the desirability of abolishing capital punishment and a number of individual governments have subsequently taken steps in this direction.

Amnesty International appreciates that your own government, while retaining the power to impose the death penalty, has carried out sentences of death relatively infrequently. Indeed, Amnesty International understands that officials of your government have given informal assurances that those under sentence for alleged involvement in the 1965 coup and subsequent events would not in fact be executed. However, Amnesty International feels that the anguish caused to persons under sentence of death and to their families and friends, which Amnesty International regards as in itself constituting a form of cruel, inhuman or degrading punishment, would be greatly alleviated by commutation of these sentences. Moreover, Amnesty International endorses the position of the United Nations Secretariat, which, in its report to the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, called for recognition of the possibility of rehabilitation in the cases of capital offenders.

"I am enclosing with this letter a list of persons whom Amnesty International believes are still under sentence of death for alleged involvement in the 1965 coup and subsequent events. Since officials of your government have stated that the number of such persons is no more than 31, I should be grateful if you would convey to me information regarding the present status of the cases of the 58 persons on the enclosed list.

Amnesty International is concerned that those under sentence of death have now been facing the prospect of implementation of their sentences for periods of up to 15 years and that many of them were sentenced after trials following summary procedures in specially constituted military tribunals. Formal commutation of these death sentences would, besides lifting the uncertainty surrounding these cases, open the way to the eventual rehabilitation of those affected. Amnesty International has noted that Indonesian lawyers have also stressed the desirability of pursuing the goal of rehabilitation in such cases. Thus, with specific reference to persons sentenced under the Subversion Law, the Workshop on the Development of Law through the Courts, held in October 1978, concluded that 'in a changing political situation' pardons and amnesties were among the 'instruments of correction' available for decisions in subversion cases.

Under their present status, as persons under sentence of death, these prisoners are unable to receive the remission of their sentences open to other political prisoners, and the possibility of their rehabilitation is foreclosed. I respectfully urge once again that you grant the commutation of their sentences so that this possibility may be opened up."

LIST OF G30S/PKI PRISONERS BELIEVED TO BE UNDER SENTENCE OF DEATH

<u>NAME</u>	<u>DATE & PLACE OF TRIAL</u>	<u>PLACE DETAINED</u>
1. Abdullah ALIHAMY	Mahmildam or Mahmilub; 1968; Fekanbaru	Banjarmasin
2. Sajid Fachrul BARAGBAH	December 1966; Balikpapan	Samarinda
3. BONO	Mahmilub; October 1968; Semarang	Cipinang, Jakarta
4. Anatasius BUANG, Sergeant	Mahmildam; November 1969	Cipinang, Jakarta
5. I. BUNGKUS, Sergeant	Mahmildam; July 1979	Cipinang, Jakarta
6. Omar DHANI, Air Vice Marshal	Mahmilub; December 1966; Jakarta	Nirbaya, Jakarta
7. DJAJUSMAN	Mahmildam or Mahmilub; June 1969; Padang	-
8. Hanan EFFENDI	1967	-
9. GIJADI, Sergeant	Mahmildam; April 1968	Cipinang, Jakarta
10. Markus GIROTH	Mahmilub; November 1968; Ujung Pandang	Ujung Pandang

<u>NAME</u>	<u>DATE & PLACE OF TRIAL</u>	<u>PLACE DETAINED</u>
11. HAMIM (military)	-	Cipinang, Jakarta
12. HARGIJONO, Corporal	Mahmilub; 1967; Jakarta	Cipinang, Jakarta
13. HARY (military)	-	Cipinang, Jakarta
14. Tamuri HIDAYAT, Lieutenant	1967; Bali	-
15. ISMANTO	Binjai State Court; December 1974	-
16. KAMIL, Lieutenant	Mahmildam; May 1967; Jogjakarta	Nuskambangan
17. MARPAUNG	1968	-
18. MARSUDI, Sergeant Major, Air Force	Mahmildam, July 1976	Cipinang, Jakarta
19. MOEDERISIMAN	Medan State Court; January 1973	-
20. MUKIDJAN, Lieutenant	Mahmildam; April 1968	Cipinang, Jakarta
21. MULJONO Surjowardoyo	Mahmildam or Mahmilub; 1966; Semarang	-
22. Mohamad MUNIR	Jakarta State Court; April 1973	Cipinang, Jakarta
23. NAZIR	-	Medan
24. Paris PARDEDE	Mahmilub; June 1966; Medan	Medan
25. PONO (or SUPONO Marsudidjojo)	Mahmilub; March 1972; Jakarta	Cipinang, Jakarta
26. Didi RACHMAN	Bogor State Court; June 1973	-
27. Utomo RAMELAN	Mahmilub; November 1966; Solo	-
28. Nur RAHOYAN (military)	Mahmildam; November 1969	Cipinang, Jakarta
29. RASWAD, Sergeant	Mahmildam; April 1968	Cipinang, Jakarta
30. RUSLAN Widjayastra	Jakarta State Court; July 1974	Cipinang, Jakarta
31. RUSTOMO	Surabaya State Corrt; 1774	-

<u>NAME</u>	<u>DATE & PLACE OF TRIAL</u>	<u>PLACE DETAINED</u>
32. SATAR Suyanto (military)	Mahmildam; April 1971	Cipinang, Jakarta
33. Muchtar Effendi SIRAIT	Kabanjahe State Court; August 1974	-
34. Ulung SITEPU	Mahmildam or Mahmilub; September 1966; Medan	Medan
35. SOMA	Surabaya State Court; April 1976	Surabaya
36. SUBANDRIO	Mahmilub; 1966; Jakarta	Nirbaya, Jakarta
37. SUCIPTO	1968	-
38. SUDIONO, Colonel, Air Force	Mahmilub; August 1972	Cipinang, Jakarta
39. SUDONO, Lieutenant	Mahmilub; 1967; Surabaya	Surabaya
40. Sugeng SUGIARTO	Mahmildam or Mahmilub; 1966; Medan	-
41. SUKARDJO, Sergeant	Mahmildam; March 1969	Cipinang, Jakarta
42. SUKARMAN	Melang State Court; June 1976	-
43. SUKATNO	Jakarta State Court; March 1971	Cipinang, Jakarta
44. SULEMAN (military)	Mahmildam; November 1969	Cipinang, Jakarta
45. SUMBODO, Lieutenant	Mahmilub; February 1967; Surabaya	Surabaya
46. SUNARI Sarpo	Lumagang State Court; April 1976	-
47. SURADI Prawirodiharjo, Captain	Mahmildam; February 1970	Cipinang, Jakarta
48. SURINO, Sergeant	-	Cipinang, Jakarta
49. SURIYONO, Colonel	Mahmilub; September 1973	-
50. SURONO Hadiwoyono	Mahmildam; 1970	Cipinang, Jakarta
51. Asep SURYAMAN	Jakarta State Court; August 1975	Cipinang, Jakarta
52. Sugeng SUTARTO, Brigadier General	Mahmilub; September 1973; Jakarta	Cipinang, Jakarta

<u>NAME</u>	<u>DATE & PLACE OF TRIAL</u>	<u>PLACE DETAINED</u>
53. Gatot SUTARYO	Blitar State Court; January 1976	-
54. SUWANDI	Malang State Court; July 1973	Surabaya
55. SUYONO	-	Medan
56. Kamarul SYAMAN	-	Cipinang, Jakarta
57. Joko UNTUNG	Blitar State Court; July 1973	-
58. WIROATMODJO	Mahmildam or Mahmilub; October 1966; Medan	-