

# INDONESIA

## @Trade unionists in Indonesia

The Indonesian Government imposes heavy restrictions, both in law and in practice, on the right to strike and to organize. Only one trade union federation is recognized, the government-sponsored All Indonesia Workers Union (Serikat Pekerja Seluruh Indonesia - SPSI). Despite government assurances in the past year that restrictions on freedom to organize would be loosened, a recent Ministry of Manpower Decree (No.1/1994) continues to define SPSI as the sole recognized trade union. An independent union, the Indonesian Prosperous Workers Union (Serikat Buruh Sejahtera Indonesia - SBSI) was established in 1992. Initially the government simply refused to recognise SBSI, but a 1994 statement by the Minister of the Interior referred to the union as a "banned" organization.

The New Order government has made a habit of jailing its alleged political opponents, including the national leader of the SBSI, Muchtar Pakpahan, and other trade union officials and members who were imprisoned in 1994. Since 1966 an estimated 3,000 alleged government opponents have been sentenced, following unfair trials, to periods of imprisonment ranging from a few months to life, or even to the death penalty. Hundreds of thousands more have been detained without charge or trial, for periods ranging from a few days to more than 14 years.

In addition to legal obstacles to freedom of association, direct military and police intervention in labour disputes is routine in Indonesia. In some cases, military authorities resort to ill-treatment, torture, rape and even killing, in order to intimidate or silence workers and labour activists. The tragic consequences of military intervention in labour disputes were highlighted by the death of two young labour activists, **Marsinah** and **Rusli**. Marsinah, a factory worker aged 25, was tortured, raped and killed in East Java in early May 1993. There is clear evidence that her murder was planned and carried out with the knowledge and acquiescence of at least one military officer, and possibly others. In the days before her death, Marsinah had been actively involved in a strike at the watch factory where she worked.

Military authorities had intervened directly in the dispute, and interrogated the workers about their role in the strike. On 5 May 13 workers were summoned by the military and forced to resign or face charges for holding "illegal meetings" or "inciting" others to strike. That evening Marsinah went to the local military headquarters to look for her colleagues. A few hours later an eye-witness saw her being forced into a white mini-van. She subsequently "disappeared"; her body was found three days later.

Military intervention in labour disputes often follows a similar pattern. In the course of a labour dispute, particularly active or vocal workers are routinely summoned to the local or district military headquarters, where they are accused of communist sympathies, and threatened with imprisonment or physical violence, including death, unless they agree to

resign voluntarily from their job. Whether they "resign" or not, the names of such workers are often recorded on a black-list, compiled by military intelligence authorities, and distributed on a regular basis to all factories within the command area. As a consequence, once dismissed, active or vocal workers usually find it difficult, if not impossible, to find a new job.

Despite such dangers and restrictions, the number of strikes in Indonesia has risen steadily in recent years with workers' demands including an increase in the daily minimum wage, improvements in labour conditions, repeal of the ministerial decree which defines the SPSI as the only trade union, recognition of the SBSI, and impartial investigation into serious human rights violations against workers.<sup>1</sup>

Serious concern about restrictions on internationally recognized labour rights has been voiced by the office of the United States Trade Representative (USTR) which warned, in June 1993, that tariff benefits granted to Indonesian exports under the Generalized System of Preferences (GSP) programme might be suspended unless there were significant improvements in the protection of internationally recognized labour rights. The USTR was due to announce its decision in February 1994, but chose instead to extend its period of review for a further six months to August 1994. In mid-August it extended the review for a further month and then, in September, announced that the decision would be postponed indefinitely.

### **SBSI leaders imprisoned**

Muchtar Pakpahan, leader of the SBSI and ten others were charged and convicted of "*incitement*" to disobey government orders following labour demonstrations which turned violent in the North Sumatran town of Medan in April 1994. Eight of the others were officials or members of the SBSI and other groups campaigning for workers' rights in Indonesia; and two were workers.<sup>2</sup>

Since the accusations against them relate to their non-violent trade union activities, Amnesty International is concerned that the trial and imprisonment of the 11 was intended to prevent them from peaceful activities to promote labour rights, and to intimidate others from engaging in similar work.

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<sup>1</sup> According to official SPSI figures, there were some 367 recorded work stoppages between January and October 1994, more than double the number (185) recorded in 1993. *Reuters*, 7.10.94.

<sup>2</sup> For further discussion of these issues see Amnesty International's report *Indonesia: Labour Activists under Fire*, May 1994 (ASA 21/10/94) and *Indonesia: "Operation Cleansing" Human Rights and APEC*, November 1994 (ASA 21/50/94).

All the trials fell short of international standards of fairness. Amnesty International believes that the nine who remain in detention may be prisoners of conscience, detained solely for their peaceful activities to promote labour rights.

The charges against the 11 focused upon violence which erupted during massive labour protests in Medan, North Sumatra's capital city, in April 1994. Beginning on 14 April, and continuing for more than a week, the demonstrations involved tens of thousands of workers from most of the factories in the area. At the outset the demonstrations were orderly and peaceful. The workers called for an increase in the minimum daily wage; official recognition of the SBSI; an investigation into the death of a worker widely believed to have been killed by Indonesian security forces; and the reinstatement of some workers dismissed after a strike.

Towards the end of the first day, and accelerating over the following days, the strike degenerated into violence, including a series of attacks on Chinese-owned factories and shops and the destruction of many vehicles. Most serious, one Chinese factory owner was killed during the riots. Military and government authorities were quick to blame the SBSI leadership for the violence and on 25 April the Ministry of the Interior declared that the SBSI was an "*illegal*" organization. Non-governmental organizations and human rights lawyers offered a different view of events. They suggested that the security forces had provoked the violence by employing excessive force in dealing with the legitimate demands of the workers. They also argued that the military had deliberately diverted attention away from real social and economic issues, by focusing on the racial dimension of the unrest. Although difficult to verify, there was also evidence to suggest that anti-Chinese feeling may have been deliberately stirred by *agents provocateurs* linked to military intelligence, in order to undermine the labour movement, and to justify the imprisonment of its leaders.

Amnesty International does not condone the violence which occurred during the labour riots in Medan, but considers that it should not be used to divert attention from human rights violations committed by the government and its security forces.

The trials of the 11 trade union activists began in August 1994. The Indonesian Government insisted that the trials were not political in nature, claiming that the defendants were charged with ordinary rather than explicitly political crimes like subversion. The 11 were charged under Articles 160 and 161 of the Indonesian Criminal Code. Article 160 states that those who incite others to disobey a government order or to break the law can be sentenced to a maximum of six years' imprisonment. Article 161 specifies a maximum of four years in jail for distributing written materials which do the same.

The prosecution did not accuse the defendants of urging workers to commit acts of violence. Rather, they alleged that they had taken part in trade union activities, such as setting up local branches of the SBSI and holding meetings with workers to discuss labour

conditions and wages, and to plan strikes. They were also accused of taking part in meetings in April 1994, at which plans for the Medan demonstrations were discussed. Some of the defendants were accused of preparing and distributing posters, banners and leaflets which were used during the April demonstrations.

The trial procedures were irregular and unfair to the defendants. For example, in at least two cases the court cancelled pre-trial hearings - at which the detainees planned to challenge the legality of their arrest - on the grounds that the prosecution was ready to proceed with the case. Access to documents relating to the trials was restricted in some cases, as was access to visitors. At least two of the defendants, Amosi Telaumbanua and Riswan Lubis, were reportedly beaten while in pre-trial detention.

**Amosi Telaumbanua** is chairman of the Medan branch of the SBSI, he was arrested by the police on 29 April 1994 in Medan. His trial began on 24 August and on 20 October he was convicted and sentenced to 15 months' imprisonment. On 16 January 1995 the High Court extended his sentence to 3 years. The prosecution said that he had encouraged workers to make banners for the April labour protest, had posted announcements on trees and telephone poles in the Medan area, and had distributed pamphlets during the demonstration. The prosecution also cited - as evidence of incitement - that on the day of the demonstration Amosi Telaumbanua had called the central office of SBSI in Jakarta to report that it had taken place.

**Fatiwanolo Zega, Hayati (f) and Soniman Lafao**, respectively the deputy secretary-general, treasurer and vice-chairman of SBSI Medan, were charged under Articles 160 or 161. Fatiwanolo Zega and Hayati were found guilty in mid-October and each sentenced to seven months' imprisonment. Soniman Lafao was sentenced to nine months' imprisonment.

**Jannes Hutahean** is the executive director of a Medan-based labour rights organization *Yayasan Pondokan Rakyat Kreatif* (YPRK). **Parlin Manihuruk** is the executive secretary of an organization called *Yayasan Kelompok Pelita Sejahtera* (YKPS), also based in Medan. They were abducted in Jakarta by plainclothes police officers and taken to Medan police headquarters on the evening of 13 June 1994. Both were subjected to intensive interrogation for three weeks, after which their detention was extended for a further 40 days by order of the public prosecutor. They were finally charged with "incitement" under Article 160 of the Criminal Code and brought to trial in the first week of October. Jannes Hutahean was sentenced to 7 months' imprisonment on 22 November, reduced to five months 11 days following an appeal to the High Court. Parlin Manihuruk was sentenced to 11 months on 8 December 1994 and is currently awaiting the outcome of his appeal to the High Court.

**Maiyasyak Johan** is a human rights lawyer and executive director of *Lembaga Advokasi Anak Indonesia (LAAI)*, an organization which works on behalf of child labourers and other workers. Maiyasyak Johan was first arrested in mid-June 1994 in connection with the Medan labour unrest. He remained under intensive interrogation at Medan police headquarters for several days before being released without charge. However, on 18 September, one day before he was due to answer a police summons, he was rearrested without warrant after returning from Jakarta to Medan with his family. He was taken to Medan police station where, for at least two weeks, he remained on hunger strike and refused to speak to police interrogators, in a protest against the illegality of his detention. His trial began on 18 October, after the court rejected his request for a pre-trial hearing. He has now been sentenced to nine months' imprisonment.

**Muchtar Pakpahan**, National leader of the SBSI. Muchtar Pakpahan was sentenced to three years' imprisonment on 7 November 1994. An appeal to the High Court resulted in his sentence being increased to four years on 16 January 1995. The indictment against Muchtar Pakpahan, cited as "evidence" of incitement that: he set up an SBSI branch in Medan in August 1992; held a training course for 100 workers and tried to recruit them into SBSI; and called for a national strike in January 1994. The prosecution alleged that he had mobilized the workers to take part in the Medan demonstration, and had thus "incited" them to acts of violence.

His trial was marked by serious irregularities. A scheduled pre-trial hearing, during which Muchtar Pakpahan planned to challenge the legality of his arrest, was cancelled by the court on the grounds that the prosecution was ready to proceed with the case. Defence lawyers requested a week to prepare their response to the prosecution, but were granted only three days. The judge refused to allow Muchtar Pakpahan or his lawyers to have a copy of his interrogation deposition. Finally, restrictions were imposed on his access to visitors. This included a refusal to permit a member of Indonesia's Human Rights Commission to visit Dr Pakpahan on the grounds that he was not a family member. Dr Pakpahan is reportedly suffering from ill health in detention.

**Riswan Lubis**, the secretary of SBSI-Medan, was first arrested on 11 April, three days before the demonstration. He was arrested again on 15 April, immediately after the unrest. Colleagues who saw him in detention at Medan police station said he appeared to have been beaten. His trial began on 8 August. Like the other defendants, he was accused of taking part in meetings in early April and charged under Article 160 of the Criminal Code. At one meeting he was said to have taught some 100 workers how to read their demands - for higher wages and recognition of the SBSI - with enthusiasm. He was found guilty and sentenced to eight months' imprisonment on 10 October.

**Prominent trade unionist on death row for the last 25 years:**

**Ruslan Wijayasastra**, aged 76, Former Secretary General of the International Labour Organization. Ruslan Wijayasastra was arrested on 14 July 1968 and charged with subversion for his alleged complicity in the 1965 coup attempt, after which the present government of Indonesia came to power. He was also accused of participating in what the government referred to as an armed rebellion in Blitar, East Java in 1967.

The 1965 attempted coup was attributed to the Communist Party of Indonesia (PKI) leadership. Although a handful of PKI leaders may have been aware of the plan, the record shows that the vast majority of PKI leaders, members and supporters had no knowledge of it and played no role in it. Nevertheless the military, led by General (now President) Suharto blamed the PKI - until then a legal political party - for the abortive coup and used this as a pretext to stage a successful counter-coup. In the following year over half a million real or suspected PKI supporter were killed and 500,000 more were arrested.

Six of those tried have been on death row since their arrest after the coup attempt. Although they were accused of participating in armed actions against the Indonesian Government during 1965 and 1967, the extent to which PKI leaders or members knew about, or were involved with, military operations and other acts of violence in 1965 remains a matter of historical dispute. And since the trials of the six were blatantly unfair, the allegations against them remain unproven.

Ruslan Wijayasastra was sentenced to death on 15 July 1974 by the Central Jakarta Subversion Court. His appeal to the Supreme Court was rejected in mid-1983. He has appealed to President Suharto for clemency but to date no decision is known to have been taken. Before the coup attempt Ruslan Wijayasastra had been a member of the central committee of the PKI, he was deputy chairman of the Peasants' Union and SOBSI, the PKI-led trade union federation. He is also a former Secretary-General of the International Labour Organization. He is detained in Cipinang prison. He is partially paralysed, nearly blind and very weak.

Amnesty International opposes the death penalty unconditionally, as the ultimate form of cruel and inhuman punishment. It believes that in this case the inherent cruelty of the death penalty has been greatly increased by the long and uncertain years the prisoners have endured in detention. It calls upon the Government of Indonesia to release them all immediately and unconditionally.

**AI is calling on the government of Indonesia to:**

- Release immediately and unconditionally any person imprisoned for their peaceful activities in support of workers' rights;

- Take all possible measures to protect the lives of trade unionists and labour activists in Indonesia;
- Ratify and comply with International Labour Organisation Convention 87 on Freedom of Association and Protection of the Right to Organize and Convention 98 on the Right to Organize and Collective Bargaining.
- Abolish the death penalty and commute all existing death sentences.

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