

# INDONESIA @"Operation Cleansing" Human Rights and APEC

## 1. Introduction

The human rights situation in Indonesia has deteriorated in the run-up to the APEC (Asia Pacific Economic Cooperation) summit being held in Jakarta in November, as the government has sought to rid the capital of "economic and political criminals". The crack-down, which began in April with an anti-crime campaign known as "Operation Cleansing", has broadened in recent months to affect government critics, labour activists as well as a variety of socially marginal groups.

APEC is a consultative forum of countries in the Asia and Pacific region, which aims to promote closer economic cooperation and free trade. It was inaugurated in November 1989, and currently has 18 members: Australia, Brunei, Canada, Chile, China, Hong Kong, Indonesia, Japan, Malaysia, Mexico, New Zealand, Papua New Guinea, Philippines, Singapore, South Korea, Taiwan, Thailand, and the United States of America (USA). APEC's profile was raised considerably in November 1993 when the first APEC Heads of Government meeting took place in Seattle, USA. The next APEC meeting, which will include discussions between Heads of Government, will be held in Jakarta and Bogor between 7 and 16 November 1994.

In an apparent attempt to suppress dissent prior to and during the APEC meeting the government has launched a broad assault on the domestic press and non-governmental organizations (NGOs) and has stepped up its harassment of lawyers, academics, and other outspoken critics. Ignoring criticism from international trade union organizations, from the United States Government, and from domestic groups, the authorities have also gone ahead with the political trials of at least eleven labour activists, and scores of workers, accused of involvement in the widespread labour unrest in North Sumatra in April this year. Government efforts to ensure the success of the meeting have also affected a range of marginal social groups - such as street vendors, squatters, prostitutes and alleged criminals - as security forces have resorted to harsh anti-crime measures in an attempt to "cleanse" the capital in advance of APEC.

Human rights violations are not a new problem in Indonesia and East Timor. As explained in a recent Amnesty International report, Power and Impunity, Indonesia's New Order government has been responsible for human rights violations on a staggering scale

since it came to power after a coup in 1965.<sup>1</sup> Thousands of people have been imprisoned after show trials solely because of their peaceful political or religious beliefs; hundreds of thousands of civilians have been killed by government or government-backed forces; prisoners, both criminal and political, have been routinely tortured, some so severely that they have died or suffered permanent injury; and scores of prisoners have been shot by firing squad, some after more than two decades on death row. Despite official promises over the past five years of greater "political openness" and a commitment to the protection of human rights, the pattern of violations and impunity persists.

Yet, while the human rights problem in Indonesia and East Timor is a long-standing one, the recent measures signal a significant return to heavy-handed tactics after a brief period of relative political "openness" in the capital. With government delegations from the 18 APEC member states and thousands of journalists expected to visit the country in November, the fear that the government's international image may be tarnished - through domestic political criticism or criminality - appears to have been an important factor in the crack-down. In early September Jakarta's Regional Military Commander, Major-General Hendropriyono, told officers of the Infantry Brigade entrusted with security arrangements for the APEC conference to:

*...watch over possible persons wishing to embarrass the country for the sake of their own group's interests...Bakorstanasda [the Coordinating Agency for the Maintenance of National Stability] will be firm against economically or politically motivated criminals.<sup>2</sup>*

Ironically, in its efforts to protect the country's image, the government has taken measures which have caused considerable damage to its image. Through its actions over the last six months, the government has highlighted its intolerance of dissent, and its view that basic human rights can, if necessary, be subordinated to the interests of national security.

Amnesty International is concerned that the APEC crack-down has resulted in a number of serious human rights violations, including: the arbitrary arrest, and in some cases torture and ill-treatment, of political detainees; the unfair trial and arbitrary imprisonment of labour activists and workers; and the unlawful executions of alleged criminals. It is also concerned that the recent escalation of official harassment of government critics has helped to create a political climate in which the opportunities for dissent are even more strictly circumscribed than before, and in which other human rights violations may be more likely to occur.

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<sup>1</sup> Amnesty International, Indonesia and East Timor: Power and Impunity - Human Rights Under the New Order, (ASA 21/17/94), 28 September 1994.

<sup>2</sup> Reuters, 4.9.94; Jakarta Post, 5.9.94.

Amnesty International is urging APEC member states and business leaders to take advantage of this and future APEC meetings to demonstrate their commitment to the promotion and protection of human rights, not just in Indonesia and East Timor, but throughout the region. It calls on them to address these issues both during the APEC forum itself and in the course bilateral meetings that may occur in connection with the forum.

## 2. Silencing the Critics

Despite continuing claims of a commitment to "political openness" and international human rights standards, the government has displayed increasing contempt for basic civil and political rights in the run-up to the APEC conference. Over the past six to eight months it has launched a concerted attack on freedom of the press, freedom of assembly and association. It has also targeted individual human rights activists, subjecting them to arbitrary arrest and, in some cases, torture or ill-treatment. These measures will have, and no doubt are intended to have, a direct effect on the political climate during the APEC meeting.

### 2.1 Freedom of the Press

The banning of Indonesia's three leading news magazines - Tempo, Editor, and DeTik - in late June this year has helped to establish a climate of fear and uncertainty among journalists and editors, reinforcing the previously widespread practice of self-censorship. The clamp-down on the press has also limited the channels available to human rights activists and other peaceful critics of the government to air their views, a fact that was graphically illustrated by the heavy-handed response to peaceful protest against the bans. When journalists, artists and students took to the streets on 27 June to protest peacefully against the bans, they were beaten and arrested by security forces.<sup>3</sup>

**Figure 1. Indonesian soldiers, wearing black "Operation Cleansing" T-shirts, beat protesters during a peaceful demonstration against government restrictions on press freedom, Jakarta, 27 June 1994. (c) Popperfoto**

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<sup>3</sup> See Amnesty International document, Indonesia: Free Speech Protestors Detained and Beaten, (ASA 21/27/94), 29 June 1994.

Although the government subsequently reaffirmed its commitment to a "free but responsible" press, and said that the closed publications would be permitted to apply for new licenses, Indonesia's mainstream mass media are now conspicuously more cautious in their coverage of sensitive political and human rights issues. One example of apparent self-censorship in recent months was the decision by the owner of a private radio station, Trijaya FM, to cancel a popular program, called "Jakarta Round-Up", which covered controversial political issues. The sudden closure, on 6 October, followed a show featuring interviews about the media bans and the political system with the chief editor of the banned weekly, Tempo, and an outspoken member of parliament.<sup>4</sup> Yet the closures, and the climate of repression, have also stimulated the growth of a lively underground press, spearheaded by the as yet unrecognized Alliance of Indonesian Journalists (Aliansi Jurnalis Indonesia or AJI), set up in August 1994.

The government has been able to enforce restrictions on freedom of the press, and to undermine AJI, through a variety of mechanisms. It has relied principally on the sole officially-sanctioned journalist's organization, the Indonesian Union of Journalists (Persatuan Wartawan Indonesia or PWI), to ensure that journalists and editors toe the line. For example, non-PWI journalists wishing to cover the APEC meeting have been required to

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<sup>4</sup> Jakarta Post, 15.10.94; Reuters, 10.10.94.

apply for a special recommendation from the PWI; and a number have had their applications rejected, including at least two active members of AJI. In September the Minister of Information, Harmoko, said that AJI's existence "*could not be justified*" and reaffirmed the PWI as the sole organization of journalists in the country. In October, he reportedly said that AJI journalists were being manipulated by a third party, possibly the banned Communist Party of Indonesia. Since then some journalists have been warned that they must join PWI or face possible dismissal.

The PWI has also been called into service to close down or threaten publications that go beyond the limits of acceptable criticism, or employ non-PWI journalists. One such publication was the tabloid, Simponi, launched on 3 October 1994 by Eros Djarot, the editor of the banned tabloid, DeTik. Simponi adopted the same format and controversial style as the banned weekly and employed some 40 of its former staff. Shortly after the first issue appeared, the PWI withdrew its recommendation from the chief editor, Syamsu Hadi, and warned other chief editors against employing non-PWI journalists. While not a direct ban, this move left Simponi's editors with little choice but to suspend publication, since chief editors must have such a recommendation in order to obtain a publishing license. Responding to the news the U.S Government said: "*We are dismayed by this. It is a retrograde step that further diminishes press freedom in Indonesia.*"<sup>5</sup>

## 2.2 Freedom of Assembly

Using a law directly inherited from the Dutch colonial era, police and government officials have intervened on numerous occasions in recent months to prevent or break up seminars, cultural events and professional meetings.

Within the past two months alone, the authorities have broken up or prevented: a speech at a university seminar by the director of the leading human rights organization (Indonesian Legal Aid Institute) LBH, Dr Adnan Buyung Nasution (29 August); a seminar on land rights organized by the LBH in Jakarta (7 September); a poetry reading and a speaking engagement on freedom of expression by the well-known Indonesian poet, Emha Ainun Najib (2 September and 30 August); a meeting in Malang, East Java, between an LBH lawyer and a group of workers he was representing (19 September); and two separate seminars, in Yogyakarta, on a draft Presidential Decree that would impose severe restrictions on Indonesia's non-governmental organizations (22 and 27 September).

Where they have referred to the law at all, the authorities have invoked Article 510 of the Indonesian Criminal Code (KUHP), which stipulates that any gathering of more than five

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<sup>5</sup> Reuters, 12.10.94.

people requires prior police permission. Although the penalty is relatively light - a small fine or up to two weeks in detention - Amnesty International is concerned that this article is being used by the authorities to disrupt or prevent lawful professional or political activities, and in some cases to justify the short-term detention of human rights lawyers and activists.

In September the LBH filed a legal suit against the government and armed forces in which it argued, among other things, that Article 510 is unconstitutional, and that its use contradicts government claims about its commitment to political openness. In a public statement, the organization referred to the meeting bans as "*a show of political repression aimed at trampling the citizens' freedom of expression and freedom of assembly.*"<sup>6</sup> However, police authorities have defended the policy saying that it "*...allows police to monitor the purpose of certain gatherings*", and have pledged to continue to ban any meeting that does not have prior police permission.<sup>7</sup> In early October Jakarta's Police Chief, Major General M. Hindarto, called on the newly appointed chief for the Central Jakarta Police Precinct to prevent demonstrations organized by "irresponsible parties", saying "*pure protests are legal but those plotted by irresponsible parties must be blocked.*"<sup>8</sup>

### 2.3 Freedom of Association: The Draft Presidential Decree on NGOs

A draft Presidential Decree imposing severe restrictions on all domestic non-governmental organizations has been denounced by Indonesian NGOs as an unacceptable and unconstitutional attempt by the government to restrict their lawful activities. Though it was drafted in February 1994, the draft decree is unlikely to be promulgated before the APEC meeting where it might attract unfavourable attention. However, as it is currently in the final stages of approval within the State Secretariat, it could become law at any time.

The draft decree stipulates the fields of activity which NGOs are permitted to be involved in and explicitly forbids political activity. Any NGO which in the government's view does not comply with the provisions of the decree could be banned or refused official recognition. The draft decree will also require all NGOs to adopt the official ideology Pancasila and to report all their activities and financial arrangements to the Ministry of Home Affairs.

In statements issued since August 1994, a wide range of Indonesian non-governmental organizations have rejected the draft decree, arguing that it violates the country's Constitution

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<sup>6</sup> Memorandum Yayasan Lembaga Bantuan Hukum Indonesia tentang Pelarangan-pelarangan, 23 September 1994.

<sup>7</sup> Jakarta Post, 5.10.94 and 8.10.94.

<sup>8</sup> Jakarta Post, 5.10.94.

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and, in particular, Article 28 which guarantees freedom of association. Opportunities to debate the draft decree have been limited and, in some cases, physically prevented by the security forces. A seminar on the decree, due to be held in Yogyakarta on 22 September, was broken up by soldiers from the sub-regional military command. The seminar was rescheduled for 27 September but security forces again ordered the meeting to disband on the grounds that organizers had not obtained prior police permission.

## 2.4 Arbitrary Detention

The Indonesian Government employs a range of repressive laws and regulations - including Article 510 mentioned above - to hinder and prevent lawful dissent and political opposition activities. Among the laws most frequently used to imprison, or to threaten, peaceful protesters and other alleged political opponents, are the "Hate-sowing Articles" (Haatzaai Artikelen) which, among other things, forbid the "spreading of hatred" against government officials. The authorities have used other articles as well, most of them drawn from Chapter V (Crimes Against Public Order) and Chapter VIII (Crimes Against Public Authority) of the Indonesian Criminal Code.

Most frequently used by the government to suppress dissent, and the most contentious in legal circles, are Articles 154, 155 and 160. Under Article 154 "*...the public expression of feelings of hostility, hatred or contempt toward the government...*" is an offence punishable by a sentence of up to seven years. Article 155 prohibits the dissemination of such feelings through all kinds of public media such as pamphlets and posters, and stipulates a maximum penalty of four and a half years in prison. Article 160 prescribes a maximum penalty of six years in prison for "inciting" others to disobey a government order or to break the law. Article 134, though not usually described as one of the "Hate-sowing Articles", punishes "insulting the President" with a maximum sentence of six-years' imprisonment.

Although the government describes cases tried under these articles as ordinary criminal offences, the articles are nearly always used to imprison or threaten peaceful protesters and government critics. Commenting on the use of these laws, a respected Indonesian legal scholar, Loebby Loqman, said in 1992: "*To date, these articles have been used against those who are considered to disagree with government policy.*"<sup>9</sup>

### Munir

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<sup>9</sup> Another Indonesian human rights lawyer (Nursyabhani K) commented: "Expressing an opinion is always regarded by the authorities as incitement or hatred of those in power". Forum Keadilan, 26.11.92.

One of those arbitrarily detained under Article 510 was Munir, a human rights lawyer at the Surabaya office of the LBH. Munir was arrested on 19 August in the town of Malang, East Java, during a meeting with 14 workers from a company in Malang (PT Sido Bangun Lawang) whose case LBH was assisting. He was taken to a local police station (Polsekta Blimbing, Malang) where he was interrogated for approximately two hours before being released. He was summoned for further questioning by Malang police on the morning of 25 August. He was later found guilty of holding a meeting without a permit, and fined.

Munir's detention appears to have been directly related to his successful work on behalf of the 14 workers of PT Sido Bangun Lawang. In 1990, they had been dismissed after protesting before the local legislature about wage cuts and working conditions. With the assistance of the LBH, the workers took the company to court to seek redress for what they considered to be unfair dismissal. In April this year the Supreme Court found in their favour. The company is now seeking to challenge the decision. The meeting with Munir on the night of 19 August was to discuss the lawsuit.

Amnesty International believes Munir was arrested in connection with his lawful professional activities, and is concerned that he may face further short-term detention or intimidation by military and police forces. It has urged the government to permit Munir to continue his legal defence work without the threat of further short term detention or other sanction by military or police forces.

### **Dr George Aditjondro**

One man facing possible imprisonment for his peaceful academic and political activities is Dr George Aditjondro, a prominent Indonesian academic. On 22 October and again on 24 October 1994, Dr Aditjondro was questioned by police on charges of "insulting a government authority or body", under Article 207 of the Indonesian Criminal Code, a charge which carries a maximum penalty of 18 months imprisonment. If jailed, Dr Aditjondro would be a prisoner of conscience.

The pretext for the charge against Dr Aditjondro appears to arise from comments he made during an academic panel discussion at the Universitas Islam Indonesia (UII) in Yogyakarta in mid-August. According to those present at the discussion, Dr Aditjondro outlined three possible scenarios for the Presidential succession, one of which was the peaceful transition to a new President, on the model of the "People's Power" movement that ousted President Marcos of the Philippines in 1986. He was also reported to have joked that Indonesia had a "Four 'H' Government" - pronounced ha, ha, ha, ha in Indonesian - dominated by Harto (President Suharto), Harmoko (Minister of Information), Habibie (Minister of Research and Technology) and Hasan (a wealthy businessman).

Amnesty International is concerned that the charge filed against Dr Aditjondro may be intended to prevent him from taking part in peaceful activities prior to and during the APEC meeting. Colleagues believe that, as on past occasions, the authorities may also be punishing Dr Aditjondro for his criticism of government policy relating to human rights and environmental concerns in Indonesia and East Timor. In March 1994, he received publicity in Australia and Indonesia for research he conducted on human rights and environmental concerns in East Timor. In the following days his house in Salatiga was stoned and he was questioned by local military authorities.

In view of the past pattern of harassment, Amnesty International is concerned that, since the issuance of a first summons on 5 October, Dr Aditjondro has been subjected to intensive surveillance by military intelligence officers from the Resort Military Command in Salatiga, both at his home and his place of work. Under Indonesia's Code of Criminal Procedure, the police and not the military, bear sole responsibility for the arrest of suspects. Since military intelligence authorities have no lawful role to play in Dr Aditjondro's case, Amnesty International considers their activities to be a form of harassment.

## 2.5 Torture and Ill-treatment

Some of those detained in recent months for their peaceful political activities have been tortured and ill-treated. In September four young men - an artist, **Sapto Rahardjo**, a law student, **Yulianto Bernardy**, a human rights activist, **Thomas Henry Kurniawanto**, and a lawyer, **Ellyasa Budianto** - were detained by security forces in Jakarta, interrogated and subjected to torture over a period of two days and nights before being released. The four were arrested on the morning of 21 September in Central Jakarta after releasing several balloons bearing pro-democracy messages, such as "Uphold the Rights of Workers", and "The 1945 Constitution Guarantees Freedom to Organize".

**Figure 2. Three men tortured in military custody in September 1994: Yulianto Bernardy, a law student; Thomas Henry Kurniawanto, a human rights activist; and Sapto Rahardjo, an artist.**

An Amnesty International representative interviewed three of the men shortly after their release from military custody. According to their testimonies, they were taken first to the Jakarta Police headquarters, then transferred to the Central Jakarta District Military Command (KODIM Jakarta Pusat), and finally to the regional headquarters of the military Coordinating Agency for the Maintenance of National Stability (Bakorstanasda) in Jakarta. In each place they said they were ill-treated while being interrogated about their political activities and beliefs, but the treatment meted out at the Bakorstanasda headquarters was especially severe. The interrogation and torture took place under the supervision - and in some cases with the direct involvement - of high ranking military intelligence officers.

At Bakorstanasda headquarters, military officers forced the men to strip to their underwear, beat and kicked them, and subjected them to electric shocks. The shocks were administered both with an electrified baton about 60 cm long and through a hand-operated generator from which bare copper wires were attached to the detainees' thumbs. Two of the four - Sapto Rahardjo and Thomas Henry Kumiawanto - were threatened with execution and accused of being members of the banned Communist Party of Indonesia. Holding a pistol to the head of Sapto Rahardjo, a military officer reportedly said: "*This gun is loaded. I have the right to kill you*".

### 3. Labour on Trial

In May 1994 Amnesty International issued a report on the arrest of more than 100 workers and labour activists in the immediate aftermath of labour unrest in the North Sumatran town

of Medan the previous month.<sup>10</sup> Since then there have been further arrests, both in Medan and in the town of Pematang Siantar, and trial proceedings have begun for over 55 people. As of late October, at least 40 had been sentenced to prison terms of up to one year, and other trials continued.

At least eleven men, nine officials of non-governmental organizations campaigning for workers' rights in Indonesia and two workers, have been accused of "incitement" in connection with a wave of labour unrest. They have been charged under Articles 160 and/or 161 of the Indonesian Criminal Code, which carry a maximum sentence of six and four years respectively. Amnesty International believes that these men may be prisoners of conscience, detained solely for their peaceful activities as labour activists. The organization is also concerned that their detention is intended to prevent them from carrying out their non-violent activities, and to intimidate others from engaging in similar work.

Government officials have repeatedly claimed that these are strictly criminal, not political, trials.<sup>11</sup> However, trial documents reveal that the substance of the charges is essentially political. The political nature of the trials is corroborated by the statements of leading military figures. In June 1994, for example, the Armed Forces Commander General Feisal Tanjung made it clear in comments to the national legislature that the charges were being brought because the demonstration in April had a political character, and sought to undermine the authority of the government.<sup>12</sup> As one of the defendants, Dr Pakpahan, noted in his initial defence statement, on 21 September 1994: "*What is on trial here are not my actions but my ideas*".

Amnesty International recognizes that the April labour unrest resulted in violence, including the destruction of property and the death of a businessman. It does not condone such violence. It is concerned, however, that the Indonesian authorities are using the unrest as a justification for imposing restrictions on the rights to peacefully exercise freedoms of association, speech and assembly.

### 3.1 Background

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<sup>10</sup> *Indonesia: Labour Activists Under Fire*, (ASA 21/10/94), May 1994.

<sup>11</sup> For example, in September 1994, the Director General of Industrial Relations (Suwanto) told journalists: "*We consider Muchtar [Pakpahan's] case as strictly criminal and unrelated to workers' matters*". Cited in *Jakarta Post*, 15.9.1994.

<sup>12</sup> Cited in *Suara Karya*, 8.6.94.

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 recent statement by the Minister of the Interior referred to the union as a "banned" organization.

In addition to such 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 are highlighted by the death within the past year of two young labour activists, **Marsinah** and **Rusli**, whose cases are outlined in other Amnesty International reports.<sup>13</sup>

In most cases, however, military intervention is less overt. 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 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>14</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

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<sup>13</sup> See Amnesty International, Indonesia: Labour Activists Under Fire, (ASA 21/10/94) May 1994; and Indonesia and East Timor: Power and Impunity - Human Rights Under the New Order, (ASA 21/17/94), September 1994.

<sup>14</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.

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.

### 3.2 The Trials

Government officials have insisted that the trials are not political in nature, and they have sought to reinforce this claim by charging the defendants with ordinary (i.e. non-political) crimes rather than overtly political crimes such as subversion. Yet, the articles used are frequently employed to imprison political opponents.

At least eleven of those detained have been charged under Articles 160 and/or 161 of the Indonesian Criminal Code. Article 160 prescribes a maximum of six years' imprisonment for inciting others to disobey a government order or to break the law. Article 161 prescribes a maximum of four years in jail for distributing written materials - such as pamphlets, posters or banners - which do the same. The use of the articles appears to be intended to intimidate activists and labour organizers from carrying out their peaceful activities in support of demanding improvements in workers' conditions and wages.

Significantly, the prosecution has not alleged that the defendants urged workers to commit acts of violence. Most of the defendants have been accused of taking part in a series of meetings in early April 1994 at which plans for demonstrations were discussed. Two such meetings were with groups of between 40 and 100 labourers from different companies who had gathered to discuss their demands. Some have also been accused of preparing, posting and distributing pamphlets, posters and banners used during the demonstrations. However, no evidence has yet been presented that the written materials incited workers to commit acts of violence or to break the law.

In response to appeals on behalf of those detained, an official of the Indonesian Embassy in Vienna sought to reassure Amnesty International that:

*Indonesia respects both national and international laws. Indonesia, as a country based on the rule of law, does not tolerate actions such as groundless arrests. Indonesia, as other countries, surely adheres to the principle that suspects may only be arrested and detained with solid reason. The procedures of detention and the grounds on which individuals can be arrested are stipulated in the Indonesian Code of Criminal Procedure (KUHAP).<sup>15</sup>*

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<sup>15</sup> Letter to various Amnesty International members from the Counsellor, Head of Information and Cultural Affairs, the Embassy of the Republic of Indonesia, 12 August 1994.

Yet, like virtually all political trials in Indonesia, the current trials do not appear to conform to international, or even Indonesian, standards of fairness.

**Figure 3. Trade union leader, Dr Muchtar Pakpahan, on trial, 21 September 1994. "*What is on trial here are not my actions but my ideas.*"**

The trial of Dr Muchtar Pakpahan is a case in point. A scheduled pre-trial hearing, during which Dr 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. Following the first session of the trial on 19 September, during which the prosecution read its charges, defence lawyers requested one week to prepare their response, but the presiding judge granted them only three days. The judge also refused to allow Dr Pakpahan or his defence lawyers to have a copy of his interrogation deposition, as required under Article 72 of the Code of Criminal Procedure. Finally, at various times since his arrest, police and judicial authorities have imposed unwarranted restrictions on Dr Pakpahan's access to visitors. Most recently, in early October, a member of the National Human Rights Commission, Asmara Nababan, was prevented by the presiding judge from visiting Muchtar Pakpahan in custody on the grounds that he was not a family member.<sup>16</sup>

The way in which Dr Pakpahan's trial has been conducted is not an exception. Defence lawyers told Amnesty International that, once political cases such as these come to trial, a guilty verdict is a foregone conclusion. A lawyer of the Medan branch of LBH, noted that, in the trials completed as of late October, the accused had been sentenced despite the clear lack of evidence against them. He concluded that members of the judiciary may have come under pressure from the executive and the military to find the suspects guilty.

### 3.3 The Prisoners

Domestic and international attention has centred on the arrest and trial of the SBSI's national chairman, Dr Muchtar Pakpahan, for inciting the April demonstrations. Amnesty International shares this concern and believes that Dr Pakpahan is a prisoner of conscience. However, it is equally concerned about ten others currently being tried, or recently sentenced, on similar charges and believes that they too may be prisoners of conscience. Originally detained at the Medan Police headquarters, all are now detained at Tanjung Gusta Prison in Medan.

#### SBSI Officials

The National Chairman of the SBSI, **Dr Muchtar Pakpahan**, was arrested on 13 August at his home in Jakarta by Medan police, and subsequently charged under Articles 160 and 161 of the Indonesian Criminal Code. His trial began on 19 September, and was still continuing in late October. An Amnesty International representative was able to observe one session of his trial on 21 September. Based on the trial observation, and after examining the prosecution's charge sheet and discussing the case with defence lawyers, Amnesty

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<sup>16</sup> Reuters, 6.10.94.

International was able to confirm its earlier concern that the allegations against Dr Pakpahan, and the other defendants, were for non-violent activities in the field of labour rights, even though the charges were technically criminal. It was able to clarify, for example, that the actions described as "incitement" by the prosecution - such as urging workers to protest peacefully to demand an increase in the daily minimum wage, and calling for official recognition of the SBSI - are in fact actions permitted by Article 28 of the Indonesian Constitution, which guarantees freedom of assembly and freedom of expression,<sup>17</sup> and ILO conventions to which Indonesia is party.

The leader of SBSI-Medan, **Amosi Telaumbanua**, was arrested by the police on 29 April in Medan for his role in organizing the April demonstrations and a series of strikes in March. He is currently on trial in Medan, charged under Articles 160 and 161. His trial began on 24 August and was still continuing in late October. Like the other defendants, Amosi was accused of organizing the 14 April demonstration. More specifically, the prosecution said that he had encouraged workers to make banners for the protest, had posted announcements on trees and telephone poles in the Medan area, and had distributed pamphlets during the demonstration. On the day of the protest, according to the prosecution, he had spoken to the assembled workers, saying: "*You have now heard what the delegation has been told [by government officials]. It is up to you whether you want to go home or stay here until later this afternoon*".<sup>18</sup> Finally, the prosecution noted that on the day of the protest, Amosi Telaumbanua had called the central office of SBSI in Jakarta to report that the demonstration had taken place.

The Secretary of SBSI-Medan, **Riswan Lubis**, was arrested first on 11 April, three days before the demonstration, and then again on 15 April 1994 immediately after the unrest. Colleagues who saw him in detention at Medan Police headquarters several days later, said it appeared that he had been beaten by his captors. His trial began in Medan on 8 August; on 10 October he was found guilty and sentenced to eight months in prison. Like the other defendants, Riswan was accused of taking part in a series of meetings in early April, and charged under Article 160 of the Criminal Code. At one meeting, on 10 April, he was said to have taught some 100 workers how to read their demands - for an increase in wages and recognition of the SBSI - with enthusiasm. The prosecution also noted that he had reported the demonstration to SBSI headquarters in Jakarta by telephone.<sup>19</sup>

Other SBSI leaders currently on trial in Medan for "incitement" are **Hayati**, the Treasurer of SBSI-Medan; **Fatiwanolo Zega**, the Deputy Secretary of SBSI-Medan; and

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<sup>17</sup> Article 28 of the Constitution stipulates that: "Freedom of association and assembly, of expressing thoughts and of issuing writing and the like, shall be prescribed by statute".

<sup>18</sup> *Pelita*, 26.8.94.

<sup>19</sup> *Suara Pembaharuan*, 9.8.94.

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**Soniman Lafao**, Vice-Chairman of SBSI-Medan. All three were charged under Article 160 and/or 161. Fatiwanolo Zega and Hayati were found guilty in mid-October and sentenced to seven months each in prison. Soniman Lafao's trial began in August and was still continuing in late October.

Hayati's trial began on 2 August 1994 in Medan. The prosecution alleged that he had taken part in a series of three meetings, on 3, 10 and 13 April 1994, attended by workers and a number of other officials of SBSI-Medan, at which plans for a peaceful demonstration were discussed.<sup>20</sup> The prosecution did not allege that Hayati had incited workers to commit crimes or acts of violence. All of the acts allegedly committed are protected under international law and under Indonesia's own Constitution.

### NGO Activists

At least three others currently on trial are leaders of non-governmental organizations active in the field of labour rights in the Medan area. One of those on trial is **Maiyasyak Johan**, a human rights lawyer and Executive Director of the Indonesian Institute for Children's Advocacy (Lembaga Advokasi Anak Indonesia - LAAI), which works on behalf of child labourers and other workers.<sup>21</sup> In a letter to the Danish Section of Amnesty International, dated 29 September 1994, an official of the Indonesian Embassy in Copenhagen confirmed that Maiyasyak Johan had been arrested for "*...his role and involvement in organizing a labour strike in Medan on April 14-20, 1994*". The letter claimed that:

*Mr Maiyasyak Johan's detention has no relation whatsoever with his function as Director of the [LAAI], and is purely based on the Indonesian [Criminal Code]. Release without conditions is therefore hardly possible.*

However, the facts of the case suggest that Maiyasyak Johan was arrested and brought to trial because of his non-violent activities on behalf of workers. He was first detained 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 after returning from Jakarta to Medan with his family. The officers who detained him did not present an arrest warrant as required under Indonesia's Code of Criminal Procedure. Following his arrest, Maiyasyak Johan was taken to Medan Police headquarters where, for at least two weeks, he remained on hunger strike and refused

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<sup>20</sup> Waspada, 5.8.94.

<sup>21</sup> In the six months since the April labour unrest, unidentified persons have attacked the LAAI three times.

to speak to police interrogators, in protest against the illegality of his arrest. According to relatives who visited him in early October he was weak and scarcely able to speak. Maiyasyak Johan's trial began on 18 October, after the court rejected his request for a pre-trial hearing.

Two other activists currently on trial are **Jannes Hutahaen**, Executive Director of the Medan-based labour rights organization Yayasan Pondokan Rakyat Kreatif (YPRK), and **Parlin Manihuruk**, the Executive Secretary of a non-governmental organization called Yayasan Kelompok Pelita Sejahtera (YKPS), also based in Medan. Jannes Hutahaen and Parlin Manihuruk were abducted in Jakarta on the evening of 13 June 1994 by plainclothes police officers, and taken to Medan Police headquarters. They 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.

### Workers

Among those tried for inciting the demonstration were at least two workers, **Aroziduhu Zega** and **Sudiaman Zega**, both employees at PT Larissa. The two were detained on 20 April 1994 and brought to trial in Medan in early July, charged under Article 160. They were accused of taking part in meetings on 9 and 12 April at which plans for the 14 April demonstration were discussed. The prosecution also alleged that, on 13 April, the two men distributed pamphlets outlining plans for a demonstration the following day. They were not accused of engaging in or inciting acts of violence.<sup>22</sup> Both were found guilty and sentenced to five months and ten days in jail.

### 3.4 Reaction to the Labour Trials

The current trials come at a time of mounting international criticism of Indonesia's system of industrial relations. One of the most prominent sources of international criticism has been the US Government which, since 1993, has been considering whether to continue granting tariff benefits on Indonesian exports to the United States under the Generalized System of Preferences (GSP) programme. As noted earlier, the US Trade Representative has warned that the GSP program could be suspended unless there are improvements in the protection of internationally recognized labour rights in Indonesia.

However, the US Government has sent a mixed message to the Indonesian Government by failing to take decisive action in support of its statements of concern. Following news of the arrest of Muchtar Pakpahan, the US Embassy in Jakarta issued a

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<sup>22</sup> Kompas, 11.7.94.

statement saying that it was *"...concerned about Mr Pakpahan's arrest and detention..."* and said that his arrest would be taken into account in the GSP decision.<sup>23</sup> Shortly thereafter, however, the US Ambassador to Indonesia reassured the Indonesian Government that labour rights issues would not be raised at APEC, noting that *"APEC is a trade forum, not a forum for discussing human rights or the rights of workers"*.<sup>24</sup>

The arrest and trial of SBSI leaders has been firmly condemned by US and Australian trade union leaders and by the International Confederation of Free Trade Unions (ICFTU). In a report released on 11 October 1994, the ICFTU concluded that:

*... the present trials constitute a flagrant breach of internationally recognized standards on freedom of association and the right to organize.*<sup>25</sup>

Domestic human rights activists have also been outspoken in their criticism. Referring to the arrest of Muchtar Pakpahan, the LBH commented that: *"The arrest is an act of terror and is part of a project to destroy the worker movement and its independent organizations."*<sup>26</sup>

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<sup>23</sup> Cited in Bernas, 25.8.94.

<sup>24</sup> Cited in Bernas, 25.8.94.

<sup>25</sup> Cited in Reuters, 11.10.94.

<sup>26</sup> Cited in Reuter, 24.8.94.

TABLE I: Labour Activists Jailed or On Trial as of October 1994

Name, Age (Place of Employment)	Charge	Trial details, Sentence (Date of Verdict)	Place of Detention
<b>Amosi Telaumbanua</b> , 32 (Chairman, SBSI-Medan)	Articles 160 and 161	Trial began 28.8.94	LP Tanjung Gusta
<b>Aroziduhu Zega</b> , 29 (SBSI-Medan Activist and worker at PT Larissa)	Article 160	<b>5 months, 10 days</b>	Released in mid-October
<b>Fatiwanolo Zega</b> , 24 (Deputy Secretary, SBSI-Medan)	Article 160	<b>7 months</b> (18.10.94)	LP Tanjung Gusta
<b>Hayati</b> , 22, (Treasurer, SBSI-Medan)	Articles 160 and 161	<b>7 months</b> (mid-October)	LP Tanjung Gusta
<b>Muchtar Pakpahan</b> , 41 (National Chairman, SBSI)	Articles 160 and 161	Trial began 19.9.94	Lp Tanjung Gusta
<b>Riswan Lubis</b> , 29 (Secretary, SBSI-Medan)	Articles 160 and 161	<b>8 months</b> (10.10.94)	LP Tanjung Gusta
<b>Soniman Lafao</b> , 33 (Vice-Chairman, SBSI-Medan)	Articles 160 and 161	Trial began in August	LP Tanjung Gusta
<b>Sudiaman Zega</b> , 30 (Worker at PT Larissa)	Article 160	<b>5 months, 10 days</b>	Released (?)
<b>Jannes Hutahean</b> , 32 (Officer of <u>Yayasan Pondokan Rakyat Kreatif - YPRK</u> )	Article 160	Trial began in early October	LP Tanjung Gusta
<b>Maiyasyak Johan</b> , (Director of <u>Lembaga Advokasi Anak Indonesia - LAAD</u> )	Article 160	Trial began 18.10.94 (Court rejected request for pre-trial hearing)	LP Tanjung Gusta
<b>Parlin Manihuruk</b> , 34 (Director of <u>Yayasan Kelompok Pelita Sejahtera - YKPS</u> )	Article 160	Trial began early October	LP Tanjung Gusta

#### 4. "Cleansing" the Criminals

In recent months Indonesian authorities have stepped up their efforts to ensure a "clean and stable" environment for the APEC talks in Jakarta. The centrepiece of these efforts has been "Operation Cleansing" (Operasi Bersih), a sweeping anti-crime campaign ordered by the Armed Forces Commander, and set in motion by the Regional Military Commander for Jakarta, Major-General Hendropriyono, on 11 April 1994.<sup>27</sup> The campaign has the full backing of the highest ranking military and police commanders, and has deployed troops from the Army, Police, Air Force and Marines.<sup>28</sup>

The campaign is explicitly aimed at "cleansing" the streets of Jakarta and other strategic areas in advance of the APEC meeting. In late April 1994 Jakarta's Police Chief, Major-General Hindarto, said:

*We have to...start cleaning up the city and its surrounding area of bandits, thieves and other kinds of street criminals to assure the security of the APEC meetings...We will not take unnecessary risks for the event so, before the meeting, Jakarta must be cleared of criminals.*<sup>29</sup>

In May 1994, Jakarta Military Commander, Major-General Hendropriyono further stated: "*We will step up the frequency of the operation until the APEC summit...As we don't want to take risks, we think it's high time for us to add military personnel for the operation*".<sup>30</sup> He also noted that the number of personnel originally deployed (16,700) was insufficient, and would be tripled in the coming months.

Amnesty International is concerned by evidence that the official anti-crime drive has contributed to an increase in human rights violations against a wide range of socially marginalised groups - including street vendors, squatters, "alcoholics", prostitutes and alleged criminals - in Jakarta and in other large cities throughout the country. In the name of "cleansing" the cities, security forces have arrested or removed 184 street vendors, 1,001 squatters, and an undisclosed number of prostitutes and "alcoholics" between April and September, and have announced plans to intensify the operation

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<sup>27</sup> In an interview in May, Major-General Hendropriyono said: "We got the order from the Armed Forces Commander. Jakarta must be made safe. Start by cleaning up the crime problem to secure the confidence of the people in the security forces". Tempo, 21.5.94, p.28.

<sup>28</sup> The campaign has been coordinated by the Army-led Coordinating Agency for the Maintenance of National Stability (Bakorstanasda). Tempo, 21.5.94.

<sup>29</sup> Reuters, 30.4.9.

<sup>30</sup> Jakarta Post, 11.5.94. In a separate interview, the General said that APEC "is the target of Operation Cleansing". Tempo, 21.5.94, p.24.

in the areas where APEC delegates will stay in the weeks immediately prior to, during and after the meeting. It is not clear what the legal grounds for such arrests are.<sup>31</sup>

More worrying still, the anti-crime campaign has led to an apparent increase in the already common practice of arbitrary killings of alleged criminals by police. A number of cases are described in the Appendix to this report. While the circumstances of most of these killings remain obscure, Amnesty International believes that many of the victims may have been unlawfully executed. This concern is based on the following considerations: the fact that several of the victims are reported to have been shot while in handcuffs, and that others were shot in the head or the chest at close range; the strange similarity of police accounts of many of the killings; the sheer number of victims since the anti-crime campaign began; and the fact that a common pattern has begun to emerge in different cities throughout the country. Amnesty International's concern that many of these killings may have been deliberate is heightened by the public statements of leading military, police and civilian authorities which appear to condone, or even to encourage the killing of criminals. Finally, Amnesty International is seriously concerned that none of the killings have been the subject of thorough and impartial investigations.

#### 4.1 The "Petrus" Legacy

The summary killing of alleged criminals is not a new problem in Indonesia. Over the past decade, thousands of real or alleged criminals have been deliberately targeted by Indonesian police and military forces, or by death squads operating on orders from the highest authorities. The assassination of criminal suspects reached a peak in the mid-1980s, but has continued in recent years on a reduced scale. In Jakarta, for example, a "shoot-on-sight" policy instituted by the Chief of Police in 1989 left more than 200 dead over four years, and the true figure may well be much higher.<sup>32</sup> From January 1992 to February 1994 alone, Jakarta police shot and killed 134 alleged criminals.<sup>33</sup> Thus, the killings in advance of the APEC conference are not an isolated occurrence, but simply the most recent manifestation of a long-standing pattern.

Between 1983 and 1986, government death squads summarily executed an estimated 5,000 alleged criminals in various cities in Indonesia. Known locally as Petrus, the summary executions were carried out by squads driving unmarked vehicles. The killings were often performed in public places and the victims' bodies were left in full view. At the time, Indonesian government and military authorities flatly denied any responsibility for the killings, blaming the deaths on gang warfare. However, in 1989 President Suharto revealed in his memoirs that the "mysterious killings" had indeed been carried out by members of the security forces and that they were part of a deliberate government

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<sup>31</sup> Jakarta Post, 15.10.94

<sup>32</sup> According to official figures, 36 criminals were shot dead by police in 1991.

<sup>33</sup> Jakarta Post, 5.3.94.

policy to deal with "criminal elements" through a kind of public "shock therapy". The President provided the following rationale for the killings:

*The peace was disturbed. It was as if there was no longer peace in this country. It was as though all there was was fear... We had to apply some treatment to take some stern action. What kind of action? It had to be with violence. But this violence did not mean just shooting people, pow! pow! just like that. No! But those who tried to resist, like it or not, had to be shot... Some of the corpses were left [in public places] just like that. This was for the purpose of shock therapy... This was done so that the general public would understand that there was still someone capable of taking action to tackle the problem of criminality.<sup>34</sup>*

Although the "mysterious killing" campaign gradually drew to a close in 1986, the idea which underpinned it remained. Where they are confronted by evidence of rising criminality, or where a political decision has been taken to tighten security, police and military authorities continue to resort to such summary justice. One victim of Jakarta's tough line on criminals, before the start of "Operation Cleansing", was **Hartono**, a suspected thief aged 20, shot dead while allegedly trying to flee police custody in the middle of the night on 24 May 1993. He was wearing hand-cuffs when he was shot. According to official sources, Hartono had been taken to a part of West Jakarta by police to identify the hideout of another member of his criminal gang. A police spokesperson said that as they walked toward the hideout, Hartono suddenly "...tried to run away and free his hands from the hand-cuffs. The officers said he broke the hand-cuffs".<sup>35</sup> The officers involved claimed that Hartono had ignored three police warnings so that they were "forced to shoot him". Although they said they had aimed for his legs, two bullets hit him in the back, killing him. No investigation was known to have been undertaken by the end of October 1994 and no police officers had been brought to justice.

#### 4.2 "Operation Cleansing" and Summary Executions

Since "Operation Cleansing" began, scores of alleged criminals have been shot dead in Jakarta.<sup>36</sup> At least nine were shot dead in the first three weeks of the campaign.<sup>37</sup> A report from September, said

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<sup>34</sup> Suharto: Pikiran, Ucapan dan Tindakan Saya, (Jakarta: PT Citra Lantoro Gung Persada, 1989), p. 364.

<sup>35</sup> Jakarta Post, 25.4.93.

<sup>36</sup> See Appendix I for details.

that 60 criminals had been shot in the Jakarta area in the previous four months, of whom 40 were killed.<sup>38</sup> The frequency of killings in Jakarta appeared to accelerate in September, with at least eight, and possibly many more, alleged criminals reportedly shot dead by police. Dozens have also been killed in other parts of the country. In the first month of an anti-crime campaign in West Java, known as "Operation Sweep" (*Operasi Sapu*), police arrested 405 recidivists and killed 10 who allegedly resisted arrest.<sup>39</sup> In the same month, six dead bodies were discovered in gunny-sacks in the city of Bandung, West Java. Bandung police said the victims were from other districts, so that the identity of the perpetrators remained unclear. Further killings have been reported from the cities of Semarang, Yogyakarta and Surabaya where similar anti-crime campaigns have been underway since April.<sup>40</sup>

Many of the victims have been killed in highly suspicious circumstances while in the custody of police. In virtually every case, police authorities have emphasized that proper procedures were followed, and that warning shots were fired before police officers took aim. However, the circumstances of the killings, and the similarity of the police accounts of dozens of different killings, cast serious doubt on these explanations. In a number of cases, for example, the victims were known to have been hand-cuffed when they allegedly tried to attack police officers or grab their weapons. In others, they were shot directly in the head or the torso, rather than in the legs. Some victims whom police claimed were shot while trying to run away were actually shot from the front. In the large majority of cases, police authorities have claimed that the victim was shot while trying to escape from their custody. Most of these alleged escapes have occurred in the dark early morning hours, while the victim is pointing out the hideout of his accomplices. In others, the police claim that the prisoner attempted to seize an officer's weapon.

The killing of "Maman" (not his real name), shortly after the start of "Operation Cleansing", was typical of many that followed. An alleged thief from a poor neighbourhood in Cipinang, East Jakarta, "Maman" was shot and killed while in police custody at the end of April 1994. According to his father, police abducted "Maman" from the family home in the early morning hours: "*They broke into the house without a warrant, tied my son's thumbs together with plastic rope, and took him away at gunpoint.*"<sup>41</sup> A few minutes later, "Maman's" father heard three gunshots and feared that his son had been killed. Shortly thereafter, Maman returned to the house, accompanied by police, with a bullet wound in his thigh and an injured foot, but still alive. At the house, police seized a television set that they alleged was stolen property, then took "Maman" to the police station. The following day his father learned that "Maman's" corpse was at the hospital. According to reports, his body had bullet wounds in

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<sup>37</sup> *Tempo*, 21.5.94, p.25.

<sup>38</sup> *Jakarta Post* 14.9.94.

<sup>39</sup> *Pikiran Rakyat*, 6.5.94.

<sup>40</sup> *Tempo*, 21.5.94, p.25.

<sup>41</sup> *Tempo*, 21.5.94, p.24.

the back and the right side of his chest. Police sources claimed that "Maman" had tried to flee while pointing out the hiding place of his accomplices in the Cipinang area. When asked whether he planned to file a complaint about the killing, "Maman's" father said: "*Little people like us don't complain. If we do, they'll just abduct us too*".<sup>42</sup>

Killings of this kind have given rise to fear of a return to the officially-sponsored Petrus killings of the mid-1980s.<sup>43</sup> A significant difference, however, is that in the current anti-crime campaign, the killings are being carried out openly by official members of the police. As a result, the new pattern has come to be known locally as Petrang, the Indonesian acronym for "open killings" (penembakan terang-terangan).

### 4.3 Condoning the Killing

Government and military authorities have sought to allay fears about a return to the Petrus killings. However, their public statements indicate that the current practice has approval at the highest level and reflects an official policy.

In March 1994 the Armed Forces Commander, General Feisal Tanjung, acknowledged that the number of criminals being shot on the street was growing, but denied that there was an official policy to shoot dangerous criminals on the spot.<sup>44</sup> "*There is no Petrus*", he said.<sup>45</sup> In the same month, the Jakarta Military Commander, Major General Hendropriyono, defended the killing of alleged criminals in the capital city, saying that the prime concern of the security forces lay in protecting the rights of ordinary citizens, not those of criminals. However, he denied that the practice meant a return to the Petrus killings.<sup>46</sup> Seeking to justify the campaign, Jakarta Police Chief, Major General Hindarto explained that "*educating [criminals] is no longer an effective means of bringing down the rate of student brawls or violent crime here. We have no choice but to impose harsh laws*".<sup>47</sup>

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<sup>42</sup> Tempo, 21.5.94, p.24.

<sup>43</sup> In an editorial, the Jakarta Post commented that the spate of killings of alleged criminals in early 1994 "...raised the ugly spectre of Petrus, the Indonesian short-hand for the mysterious killers who roamed major Indonesian cities in the early [sic, mid] 1980s, killing hard core criminals". Jakarta Post, 5.3.94.

<sup>44</sup> Jakarta Post, 5.3.94.

<sup>45</sup> Canberra Times, 4.3.94.

<sup>46</sup> Jakarta Post, 5.3.94.

<sup>47</sup> International Herald Tribune, 3.5.94.

The new tougher policy line has been welcomed by some members of the public and by members of the police force contending with violent crime. An unidentified police officer in Jakarta reportedly said: "*We are really fed up with criminals who go about stabbing people. Our hands get itchy - we just want to shoot them...Just think about the brutality of these criminals - they are not really human beings*". The same officer said that if a criminal tried to run or threatened to attack, their approach was: "*Shoot them in the body. Shooting the legs is too risky*".<sup>48</sup>

Civilian authorities have also backed the shoot to kill policy, though they have stressed that killings may only be justified if they are done in accordance with "*proper procedures*". In late September the Chairman of the Jakarta City Council, M.H. Ritonga, said that summary killings of alleged criminals were lawful as long as warning shots were fired first and the victims were "*hardcore criminals*" or "*repeat offenders*":

*There are four things that should be fulfilled by the police before deciding to shoot a criminal dead. First a policeman or woman should fire warning shots into the air in an effort to stop the criminal from running away. If he ignores the warning shots the police are allowed to shoot him. Shooting a hardcore criminal is also justified, or a repeat offender.*<sup>49</sup>

Even a member of the National Human Rights Commission, Bambang Suharto, appeared to endorse police shootings of suspected criminals, saying he and the Commission supported "*firm actions in restoring people's sense of safety*". More explicitly, he said "*As long as it is done in line with existing procedures and rules of the game, the shooting of criminals can be understood*". Though acknowledging that the shooting of criminals was a violation of human rights, Suharto defended the practice, saying, "*Which one is to be chosen, protecting the human rights of criminals or the victims of crimes?*"<sup>50</sup>

### Regional Anti-Crime Campaigns

Within a few days of the start of "Operation Cleansing" in Jakarta, similar campaigns were initiated in other parts of the country, notably in West Java - the province that skirts the capital city - Central Java, and East Java. As in Jakarta, key military and police officials in these areas have made public statements that appear to condone the killing of alleged criminals.

In mid-April West Java Police Chief, Major General Drs. H. Rukman Saminudin, told police officers in the province to step up their the "shoot to kill" (*bahaya sikat*) approach.<sup>51</sup> Explaining the

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<sup>48</sup> *Tempo*, 23.4.94.

<sup>49</sup> *Jakarta Post*, 28.9.94.

<sup>50</sup> *Jakarta Post*, 5.3.94.

<sup>51</sup> *Tempo*, 23.4.94.

meaning of the approach, he said that any criminal who threatened the safety of the community or police officers would be "wiped out". More specifically, he said: "*If after being shot in the legs, a criminal still threatens the officer or the public, then police will shoot him without further orders*".<sup>52</sup> In May Major General Saminudin also told the press that police officers were authorized to use their firearms to deal with increasingly brutal and sadistic criminals. He added that this must be done in accordance with procedures: police officers must first fire three warning shots, then shoot at legs to disable, and then - if forced to - shoot at a suspect's body. "*Thus, the method of bahaya sikat can be used if the criminal is a recidivist or has a propensity for evil and appears likely to threaten the public or an officer*".<sup>53</sup>

Similar statements were made by high ranking police authorities in Central Java. In April, Central Java Police Chief, Major General Soegijo, said that the police in his province would henceforth be more harsh in dealing with criminals in order to curb rising crime in the province. The police would open fire if orders to surrender were ignored.<sup>54</sup> Later the same month, he was quoted as saying: "If they use violence, we will answer with violence. If necessary we will use our guns...". He also indicated that the police would be targeting certain criminals. "In this regard, the police will not just be shooting anybody, but will be taking action against those that are well-known".<sup>55</sup>

Likewise in East Java, the Police Chief, Major General Drs. Emon Rivai Arganata, said in April that in order to deal with increasingly violent criminals, the police would be employing more violent methods.

*In confronting violent or sadistic crime, we must also use violence. If they refuse to surrender and try to run, then we will just shoot them. If they resist arrest or endanger officers, then we just shoot them dead. If we don't then it [the crime] won't stop.... That is my position. I gave the order some time ago. If criminals start to get out of hand and use violence, then we must use violence to deal with them.*<sup>56</sup>

In his remarks, the Police Chief for East Java clarified that he had given the order to all police chiefs in East Java: "*We started the war on crime long ago, but clearly we are now going to use more violence*". Encouraging the community to join in the violence against criminals, he said, the criminals

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<sup>52</sup> Pikiran Rakyat, 18.4.94.

<sup>53</sup> Pikiran Rakyat, 6.5.94.

<sup>54</sup> Jakarta Post, 8.4.94.

<sup>55</sup> SM, 16.4.94.

<sup>56</sup> Surabaya Post 16.4.94.

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*"...feel bold because members of the public who witness crimes look the other way. So don't be apathetic, arrest them or attack them".<sup>57</sup>*

Amnesty International is concerned that such official statements appear to condone the arbitrary killing of alleged criminals. They imply that killing is acceptable where the victim is a well-known criminal, and that "harsh methods" are justified by the increasing "brutality" of criminals. Further, they suggest that human rights of law-abiding citizens must take precedence over human rights of alleged criminals. Finally, they appear to encourage members of the public to join in the use of violence against criminals. Amnesty International is also concerned that the guidelines used in the context of the current anti-crime campaign are vague and provide security officials with broad discretion to use lethal force.

#### 4.4 Critical Perspectives

The shoot-to-kill policy has been criticized by Indonesian criminologists, human rights defenders and parliamentarians. They have warned that if the security forces are permitted to commit such killings without fear of punishment, they are bound to continue. They have also urged that thorough and impartial inquiries be conducted into all apparent arbitrary executions. Critics have also stressed that the policy does not address the root causes of crime, and that it may simply increase the levels of violence in the city.

Criticism of the killings increased in March 1994 after it was revealed that at least 19 criminals had been shot dead by Jakarta police in the previous two months.<sup>58</sup> A member of the national legislature, Y.B. Wiyanjono, expressed opposition to "street justice" in the wake of the killings. *"Everyone has the right to defend himself, including the police. But I think it's wrong for a police officer to shoot criminals intentionally".*<sup>59</sup> Another member of the national legislature, Andi Mattalata, said "street justice" did not help to solve crime since the cases were never brought to trial. He also proposed that the police carry out internal investigations to determine whether or not proper procedures had been followed.<sup>60</sup>

Expressing a rare note of caution about the killing of criminals, the Director General of Corrections (and member of the National Human Rights Commission), Prof. Dr Baharuddin Lopa,

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<sup>57</sup> Surabaya Post 16.4.94.

<sup>58</sup> According to official figures, 25 alleged criminals were shot in Jakarta in January and February 1994, 19 of whom died. Canberra Times, 4.3.94. Central Java police shot dead two criminal suspects between January and March 1994, according to Central Java Police Chief. Six others were shot but did not die. Jakarta Post, 8.4.94.

<sup>59</sup> Jakarta Post, 5.3.94.

<sup>60</sup> Jakarta Post, 5.3.94.

said in March 1994, "*In our efforts to overcome crime, let us not give rise to further crimes by officials*". Acknowledging that criminals were becoming more brutal and violent, Lopa warned: "*But that can never be used as a justification to shoot criminals arbitrarily. Murder cannot be solved by resorting to murder*".<sup>61</sup>

An editorial in the *Jakarta Post* emphasized that the summary killings were a breach of basic human rights: "*We believe that even pick pockets and robbers do have rights, not just law-abiding citizens...If we have to stop crimes by indulging ourselves in similar criminal conduct, then what is the difference between us and them?*".<sup>62</sup> The prominent human rights defender, Haji Princen, noted that the spate of killings violated the principle of presumption of innocence.<sup>63</sup>

Mulyana Kusumah, a criminologist and an executive director of the LBH, argued that an investigation into the killings of alleged criminals in Jakarta was necessary despite the fact that the police had claimed that proper procedures were followed in each case. In the absence of any efforts to rectify their approach, he warned, such killings might become a habit. Mulyana said he believed the recent killings were part of a policy designed by the police to deal with criminals.<sup>64</sup>

## 5. Conclusions: Human Rights and APEC

The concerns outlined in this report form part of a much broader and deeply-rooted pattern of human rights violations in Indonesia and East Timor. In its recent report, *Power and Impunity*, Amnesty International offered a set of 32 concrete recommendations which, if implemented, could help to improve the human rights situation. To address the specific concerns raised in the current report, Amnesty International offers the following recommendations, some of which are new:

1. Release all prisoners detained solely for their non-violent political activities or beliefs;
2. Bring an end to official harassment, such as arbitrary arrest and intimidation, of alleged government critics;
3. Ensure that individuals engaging in non-violent activities relating to internationally recognised standards on freedom of the press, freedom of association and freedom of assembly, can do so without facing harassment;

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<sup>61</sup> *Antara*, 10.3.94.

<sup>62</sup> *Jakarta Post*, 5.3.94.

<sup>63</sup> *Jakarta Post*, 5.3.94.

<sup>64</sup> *Jakarta Post*, 5.3.94.

4. Initiate thorough and impartial investigations into all incidents of torture and ill-treatment by members of the security forces;
5. Initiate a thorough and impartial investigation into the pattern, and individual incidents, of apparent arbitrary killings of alleged criminals by police and military officers;
6. Ensure that all members of the security forces suspected of committing such violations are brought promptly to justice, and removed from active duty pending the outcome of human rights investigations;
7. Conduct a review of existing guidelines on the use of lethal force by all members of the security forces;
8. Accede to the International Covenant on Civil and Political Rights (ICCPR), and the Convention Against Torture (CAT).

In addition to the responsibilities which lie with the Indonesian Government to take concrete actions to improve human rights, Amnesty International believes that members of the international community, including members of APEC, also have a role to play in promoting and protecting human rights in Indonesia and East Timor. It believes that governments, and business leaders, from the APEC region have responsibilities with regard to human rights issues, and should address these as part of their deliberations at this and future APEC meetings. Governments have a responsibility to do so because they have declared their commitment to international human rights standards. However, in Amnesty International's view, government and business leaders also have an interest in raising these matters, because any country in which basic human rights are consistently violated can never provide a stable or suitable climate for investment or trade.

Key APEC member states, including the United States, Australia, Japan, and those grouped within ASEAN,<sup>65</sup> have often stated their commitment in principle to the protection of human rights, and adherence to international standards. Yet in the run up to the APEC meeting in November, they have sent a message that they do not intend to raise human rights issues within the forum. Regional business leaders have taken a similar position.

In August the United States reassured the Indonesian Government that it would not raise its concerns about labour and human rights during the APEC meeting. Addressing a group of business people from the Asia-Pacific region, US Ambassador to Indonesia, Robert Barry, said "*APEC is not*

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<sup>65</sup> ASEAN (Association of Southeast Asian Nations) currently groups Indonesia, Malaysia, Philippines, Singapore, Thailand, and Brunei.

*the right forum for discussing human rights. It is not the right institution.*<sup>66</sup> In a separate statement, the Embassy said:

*The U.S. will not raise worker rights nor link trade and environmental issues in APEC...our discussions in APEC do not include worker rights issues, and it would be inappropriate to raise those issues there.*<sup>67</sup>

US Government officials delivered a more nuanced message during a conference on US-Indonesia trade and investment held in Jakarta in early September. On that occasion, Deputy Assistant Secretary of State, Sandra O'Leary, stressed that "*APEC is an economic organization...and the agenda of the meeting is also to be focused on economic issues*". However, she indicated that human rights issues might be raised during bilateral meetings that would take place outside the formal APEC forum.<sup>68</sup>

Some Asian governments within APEC have rejected the inclusion of "social clauses" on labour rights or environmental issues in international trade agreements. In a joint communique issued following a summit in late July, ASEAN foreign ministers declared that:

*Attempts by some developed countries to introduce social clauses into international trade agreements would restrict market access and adversely affect the employment opportunities of workers in developing countries.*<sup>69</sup>

Singapore's Prime Minister, Goh Chok Tong, further argued that such efforts are a way of "*dressing up old notions of protection with a cloak of respectability*".<sup>70</sup> The position taken by the Government of Japan has been more circumspect but still disappointing. After a meeting with Amnesty International's Secretary General in October, Prime Minister Tomiichi Murayama declined to make a commitment to raise human rights at APEC.

The attitude of business leaders has been similarly disappointing. Representatives of the Pacific Business Forum, an APEC advisory group of 36 business leaders set up in 1993 have stated that they would not raise human rights matters. In September the group announced that it had completed a report that would be submitted to President Suharto and later to APEC government leaders. The Co-Chairman of the report, (Chairman of the US-based construction company, Fluor Corp of Irvine,

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<sup>66</sup> AFP, 24.8.94.

<sup>67</sup> Reuters, 16.8.94.

<sup>68</sup> Jakarta Post, 8.9.94.

<sup>69</sup> Jakarta Post, 25.7.94.

<sup>70</sup> Reuters, 12.9.94.

Calif.) said that the report made no mention of labour standards or political matters. "*This was an effort that dealt with commercial realities*", he said.<sup>71</sup>

Amnesty International does not wish to damage the investment and trade prospects of any APEC member country. However, it believes that a forum such as APEC provides a valuable opportunity for all governments and business leaders to demonstrate that they are genuinely committed to human rights, not just in Indonesia and East Timor, but throughout the region. It is therefore calling on them to address these issues both during the APEC forum itself and in the course of bilateral meetings.

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<sup>71</sup> Reuters, 3.9.94.