

AMNESTY INTERNATIONAL PUBLIC STATEMENT

Index: ASA 21/4029/2016
12 May 2016

Indonesia: halt execution plans immediately and address fair trial violations

Amnesty International is alarmed at reports that Indonesia is planning to carry out executions in the immediate future. It urges the authorities to immediately halt any such plans and establish a moratorium on executions as a first step towards abolition of the death penalty. It also calls on them to review the cases of all prisoners currently under sentence of death with a view to the commutation of their death sentences and to address violations of international law and standards relating to the use of the death penalty in Indonesia.

Indonesian and international media reported on 8 May that three prisoners had been moved to Nusakambangan Island from Batam, suggesting that their execution could be imminent. Prior to this, the authorities moved Zulfiqar Ali, a Pakistani national, from Cipinang prison in Jakarta to Nusakambangan Island at the end of April. All four men were convicted of drug-related offences. Drug-related offences do not meet the threshold of the “most serious crimes” to which the use of the death penalty must be restricted under international law. According to statements attributed to a prison guard at Nusakambangan Island, 59 death row prisoners are currently held at this facility, where 13 of the 14 executions in 2015 were carried out.

An Amnesty International report on Indonesia published in October 2015 highlighted systemic flaws in the administration of justice which have resulted in violations of the right to fair trial for at least three of the four prisoners who were recently moved to Nusakambangan Island –Agus Hadi, Pujo Lestari and Zulfiqar Ali.

Agus Hadi, Pujo Lestari and another man were arrested for attempting to smuggle 12,490 benzodiazepine pills from Malaysia in 2006. They were detained at the narcotics directorate of the Riau Islands Police Headquarters on 22 November that year, interrogated there for 20 days and then transferred to the Batam prosecution detention centre. They were held in total for nine weeks before they appeared before a judge at their first trial hearing in the Batam District Court at the end of January 2007. Court documents indicate that Agus Hadi only received assistance from a lawyer on 12 December, 20 days after his arrest. Pujo Lestari had legal counsel appointed by the Batam District Court on 8 February, 78 days after his arrest and a week after the court had scheduled the first trial hearing.

Zulfiqar Ali, a Pakistani national, was arrested at his home in West Java province on 21 November 2004, and charged with possession of 300g of heroin. During his pre-trial detention, he was refused the right to contact his embassy and was not permitted any access to a lawyer until approximately one month after his arrest. According to court documents, the Chief of Tangerang District Court granted the prosecutor an extension of Zulfiqar's detention from 4 March to 2 May 2005. This means he was detained for at least three months before being brought to the first trial hearing, although there is no information as to when the first trial hearing started.

While he was being interrogated by the Soekarno-Hatta Airport district police, Zulfiqar Ali was kept in a house for three days and punched, kicked and threatened with death unless he signed a self-incriminating statement, which he later did. After three days his health deteriorated to the extent that on 24 November 2004 he was sent to a police hospital, where he required stomach and kidney surgery due to damage caused by the beatings. He was in the hospital for 17 days. During his trial he described this torture, but the judges allowed the "confession" to be admitted as evidence. There has been no independent investigation into his allegations.

Zulfiqar Ali did not speak Bahasa Indonesia. He received limited translation assistance throughout his detention and during the proceedings against him. At the trial, he was provided with translation only from Bahasa Indonesia to English only, but he understood only a little English. He was convicted and sentenced to death in 2005. His death sentence was upheld by the Supreme Court in 2006.

Among other protections, international law guarantees the right of anyone facing a criminal charge to competent and effective legal counsel from the start of a criminal investigation and as soon as they are deprived of their liberty; the right to be brought promptly before a judge or other judicial officer; and the right not to be subjected to torture or to other cruel, inhuman or degrading treatment or punishment. Statements and other forms of evidence elicited as a result of torture, ill-treatment or other forms of coercion must be excluded from evidence in all proceedings.

International fair trial standards also provide that foreign nationals or others who do not understand or speak the language used by the authorities are entitled to the assistance of an interpreter following arrest, including during questioning, and at all other stages of the proceedings. Foreign nationals also have the right to be promptly informed of their right to communicate with their embassy or consular post as soon as they are arrested, detained or imprisoned.

However, research findings by Amnesty International, Indonesia's National Commission on Human Rights (*Komisi Nasional Hak Asasi Manusia*, Komnas HAM), and the Institute for Criminal Justice Reform (ICJR) showed that these guarantees have often been violated in the context of the use of the death penalty in Indonesia.

Amnesty International opposes the death penalty in all cases and under any circumstances. In the cases of Agus Hadi, Pujo Lestari and Zulfiqar Ali, it is additionally disturbed that to date no steps have been taken to address these concerns about their

unfair trial proceedings, or other concerns denounced by the Komnas HAM and several human rights organizations.

It has been just over a year since Indonesia carried out its last executions on 29 April 2015. The execution of Agus Hadi, Pujo Lestari, Zulfiqar Ali or any other prisoner would not only set Indonesia against its international human rights obligations, but it would also set the country against the global trend towards abolition of the death penalty, strengthened by the repeal of this punishment in four new countries –Congo (Republic of), Fiji, Madagascar and Suriname– last year alone.

Pending full abolition of the death penalty in Indonesia, Amnesty International renews its call on the country's authorities to halt all executions and to take immediate steps to ensure that the cases of all those under sentence of death are reviewed by an independent and impartial body, with a view to the commutation of their death sentences. In particular, in cases where the death penalty has been imposed for drug-related offences, or where the trial did not meet the most rigorous international fair trial standards, or where in any other respect the proceedings or the handling of the case has been seriously flawed, relevant authorities should ensure there is a retrial that fully complies with international fair trial standards and which does not resort to the death penalty.