

# INDONESIA

## The Trial of Thought

*“What is going on now is a trial of thought. From any judicial point of view, it is impossible to use legal principles to try someone’s thoughts”.*<sup>1</sup>

### INTRODUCTION

Indonesia is currently witnessing the greatest number of high profile trials of peaceful government critics in recent years. Fifteen people on trial for subversion face the death penalty or lengthy prison sentences for their non-violent involvement in political and labour activities. All 15 are considered by Amnesty International to be prisoners of conscience.<sup>2</sup> Their trials, which are characterised by unfairness and which will almost certainly result in convictions, cannot be viewed separately from the impending parliamentary elections of May 1997. All the indications are that political activity critical of the government will be tightly monitored, controlled and punished during the next few months.

The subversion trials are being conducted in Indonesia’s capital, Jakarta and the East Java city of Surabaya. With the exception of independent labour leader, Muchtar Pakpahan, all those on trial are members of the People’s Democratic Party (*Partai Rakyat Demokratik - PRD*) or its affiliated organizations, including the Indonesian Centre for Labour Struggle (*Pusat Perjuangan Buruh Indonesia - PPBI*), the Student Solidarity for Democracy (*Solidaritas Mahasiswa Indonesia untuk Demokrasi - SMID*) and the National Peasants’ Union (*Serikat Tani Nasional - STN*). All of these organizations are unofficial but have not been banned by the Indonesian Government, which maintains a tight grip on political and labour organizations and permits the official functioning of only three political parties and one trade union.

The people on trial for subversion in Jakarta were originally arrested in connection with riots which broke out in areas of Jakarta on 27 July 1996. The riots were in response to a raid on the headquarters of the Indonesian Democratic Party (*Partai Demokrasi Indonesia - PDI*) in Jakarta which had been occupied by supporters of the ousted PDI leader Megawati Sukarnoputri. The raid was conducted by alleged members of a rival faction of the PDI and the security forces. The government responded to the riots with a broad sweep of arrests of

---

<sup>1</sup>Adnan Buyung Nasution, defence lawyer for independent labour leader Muchtar Pakpahan. Jakarta Post, 20 December 1996.

<sup>2</sup>The term prisoners of conscience refers to individuals detained for their beliefs or because of their ethnic origin, sex, colour or language, who have not used or advocated violence.

government critics, during which at least 108 individuals were taken into custody. Twelve of those people are now being tried on charges of subversion, despite the fact that there is no evidence of their involvement in the riots. Three other members of PRD affiliated organizations are also on trial for subversion in Surabaya for their involvement in a labour demonstration in early July 1996.

Suspected members of the PRD and its affiliated organizations continue to be at risk of arrest. On 7 March three members of the PRD were arrested in Jakarta following the confiscation of leaflets calling for a boycott of Indonesia's elections. Also in March another activist, Agus, was arrested in Surabaya, East Java, on suspicion of involvement in PRD activities. Agus was arrested by the regional branch of the military organization, Coordinating Agency for the Maintenance of National Stability (Bakorstanasda). He was held in military custody for three days during which time he was interrogated. He was released without charge but it is not clear whether he faces further investigation or charges.

Amnesty International considers all of those currently on trial in Jakarta and Surabaya under the Anti-subversion Law to be prisoners of conscience. The accusations against them relate to their involvement in peaceful political activities - including the formation of labour or political organizations, calling for a referendum for East Timor - nothing that could legitimately be construed as a threat to the state. As such, they should be immediately and unconditionally released and not face trial at all. Instead they are being tried under a law which allows for the conviction of anyone whose words or activities are deemed to be disruptive of public order, or critical of Indonesia's state philosophy, *Pancasila*, the government, its institutions or its policies.<sup>3</sup> Their trials are also failing to conform to both Indonesian criminal procedures and international standards. Indonesia's Code of Criminal Procedures (*Kitab Undang-Undang Hukum Acara Pidana*, KUHAP) contains articles which protect the rights of detainees and defendants, including the right to have access to lawyers and protection against the use of force to extract information from a suspect or witness. These and other articles of the Code have been repeatedly breached. International standards on the right to a fair trial, which Indonesia, as a member of the United Nations (UN) has recognised, are also being violated.

As the trials of the PRD members and Muchtar Pakpahan continue, the government has made no progress in examining or implementing any of the recommendations contained in the findings of the Indonesian National Commission on Human Rights (*Komisi Nasional Hak Asazi Manusia*, Komnas HAM) following its investigation into the raid and riots.<sup>4</sup>

---

<sup>3</sup>*Pancasila* is Indonesia's state ideology and embodies five principles; belief in one God, humanitarianism, national unity, democracy and social justice.

<sup>4</sup>See Amnesty International, [Indonesia: Arrests, torture and intimidation: The Government's response to its critics](#), AI Index ASA 21/70/96, November 1996.

---

Serious allegations concerning deaths and injury inflicted by those who raided the PDI headquarters remain uninvestigated. Komnas HAM's recommendations included that the authorities continued to investigate the whereabouts of 23 people believed by Komnas HAM to be missing as a result of the raid. The National Commission also recommended that there be an investigation into the role during the raid of a rival faction of the PDI, headed by the new government-supported leader Suryadi. In December 1996, the government was quoted as saying that consideration of Komnas HAM's findings was being handled by the police and the Attorney-General's Department but there have been no further indications that the government has begun to implement any of Komnas HAM's recommendations.

This report outlines the charges and accusations against those currently on trial and highlights examples of unfairness already witnessed during their trials. The report also documents continuing harassment by the authorities of politicians including ousted PDI leader Megawati Sukarnoputri. A list of those on trial and the specific charges against them is appended to this report.

## THE ACCUSED

There are currently 15 individuals on trial for subversion throughout Indonesia. They are independent labour leader Muchtar Pakpahan and 11 members of the PRD, arrested after riots in Jakarta on 27 July 1996. Three other members of the PRD, arrested in early July 1996, are on trial for subversion in Surabaya.<sup>5</sup> The Jakarta trials, most of which began in December 1996, are being conducted in the Central Jakarta District Court and the South Jakarta District Court. Those being tried in Central Jakarta - Budiman Sudjatmiko, Garda Sembiring, Yakobus Eko Kurniawan, Ignatius Damianus Pranowo and Suroso - are currently detained at the Salemba Detention Centre, while those being tried in South Jakarta - Muchtar Pakpahan, Petrus Hariyanto, Ken Budha Kusumandaru, Victor da Costa and Ignatius Putut Arintoko - are detained at Cipinang Prison in Jakarta. Those being held in Jakarta are being tried in six separate trials. Muchtar Pakpahan, PRD leader Budiman Sudjatmiko, PRD Secretary General Petrus Hariyanto, and SMID leader Garda Sembiring are all being tried separately. Ken Budha Kusumandaru, Victor da Costa and Ignatius Putut Arintoko are being tried in one joint action, as are Yakobus Eko Kurniawan, Ignatius Pranowo and Suroso.

Wilson B Nurtiyas and I Gusti Anom Astika, two PRD activists, were arrested on 10 September 1996 in Central Java. They are now being held in Cipinang Prison in Jakarta.

---

<sup>5</sup> Others currently held under subversion charges include four people arrested in connection with riots in the town of Tasikmalaya and three members of a new unofficial political party arrested in March 1997, including politician Sri Bintang Pamungkas.

Their trials for subversion began in February 1997 at the District Court in South Jakarta. The three activists on trial in Surabaya, Dita Indah Sari, Coen Hussein Pontoh and Mochamad Sholeh, are being held at Medaeng Detention Centre in Surabaya. Their trials began in December 1996. The status of 11 other activists in Surabaya who were arrested after 27 July 1996 and threatened with charges remains unclear. Although all 11 have been released from custody, the authorities have not revoked the charges against the group and it is not known if they are still being investigated.

Two other men still facing the threat of charges in connection with the events of July 1996 are Benny Sumardi and his brother, a Catholic priest, Father Romo Sandyawan. Benny Sumardi was arrested on the night of 11 August and accused of harbouring members of the PRD at his house. He was released on 21 August 1996. Father Sandyawan, who has admitted offering sanctuary to the PRD youths out of fear that they faced possible torture or extrajudicial execution, was never arrested, but was questioned several times after being accused of harbouring criminals.<sup>6</sup> In February 1997 it was reported that a case against the two men had been submitted to the prosecutors by the police, in which the two were accused of violating Article 221 of the Indonesian Criminal Code which relates to the harbouring of criminals.<sup>7</sup> The prosecutors however returned the files to the police. The grounds for the return of the files was not stated, but the return of files by the prosecutor is generally an indication that there is insufficient evidence to proceed with a charge.<sup>8</sup>

## CHARGES

The initial pretext for the arrest of all those currently on trial for subversion was that they were the “masterminds” behind the July 1996 riots in Jakarta. However, when the prosecution filed formal charges against all the defendants, the issue of whether there was an instigator or “mastermind” behind the riots, and the question of the PRD’s direct involvement in the riots, was largely absent. Rather, the prosecution’s accusations focus on other activities that the PRD members and Muchtar Pakpahan were alleged to have undertaken - activities which the prosecution claims were intended to undermine, overthrow or damage the Indonesian Government. There is no mention at all of the riots in Muchtar Pakpahan’s indictment and, in the indictments of the PRD members on trial, there is only

---

<sup>6</sup>Father Sandyawan’s fears were based on a military “shoot to kill” order which was announced on 30 July and lifted on 6 September 1996.

<sup>7</sup>Article 221 of the Indonesian Criminal Code punishes harbouring or aiding criminals in evading arrest with a maximum imprisonment of nine months.

<sup>8</sup>Republika, 8 February 1997.

passing reference to their presence “in the crowd”. The change in focus of the accusations is indicative of the fact that there is no evidence that any of those on trial were involved either directly or indirectly in the riots. It confirms the fears held by many observers at the time, including Amnesty International, that the raid and riots were used by the authorities as a pretext to target organizations and individuals deemed critical of the government at a time when the government is hoping to ensure smooth parliamentary elections in May 1997.

Muchtar Pakpahan and the PRD members are being tried under various sections of the Anti-subversion Law. Amnesty International is seriously concerned at the recent revival in use of the Anti-subversion Law, which has been widely used in the past to imprison or sentence to death those who have engaged in peaceful political or other activities. In recent years, faced with strong criticism of the law, including from Komnas HAM and from United Nations human rights experts, its use by the authorities had declined, but not ceased altogether. This decline had been welcomed by the international community as an indication of an improvement in the human rights situation in Indonesia. Specific concerns with the law are outlined in a report released by Amnesty International in February 1997.<sup>9</sup>

The three charges which are being most commonly used are contained within Article (1) of the law. They are:

- sub-section 1 (a): Distorting, stirring up trouble or digressing from the state ideology *Pancasila* or the course of the state;
- sub-section 1 (b): Overthrowing, damaging, or undermining state power or the authority of the legal Government or the State Apparatus;
- sub-section 1 (c): Spreading feelings of hostility, dissension, conflict, chaos, instability or restlessness among the population or society in general in between the Republic of Indonesia and a friendly state.

All of these “crimes” are punishable with the death penalty, life imprisonment or 20 years' imprisonment. With the exception of Muchtar Pakpahan, who is being tried with violating Sub-section 1 (b) and (c) only, all of the PRD activists are facing charges under all three above sections. The other charge which all, including Muchtar Pakpahan, are facing is Article 154 of the Indonesian Criminal Code, "spreading hatred" against the Government of Indonesia, which is punishable by a maximum imprisonment of seven years.<sup>10</sup>

---

<sup>9</sup> Amnesty International, Indonesia: The Anti-subversion Law: A Briefing, AI Index: ASA 21/03/97, February 1997.

<sup>10</sup> Article 154 of the Indonesian Criminal Code punishes those who “give expression to feelings of hostility, hatred or contempt against the Government of Indonesia” with a maximum imprisonment of seven years.

## THE ACCUSATIONS

The activities which the prosecution alleges were in contravention of the Anti-subversion Law clearly demonstrate how legislation can be used in Indonesia to restrict freedom of expression and to punish those critical of the government. All of those currently on trial for subversion have been accused of undermining the state through actions which were no more than the non-violent expression of their political beliefs. Among the subversive acts which the defendants are accused of are writing a song in memory of a female labour activist murdered with the knowledge or acquiescence of the security forces; calling for a referendum for East Timor; an end to the Indonesian Armed Forces' (ABRI) involvement in socio-political affairs;<sup>11</sup> and demands for higher national wages.

All of the PRD members on trial are accused of distorting or undermining *Pancasila* because of their alleged role in establishing organizations which are not based on the state ideology, but rather, as the indictments claim, on "people's social democracy". Under Indonesian law, all organizations must adopt *Pancasila* as their sole ideological base. The defence has argued that there is nothing in the PRD's manifesto which states that the organization is not based on *Pancasila*.

Defence lawyers in all of the cases have strongly questioned the fact that although the defendants were originally arrested and detained in connection with their alleged roles as "masterminds" of the riots in Jakarta in July 1996, there is scant reference to this in the indictments. Even during questioning by investigators immediately after their arrest, their involvement in the riots was not raised, apparently because it was no longer the issue on which the authorities wished to hold them accountable. The defence lawyers are therefore arguing that the defendants' indictments breach Article 17 of the Indonesian Criminal Procedures Code (KUHAP) which states that "*an arrest order can be carried out against anyone strongly suspected of having committed a criminal violation based on sufficient preliminary evidence*". The lawyers argue that as the acts for which they are now facing trial have changed, the reason and therefore the evidence on which their original arrest was based is no longer valid.

The lawyers have also argued that the Anti-subversion Law is no longer relevant to conditions in Indonesia, given that it was first issued in 1963 during a time of national emergency which no longer exists. The lawyers also argue that the law is so vague as to allow the authorities to construct a case that an individual was *intending* to undermine or

---

<sup>11</sup>The military's role in socio-political function in Indonesia is called *dwi-fungsi* or dual function.

overthrow the state without having to prove that the intended acts would in fact result in the undermining or overthrowing of the state.

All of the defence lawyers' arguments against the use of the Anti-subversion Law, the contravention of Article 17 of KUHAP and the contents and authenticity of the PRD manifesto have been rejected or ignored by the trial judges.

## THE TRIALS

Although all of the defendants are facing the most serious political charge in Indonesia, and risk the death penalty or lengthy prison terms, their trials fall short of international and domestic standards for fairness. Serious irregularities during arrest and pre-trial detention have been ignored by the judicial authorities despite being brought to their attention by defence teams during the present court sessions. Irregularities have also been a constant feature of the trials. Efforts by the defence to clarify procedures or to complain are frequently regarded by the authorities as attempts to delay or disrupt the trials. In frustration, on 3 March, the detained PRD members began a hunger strike in protest against the unfair treatment in their trials and stated that they would refuse to speak in court.

There is considerable speculation that the authorities will attempt to complete the trials before the campaign for the parliamentary elections begins in late April. If this is the case, there are fears that certain procedures may be breached in order to speed up the trials. Amnesty International is concerned that this may mean that the defence will not be given proper time to examine and call witnesses. Already there are indications that the examination of witnesses is being rushed and that the defence is being denied the right to cross-examine witnesses. In one recent incident, the defence was denied the opportunity to cross-examine 13 prosecution witnesses whose statements were read out in court by the prosecution in one day, on the grounds that the witnesses could not appear in court. Observers of the trials report that the testimony of each witness is usually taking about half a day.

The defendants are also being tried in courts whose independence and impartiality is undermined by the government and the military. Of particular concern during the current trials, is the strong presence of the military during court sessions. There have also been reports of the presence of plain clothed security force members with one report stating that there were intelligence officers at the PRD trials filming those who attended the court hearings.

The unfairness of these trials is a matter of extreme concern, not just because all of the defendants are prisoners of conscience - and therefore should be immediately and unconditionally released - but because they face the death penalty. In 1984, the UN Economic and Social Council (ECOSOC) adopted a resolution guaranteeing safeguards

protecting the rights of those facing the death penalty. These safeguards include a provision that capital punishment may only be carried out on the order of a final judgement from a competent court after a trial which “*gives all possible safeguards to ensure a fair trial*”.<sup>12</sup> Amnesty International does not consider that Indonesia is fulfilling its obligations under this resolution and that the unfairness of the trials is placing the defendants at risk of the death penalty or lengthy prison terms.

## **Pre-trial Concerns**

Amnesty International is deeply concerned that the authorities have denied the PRD members and Muchtar Pakpahan their right to a fair trial, as recognised in international standards and Indonesian law, from the moment of arrest until the commencement of their trials. They have denied the PRD members fundamental rights which all persons have upon arrest including the right of access to their families, lawyers and independent medical treatment, the right to be brought promptly before a judge, the right to have the lawfulness of their detention reviewed by a court, the right to have access to evidence and the right to be presumed innocent. Some of the detainees have been subjected to torture or ill-treatment.

### ***Arrest and detention***

Serious irregularities occurred during the arrest and pre-trial detention of Muchtar Pakpahan and the PRD members and complaints concerning such breaches are being ignored or dismissed by the court judges. In common with most of the other 108 people who were arrested following the events of 27 July 1996, the PRD members were not informed of the reasons for their arrests or the charges against them at the time of their arrests. Nor were they informed of their rights at the time they were arrested. Many of the 108 were held incommunicado in military custody. Others were held in police custody but without access to lawyers. In the case of the PRD members, arrest warrants were only provided one, and in some cases two, days after the arrests. In addition, the arresting officers did not identify themselves to the PRD members and the arrests were carried out by plain clothed officers making it difficult to establish the identity of the arresting authority. It later emerged that they had been arrested by military personnel believed to be from ABRI's Military Intelligence Body (*Badan Intelijen ABRI - BIA*), and not police. Under Article 18 (1) of Indonesia's Criminal Code, police only are authorised to conduct arrests. There is no power under the KUHAP for the military to conduct arrests.

---

<sup>12</sup>ECOSOC Resolution 1984/50.



The PRD members arrested in Jakarta were held in incommunicado detention by BIA from the dates of their arrest on 11 and 12 August until 18 August when they were transferred to the Attorney-General's custody. The detention orders relating to the PRD members, issued after they were taken into custody, incorrectly stated that they had been detained in the custody of the Attorney-General since they were arrested, with the result that their detention by the military is not documented. All, including Muchtar Pakpahan, were denied the right to effectively challenge the lawfulness of their detention or to seek bail. The PRD members arrested later, including Wilson B Nurtiyas and I Gusti Anom Astika, were also subjected to similar breaches of Indonesian law and international standards.

The nine PRD activists arrested on 11 and 12 August 1996 were told that they were being held under subversion charges but were all denied information about specific accusations against them. The prosecution refused to provide them with information about the specific accusations of their involvement in the riots during their investigation, despite this being the alleged reason for their arrest. Muchtar Pakpahan was not provided with information about the specific reason for his arrest and the reasons for the charge of subversion against him until he had been interrogated four times. The failure by the authorities to inform all the detainees of the reasons for their arrests and the charges against them is in contravention of Indonesia's own law and international standards. Article 18 of KUHAP requires that an arrest warrant should be provided to the family or the individual arrested immediately after the arrest. Principle 10 of the United Nations (UN) Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (UN Body of Principles) states that anyone who is arrested shall be informed at the time of the arrest of the reason for their arrest and charges against them. This is also consistent with fundamental principles of fair trial as reflected in other international standards, such as the International Covenant on Civil and Political Rights (ICCPR).<sup>13</sup>

### *Access to lawyers*

While the PRD members were held incommunicado in military custody they were given no information about their rights, including their right to legal representation. The failure of the authorities to inform PRD members when they were arrested of their right to legal assistance was inconsistent with their obligations under international standards which require that the authorities must ensure that detainees are made aware of their rights when they are arrested.<sup>14</sup>

---

<sup>13</sup> Article 9 (2) and Article 14 (3) (a) of the ICCPR.

<sup>14</sup> Principle 13 of the UN Body of Principles, states that at the time of an arrest, individuals taken into custody should be provided with information about their rights. Principle 17 (1) of the Body of Principles expressly requires that individuals who have been arrested should be informed promptly after arrest of the right to a lawyer.

Several of the youths who specifically requested a lawyer while being interrogated in military custody were denied this request. Wilson Nurtiyas stated in court that when he asked the officers interrogating him if he could obtain legal representation, he was told “[y]ou do not need a lawyer - you should just answer our questions”. Six days after his arrest, he was finally allowed to meet with a lawyer, but for 15 minutes only. Repeated requests by lawyers for access to their clients to the Attorney-General’s Department were turned down, despite the fact that lawyers had already obtained power of attorney from several of the PRD activists’ families. Lawyers first gained access to the detainees on 21 August - nine or 10 days after the initial arrests - but were permitted less than 10 minutes with their clients. Following this, lawyers were restricted to half hour visits only.

Prompt access to independent lawyers is an important safeguard against the risk of torture or ill-treatment. This right is explicitly recognised under Article 54 of the Indonesian Criminal Procedures Code which states that defendants or suspects have the right to receive legal representation at every stage of the investigation, and Article 55 which states that defendants have the right to choose who they wish to legally represent them. International standards also provide for the right of detainees to prompt access to legal representation of their choice.<sup>15</sup>

The investigation into the PRD members’ activities began during their interrogation by officials while in BIA custody, despite their having been denied access to lawyers. Defence lawyers have argued that the investigations of the defendants breached several articles of KUHAP, both because it took place before the defendants were allowed access to lawyers but also because the investigation was conducted by military personnel. Under Article 1 of KUHAP, “investigators” are defined as “state police officials” or “other civil service officials”. It does not include the military.<sup>16</sup>

The defence lawyers have also argued that this investigation by BIA meant that there were two stages of investigation - one by BIA during which statements were prepared and signed by the defendants without lawyers being present. Another investigation was later undertaken by Attorney-General’s department officials, this time conducted in the presence of lawyers. It also resulted in statements from the defendants. It is believed that both

---

<sup>15</sup>Principle 15 and 18 of the UN Body of Principles guarantee that even in exceptional circumstances detainees have the right to be visited and to consult and communicate without delay or censorship and in full confidentiality with legal counsel and that this should not be denied for more than a matter of days. Principle 7 of the UN Basic Principles on the Role of Lawyers requires that governments ensure that all persons arrested or detained should have prompt access to a lawyer “..and in any case not later than forty-eight hours” after the arrest.

<sup>16</sup>The Anti-subversion Law allows for the investigation of subversion cases by the Attorney General/Highest Ranking Military Prosecutor rather than the police.

statements are being used in the trials. In March, two of the PRD activists withdrew their statements in court on the grounds that they had been prepared in the absence of lawyers and at a time when they had not been informed of their rights.<sup>17</sup>

### *Access to families*

With the exception of Muchtar Pakpahan, who was arrested at his home, all of the PRD members were denied the right to notify or to have their family notified of their arrest and place of detention, in contravention of both domestic and international standards.<sup>18</sup> The families of all the PRD activists were unaware of their whereabouts for more than a week after their arrests. Family members went to the Attorney-General's office, where they were told that the youths had been arrested and were in the custody of the Attorney-General. The Attorney-General's office however refused to reveal their precise whereabouts. On 14 August 1996, lawyers given the power of attorney for four of the PRD members accompanied their families to the Attorney-General's office but were refused access to the detainees. When the families were finally granted access, they were restricted to one 30 minute meeting each week. The detainees were also prevented from receiving letters from their families and, during their pre-trial detention, were denied access to spiritual counsel in contravention of Articles 62 and 63 of KUHAP

### *Ill-treatment and torture*

Several of the PRD members on trial were subjected to torture or ill-treatment during their pre-trial detention. Garda Sembiring, Ken Budha Kusumandaru, Suroso and Ignatius Pranowo were subjected to beatings, while Yakobus Eko Kurniawan is believed to have been subjected to torture through the use of electric shocks. It is believed that the three activists in Surabaya, Dita Indah Sari, Coen Husein Pontoh and Mochamad Sholeh, were all subjected to beatings while they were being arrested. There are also concerns that the treatment of the youths in custody may have amounted to cruel, inhuman or degrading treatment. The lawyers claim that some of the investigation sessions were lengthy and resulted in cruel treatment - including one interrogation session in which Petrus Hariyanto was questioned for 24 hours without a break. The detainees were given no mattresses and were thus forced to sleep on the floors of their cells. To Amnesty International's knowledge none of these

---

<sup>17</sup> *Kompas*, 12 March and 13 March 1997.

<sup>18</sup> Article 18 (3) of KUHAP and Principle 16 of the UN Body of Principles. Rule 92 of the UN Standard Minimum Rules for the Treatment of Prisoners (UN Standard Minimum Rules) requires that notice to families of an arrest must be immediate. Article 60 of KUHAP states that suspects or defendants have the right to be contacted or visited by their families.

allegations of ill-treatment or torture has been investigated by the Indonesian authorities despite clear provisions in international standards requiring that allegations of ill-treatment and torture be investigated.<sup>19</sup>

### ***Presumption of innocence***

The presumption of innocence is an important element of fair trials recognised in every legal system, including the Indonesian legal system. In the case of Muchtar Pakpahan and the PRD members, the presumption of innocence has been severely compromised by public statements made by the government and military authorities about the accused and by propaganda against them in the media before the trial. All of those facing trial have been disadvantaged by the fact that their guilt has been strongly implied and at times openly stated by public figures prior to the trials. One of the accused, Wilson, has pointed out that his verdict was passed on 29 July 1996 when the Coordinating Minister for Political and Security Affairs, Susilo Sudarman, announced that the PRD was behind the riots in Jakarta.<sup>20</sup> A number of senior military and government figures made similar statements immediately after the riot including comments which linked the PRD to the banned Indonesian Communist Party (*Partai Komunis Indonesia* - PKI) and claimed that the riots were not random expressions of frustration but had been organised by the PRD. On 8 August, President Suharto was quoted as saying that the PRD had “*clearly conducted activities which had the characteristics of insurgency*”.<sup>21</sup> The Chief of Socio-political Affairs of ABRI, Lt General Syarwan Hamid, said publicly that PRD head, Budiman Sudjatmiko, had been involved in communist-like activities aimed at undermining the government.<sup>22</sup>

### **Fair trial concerns during the trial**

The authorities have also denied Muchtar Pakpahan and the PRD members the right to a fair trial during sessions of the trials, including the introduction of evidence extracted under duress, limits on the examination of witnesses and compulsion to testify against oneself. In

---

<sup>19</sup>UN Declaration on the Protection of All Persons from Being Subjected to Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Articles 8 and 9.

<sup>20</sup>Kompas, 18 February 1997.

<sup>21</sup>Jakarta Post, 8 August 1996.

<sup>22</sup>Jakarta Post, 6 August 1996.

addition, there have been instances of arbitrary behaviour on the part of the judges which have resulted in court sessions continuing without the presence of the defendants.

A walkout occurred in the trial of Ignatius Pranowo when on 13 March the defendant asked the judge for clarification on a particular issue. The judge refused to answer the request and Ignatius Pranowo left the court room in protest. The judge then expelled Yakobus Eko Kurniawan and Suroso, the two other defendants being tried with Ignatius Pranowo. It is believed that the trial continued in their absence. In another incident, on 19 March, judges in the trial of the same three defendants arrived late at the court, by which time defence lawyers had left believing that the session was to be postponed. Despite the absence of the defence lawyers the judges on arrival declared that the session should start, prompting a walk out from the court room by the defendants. The trial continued. In yet another incident, one judge in the trial of Garda Sembiring left the court before the session had finished, which prompted even the authorities to comment on the behaviour of the judge. Indonesia's Justice Minister, Oetoyo Oesman, stated that this conduct "*was not one to be admired*".<sup>23</sup>

There have also been concerns about restrictions in the defence teams' access to relevant materials. The version of the PRD manifesto which is being used by the prosecution as evidence has not been made available to the defence. There are allegations that this version of the manifesto is not the official PRD manifesto which have prompted calls for its disclosure. One witness called by the prosecution in Budiman Sudjatmiko's trial asked the judge to show in court the version of the manifesto which was being used as evidence, but the judge refused his request.<sup>24</sup>

### *Evidence extracted under duress*

As in many previous political trials in Indonesia, evidence which is being used against the PRD members and Muchtar Pakpahan includes testimonies which have been extracted under duress. A large number of the witness statements being used as evidence in the trials were obtained during interrogations conducted by the security forces and Attorney-General's officials when witnesses were summoned for questioning following the events of July 1996. Many were conducted in an intimidatory fashion and some of these witnesses, appearing under oath in court, have now requested that their earlier statements be retracted. The PRD claims that evidence from 20 witnesses is based on statements which may have been extracted under duress. Amnesty International is concerned that such evidence has been

---

<sup>23</sup> *Kompas*, 24 March 1997.

<sup>24</sup> *Kompas*, 28 January 1997.

given precedence over statements made in court under oath by the same witnesses. Again in a repetition of other political trials, requests to judicial authorities for the withdrawal of testimonies extracted under intimidation have been either ignored or dismissed without conducting a prompt, thorough and impartial investigation.

On 16 January, two witnesses in the trial of Muchtar Pakpahan claimed that they wanted to retract their pre-trial statements on the grounds that they had felt intimidated at the time that the statements were being prepared. Berar Fathia claimed that pressure had been placed on her by the investigators when making her original statement but that she wanted to give a true statement in court. She claimed that during her original interrogation she was placed in a dark room and was told by the officer questioning her “*Look, what a beautiful starry night outside. What’s good about staying in this dark chamber*”.<sup>25</sup> The judge rejected Berar Fathia’s claims of intimidation and stated that as she had signed the statement it must be authentic. The judge refused to allow her original statement to be retracted. On 20 January when Berar Fathia was called again, she persisted with her allegations but this time the judge threatened her with a charge of perjury and ordered her to be placed in a guard room so that she could “reconsider” her request. When she returned for further questioning at the next session of the court, she again raised her request to have her pre-trial statement retracted. The judge refused her request and prevented her from answering defence lawyers’ questions about what had happened to her during her interrogation.

Other instances of intimidation during the preparation of statements have emerged. Petrus Hariyanto claims that during his pre-trial interrogation, a gun was placed on the table at which he was sitting. Petrus Hariyanto has since retracted both his pre-trial statements. Another of the accused, I Gusti Anom Astika, claimed when he appeared as a witness in Petrus Hariyanto’s trial he tried to retract the statement which he gave during his interrogation in police custody. It is not known whether the judge has agreed to this request.<sup>26</sup> In another incident, a witness in the case of Dita Sari claimed in court that he attempted to retract his pre-trial statement prior to the trial because he believed that it had been embellished by an intelligence officer. Despite having brought this to the attention of prosecutors, his testimony has still been submitted. Allegations of physical ill-treatment of defendants or witnesses which have emerged in court sessions have also been ignored by the judicial authorities. A prosecution witness in the case of Dita Sari was reportedly interrupted when giving his testimony after he described being beaten when he was arrested on the same day as Dita Sari. The use by the prosecution of statements and evidence given under duress is in contravention of obligations under international standards.<sup>27</sup>

---

<sup>25</sup> Jakarta Post, 28 January 1997.

<sup>26</sup> Jakarta Post, 25 February 1997.

<sup>27</sup> Principle 16 of the UN Guidelines on the Role of Prosecutors.



---

***Right to examine witnesses***

The defendants are frequently being denied the right to effectively cross-examine witnesses, a right which is guaranteed under KUHAP and international standards.<sup>28</sup> In the trial of Muchtar Pakpahan, the judge is requiring that all the defence questions be directed through the judge, a procedure which at times has distorted the defence's line of questioning. In other cases, defence teams have been denied outright the opportunity to question witnesses. On 5 March 1997, in the trial of Garda Sembiring, the prosecution claimed that 13 witnesses it had subpoenaed were not able to attend the court session. The prosecution announced that instead, they would read out the statements of the 13 witnesses, thereby denying the defence team the right to cross-examine them. When challenged by defence lawyers to provide evidence of having called the witnesses and the reasons for their non-attendance, the prosecution was unable to respond. Both the defendant and the defence team walked out of the court in protest. Despite their absence the judge permitted the prosecution to continue reading the 13 statements. Similar incidents took place in the trials of Suroso, Yakobus Eko Kurniawan and Ignatius Pranowo on 5 March and in the trial of Petrus Hariyanto on 10 March.

***Right not to be compelled to testify or confess guilt***

Under Article 168 of the Indonesian Code of Criminal Procedures, a defendant cannot be compelled to give evidence as a witness in his or her own case. The PRD activists argue that, although some of them are being tried separately or in different courts, the accusations and charges against them are the same. They argue, therefore, that they are all effectively being tried in the same case, and as defendants, they should not be compelled to appear as witnesses in one another's trials.

On 13 March, five PRD activists refused to appear as witnesses in the trial of Garda Sembiring citing this argument. The judge is reported to have warned the four that they could be punished for refusing to appear as witnesses. Amnesty International is concerned that if the PRD defendants are forced to appear as witnesses in each of the trials they could be compelled to give information which may relate to their own involvement in PRD activities, thereby potentially incriminating themselves.

---

<sup>28</sup>The right to examine witnesses is guaranteed under Article 165 (2) of KUHAP and Article 14 (3) (e) of the ICCPR. A similar guarantee exists under article 14 (3) (g) of the ICCPR which states that a defendant should "[n]ot be compelled to testify against himself or to confess guilt".



---

***Threats to client confidentiality***

There have also been attempts by the authorities to question lawyers acting on behalf of the defendants. Human rights lawyer Bambang Widjojanto, the director of the Indonesian Legal Aid Foundation (*Yayasan Lembaga Bantuan Hukum Indonesia* - YLBHI), has been called as a witness in the trials of both Budiman Sudjatmiko and Muchtar Pakpahan. Bambang Widjojanto refused to appear in the case of Muchtar Pakpahan because he is one of the team of lawyers acting for the independent labour leader. He also previously refused to appear as a witness in the trial of Budiman Sudjatmiko because he argued that lawyers from YLBHI are a part of the defence team for the PRD leader. It is believed that the prosecution wanted to question Bambang about a ceremony held in YLBHI's office to mark the inauguration of the PRD in July 1996. Witnesses who fail to appear in subversion trials face a possible five year jail term, prompting Bambang Widjojanto to say in February:

*I know there is a big risk but I'm trying to show that the subversion law is no longer relevant. The law does not protect defendants' rights.*<sup>29</sup>

In March, Bambang Widjojanto agreed to appear as a witness in this trial after threats to subpoena him but refused to answer questions which he considered would breach legal professional privilege.

## **CASE STUDIES**

### **Muchtar Pakpahan**

Muchtar Pakpahan, 43, the leader of the independent Indonesian Prosperous Workers' Union (*Serikat Buruh Sejahtera Indonesia*, SBSI) was arrested on 30 July 1996. He is facing two charges under the Anti-subversion Law and a separate charge under one of the Hate-sowing Articles. Pakpahan's original arrest warrant states that he was arrested in connection with an investigation into the subversive activities of Budiman Sudjatmiko and his associates. The accusations against him now focus on peaceful activities which Muchtar Pakpahan himself is alleged to have undertaken, including speeches he has made or books he has written.

The specific charges against Muchtar Pakpahan are Article 1 (1) (b) and (c) of the Anti-subversion Law; "overthrowing, damaging, or undermining state power or the authority of the legal Government or the State Apparatus"; and "spreading feelings of hostility or creating hostility, dissension, conflict, chaos, instability or restlessness among

---

<sup>29</sup>Jakarta Post, 8 February 1997.

the population or society in general or between the Republic of Indonesia and a friendly State". He has also been charged under Article 154 of the Indonesian Criminal Code of "spreading hatred" against the Government of Indonesia, punishable with a maximum imprisonment of seven years.

The allegations to support the charges against Mughtar Pakpahan have no connection with any involvement in the riots on 27 July 1996 in Jakarta but instead focus on statements that he has made about labour rights, social and economic inequality and politics in Indonesia and East Timor. Examples of his alleged subversive activities include:

- a statement in a book written by Mughtar Pakpahan while in jail in Medan between August 1994 and May 1995 that East Timor *"has brought disgrace for Indonesia in the international community. What economic and political benefits can there possibly be for Indonesia in insisting on annexing this territory"*. Other quotes include references to social discrepancies and human rights violations which have resulted in a sense of injustice among the majority of Indonesians, *"Even resulting in an accumulation of feelings of hate directed towards the family of the President because of the feelings of dissatisfaction with the situation"*;
- a statement issued by Mughtar Pakpahan on 27 July 1996 concerning the raid on the PDI headquarters in which he alleges official involvement in the raid;
- a cassette containing songs written by Mughtar Pakpahan. The lyrics of one song, entitled "Love Song for Marsinah", concerns the female labour activist who was believed to have been murdered with the knowledge or acquiescence of the security forces in 1993.

Muchtar Pakpahan.

Muchtar Pakpahan's trial began on 12 December 1996 in the South Jakarta District Court under Judge Djazuli Sudibyo. Hearings are conducted twice a week. Now in its third month, the trial has been marked by serious violations of procedural guarantees under Indonesian law. These include the fact that the accusations against him are different to the initial reason for his arrest, and that the judge appears to be allowing for the use of testimonies extracted under duress, despite such testimonies being retracted under oath in court. Lawyers for Muchtar Pakpahan have petitioned the authorities to have the judge removed for allowing frequent contraventions of Indonesia's Code of Criminal Procedure.

Defence questioning of witnesses in the trial has often been directed through the judge. Amnesty International is concerned that this has at times resulted in the line of questioning being distorted. On 23 January, one of the defence lawyers argued that the direction of questions through the judge was inefficient, affected the substance of the questions and was "*confusing the witnesses*". The defence team claims that at times the judge has also stopped the defence putting questions to witnesses.

In addition they claim that Pakpahan is being tried for his thoughts. One defence lawyer stated: "*[i]t is normal for a man with a doctoral degree like Pakpahan to comprehend these issues - which have in fact been widely discussed in many academic fora and by analysts in the mass media*".<sup>30</sup> The judge has rejected this criticism stating that Muchtar Pakpahan is being tried for his actions. All of the actions about which eyewitnesses are being asked by the prosecution relate to peaceful demonstrations and meetings at which Muchtar Pakpahan was allegedly present.

Pakpahan's lawyers have accused the Indonesian authorities of using the trial to target the independent trade union SBSI. In February, records of a bank account held by Muchtar Pakpahan were the subject of scrutiny in court with the judge raising questions about the level of financial aid going into the account. The Indonesian authorities have attempted to undermine the legitimacy of non-governmental organizations by querying the

---

<sup>30</sup> Jakarta Post, 20 December 1996.

---

receipt of funds from overseas. In this case, it would appear that the questioning about SBSI's bank account is an attempt to discredit the country's only independent labour union.

In addition to his trial for subversion, Muchtar Pakpahan is currently challenging a decision by the Indonesian Supreme Court to revoke an earlier acquittal by the same court of charges against him under the Hate-sowing Articles, which has resulted in the re-imposition of a four year jail sentence, originally imposed in 1994. The overturning of the decision followed an appeal to the Supreme Court from prosecutors in Medan, North Sumatra challenging the quashing of the earlier conviction. There is considerable debate about whether under Indonesian law an action for judicial review can be sought by the prosecutor. This case is believed to be the first time in Indonesia that a judicial review has been brought by the prosecutor rather than the defendant. Amnesty International considers that regardless of the outcome of this debate, this decision is a further reflection of the use of the courts to target government critics.

Since his arrest in July 1996, there have been serious concerns about Muchtar Pakpahan's health. These concerns have recently escalated and it now appears that Muchtar Pakpahan has a tumour on his lung. Amnesty International is concerned that for several weeks, despite the fact that judicial and prison authorities were aware of Muchtar Pakpahan's complaints of a swollen arm, severe headaches and dizziness, they obstructed his attempts to receive medical care. After many requests from Muchtar Pakpahan and his family, prison officials finally allowed him to be seen by his private doctor. On 4 March two doctors, including the Cipinang Prison doctor, stated that Muchtar Pakpahan needed to be hospitalised. There was a further delay of three days before he was granted permission by the authorities to be transferred to a non-military hospital. While in the private hospital Muchtar Pakpahan is expected to pay for his own treatment and the presence of a prison guard. He is believed now to be seeking permission to travel abroad for medical treatment.

## **Dita Indah Sari**

Dita Indah Sari was arrested on 8 July 1996 as she took part in a labour demonstration in the East Java town of Surabaya. She is now being tried under the Anti-subversion Law. Her involvement in the labour demonstration was entirely peaceful. Dita Sari, 24, is the leader of the Centre for Indonesian Workers' Struggle, (*Pusat Perjuangan Buruh Indonesia*, PPBI) an organization affiliated to the PRD. On the day of her arrest, she and other activists and workers from around 10 different factories gathered outside the Barindo Anggun factory located in Tanjung Sari, Surabaya. The demonstrators carried banners calling for a rise in the national minimum wage and an end to the Indonesian Armed Forces' role in political life in Indonesia. The demonstration was blocked by a heavy military and police presence and was violently dispersed. It is believed that at least nine

---

student activists and five workers were arrested. Many were beaten, including Dita Sari. Most of those arrested were later released, but Dita Sari and Coen Husein Pontoh, from the National Peasants' Union (*Serikat Tani Nasional*, STN) were held in police custody. The following day other labour and student activists were arrested in Surabaya including Mochamad Sholeh, an activist from the Indonesian Students Solidarity for Democracy (*Solidaritas Mahasiswa Indonesia Demokrasi* - SMID).

Dita Indah Sari.

Initially Dita Sari, Coen Husein Pontoh and Mochamad Sholeh were threatened with charges under Indonesian's Hate-sowing Articles, although there were also strong suggestions that they would be charged under the Anti-subversion Law. The head of the military Coordinating Agency for the Maintenance of National Stability (*Bakorstanas*), Lt General Suyono, said that "[w]orkers were agitated to stage a demonstration against their will. This clearly indicated a subversive act to change the state system".<sup>31</sup> After the riots in Jakarta on 27 July 1996, the three activists were accused of involvement in the disturbances despite the fact that they were in custody in Surabaya at the time. This specific accusation now appears to have been dropped, but the links that the PPBI, SMID and STN have with the PRD are being used by the authorities to strengthen the accusations against Dita Sari, Coen Husein Pontoh and Mochamad Sholeh.

Their trials began on 16 December 1996 at the Surabaya District Court. All three activists are being tried under the same charges. The primary, subsidiary and second subsidiary charges are Article (1), sub-section 1 a, b and c of the Anti-subversion Law. The fourth charge is Article 154 of the Indonesian Criminal Code. The specific accusations against Dita Sari and the two other activists indicate that they are being tried for their entirely peaceful political activities in opposition to Indonesia's authorities. The prosecutors have accused all three activists of subversive actions on the basis of publications from their groups and affiliated organizations, including the PRD, attendance at meetings at which unofficial organizations were formed and the use of slogans at demonstrations. Specific references have been made to the publication of a document which states that the main problem for Indonesian society is capitalism which contains remnants of feudalism in the field of politics, militarism, capitalism and imperialism and another which says there is no democracy in Indonesia. These comments

---

<sup>31</sup> *Media Indonesia*, 10 July 1996.

in the document are alleged to undermine *Pancasila*. The three activists have also been accused of overthrowing, damaging or undermining the state through their advocacy of workers' rights for increased wages, freedom of organization and an end to the role of the military in industrial relations.

On 26 March it was reported that prosecutors have called for an eight year prison sentence for Dita Sari and a six year sentence for Coen Hussein Pontoh. Their trial is expected to be completed in April. Since the trial began there has been a heavy presence at the trial of military and police which Amnesty International considers to be intimidatory.

### **Budiman Sudjatmiko**

Budiman Sudjatmiko, 27, the chair of the PRD, was arrested on 12 August 1996 in Jakarta. He was held incommunicado for around eight days by the military intelligence body, BIA, before eventually being transferred to the custody of the Attorney-General's department and charged with subversion. Although originally arrested in connection with the PRD's alleged role in inciting the 27 July riots, the 30-page indictment against Budiman makes only passing reference to him having been "among the crowd which created disturbances" on 27 July. Actions included in Budiman Sudjatmiko's indictment which are deemed to undermine *Pancasila* include:

- awarding a human rights prize to jailed East Timorese leader Xanana Gusmao and banned Indonesian author Pramoedya Ananta Toer;
- leading an action to commemorate the November 1991 Santa Cruz massacre in Dili, East Timor;
- attending or leading various labour, political or human rights demonstrations at which demands included a rise in the national minimum wage, the repeal of the armed forces dual-function and the repeal of five political laws of 1985.<sup>32</sup>

Budiman Sudjatmiko has also been accused of attempting to spread the PRD's influence by becoming involved in other unofficial groups in Indonesia including the Independent Election Monitoring Committee (*Komite Independen Pemantau Pemilu*, KIPP). All of the accusations relate to peaceful political activity.

---

<sup>32</sup>These five laws concerned political parties, referendums, mass organizations, and the composition of Indonesia's national and regional parliaments. One of the five, Law No 8, relating to mass organizations, states that all organizations must adopt Indonesia's state ideology, *Pancasila*, as their sole or basic ideology.

Budiman Sudjatmiko's trial began on 12 December in the Central Jakarta District Court. Four months after the trial began, the hearing of prosecution witnesses is about to be completed and critics are questioning the weak or non-existent evidence of subversive activities emerging from the testimony already provided by the witnesses.

Budiman Sudjatmiko.

Budiman Sudjatmiko's lawyers have rejected the charges against him arguing that they are "chaotic" and that the use of the Anti-subversion Law is no longer relevant in Indonesia today. They have also argued that the arrest of and initial accusations against Budiman were made on the basis of his alleged involvement in the riots of 27 July 1996, but the charges indicate clearly that he is being tried for his political activities. Lawyers have also questioned the fact that Budiman Sudjatmiko has been charged with being critical of the government despite the fact that Article 28 of Indonesia's Constitution guarantees freedom of speech. None of the objections raised by the lawyers during the trial relating to the failure to comply with

KUHAP during the arrest and detention of Budiman Sudjatmiko have been accepted by the court.

Many of those called as prosecution witnesses in Budiman Sudjatmiko's trial are workers allegedly present at or eyewitnesses to demonstrations and strikes attended by the PRD. In a manner reminiscent of previous political trials, the prosecution is attempting to demonstrate the extent of PRD involvement in organising workers' strikes. The prosecution is alleging that strikes were instigated by the PRD whose members coerced workers to join their actions and has questioned witnesses about the presence and role of Budiman Sudjatmiko at particular strikes. One witness, the head of personnel for a company whose workers went on strike in May 1996 claimed that he did not see Budiman Sudjatmiko at the strike. Another said "[o]ur demonstration ... was not provoked by PRD".<sup>33</sup> Far from proving an intent to overthrow or undermine the state, some witness testimony has suggested that on at least one occasion when Budiman Sudjatmiko was present, his presence may have had a calming effect. Relating his meeting with the PRD chair on 27 July 1996, the witness stated "*Budiman came to me telling of the earlier*

---

<sup>33</sup> Jakarta Post, 7 January 1997.

---

incident at a foodstall in Senen. He condemned the riot as anarchy and said it was not a civil rebellion".<sup>34</sup>

The trial of Budiman Sudjatmiko is demonstrating how pervasive is the ideological monitoring in Indonesia of those who engage in any discussion considered dangerous by the state. In one session of the trial, a government official described how in 1988 he had interviewed Budiman Sudjatmiko after the young activist's alleged activities had been brought to his attention by Budiman Sudjatmiko's school. The official alleged that the PRD leader had admitted he was establishing a discussion group called the Marx House and when asked who his idols were, he mentioned "... among others (Vladimir) Lenin and (Josip Broz) Tito".<sup>35</sup> The official also claimed that he had a letter written by Budiman Sudjatmiko to a friend in which he allegedly used terms such as "eureka", "comrade in arms" and "red greeting".

## MEGAWATI SUKARNOPUTRI

In addition to targeting the PRD and labour activists, the authorities are continuing to engage in what Amnesty International considers to be harassment of members of the PDI, including elected members of parliament, who are supporters of ousted-PDI leader, Megawati Sukarnoputri. Since January 1997, one member of parliament for the PDI has been put on trial for criticising President Suharto, while a senior member of the PDI faces charges for organising a peaceful meeting at Megawati's house. Megawati and her husband Taufik Kiemas are also threatened with charges for their participation in the same meeting.

In January 1997 the South Jakarta Police reported that they had received permission from the President of Indonesia, to begin an investigation into an allegation that Megawati Sukarnoputri held an underground meeting at her house in Jalan Kebagusan in South Jakarta in January 1997. The meeting which took place at Megawati's house on 10 January was to celebrate the 24th anniversary of the founding of the PDI. Both Megawati and her husband have been summonsed for questioning in relation to the event, but at the time of the original summonses there was no suspect identified.

In February, the ousted deputy secretary-general of the PDI and supporter of Megawati, **Hariyanto Taslam**, was named as the suspect allegedly involved in organising the meeting at the house in Kebagusan. Once again, statements by the authorities raised concern that the suspect's right to the presumption of innocence was being denied. In

---

<sup>34</sup>Jakarta Post, 28 January 1997.

<sup>35</sup>Jakarta Post, 25 February 1997.



February, the head of police for South Jakarta stated that “[i]t is clear it was a political meeting because there was a political speech”.<sup>36</sup>

Megawati herself has now been questioned on two separate occasions. The charge under which Megawati is being questioned is Article 6 of Law No 5/1963 which states that political gatherings require an official permit and carries a maximum punishment of five years’ imprisonment. During questioning, Megawati was asked about the content of a speech she made during the anniversary celebration at her house. After her last session of police questioning on 3 March, the head of South Jakarta Police was reported as saying that there was a possibility that Megawati’s status could change to that of suspect. Taufik Kiemas has also been questioned by police on two separate occasions.

Lawyers for the two are challenging the basis of the summonses against them arguing that the letter authorising their investigation by police should have been signed by the President, and not by the State Secretary Moerdiono. Megawati herself has also raised concerns about judicial independence and political interference in the judiciary. On 20 February Megawati released a statement which referred to “...parties outside the justice system, who influence the legal process for the advantage of certain political forces”.<sup>37</sup> Megawati’s lawyers claim that there were two meetings between judges of the Supreme Court and a court in Yogyakarta with a senior government official. In the light of these meetings she is calling on the Supreme Court to demonstrate that it has not been ordered by the government to find against her in her numerous legal actions currently before the courts.

In January 1997, the Committee on the Human Rights of Parliamentarians of the Inter-Parliamentary Union (IPU) adopted a confidential decision concerning Megawati Sukarnoputri in which it expressed concern that the authorities have summonsed Megawati for questioning. Amnesty International is concerned that the investigation of the PDI anniversary celebration at Megawati Sukarnoputri’s house is an attempt by the authorities to intimidate the ousted-PDI leader and her supporters. Amnesty International is also concerned that Hariyanto Taslam may face charges for his peaceful political activities.

Meanwhile four members of the PDI, all supporters of Megawati, M Nur bin Sukasto, Dominggus Dosantos, Sanggek Suhandra and Daglan Rajagukguk were reportedly tried with assault and ignoring a police order during the raid on the PDI headquarters in July 1996.<sup>38</sup> In February 1997, the four received four month prison

---

<sup>36</sup> Kompas, 19 February 1997.

<sup>37</sup> AFP, 20 February 1997.

<sup>38</sup> Jakarta Post, 17 January 1997.

sentences, but are appealing the decision. Other PDI members have been arrested in connection with other demonstrations since but none are believed to be currently in custody.

Another of Megawati's supporters, Aberson Marle Sihalolo, a member of parliament for the PDI, has been charged under Article 134 and Article 207 of the Indonesian Criminal Code and is currently being tried.<sup>39</sup> The trial began on 29 January at the Central Jakarta District Court. The accusations against him are related to comments he is alleged to have made during a free speech forum outside the PDI office in Jalan Diponegoro, Jakarta. According to reports, on 13 July 1996 Aberson Marle Sihalolo is alleged to have said "[t]hroughout the 30 years of Soeharto's leadership, our freedom has been stolen and we are being colonized once again".<sup>40</sup> He was also reportedly accused of criticising the army and describing them as "rebels". Aberson Sihalolo is a strong supporter of Megawati Sukarnoputri and Amnesty International is concerned that he is facing trial because of his outspoken support for the ousted PDI leader. If convicted and imprisoned, he would be considered by Amnesty International to be a prisoner of conscience.

## **RECOMMENDATIONS TO THE INDONESIAN GOVERNMENT**

- end the trials and immediately and unconditionally release all of the defendants;
- allow Muchtar Pakpahan to obtain the medical treatment of his choice;
- investigate all the allegations of ill-treatment in connection with the trials;
- refrain from arresting government critics for their non-violent political activities;
- implement the recommendations of Komnas HAM concerning the raid on the PDI headquarters and the Jakarta riots;
- repeal the Anti-subversion Law.

---

<sup>39</sup> Article 134 punishes insulting the president with a maximum of six years' imprisonment, and Article 207 punishes insulting an authority or public body with a maximum imprisonment of one year and six months.

<sup>40</sup> Jakarta Post, 30 January 1997.

## **RECOMMENDATIONS TO THE INTERNATIONAL COMMUNITY**

- urge the Indonesian authorities to end the subversion trials and immediately and unconditionally release the defendants;
- urge the Indonesian Government to repeal the Anti-subversion Law;
- urge the authorities to implement the recommendations of Komnas HAM concerning the raid on the PDI headquarters and the Jakarta riots;
- urge the Indonesian authorities to allow Muchtar Pakpahan to obtain the medical treatment of his choice;
- urge the authorities to refrain from arresting government critics for their non-violent political activities.