

PUBLIC

AI Index: ASA 21/024/2004

12 July 2004

Further Information on UA 209/04 (ASA 21/021/2004, 24 June 2004) Death penalty /fear of imminent execution new concern: legal concern

INDONESIA

**Ayodhya Prasad Chaubey (m) aged 66, Indian national
Meirika Franola alias Ola (f), aged 34, Indonesian national
Rani Maharani (f) aged 29, Indonesian national
Dany Maharwan (m) aged 32, Indonesian national**

New names:

**Saelow Prasert (m), aged 62, Thai national
Namsong Sirilak (f), aged 32, Thai national
Samuel Iwuchekwu Okoye (m), aged 34, Nigerian national
Hansen Anthony Nwaolisa (m), aged 37, Nigerian national
Indra Bahadur Tamang (gender unknown) aged 24, Nepali national
Muhammad Abdul Hafez, (m), aged 36, Pakistani national
Namaona Denis, (gender unknown) aged 39, Malawi national**

The eleven people named above, have had their appeals for clemency rejected and may face imminent execution. Three Indonesian nationals and one Indian national had their appeals rejected in June, whilst seven others had their appeals rejected on 8 July. All have been convicted for drug-related offences.

Amnesty International has received further details of Ayodhya Prasad Chaubey, Saelow Praesart and Namsong Sirilak's trials which indicate that they may have fallen short of international standards for a fair trial. Ayodhya Prasad Chaubey was arrested in February 1994, three days after Saelow Praesart and Namsong Sirilak were arrested in Polonia Airport, Medan, North Sumatra Province when officials discovered 12 kilos of heroin in their bags. Saelow Praesart and Namsong Sirilak stated that the bags belonged to Ayodhya Prasad Chaubey, though all three have denied any knowledge that there was heroin in the luggage.

The three were charged with drug-trafficking. According to their lawyers, they did not have access to legal representation during the police investigation or prior to their trial. The three were first given legal representation only once their trial started, denying them the right to legal advice during questioning and to adequately prepare a defence.

In addition, the three, who at the time did not speak Bahasa Indonesia (the language in which the investigation and trial were conducted), did not have an interpreter during the police investigation. Ayodhya Prasad Chaubey is reported to have asked to submit an official objection to the investigation report on grounds that he could not understand its content, but was told by police that he would have an opportunity to change the information at a later stage. However, the investigation report was later submitted without Ayodhya Prasad Chaubey's objection being noted. An interpreter was provided during the trial. However, according to media reports, the quality of interpretation in the court of first instance was poor and Namsong Sirilak was unable to understand the interpreter.

The procedural irregularities in the trials of Ayodhya Prasad Chaubey, Saelow Praesart and Namsong Sirilak were raised during the appeals to the North Sumatra High Court and the Supreme Court. Despite the violation of procedures, their death sentences were upheld in both the North Sumatra High Court and the Supreme Court. President Megawati Sukarnoputri rejected Ayodhya Prasad Chaubey's appeal for clemency in February 2003. In June 2004, the Supreme Court rejected his request for a second review of his trial. On 8

July 2004, President Megawati Sukarnoputri also rejected clemency for Saelow Praesart and Namsong Sirilak.

BACKGROUND INFORMATION

Amnesty International opposes the death penalty in all cases. Today, 118 countries are abolitionist in law or practice. At least 66 people are believed to be on death row in Indonesia. The most recent execution in Indonesia was carried out in May 2001. Previous to this, there had been no executions for six years. The risk of error in applying the death penalty is irrevocable. The Indonesian Commission on Human Rights (Komnas HAM) noted in 2001 that "Aside from being internationally recognized as a human rights violation in itself... the death penalty administered by a corrupt judiciary is extremely dangerous." Following his visit to Indonesia in July 2002, the Special Rapporteur on the independence of judges and lawyers expressed concern regarding corruption within the judiciary.

Indonesian law, as well as international safeguards, require that capital defendants receive adequate legal representation at all stages of investigation and trial. Article 56 of Indonesia's Code of Criminal Procedure (KUHAP) stipulates that officials at all levels are obliged to appoint a legal advisor where the offence carries a death sentence or a possible prison term of 15 years or more. KUHAP, as well as international standards, also requires suspects to have access to competent interpreters at all stages of criminal proceedings.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in Bahasa Indonesia or English or your own language:

- expressing deep concern about the prospect of renewed executions in Indonesia;
- urging the authorities to review the trials of Ayodhya Prasad Chaubey, Saelow Praesart and Namsong Sirilak, and if irregularities are found, that a re-trial is carried out;
- calling on President Megawati Sukarnoputri to commute the death sentence of Ayodhya Prasad Chaubey and the 10 other people named above;
- expressing concern at the possibility of judicial error in the Indonesian criminal justice system, which increases the risk of the innocent being executed;

APPEALS TO:

President

President Megawati Sukarnoputri

President RI

Istana Merdeka

Jakarta 10110, Indonesia

Fax: + 62 21 345 2685/ 526 8726 /345 7782

Salutation: Dear President

Attorney General

Muhammad Abdul Rachman

Jaksa Agung

Jl. Sultan Hasanuddin No.1

Kebayoran Baru

Jakarta Selatan 12130, Indonesia

Fax: +62 21 725 0213

Salutation: Dear Attorney General

The Ambassador

Embassy of India

Jl. Rasuna Said, Kav S1,

Kuningan, Jakarta, Indonesia

Fax: +62 21 520 4160

Salutation: Your Excellency

COPIES TO:

Chairman, Komnas HAM

Abdul Hakim Garuda Nusantara

Komisi Nasional Hak Asasi Manusia

Jl Latuharhary No. 4B

Menteng
Jakarta Pusat 10310, Indonesia
Fax: +62 21 392 5227
Salutation: Dear Chairman

and to diplomatic representatives of Indonesia accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 23 August 2004.