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INDONESIA: RELEASE PRISONERS OF CONSCIENCE NOW!

The pattern of systematic human rights violations that characterized former President Suharto's thirty-two year rule is perhaps best symbolized by the people he imprisoned for political activities. President Habibie could take no step more calculated to distance himself from the abuses of his predecessor and mentor than to release all of those still in jail for nonviolent opposition to the government of Suharto. As of June 4, he had only released four: Muchtar Pakpahan, a labor leader; Sri Bintang Pamungkas, a former parliamentarian and head of the Indonesian United Democratic Party (PUDI); Nuku Soleiman, a political activist; and Andi Syahputra, printer of an underground magazine. Several others, on trial when the new government came to power, have since been acquitted.

Amnesty International and Human Rights Watch join with Indonesian human rights organizations in calling for the immediate and unconditional release of all men and women imprisoned for nonviolent expression of their views and for the repeal of the laws and presidential decrees that have been used over the last three decades to punish peaceful dissent. The prisoners who should be released without delay include members of the People's Democratic Party (PRD) and its affiliates who remain in prison in Jakarta and Surabaya, the East Timorese accused of organizing the march to Santa Cruz cemetery in November 1991, a community organizer in Tasikmalaya, several university lecturers from Aceh, and organizers of peaceful pro-independence demonstrations in Irian Jaya.

Several labor and political activists charged for their involvement in nonviolent political activities since the beginning of 1998 are currently either on trial or awaiting trial. Amnesty International and Human Rights Watch believe that the charges against these people should be immediately dropped.

Amnesty International and Human Rights Watch are also calling for the immediate release of the thirteen remaining prisoners accused of involvement with the Indonesian Communist Party (*Partai Komunis Indonesia* or PKI), many of whom have been in prison for more than three decades, all of whom had trials that were unfair by international standards, and many of whom are suffering severe health problems.

The two organizations believe that all those who have been imprisoned for alleged involvement in violent political activities — including those from Aceh, Irian Jaya, and East Timor, the three areas where armed insurgencies are active, and those accused of trying to establish an Islamic state — must now be given the opportunity to have their convictions reviewed by an independent body which meets international standards of fairness and impartiality. Such a body could operate under the Indonesian National Commission of Human Rights (*Komisi Nasional Hak Asasi Manusia, Komnas HAM*). Many of these people were tried and convicted on the basis of information extracted by torture or without adequate access to counsel.

Amnesty International and Human Rights Watch are concerned about statements made by President Habibie and Justice Minister Muladi that prisoners and detainees who are considered Marxist, opposed to the constitution and Pancasila, or criminals will not be released. Not only should Indonesians have the right to freely express their opinions on any subject, including Marxism and Pancasila, but in the case of those detained, the determination of who was a Marxist or who opposed the constitution was made by a politicized court system at the direction of a discredited government. Amnesty International and Human Rights Watch therefore urge the Habibie government not to exclude any category of prisoners of conscience from release.

Who are “Political Prisoners” and Prisoners of Conscience?

Amnesty International and Human Rights Watch make a distinction between political prisoners who have used violence and those detained or imprisoned solely for nonviolent activities. The latter, whom Amnesty International calls “prisoners of conscience,” are defined as people detained anywhere for their beliefs or because of their ethnic origin, sex, color, language, national or social origin, economic status, birth or other status, who have not used or advocated violence. A list of known prisoners of conscience in Indonesia and East Timor is appended to this report, and Amnesty International and Human Rights Watch believe all of them should be immediately and unconditionally released.

Political prisoners are those who have been convicted on the basis of their political activities who may have used violence in support of their activities. There are over one hundred political prisoners serving prison sentences for subversion, murder, illegal possession of weapons, and rebellion, who were charged with using or inciting the use of violence. These include most of the prisoners in East Timor, Irian Jaya, and Aceh. Some may well be prisoners of conscience, but too little information is available about them to determine this. In other cases, the use of violence was well-substantiated. Amnesty International and Human

Rights Watch believe, however, that few if any members of this group received trials which met international standards of fairness, and that as a result the government should immediately allow for the independent review of all their convictions.

Legislation and regulations used to detain opponents

A range of legislation has been used by the Indonesian Government to imprison government critics and opponents, whether engaged in peaceful activities or armed struggle. The Anti-subversion Law (Presidential Decree 11/1963), which has been employed extensively to punish peaceful critics and political opponents, contains vague and sweeping language that permits the prosecution and conviction of anyone whose words or actions can be disruptive of public order, the state ideology, the government, its institutions, or its policies.

Many articles of the Indonesian Criminal Code have also been used to imprison peaceful critics. Articles 154, 155, and 156, the so-called "hate-sowing" articles, punish "spreading feelings of hatred toward the government" with prison terms of up to seven years. Articles 134, 136 and 137 allow for the imprisonment for up to six years of individuals alleged to have insulted the President or Vice-President. Article 160, which punishes incitement to violence, has also been used to detain nonviolent critics; it carries a penalty of six years in prison.

More rarely, the government has used two other decrees in political cases. Law No. 5/1963 banning all forms of political activity was dusted off after decades of disuse and brought out in the government's response to growing opposition demands in the early months of 1998. It allows for the imprisonment of peaceful critics for up to five years. Emergency Law No. 12 of 1951, which bans the use or possession of certain kinds of weapons, has also been used extensively. Articles of the Criminal Code relating to rebellion (Articles 104, 106, 107, 108 and 110) have been used against suspected insurgents in East Timor, Aceh, and Irian Jaya.

Under the Suharto government, prisoners of conscience and political prisoners in Indonesia and East Timor were often denied their right to a fair trial. Procedural violations occurred at all stages of arrest, detention, investigation, and trial. Suspected political offenders were frequently taken into custody by army intelligence officers, who under Indonesian law have no authority to make arrests. Those arrested frequently were not informed about the precise charges against them and their families were often not notified of the arrest. Detainees, especially those outside Jakarta or other major cities, were often held in incommunicado detention where they were denied access to independent human rights lawyers and their families. If access to lawyers was granted, that access was frequently restricted. In some cases, detainees were told that if they chose independent lawyers, they would receive a heavier prison sentence. Torture and ill-treatment were used commonly to extract information, testimonies or confessions.

Trial irregularities often included restrictions on defendants' right to present witnesses, intimidation of defense witnesses and the denial of the defense's right to cross-examine prosecution witnesses. Convictions were also frequently based on testimony or confessions extracted under duress. When pre-trial irregularities were brought to the attention of the courts, they were routinely ignored, and the legal procedure for challenging such irregularities almost never resulted in a victory for the defendant. In many cases,

witnesses who might have helped the defendants were too afraid to testify, particularly in areas such as East Timor, Irian Jaya, and Aceh. Political trials almost always resulted in convictions.

Another common feature of imprisonment under the New Order Government was the practice of jailing many prisoners of conscience and political prisoners hundreds and, in some cases, thousands of miles away from their homes, placing great difficulties and financial constraints on members of their families seeking to visit them. This was particularly true of prisoners from East Timor and Irian Jaya.

As a gesture of willingness to institute genuine human rights reforms, Amnesty International and Human Rights Watch urge the Habibie government to:

- immediately and unconditionally release all prisoners of conscience;
- drop any outstanding charges against individuals awaiting trial for their nonviolent political activities;
- ensure the review of the convictions of all political prisoners with a view toward amnesty or fair and independent retrial if there is reason to believe that their trials were unfair and/or their convictions based on information extracted by torture;
- ensure that there are immediate, thorough, and independent investigations into all allegations of torture and ill-treatment of political prisoners;
- repeal the laws, regulations, and decrees that have been used to imprison people for the peaceful expression of their political views, particularly the Anti-subversion Law and the articles of the Criminal Code that penalize “hate-sowing” and “insulting the president”;
- make a commitment to ensuring that there will be no further arrests of individuals engaging in the peaceful expression of their beliefs;
- investigate all the recent cases of "disappearances" with a view to establishing the whereabouts of all persons who are still "disappeared" and ensuring that those responsible are brought to justice. If agents of the state are found to have been involved, the resurfaced “disappearance” victims should receive generous compensation for the suffering they endured.

A brief description of Indonesia’s political prisoners follows, divided into “prisoners of conscience”; alleged PKI members and supporters; those accused of violence, including suspected insurgents and Muslim militants; and the "disappeared".

Indonesia's Prisoners

I. "PRISONERS OF CONSCIENCE"

Prisoners of conscience include labor and student activists, political dissidents, Muslim activists, Acehese nationalists, and those advocating independence in East Timor and Irian Jaya. Amnesty International and Human Rights Watch believe that all of these people should be immediately and unconditionally released.

Members of the People's Democratic Party (PRD) and affiliates

In the aftermath of rioting on July 27, 1996 in Jakarta, the Suharto government began targeting young student activists with leadership positions in organizations collectively branded by the army as the "new PKI," in part because their political manifesto called for "populist social democracy." The organizations included the People's Democratic Party (*Partai Rakyat Demokratik* or PRD) and its affiliates: Indonesian Student Solidarity for Democracy (*Solidaritas Mahasiswa untuk Demokrasi* or SMID); Center for the Struggle of Indonesian Workers (*Pusat Perjuangan Buruh Indonesia* or PPBI) and Indonesian Peasants' Union (*Serikat Tani Nasional* or STN). Fourteen students or ex-students, twelve in Jakarta and two in Surabaya and all under the age of thirty, were eventually arrested and tried in 1997 on subversion charges. Two of the fourteen have already been released on completion of their sentences.

After no evidence linking the group to the July riots could be found, the students were accused of organizing worker rallies; calling for a referendum on East Timor; and campaigning for a more open political system through the repeal of five laws from 1985 that freeze the political system in its current form. They received the heaviest sentences for political dissent in more than a decade. **Budiman Sudjatmiko**, chairman of the PRD, was sentenced to thirteen years, while the PRD general secretary, **Petrus Haryanto**, received a six-year sentence, increased to eight years on appeal. **Yakobus Eko Kurniawan** was sentenced to eight years in prison. **Gusti Agung Anom Astika**, known as Anom, was sentenced to five years in prison.

SMID activists also received heavy sentences. **Garda Sembiring**, Jakarta SMID leader, was sentenced to twelve years, while **Suroso** and **Ken Budha Kusumandaru** received seven- and four-year terms respectively. **Mohamed Sholeh**, chairman of the Surabaya branch of SMID, was sentenced to four years.

Activists of PPBI, the labor wing of PRD, received similar sentences. **Dita Indah Sari**, head of PPBI, was sentenced to six years, reduced to five on appeal. **Ignatius Damianus Pranowo**, got a nine-year term, while **Wilson bin Nurtiyas** was sentenced to five years. **Coen Husein Pontoh**, head of the STN, received a three-and-a-half-year sentence.

Other Suharto Critics

Agustiana Suryana, 32, a community organizer in Garut, West Java, was sentenced to eight years in prison on subversion charges in December 1997. A former economics student, he was charged with being the intellectual mastermind behind riots in Tasikmalaya, West Java, in December 1996, involving mostly Muslim youth, that left four dead and over a hundred buildings destroyed or damaged, including eleven churches. The riots stemmed from a protest over the torture of Muslim teachers by the Tasikmalaya police after the son of a local police officer was punished at a Muslim school. The prosecution had scant evidence against Agustiana, who was detained on January 8, 1997 and held incommunicado for three weeks. He was not in Tasikmalaya on the day of the riot, and it appeared that the prosecution based the charges on the fact that since 1993, Agustiana had helped organize demonstrations by farmers and workers over land disputes and wage issues respectively. At the time of his arrest, Agustiana was also a deputy secretary-general of the United Indonesian Democratic Party (*Partai Uni Demokrasi Indonesia*, PUDI) the party founded by former prisoner of conscience Sri Bintang Pamungkas.

Labor Activists

Labor activists were a frequent target of the Suharto government. Several are awaiting trial, although the only labor organizer remaining in prison is PPBI leader Dita Indah Sari, mentioned above. On March 9, 1998, one activist named **Farah Diba Agustin [f]** from the independent Indonesian Prosperity Trade Union (*Serikat Buruh Sejahtera Indonesia*, or SBSI); two students, **Kuldip Singh** and **Widi Wahyu Widodo**, belonging to the political activist organization, *Pijar*; and a journalist from the newspaper *Sinar Pagi* named **Wandi Nikodemus Taturonggo**, also known as Binyo, were arrested while taking part in a demonstration in front of a Jakarta department store. They had gathered there with some seventy others to protest layoffs and to read a list of demands for political reform. The demonstration was broken up by security forces. All were charged under Law No. 5/1963 banning political activities; the two students and the journalist were also charged with failing to disperse when ordered to do so. They were subsequently released on bail, but their trial continues.

Muslim Activists

The Suharto government arrested many individuals for alleged involvement in groups advocating an Islamic state. Many of these people have been convicted solely for their peaceful beliefs and activities.

In June 1992, **Abdul Fatah Wiranagapati**, 62 at the time, was sentenced to eight years' imprisonment for undermining the state ideology and attempting to establish an Islamic state. The court found that he had not used violence but had spread his ideas by holding meetings and preaching about Islamic law and had, according to the judge "... used his

preaching in mosques to disseminate anti-government propaganda.” He is believed to be still in prison.

Between 1983 and 1986, some forty members of Islamic study groups in Central Java, known as *usroh*, were convicted of subversion for allegedly seeking to establish an Islamic state and undermine the state ideology. The founder of the *usroh* movement was a man tenuously linked to a series of violent crimes in central Java in the late 1970s, including the murder of a university administrator in Solo in 1979. None of the young men arrested for participation in *usroh* meetings, however, were ever accused of using violence; the prosecution did charge that they were planning a three-stage revolt against the government, although no substantiating evidence was presented at their trials. Among the few who may still be detained are four men from Brebes, on the north coast of central Java. **Agil Riyanto bin Darmowiyoto** was a sociology student at Gajah Mada university in Yogyakarta when he was arrested; he was sentenced to fifteen years in March 1987 for running an *usroh* training course on campus. Agil Riyanto was charged with criticizing Pancasila in his lectures and saying that Muslims had no obligation to obey Indonesian law if it did not accord with the Quran; he was also accused of trying to organize a network of militant Muslim cadres. Three other men, then in their twenties, were sentenced at the same time to fourteen years each for giving lectures at *usroh* courses. They were **Achmad Syafei**, a cobbler, and **Gazali** and **Ramdhon**, both traders. Achmad Syafei was accused of helping provide materials for Agil Riyanto’s lectures, including a copy of a banned Muslim newspaper called *al-Ikhwan* (The Brotherhood).

Irian Jaya

Many people from Irian Jaya were imprisoned by the Suharto government for their peaceful activities in support of an independent state of West Papua or West Melanesia. At least eleven prisoners of conscience from Irian Jaya are believed to remain in prison, most of whom were imprisoned for their alleged roles in organizing peaceful demonstrations in support of independence for the province in 1988 and 1989.

In December 1988, a group of people staged an entirely peaceful flag-raising ceremony proclaiming the independence of “West Melanesia”. Thirty-seven of those involved were tried and imprisoned for their role in the ceremony. Among those believed to be still in prison as a result of their role in the ceremony is **Habel Tanati**, who was imprisoned for eleven years under the Anti-subversion Law. In 1989 and 1990 forty other people were arrested and tried for allegedly planning demonstrations to mark the anniversary of the proclamation of West Melanesian independence. Among them were **Drs. Alberth S Kailele**,¹ **Edison Waromi**, **Jacob Matui**, **Drs. Jacob Rumbiak**, and **Martinus Kambu**. **Alberth Kailele**, a provincial civil servant and law school graduate, was arrested after he reportedly led a prayer service on December 14, 1989. He was found guilty of subversion and sentenced to 17 years imprisonment. **Edison Waromi**, a lawyer, was sentenced to twelve

¹ “Drs” is an abbreviation for “doctorandus,” a degree more or less equivalent to a master’s.

years in prison in June 1990. **Jacob Matui** (alias Jack), a former employee of the office of the Governor of Irian Jaya, was sentenced to twelve years in prison in 1989 or 1990 under charges of subversion. All three are believed to be currently detained in Kalisosok Prison, Surabaya, along with Habel Tanati. A former employee at the office of the Governor of Irian Jaya, **Drs Jacob Rumbiak**, a lecturer in geography in Jayapura, received a seventeen-year prison sentence in January 1990 and is detained in Cipinang Prison in Jakarta. **Martinus Kambu**, a former government employee, was convicted in January 1989 under the Anti-subversion Law and is believed to be serving his twelve-year sentence in Irian Jaya.

John Sorondanya was sentenced to ten years in prison in 1989 after being found guilty of subversion and is believed to be detained in Irian Jaya. He was arrested following his and others' efforts to convince a leader from the armed resistance, the Free Papua Movement (*Organisasi Papua Merdeka*, OPM) in Irian Jaya to surrender to the authorities. John Sorondanya and two others were apparently arrested on the grounds that their ability to secure the surrender of a leader of the armed resistance was evidence of their own involvement with the OPM.

East Timor

Five East Timorese prisoners of conscience remain in custody following their conviction for allegedly organizing the peaceful march to the Santa Cruz Cemetery in Dili, the capital of East Timor, on November 12, 1991, which resulted in what has become known as the Santa Cruz massacre. They received sentences of up to life imprisonment, and all, like many of the prisoners from Irian Jaya, are detained on the island of Java, thousands of miles away from their homes and families.

All five men were imprisoned for organizing the procession to the cemetery on November 12, 1991. **Gregorio da Cunha Saldanha**, 35, a nurse in Dili, East Timor, was arrested after he was shot and wounded during the massacre. He was accused of being the principal organizer of the demonstration and was charged with subversion. During his trial, he admitted that he had been involved in organizing the peaceful march. He received a life sentence. **Saturnino da Costa Belo** was arrested several weeks after the massacre; he was sentenced to twelve years in prison. **Francisco Miranda Branco**, around 47, was arrested in Dili in December 1991 and charged with subversion; he was sentenced to a fifteen-year prison term. **Jacinto das Neves Raimundo Alves**, a government employee, was arrested in November 1991; he received a ten-year term. **João Freitas da Camara**, 42, was arrested in Jakarta on 20 November 1991 following demonstrations there against the Santa Cruz massacre. He received a ten-year sentence for expressing hatred towards the government.

II. THE PRISONERS LINKED TO THE PKI

Thirteen elderly men remain in prison, accused of membership in or involvement with the Indonesian Communist Party (*Partai Komunis Indonesia* or PKI). Amnesty International and

Human Rights Watch believe that all of these men should be released immediately and unconditionally.

By the Indonesian government's own count, more than one million people were detained in the aftermath of a coup attempt by a short-lived "Revolutionary Council" on the night of September 30, 1965 that the Indonesian government has blamed on the PKI. Six senior army officers were killed by the plotters, some of whose members were junior officers in the army's Cakrabirawa Unit, the presidential guard. Some PKI leaders may have been involved, but the true facts of that night have never been disclosed. The primary beneficiary of the upheaval that followed was Maj. Gen. Suharto, who had met with Col. Abdul Latief, the head of the Revolutionary Council, just before the coup occurred. Latief, now in Cipinang Prison, Jakarta, told journalists last week that he had warned Suharto that the coup was going to take place, and that Suharto was clearly involved.²

In the months that followed, Suharto gradually asserted his control, taking full powers from then President Sukarno on March 11, 1966 and finally becoming president in 1967. From October 1965 through 1967, Indonesia witnessed one of the worst slaughters of the twentieth century, when hundreds of thousands of suspected PKI members or supporters were slaughtered by other Indonesians, with the encouragement of the army. The party, once the largest in the world after the communist parties of the Soviet Union and China, was annihilated.

Of the one million detained, only about 1,000 were ever brought to trial, and the trials, which took place in a highly charged political atmosphere where to say anything in defense of suspected communists was to bring suspicion on oneself, are considered to have been uniformly unfair. Repeated calls by Amnesty International to review their trials were ignored by the Suharto government. Some of the thirteen men still in prison are known to be prisoners of conscience although there is insufficient information to make a definite determination for others; some clearly were involved in the use of violence. It is the nature of their trials, their age, and the ill health of many in the group that lead Amnesty International and Human Rights Watch to call for their release. The organizations consider their continued detention cruel, inhuman, and degrading.

Several of the thirteen prisoners received death sentences, including three men detained in Cipinang Prison, Jakarta. They are **I Bungkus**, now 61, then a sergeant in the Cakrabirawa Unit; **Asep Suryaman**, 72, allegedly a member of the PKI's "Special Bureau" responsible for building contacts for the PKI within the military; and **Nataneal Marsudi**, 63, who in 1965 had been a sergeant major in the air force. **Isnanto**, formerly head of the PKI in North Sumatra, who was arrested in 1968 and sentenced to death in 1974, is detained in Tanjung Gusta Prison, Medan, North Sumatra.

² Patrick Walters, "Suharto's secret role in the coup," *The Australian*, May 25, 1998.

Several of the men are known to be seriously ill. **Pudjo Prasetio**, now 72 and detained in Kedong Pane Prison in Semarang, suffers from Parkinson's disease which has severely affected his physical mobility. He was a shipbuilder and trade unionist who joined the PKI in the mid-1950s. He was arrested in 1967 in Central Java, held for twelve years, then tried and sentenced to life imprisonment in 1979.

Abdul Latief, 72, was sentenced to life imprisonment following his arrest in 1965. He suffered a stroke a year and a half ago, as a result of which he now speaks with a slur. When questioned recently about the possibility of release, Abdul Latief was quoted as saying, "*I will be ready for whatever comes my way...I am just happy for those that are going to be released before me. Let my friends walk free first.*"³

The other prisoners include **Sri Soehardjo**, 70, who was arrested in November 1967. He was sentenced to death but this was later commuted to life imprisonment which he is serving in Padang Prison, West Sumatra. His health is believed to be poor. **Manan Effendi Tjokrohardjo**, 78, was arrested in October 1965. A former editor of a local newspaper, he was the vice-chairman of a branch of the PKI in Kalimantan. He was sentenced to death in 1967 but this was commuted to life imprisonment in 1982. Detained in Kalisosok Prison, Surabaya, he is believed to be almost paralyzed following two strokes in 1997. **Alexander Warouw**, 80, was involved with a Kalimantan branch of a trade union linked to the PKI. He was also arrested in October 1965 and tried for subversion. In 1967 he was sentenced to life imprisonment and is detained in Balikpapan Prison in Kalimantan. He suffers from diabetes.

Soma Suryabrata, 71, is serving a life sentence in Pamekasan Prison, Madura. **Buyung Ketek**, 58, was sentenced to fifteen years' imprisonment in 1986 for subversion, but it is believed that this was converted to a term of life imprisonment in 1987. Arrested in December 1965, he is serving his sentence in a prison in Padang, West Sumatra. **Sido**, about whom little is known, is believed to be serving a life sentence at Gunung Sari Prison in Ujung Pandang, along with **Markus Giroth**, 62, a member of the PKI, who was arrested in 1967. Markus Giroth was accused of trying to revive a network of PKI activists in south Sulawesi and was tried by a military tribunal. He was sentenced to death in 1968, but his sentence was commuted to life imprisonment and he is believed also to be in poor health.

III. PRISONERS ACCUSED OF VIOLENCE

Many political prisoners in Indonesia have been accused of using violence in the course of armed insurgencies or other political activities. In some cases, Amnesty International and Human Rights Watch believe the accusations may be false but do not have enough information to make a definitive judgment, often because of restrictions on imposed by the Indonesian authorities on access to sensitive regions by human rights monitors. In other cases,

³Agence France Press, 24 May 1998.

people were arrested in circumstances which were clearly unlawful — such as the recent "kidnaping" style arrests of political activists in the run-up to the presidential elections — during which the detainees were subjected to torture or ill-treatment, denied access to independent human rights lawyers, and convicted in grossly unfair trials which frequently relied on testimonies extracted under duress.

Amnesty International and Human Rights Watch believe that the Habibie government should ensure the review of the convictions of all political prisoners with a view toward amnesty or fair and independent retrial if there is reason to believe that their trials were unfair and/or based on information extracted by torture.

East Timor

Many East Timorese are in prison convicted for their alleged involvement in or support for the armed resistance against Indonesia. East Timorese political prisoners face particular difficulties in terms of getting a fair trial. The language used in court is Indonesian, which many East Timorese, particularly those who were adults at the time of the Indonesian invasion, do not speak fluently. The Indonesian authorities do not always provide adequate translators for trial proceedings or complete translations of trial documents. Many East Timorese prisoners have publicly rejected the convictions against them and refused to pursue judicial reviews of their convictions on the grounds that they do not recognize the right of Indonesian courts to try them.

Since the fall of Suharto, there have been growing calls for the release of **Xanana Gusmão**, the East Timorese guerrilla leader who is serving a twenty-year prison sentence in Jakarta. Many believe that his release could provide an impetus to resolution of the conflict in East Timor and would be a major gesture of reconciliation towards the East Timorese people. But the Indonesian authorities have said they will not release Xanana Gusmão on the grounds that his conviction was for criminal actions, connected to his armed activities in support of East Timorese independence.

Arrested in 1992, he was charged with rebellion and illegal possession of firearms. While the international spotlight on him meant that his trial was more open than the trial of other East Timorese political prisoners, it still failed to meet international standards of fairness. Prosecution witnesses, many of whom were themselves detainees, appear to have been subjected to undue pressure from military authorities, making their testimony unreliable. Neither the witnesses nor Xanana Gusmão himself were fluent in Indonesian, the language of the court proceedings.

The Suharto government refused an appeal of the conviction against Xanana Gusmão. Amnesty International and Human Rights Watch believe that Xanana Gusmão should be released if he is not to be given the opportunity for a retrial by an independent tribunal which meets international standards for fairness.

Aceh

In 1989 the Indonesian security forces began an operation against armed separatists in the special region of Aceh, northern Sumatra. Over the next three years, as many as 2,000 civilians, soldiers and members of the guerrilla group, *Aceh Merdeka* (Free Aceh Movement), were killed, including many who were unlawfully killed by the armed forces of both sides. At least 1,000 people were arbitrarily arrested on suspicion of supporting *Aceh Merdeka* or because of family connections to members of the group. At least fifty people were tried, convicted and sentenced to lengthy prison sentences for subversion after unfair trials; many of them were subjected to torture and periods of incommunicado detention. A number of these people are still in prison.

Amnesty International and Human Rights Watch believe that at least seven and possibly more of these people may have been imprisoned for nonviolent activities and may be prisoners of conscience but a lack of adequate information and government-imposed restrictions on access to Aceh has meant that this is impossible to determine. All have been tried unfairly and have not been given the opportunity for a thorough and impartial review of their convictions. As such, the organizations are calling for their immediate release if they are not to be given a prompt retrial which meets international standards of fairness and impartiality.

One such case is that of **Nurdin Abdurrachman**. A lecturer at the Language Institute (Lembaga Bahasa) at Syiah Kuala University in Banda Aceh and originally from Jeumpa, North Aceh, he was taken from his home by armed men in October 1990. Nurdin had been detained for two years in the late 1970s as an *Aceh Merdeka* supporter, reportedly after turning himself in, and had been tortured then. In 1991 he was convicted of subversion and sentenced to 13 years' imprisonment. **Hazbi Abdullah**, around thirty-seven years old, is another Syiah Kuala University lecturer in the economics faculty who was taken into custody in October 1990 and sentenced to seventeen years' imprisonment in 1991 for subversion. He had also been detained once before in 1978 on allegations of involvement with the armed resistance. There were indications that the two men were arrested not because of any indications of involvement in violent activities but because they had come under surveillance by the military which believed that intellectuals were involved in the *Aceh Merdeka* movement. At the time of their arrests, the then regional military commander, General Pramono, noted in an interview that a flyer had been sent to journalists by the resistance explaining the aims of the movement. "If there aren't intellectuals, there's no way they'd have the capacity to produce such a flyer," he said.

Another possible prisoner of conscience is **Drs. Adnan Beuransyah**, sentenced to nine years by a Banda Aceh court for subversion. A journalist with the newspaper *Serambi Indonesia*, Beuransyah was arrested on the night of 15/16 August 1990 by a military team. In the local headquarters of the internal security agency, he was stripped, burned with cigarette butts, and given electric shocks. The torture continued for three days until he signed an interrogation deposition confessing to membership in Aceh Merdeka. He told the court during his trial:

I tried to tell the truth, to retract what I said in the interrogation deposition, but Mr. Prosecutor would not accept that what I had said before was not true. He pushed me in deeper and said officially that I had joined Aceh Merdeka on April 20, 1990 and was charged with collecting information for them. I never joined AM and was never given any assignment by them, never took an oath and was never offered a leadership position...He asked me about the flag and logo of AM. I said I didn't know because I had never seen them. Then he explained what they were. Everything in that deposition came from the prosecutor. I just stayed silent and didn't deny anything, because if I tried to defend my position -- which was not the same as the original deposition -- the prosecutor said I would be turned back over to the Laksus [internal security]...Five days later, the prosecutor came with a typed text..and all that remained was for me to sign it.⁴

Two other men who are also possibly prisoners of conscience are **Mulkan Usman** and **Imran Hasan**, both of whom were tortured after their arrest and forced to sign confessions. Mulkan Usman was trained as a lawyer but was self-employed at the time of his arrest in September 1990. He was held in unacknowledged detention for nearly six months and brought to trial in March 1991. Accused of soliciting funds for *Aceh Merdeka* and attending "clandestine" meetings, he was convicted of subversion and sentenced to fifteen years' imprisonment. During his interrogation, Mulkan Usman was tortured and forced to sign an already prepared statement which listed the names of several individuals, including Imran Hasan, who were alleged to have taken part in meetings at the Kuta Alam tailor shop in June and July 1990 during which activities of *Aceh Merdeka* were allegedly planned. During his trial, Mulkan Usman denied the allegations and claimed that he had been forced into making the confession after being subjected to beatings, kickings, and electric shocks. He claimed that he had been denied access to a lawyer and that the meetings at the shop never took place. Trial observers noted that when he first appeared in court he was unable to walk and had to be supported by security guards. Mulkan Usman had been arrested for political activities in 1977 when he was sentenced to three years for raising an *Aceh Merdeka* flag at two public schools in Banda Aceh. In 1983 he was sentenced to two years and eight months in prison for helping the brother of another prisoner flee Indonesia.

Imran Hasan, 37, was a coffee shop owner and a graduate of the Faculty of Islamic Law of the Islamic Institute in Banda Aceh. He was accused of sympathizing with *Aceh Merdeka* and of allowing his coffee shop to be used as a meeting place for *Aceh Merdeka*. During his time in military custody Imran Hasan claims that he was subjected to torture and ill-treatment including electric shocks on his genitals, beatings, and kickings. The evidence for his alleged involvement with the armed resistance came from confessions extracted under

⁴ Duplik in the case of Drs. Adnan Beuransyah, May 1, 1991, quoted in Asia Watch, Indonesia: Continuing Human Rights Violations in Aceh, Vol.3, No.16, June 19, 1991.

torture and duress from both himself and other detainees. He was convicted of subversion and sentenced to seven years' imprisonment. He is believed to be imprisoned in Banda Aceh.

Two other people, a husband and wife sentenced in January 1995, are also believed to have been imprisoned because they provided medical treatment to a member of the armed resistance who lived in their neighborhood and not because they were involved in violent activities. **Nurhayati Hasani**, [f], around 49, and her husband, **M Amin bin Samidan** (alias Amin Panga), were convicted of subversion in 1995 and sentenced to six and nine years' imprisonment respectively after being found guilty of involvement with *Aceh Merdeka*.

A recent upsurge in *Aceh Merdeka* activities has led to further political trials. In 1997, at least seventeen people were tried for their alleged involvement in activities linked to *Aceh Merdeka*, including armed robbery. Some were charged with subversion. There are serious concerns that several of those tried were held incommunicado, subjected to torture, and tried unfairly.

Irian Jaya

The Suharto government arrested many people in Irian Jaya in the context of counter-insurgency operations against guerrillas. Those arrested and tried have included individuals accused of involvement with the armed resistance, the Free Papua Movement (*Organisasi Papua Merdeka*, OPM). Many were tried under the Anti-subversion Law but others charged and imprisoned more recently have been tried on charges of murder.

At least nine political prisoners remain in custody after having been found guilty of activities in support of independence, including at least four convicted under the Anti-subversion Law. **Beni Kagoya** was sentenced to eighteen years in prison in 1988 for his alleged involvement in an attack against the Indonesian Armed Forces in March 1988. **Elieser Awom** received a life sentence in February 1989, after having been found guilty of subversion for his alleged activities with the OPM. He is believed to be in Kalisosok Prison. **Melianus Rumbiak** was also accused of involvement with the armed resistance and found guilty of subversion and sentenced to at least seventeen years in 1988. He is believed to be in Kalisosok Prison. Also in Kalisosok is **Samuel Wenda** who received a twelve-year sentence in 1989 for his alleged role in an attack against the military.

In 1996, five other men were imprisoned for up to ten years for their alleged role in military attacks against the Indonesian army. They are: **Kowil Kasimrus Iwop**, who was sentenced to seven years' imprisonment; **Basilus Arinjab Apay**, seven years; **Benediktus Beraip**, ten years; **Benediktus Kua Wamba**, seven years; and **Henrikus Kowil**, who received a seven year sentence. While Amnesty International and Human Rights Watch acknowledge the government's right to arrest individuals engaged in recognisably criminal actions, the organizations believe that the frequent use of unfair arrests and detention procedures by the Suharto government, as well as a well-established pattern of unfair trials, warrant a review of these cases.

Islamic Prisoners

In 1989 and 1990, scores of other Muslims were tried on charges including subversion following a series of violent incidents involving alleged Islamic militants in Way Jepara, Lampung, a province in southern Sumatra. A religious teacher there named Warsidi had attracted many followers after a series of land disputes in the area, and local authorities began to get reports of quasi-military training taking place on the grounds of Warsidi's school. After Warsidi refused to obey a summons, then Colonel Hendro Priyono, now Transmigration Minister in the Habibie government, ordered local forces to approach Warsidi directly. On February 6, 1989, the subdistrict military commander, Captain Soetiman, took twenty men and went to the school. Soetiman entered the compound and was killed, apparently by poisoned arrows shot by the group's followers. The next day, Colonel Hendro took about 100 men to the school where, according to the official version, their warning shots were met by arrows and Molotov cocktails. They opened fire on the hundreds of people in the compound, leaving an official death toll of twenty-seven and a suspected death toll of over one hundred. The shootings have never been adequately investigated. That night, about forty kilometers away, a public minibus was hijacked, and the driver and a soldier riding it were killed. Warsidi followers were suspected of mounting the attack. On February 8, seven youths attacked the district military command in Metro, Lampung, with arrows and Molotov cocktails; six were shot dead by soldiers. These incidents were followed by a crackdown on Muslim activists in Jakarta, West Java, Bali, and Lombok suspected of links to the Warsidi group. At least six of the dozens arrested at the time are believed to be still in prison. They include **Zainal Arifin**, serving a twelve-year sentence in Rajabasa prison, Lampung, and **Fauzi bin Isman** and **Nur Hidayat**, both serving seventeen-year terms in Cipinang prison, Jakarta. **Sudarsono**, from Lombok, is also detained in Cipinang Prison. Other people arrested in connection with the Lampung case are in prisons on Nusakambangan island and in Kalisosok prison, Surabaya.

During the 1990s, hundreds of other Indonesians were arrested for their alleged links to groups which the authorities claimed were advocating an Islamic state.

PRD activists

Five people with alleged connections to the PRD have been arrested in connection with an explosion in a flat in the Tanah Tinggi area of Jakarta on January 18, 1998. The explosion was believed to have been caused by a homemade bomb. Two men were arrested immediately after the explosion in January. **Agus Priyono** was arrested at the scene of the explosion and remains in police custody under Emergency Law 12/1951 accused of making or possessing explosives. **Rachmat Kustianto Basuki**, detained in Yogyakarta on January 31, was released after two weeks in custody.

Three other alleged members of a PRD-affiliated organization, **Mugiyono**, 25; **Nesar Patria**, 28 and **Aan Rusidanto**, 24, were arrested by the military in East Jakarta on March

13. They are believed to have been tortured during two days in military custody following their arrest, including being subjected to electric shocks on their genitals. The three men were originally threatened with subversion charges in connection with the January explosion, however this threat appears to have been dropped in the absence of any evidence linking them to the explosion. They remain in police custody in Jakarta.

The national chairman of SMID, **Andi Arief**, “disappeared” from his sister’s house in Lampung on March 28, 1998. He had gone underground following the July 1996 riots and was one of the most wanted men in Indonesia. A month after his “disappearance,” he resurfaced in police custody in Jakarta, accused of involvement in the January bomb blast. Andi Arief was subjected to electric shocks on his genitals along with other torture and ill-treatment. He remains in police custody awaiting trial. There are strong indications that the medical treatment available to those in custody for the treatment of the mental and physical consequences of torture are insufficient. Human Rights Watch and Amnesty International believe that pending trial, Andi Arief should be able to seek adequate medical treatment, if necessary outside prison. In this context, it is worth citing international human rights standards which state that “*it should not be the general rule that persons awaiting trial shall be detained in custody...*”⁵

IV. “DISAPPEARANCE” VICTIMS

Three people who “disappeared” earlier this year and two who “disappeared” during 1997 remain unaccounted for. They include **Yani Avri**, also known as “Rian,” and **Soni**, both Indonesian Democratic Party (*Partai Demokrasi Indonesia*, PDI) activists who were accused of planting a bomb during the May 1997 election campaign. Upon arrest the two men were taken to the North Jakarta district military command (KODIM) where they were held overnight before being apparently released. The next day they were picked up again in front of the KODIM and are believed to have been taken to the same detention facility where two resurfaced “disappearance victims”, Pius Lustrilanang and Desmond Mahesa, were held earlier in 1998. Soni and Yani Avri were taken out of that building on March 12; their current whereabouts are unknown.

Suyat, a SMID activist and student from Solo, has been missing since February 12, 1998. According to Suyat’s brother, five men who were not in uniform and showed no identification but said in response to a question that they were “officers” (petugas) came to the family’s house in Gemolong, Sragen, Central Java at about 2:00 a.m. on February 12, looking for Suyat. The family said he was not at home, but the men entered anyway and began searching the house. When they could not find Suyat, according to an April 16 account in the Surabaya newspaper, *Jawa Pos*, the men took away his brother, Suyatno. After being interrogated in an unknown place, Suyatno told human rights workers that he was blindfolded and tied up and then brought to the house of one of Suyat’s friends in Karanganyar, outside

⁵International Covenant on Civil and Political Rights (ICCPR), Article 9 (3).

Solo, then to the house of another friend in Kalijambe, Sragen, where Suyat was staying. The five men took Suyat away and dropped off Suyatno on the outskirts of Sumber village. No one has seen or heard from Suyat since.

Herman Hendrawan, 28, went missing in March 1998 along with two others, Faizal Reza and Rahardjo Waluyo Djati, following their attendance at a press conference at the Indonesian Legal Aid Institute in Jakarta. His two friends are known to have returned to their homes after having been taken into custody, but Herman's family and friends claim to have had no word from him yet.

Petrus Bima Anugerah, known as Bimo, aged twenty-five, is a student at the Driyakara School of Philosophy in Jakarta and a member of the militant political organization, the People's Democratic Party (PRD). He has not been seen or heard from since March 31. His father officially reported him missing to the national police command on April 12.

V. RELEASED PRISONERS OF CONSCIENCE

Since coming to power, President Habibie has released four prisoners and indicated that others may be released. On 25 May, **Muchtar Pakpahan** and **Sri Bintang Pamungkas** were both released from Cipinang Prison in Jakarta and their sentences were commuted. Muchtar Pakpahan, 44, was the head of the independent Indonesian Prosperity Trade Union (*Serikat Buruh Sejahtera Indonesia* or SBSI). He was serving a four-year prison sentence for "incitement" and was on trial for subversion and spreading hatred toward the government. Sri Bintang Pamungkas, former member of parliament for the United Development Party (*Partai Persatuan Pembangunan* or PPP), was convicted of insulting the President for comments made during a lecture at a German university in 1995. Sentenced to two years and ten months' imprisonment in 1996, he remained free pending an appeal. In 1997, however, following his founding of a new political party, the United Indonesian Democratic Party (*Partai Uni Demokrasi Indonesia* or PUDI), he was arrested and charged with subversion. His trial was ongoing at the time he was released.

Two others were released on May 28, **Nuku Soleiman** and **Andi Syahputra**. Nuku Soleiman, an activist with the *Pijar* organization, was convicted of insulting the head of state after a demonstration against the state lottery in December 1993. At the demonstration in front of the presidential palace in Jakarta, Nuku distributed stickers with the slogan, "Suharto, mastermind of all disasters." He was sentenced to four years' imprisonment in 1994, a sentence that was later increased to five years, and was due for release in December 1998. Andi Syahputra, 32, a printer, was arrested in October 1996, when police confiscated 3,000 copies of an issue of the underground magazine, *Suara Independen* (Independent Voice). The magazine contained several articles that the government found offensive. In April 1997, Syahputra was convicted of insulting the president and spreading hatred and was sentenced to two years and eight months imprisonment.

On June 2, two activists in Pekalongan were acquitted. **Saddam Husein bin Munaris**, 30, and **Suhardi bin Acwan**, 27, had been detained for four months, suspected under Article 154 of “spreading hatred” toward the government by establishing the People’s Committee of Pekalongan. The Committee had called for President Suharto to step down, reform of the political system, and improvement of the economy.