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## The Indonesia Human Rights Campaign

TAPOL Bulletin No. 177

November 2004

### New campaign to release political prisoners

*In the three years of the Megawati presidency, there was an explosive growth in the number of political prisoners. Up to 2,000 political prisoners are now serving sentences all over the country, from Sabang to Merauke. Following the downfall of the dictator Suharto in May 1998, a fresh wind blew and more than 230 political prisoners were released in a series of presidential amnesties during the Habibie and Wahid presidencies.*

However, during the time Megawati was president, there was a serious backlash, with repressive legislation being used extensively against a variety of 'dissidents'. Government critics, including labour and political activists as well as journalists, were put on trial. But the vast majority of prisoners were Acehnese accused of being involved in GAM activities.

A considerable number of Papuans and Malukuans are also serving long sentences. Some have been found guilty of nothing more than hoisting a flag or attending peaceful political meetings.

#### No access to prisoners in Aceh

Monitoring and updating human rights conditions in Aceh have become virtually impossible. The handful of human rights lawyers still functioning in the province complain about the difficulty of meeting their clients at a time when a very large number of people are being processed in the courts. According to the most up-to-date information (October 2004) we have been able to acquire, some 1,777 'GAM suspects' have been tried and sentenced, including fifty-two women. The vast majority are being held in Aceh but twenty-two prisoners have been transferred to the notorious Tanjung Gusta camp in Medan, North Sumatra. This is a very isolated prison camp.

Due to the intolerable conditions persisting in Aceh, regular monitoring of the conditions of the prisoners is virtually impossible. This includes the supply of food and medicinal support from outside, as well as the possibility for relatives to make regular visits. Many prisoners are suffering from the traumatic after-effects of injuries inflicted during torture sessions which would be greatly helped by regular counselling.

More than eighty per cent of the defendants were not assisted by defence lawyers. The trials were completed in record time and more often than not, the only evidence produced was the confession made by the accused which in most cases was extracted by means of torture [see also TAPOL Bulletin No 175, March/April 2004].

#### 487 prisoners transferred to Java

There are prisoners in virtually every prison in Aceh. However, since the beginning of 2004, a large number have been transferred to twenty-six prisons located in all parts of Java. Those transferred are all serving sentences of at least three years. [See also 'Horrendous abuses persist in Aceh'].

The transfer of prisoners to places thousands of kilometres from home is contrary to the UN Standard Minimum Rules for the Treatment of Prisoners which also stipulates that family members should be informed of the transfer. In

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the vast majority of cases, the prisoners were transferred without relatives being told anything in advance.

Since the beginning of 2004, altogether 487 prisoners have been transferred from Aceh to Java, in three waves. On 24 January, 143 prisoners were moved to prisons mostly in Central Java. Some ended up in the infamous prison island Nusa Kambangan. Then a batch of 170 people was moved on 17 May to prisons in East Java and on 26 August, another 174 prisoners were sent to prisons in West Java, bringing the total to 487.

Practically all the political prisoners were tried on charges of 'makar' (rebellion against the state) which places them in a very special category, subjecting them to particularly restrictive conditions. The transferred Acehnese prisoners are not allowed to mix with other prisoners and for the first four to six weeks they are kept in strict isolation. The authorities claim that this is necessary so that they can undergo special guidance [pembinaan] or indoctrination.

## The case of Salbiah

The October issue of the monthly magazine, Aceh Kita is devoted to reporting about the impact of martial law on women. [See also [www.acehkita.com](http://www.acehkita.com)]. One article discusses the case of Salbiah who was tried in Calang district court, and is now serving an 18-year sentence in Lhok Nga Prison, where she is being held together with another fifty-one women.

Now only 18 years old, the unfortunate Salbiah has been sentenced to 18 years. She was branded by the authorities as Panglima Inong Balee [commander of the Women's Corps], a special unit within GAM consisting solely of women.

Her case is one of many grotesque travesties of justice in Aceh. Salbiah's real name is Elit Baleno. Her family is from Demak in Central Java; they moved to Aceh about ten years ago as transmigrants. Salbiah grew up in a village called

Teunom in Aceh Jaya district. As she has always lived among her Javanese compatriots, never mixing with local people, she doesn't speak a word of Acehnese and insists that she has never been involved in politics.

Earlier this year, she found a job in the capital Banda Aceh, helping to run a canteen. In March she received a letter from the village asking her to return home because her mother had fallen ill. Unfortunately for Salbiah, on the way home, a special force consisting of soldiers and policemen were conducting sweeping operations. Sweeping is the term used for checking the identities of travellers at check-points.

One of the security officers said that he recognised the photo on her identity card: 'This is the Inong Balee commander of Gajah Keng, a subdistrict of Teunom', he claimed. As a result, Salbiah was taken to the local police station in Meulaboh, West Aceh.

From then on, things went from bad to worse. She was taken to several places for interrogation and finally arrived at Lamno in Aceh Jaya. She was forced to take off all her clothes and was beaten. Then, she was forced to sign the investigation report. The same procedure was repeated in Calang and later at the police station in Meulaboh, West Aceh.

At the end of March, she was brought to court and put on trial without the help of a defence lawyer. It was only then that her parents discovered that their daughter was being held in captivity. The prosecution demanded 20 years but the judge sentenced her to 18 years.

Salbiah cannot understand why she is in jail and serving such a heavy sentence. Such is the nature of things at present in Aceh that her only chance of release is by means of a presidential amnesty.

## Systematic torture

A report published by Human Rights Watch (HRW) in September this year contains a harrowing account of the use of torture against political prisoners by the police and military [see separate article]. The methods used include electric shocks, burning with cigarettes, beating, threats and intimidation.

HRW's findings have been confirmed by the Aceh Working Group (AWG) a coalition of civil society organisations based in Jakarta. They undertook investigations limited to conditions in three prisons in Aceh and Jawa. AWG spokesperson Henrie (PBHI) said at a press conference held early in October that they had recorded seventy-one cases of torture, before and after trial. The perpetrators were security officers (brimob/special police, army, marine and SGI/intelligence officers) as well as prison guards and members of militia units. The group drew attention to the unlawful methods used during interrogation. They discovered that many detainees had been forced to make confessions. In some cases, the interrogation report signed by the defendant had been written by an intelligence officer. AWG also mentioned 37 cases of extortion of the families of the detainees.

## The case of Diwan

Diwan (45) (not his real name) was detained for two months at a police station in Aceh. He was accused of being a member of GAM and was arrested soon after martial law was declared.

His arrest was much more like a kidnap. For six days Diwan disappeared and the family became desperate in their search to find him. During his detention he saw many



cases of torture, which in some cases had fatal results. Three prisoners disappeared while he was in captivity. The first, M. Noer Basyah was taken from his cell. He was told that he was being taken somewhere to be photographed but he never returned. The second one was Yuslizar who was also taken from his cell never to return. Syahril, the third man, also disappeared. It was subsequently claimed that he had died in cross fire.

Another prisoner, Ali Akbar, was heavily tortured but survived the first bout, after which he was hospitalised. But he later underwent another bout of torture and died as a result.



Diwan also endured heavy torture and was hit by a heavy piece of wood. His hearing is now badly impaired. According to a report in Aceh Kita, he said that he had been subjected to the *ikan louhan method*, when torturers assault the prisoner by hitting the face. Ikan Louhan is a bloated, ugly looking fish. This method is often used before the interrogation session begins, a kind of 'softening up process', when the face is badly hit. He witnesses many kinds of torture and considers himself lucky to have survived. His interrogation report was fabricated from beginning to end, written by an intelligence officer from the SGI, the special intelligence unit.

In our next issue, we will include further information about the situation of political prisoners and report on a campaign calling for the release of political prisoners now being held in a number of places apart from Aceh, including West Papua and Maluku. \*

## Kopassus chief acquitted of Priok massacre charges

Further evidence of the military's powerful influence over judicial proceedings was provided by the acquittal on 12 August of the commander of Indonesia's special forces, Kopassus, of crimes against humanity charges for his role in the 1984 shooting of Muslim protestors at Tanjung Priok in Jakarta.

The ad hoc human rights court for Tanjung Priok decided that Major General [then captain] Sriyanto Muntrasan, the former North Jakarta military commander, was not guilty because the shootings of the protestors "were unavoidable and were not a planned and systematic action" ['Sriyanto not guilty in Priok massacre', *Jakarta Post*, 13 August 2004].

Two days earlier, the court acquitted retired police chief Maj. Gen. Pranowo of unlawfully detaining or torturing more than 150 people involved in the protest. The beatings administered by the accused were described by the court as 'ordinary abuses' and, therefore outside its jurisdiction ['Indonesian court acquits former general of 1984 torture charges', *AP*, 10 August 2004; and 'Another Indonesian general cleared of human rights abuse', *The Guardian*, 13 August 2004].

The court's two judgements came a week after an appeal court quashed the convictions of four senior officers implicated in crimes against humanity in East Timor in 1999 [see *TAPOL Bulletin*, No 176, p. 1].

The *ad hoc* court had in April convicted Sriyanto's immediate superior, Maj. Gen. (ret.) Rudolph Butar-Butar, of gross violations for failing to prevent or halt the systematic killing of civilians at Tanjung Priok. It sentenced him to 10 years in prison ['Ex-general Jailed for Tanjung Priok Massacre', *Jakarta Post*, 1 May 2004]. On 20 August, 11 lower-ranking soldiers were found guilty of gross violations in the form of murder and attempted murder and sentenced to terms of two and three years imprisonment.

The Tanjung Priok massacre happened when the military and police fired at random on a peaceful demonstration of around 5,000 people demanding the release of 4 people arrested by the military. Official reports refer to 23 deaths, but hundreds are thought to have been killed or disappeared.

A number of Indonesian NGOs condemned Sriyanto's acquittal saying it dealt the struggle to uphold human rights in the country a huge blow. "The ad hoc rights tribunal is merely part of the cycle of impunity for perpetrators of crimes against humanity," the NGOs said in a joint statement ['Priok victims refuse to give up', *Jakarta Post*, 14 August 2004].

Families of the victims have made it clear that they have no intention of letting the matter rest. They say they will take the case further if the Supreme Court refuses to overturn it. \*

[For further accounts of the Tanjung Priok case, see *TAPOL Bulletins* No. 159, p. 22; 169/170, p. 11; 173, p. 18 and the *TAPOL* book *Indonesia: Muslims on trial*].

## A Human Rights Agenda for the new government

*On 20 October TAPOL wrote to the newly inaugurated President Susilo Bambang Yudhoyono (SBY) with a human rights agenda for his new administration. Underneath is the text of the letter.*

We congratulate you on your inauguration as President of Indonesia and would like to take this opportunity to draw your attention to a number of issues we believe should be addressed to ensure that Indonesia's difficult transition to democracy is based on respect for human rights and the rule of law.

### **Aceh and West Papua**

The military approach adopted in the three years of the Megawati presidency to resolve the conflicts in Aceh and West Papua has only worsened the social and human conditions on the ground. The use of force to deal with alleged separatists has failed to resolve the conflicts. In addition to being counter-productive, it has involved widespread violations of fundamental rights.

We urge you to seek comprehensive and peaceful solutions to the conflicts. Negotiations should start immediately with all sections of society to find solutions to the social and political problems and to ensure that human rights are upheld and are actively promoted at all times.

In particular we call upon you to:

- Halt the current military operations in Aceh and the security operations in West Papua and lift the civil emergency status in Aceh.
- Withdraw all non-organic troops from both territories.
- Ensure that the peoples of Aceh and West Papua are peacefully able to exercise their rights to freedom of expression (including the right to express support for self-determination), freedom of association, freedom of assembly and other fundamental rights and that they are protected from extra-judicial execution, torture and arbitrary detention.
- Facilitate the conduct of independent investigations into human rights violations in both territories, facilitate the return of human rights and humanitarian agencies, and invite the UN Special Rapporteur on Torture and the Special Rapporteur on the Independence of Judges and Lawyers to visit and report in accordance with their mandates.
- Ensure that members of the armed forces and police observe international human rights and humanitarian laws, especially in relation to civilians and other non-combatants.
- Ensure that both domestic and international human rights defenders have full and unhindered access to both areas and are able to carry out their work free from threats and intimidation.
- Lift all restrictions on journalists visiting Aceh and West Papua.
- Continue the process of building a civilian police force which will protect civilians, and avoid the use of repressive measures against legitimate social or political protest.
- End divide-and-rule policies aimed at splitting up the two provinces.

### **Ending Impunity**

Ending impunity has always been one of the main objec-



*Just reminding you that promises should be kept ! Jawa Pos 21Oct 2004*

tives of the pro-democracy movement in general and the human rights community in particular. The high hopes generated by the end of the Suharto dictatorship in May 1998 were regrettably dashed during the three years of the Megawati presidency.

Although the post-dictatorship period has produced new laws and judicial mechanisms, law enforcement has been fundamentally flawed due to weaknesses in the judiciary, the prosecution service and the police force.

Another major stumbling block is the continuing role of military and intelligence bodies in determining the political agenda. Despite institutional support for the establishment of two ad hoc courts for gross human rights violations committed in Tanjung Priok (1984) and East Timor (1999), the end result was the acquittal of almost all the main suspects, most of whom were senior military officers.

We urge you to co-operate fully with the serious crimes process in East Timor and with any proposals by the UN aimed at bringing to justice the perpetrators of gross violations in East Timor.

We further urge you to facilitate the conduct of credible investigations and prosecutions, according to international standards, of the following cases so that those responsible - including those with political and military command responsibility - are brought to justice:

- the massacres perpetrated in the months following the seizure of power by former President Suharto in 1965.
- the numerous atrocities and human rights abuses committed in Aceh and West Papua since the 1960s.

· other grave incidents such as the Lampung killings in 1987; the attack on the PDI office in July 1996; the disappearances of activists in 1998; and the Trisakti/Semanggi student killings in 1998/1999.

We call upon you to review the Law on the TNI, in particular its provision for the continuation of the TNI's territorial structure.

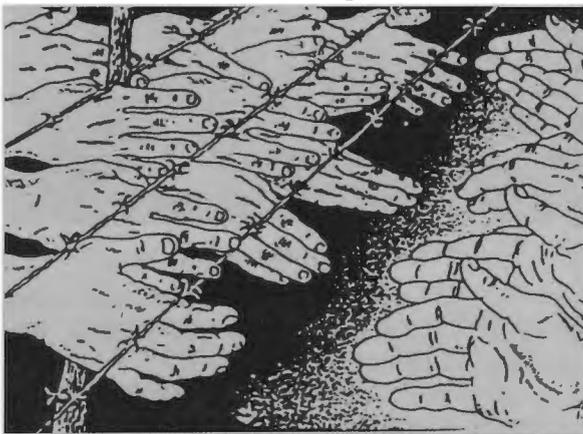
The Draft Law on Intelligence as it now stands gives excessive power to the National Intelligence Agency (BIN) and will put civil liberties in peril. A thoroughgoing discussion should take place in parliament and with human rights groups regarding the position of the Indonesian armed forces in society and the role of intelligence units, to safeguard the security of the population.

## Political Prisoners

The number of political prisoners fell sharply in the two years following the downfall of former President Suharto. During the short presidencies of Habibie and Abdurrachman Wahid most political prisoners were released but the number has risen steeply in the last three years under President Megawati. At present, more than 2,000 persons are in jail because of their alleged political beliefs, allegiances or activities.

The majority of the prisoners are Acehnese with a smaller number from West Papua, Maluku and Java. Most of them were convicted following unfair trials which did not meet international standards, including cases where confessions were obtained through torture.

Most of the Acehnese prisoners were tried under an emergency procedure which did not comply with the established Indonesian legal procedures. Most of the defendants were not assisted by a defence lawyer. The trials were completed in record time and in many cases the verdicts were handed down after brief court hearings. In addition, around 400 prisoners have been transferred to 26 prisons scattered across Java. Transferring prisoners from Aceh to locations far from home is in flagrant breach of international standards concerning the treatment of prisoners.



We urge you to:

· Press for an independent judicial review of the cases of all persons arrested and detained following the establishment of martial law in Aceh and all others from West Papua, Maluku and elsewhere who may have been detained for political or arbitrary reasons.

· Ensure that all those subject to arbitrary detention and all those imprisoned as a result of unfair trials are immediately released.

· Ensure that international standards concerning the treatment of prisoners are fully respected.

## Legal and judicial reform

Whatever improvements are made to Indonesia's laws

and legal procedures, the rule of law cannot prevail unless professional, independent and impartial legal personnel are available to carry out investigations, prosecutions and trials.

Corruption within the judiciary is rampant and should be given highest priority.

We urge you to:

· Set up an independent judicial commission as an external watch-dog for the courts. A similar body should be established for the prosecution and the police.

· Facilitate the intensive training in international human rights law and practice of judges, prosecutors and defence lawyers.

· Ensure that all laws, regulations and practices relating to the function and conduct of the legal profession are consistent with the UN Basic Principles on the Independence of the Judiciary, the Guidelines on the Role of Prosecutors and the Basic Principles on the Role of Lawyers.

· Restore confidence in society by immediately prosecuting the more blatant corruption cases. The newly-established KPK (Commission for the Eradication of Corruption) should be strengthened by providing it with the necessary authority, qualified personnel and sufficient funds.

We are most grateful to you for your attention to these matters. \*

*continued from page 8*

and disseminate ideas and information'. Furthermore it provides a journalist with 'protection of the law'.

He expressed amazement that while the prosecution was charging him as a criminal and demanding a two-year sentence for publishing a report in compliance with the law, the leader of the group that attacked his office, 'who then assaulted me at a police station in an attempt to force me to reveal the names of the sources of the Tempo article' is in contrast facing a demand that he be freed of all charges'.

He told the court that the article in question 'was based on facts from the field and explanations from authoritative sources. Rumours were indeed circulating about Winata's involvement in the renovation project, which Winata had himself acknowledged when interviewed by a Tempo journalist. Harymurti also insisted that the article was objective and that it complied with the 'assumption of innocence', while acknowledging that the businessmen was being maligned.

A person who considers that he has been defamed should use his right to reply and right to correct, not only in his own interests but for the public in general, adding that the failure to do so should mean forfeiture of the right to sue.

## Other attacks on the press

Apart from the lawsuits filed against Tempo, a regional newspaper, Rakyat Merdeka has been charged on two occasions, for articles about President Megawati Sukarnoputri and Akbar Tanjung, chair of the MPR (Supreme Consultative Assembly). In the former case, the executive editor, Supratman, was sentenced to six months, and in the latter, the chief editor, Karim Papatungan, was sentenced to six months. Both verdicts are under appeal before the High Court. \*

## A new president is elected

*On 20 October, Susilo Bambang Yudhoyono, popularly known as SBY, a retired army general, was inaugurated as Indonesia's 6th President. This followed the first direct presidential election in which more than 60 percent voted for SBY. In the first round in June, SBY achieved a majority but not enough to avoid a runoff. Throughout, opinion polls gave SBY a convincing edge over the incumbent, President Megawati. As the first directly-elected president, SBY can lay claim to being the first 'people's' president. His legitimacy is unprecedented as compared with his five predecessors.*

Indonesia held three elections this year, all of which took place under relatively peaceful conditions. The third election on 20 September was by far the easiest; it was the second round of the presidential election with only two candidates. As a huge archipelago with 13,000 islands, organising an election in Indonesia is a logistical nightmare; it takes weeks before the result can be announced. But only hours after the polling booths closed and the counting started, it was clear that SBY was the winner.

### High hopes and promises

SBY is the 6th President since the birth of the republic in 1945. While the majority of voters are optimistic about how he will handle complex economic, political and legal problems, his job will be a tough one. Indonesia remains economically 'the sick man of Asia' with abysmal economic growth, a widening gap between rich and poor and double-digit unemployment.

While small groups within civil society campaigned against his candidacy because of his background as a retired army officer, the majority saw SBY as new figure in Indonesian politics, taking heart from his track record in recent years when he was a cabinet minister.

In his public appearances, he came across more as a civilian than a military man. In three television debates with Megawati, he emerged as the superior politician with a clearer vision of how to handle state affairs.

### SBY's career as politician

SBY's career as a politician has been short and tumultuous, characterised by ups and downs. But in hindsight, it gave him the popularity needed to run successfully for president. His career as a politician started when President Abdurrahman Wahid (Gus Dur) appointed him minister for mining and energy in 2000. This was a crucial post as oil and natural gas are Indonesia's main sources of foreign exchange. Gus Dur's presidency was volatile. In just eighteen months, he carried out many cabinet reshuffles. Early on, SBY shifted from the mining ministry to become Coordinating Minister for Politics and Security (*Menko Polkam*).

At the height of the power struggle during Gus Dur's presidency, he refused to support a decree issued by Gus Dur on 28 May 2001 for firm measures to be taken to rescue the presidency. He was sacked by Gus Dur but a few weeks later, on 25 July, the MPR (People's Consultative Congress) found a pretext to impeach Gus Dur.

Megawati became president and SBY decided to run for vice-president against two heavyweights Hamzah Haz,



*The new President after inauguration*

chair of PPP, one of the main Muslim parties, and Akbar Tandjung chair of Golkar, the main secular party and former political vehicle of the dictator Suharto.

SBY failed because he lacked the backing of a political party. A few months later, in September 2001, the Partai Demokrat (PD), his political vehicle, was established. At about the same time, he received a call from President Megawati asking him to take back his job as Menko Polkam, which he accepted.

His time as Menko Polkam was fraught with problems. Regional conflicts were at their peak; along with widespread unrest in Aceh and West Papua there were local conflicts in Poso and Maluku. On top of this, he had to deal with several acts of terrorism, the bomb blast in Bali which killed around 200 people, and the bombing of the Marriott Hotel in Jakarta. It is more than likely that these problems strengthened his resolve to run for the highest job while Megawati failed to make serious efforts to tackle these problems.

### SBY, the underdog

SBY's ambition to run for the presidency soon became a public secret. Ads appeared in the press promoting SBY as the future president, souring his relationship with Megawati. By late 2003, Megawati was excluding him from key cabinet sessions. Their relationship fell to zero with communications being conducted by letters or through go-

between. Megawati's husband, the influential Taufiq Kiemas, openly supported his wife and attacked SBY, calling him 'childish'. This arguably gave him more popularity as the 'underdog', always popular with voters. On 11 March 2004, he resigned from Megawati's cabinet and successfully ran for the presidency.

Megawati's campaign in the second round was little short of disastrous. Her party, the PDI-P, Indonesia's second largest party entered a coalition with Golkar, Indonesia's largest party. The two parties held a big majority in parliament, and their leaders firmly believed that this coalition would attract the majority of votes. But as it turned out, the electorate voted massively for SBY. It was clear that party allegiance played little role; voters were voting for personalities. SBY's popularity soared as the public and the press sided with the 'victim'.

### An almost perfect military background

In many ways, SBY personifies the kind of army officer now at the top of TNI, the Indonesian army. In the early days, army recruits came from all levels of society, mostly from the grassroots but since the seventies, there has been a gradual shift. The prominent role of the army in society has affected the class origins of its new cadets.



*SBY as young officer in East Timor giving instructions to the troops*

Officers have gradually become a caste of their own. Through inter-marriage and as the sons of senior officers who follow in the footsteps of their fathers, many highly-placed officers are related to each other. SBY's father was in the army, serving as a first lieutenant while his father-in-law is the infamous Major-General Sarwo Edhie, who played a brutal role in the bloody killings of tens of thousands of innocent peasants in the red drive of 1965 in Central Java. His eldest son is a graduate from the Military Academy and holds the rank of 2nd Lieutenant. There are similar family ties between many high-ranking officers.

In many ways, SBY can be said to have an almost perfect military background. As a cadet, he was one of the brightest, graduating from the Academy in 1973 at the top of his class. He was soon sent abroad for further training and took three courses in the US (Airborne and Ranger Course, Fort Benning, 1976; Infantry Officer Advanced Course, Fort

Benning, 1982-1983; Command and General Staff College, Fort Leavenworth, 1990-1991). He attended a Jungle Warfare School in Panama in 1983. He also underwent training in Belgium and Germany (Anti-Tank Weapon Course, 1984) as well as in the UK while serving as commander of the UN Peace Keeping Force in Bosnia in 1995-1996.

### Dubious military activities

Not much has been reported about his combat duties or his involvement in serious human rights violations. He served three times in East Timor which, in those days, was a necessary step in one's military career. He took part in Operasi Seroja in 1976-1977 (for the pacification of East Timor), in Operasi Tuntas in 1979-1980 (for the eradication of the resistance) and so-called mopping-up operations in East Timor in 1986-1988.

Also little has been said about his role when he was army chief-of-staff in the Jakarta military command in 1996 during the attack on the headquarters of the PDI, which was chaired by Megawati. Even less is known about his role during the violence that erupted in East Timor in 1998-1999, at which time he was chief-of-staff for territorial affairs (from 9 November 1998 till October 1999) which continued until international forces stepped in.

By the time of the downfall of Suharto in May 1998, SBY had joined the ranks of more liberal-minded officers, which included people like Agus Wirahadikusumah, Agus Widjono and Saurip Kadi.

### His political will and influence

SBY made many promises during the presidential election so people now expect deeds, not words. He promised to fight corruption and to pay special attention to the conflicts in Aceh and West Papua. He also warned of the 'spectre of terrorism' still haunting Indonesia. Regarding his human rights agenda, see our letter to the new government.

SBY has promised to deal with burning issues regarding the armed forces. He speaks optimistically about the TNI adjusting itself in the process of democracy. There are three burning issues relating to internal reform within the TNI.

The first is the army's involvement in business, the second is the territorial command structure of the army and thirdly is the ending of impunity. Civilian presidents like Habibie, Gus Dur and Megawati were not able (or unwilling) to handle these issues. It remains to be seen whether a retired general has the necessary political will and influence to deal with them. \*

## Journalist sentenced on charge of defamation

*The era of reformasi which began with the downfall of Suharto has taken a bruising with attacks on several periodicals, most notably the weekly TEMPO. The publication's editor has been given a jail sentence on a charge of defamation. Ignoring the provisions of the 1999 Press Law, the charge was based on an article on defamation in the Criminal Code.*

TEMPO has a proud tradition, dating back to its inauguration in the early 1970s, under the Suharto dictatorship. In those days, it was forced to live within the severe constraints imposed on the press. In 1994, it was banned for critical reports about Suharto and did not re-appear until October 1998, after the downfall of Suharto in May 1998.

During the Suharto era, TEMPO was a weekly magazine but it is now a daily newspaper and a weekly magazine, as well as publishing an English-language edition.

Among some circles in post-Suharto Indonesia, the idea of a free press is still anathema for the threat it poses to vested interests. There are people who all too easily rush to use the courts to punish a publication for reports which they regard as being detrimental. What is particularly alarming is that they resort to using the Criminal Code, ignoring the fact that a Press Law was enacted in 1999 which includes safeguards for members of the public to take action if they feel that they have been maligned.

### Tycoon alleges defamation

The publication came under fire from a well-connected and very influential business tycoon, Tomy Winata, who filed a complaint about a report in TEMPO's 3 - 9 March 2003 issue regarding a serious fire in the capital's largest open-air market, Tanah Abang in Central Jakarta. The report referred to rumours that the sum of Rp. 53 billion (\$5.7 million) was being made available to renovate the textiles market. The report referred to Winata as a 'big scavenger' and insinuated that he was involved in the fire, so as to allow him to press ahead with a redevelopment project. Entitled *'Is Tomy in Tanah Abang?'*, the report included a denial of the claim by the businessman.

Under the Press Law, a party feeling aggrieved by the report could have used his right of reply but Winata did not do so. Instead, he filed a lawsuit under Indonesia's Criminal Code, accusing Bambang Harymurti, the editor of TEMPO, and two journalists, Ahmad Taufik and Tengku Iskandar Ali, of defamation, on the grounds of publishing false information and provoking public unrest. The latter allegation was made possible because a crowd of some two hundred people, thought to have acted at the instigation of the businessman, held a protest outside the office of the publication.

The prosecution demanded two-year sentences for the two journalists and the editor, and called for the immediate imprisonment of the editor.

The impression that Winata was out to punish TEMPO and direct a punitive blow against the press was reinforced by the fact that he has filed no fewer than seven lawsuits against the publication. Even before the court verdict against TEMPO for the Tanah Abang fire report, the publication already faced a court decision requiring it to pay Winata damages of \$1 million. An appeal against this verdict is now before the courts.



*Bambang Harymurti addressing the crowd in front of the District Court*

### A blow to democracy

On 16 September, the Central Jakarta district court passed a one-year suspended sentence against Bambang Harymurti, while acquitting the two journalists who had written the article.

The verdict was immediately condemned as a blow to democracy. Suryopratomo, the editor of Indonesia's leading daily, Kompas, warned that the defamation verdict would 'set a bad precedent for criminalisation of the press. 'We worry that in the future all mistakes committed by the media will be perceived as errors by design that are driven by hatred or ill will,' he said.

Christopher Warren, president of the International Federation of Journalists, said the verdict continued 'a deeply disturbing trend mirroring the darkest days of the Suharto regime for media freedom in Indonesia.' He said that it was intolerable for journalists ever to be jailed for defamation. [*The Jakarta Post*, 17 September 2004]

### Bambang Harymurti's defence

Speaking before the court, Bambang Harymurti opened his defence plea by asking: 'Should a journalist who practices his profession as mandated by law and who publishes his works according to journalistic norms enshrined in law be seen as a criminal?' Indonesia's Law on the Press (40/1999) states that 'Freedom of the press is guaranteed as a basic human right', adding that, in order to guarantee that freedom, 'the national press has a right to explore, discover

*continued on page 5*

# The continuing search for truth and justice

*On 7 September, the Indonesian House of Representatives passed a long-awaited Law on the Commission on Truth and Reconciliation ('the Truth Commission'). Human rights advocates are questioning whether this will be a significant step in the search for the truth about past rights abuses and whether it will satisfy victims' needs for justice, or whether it will simply reinforce impunity in the same way as Indonesia's ad hoc human rights court on East Timor.*

It is important to acknowledge that despite the relative success of this year's parliamentary and presidential elections, Indonesia is undergoing a fragile transition from dictatorship to democracy. Improving respect for human rights and the rule of law is a long-term process in a country which has emerged from decades of authoritarianism. Allowance must be made for this in assessing the likely impact of transitional justice initiatives such as the Truth Commission.

## Transitional justice

Transitional justice has many interrelated dimensions, which vary according to the country context. It normally involves the search for the truth about past abuses; the punishment of perpetrators; legal and institutional reform; the provision of restitution and rehabilitation for victims; reconciliation; and a move towards increased official protection and promotion of human rights.

For progress to be made, comprehensive strategies are required. They must address the need for: increased political commitment to the rule of law; a reduction in the power and influence of the military and its greater accountability to civilian authorities; the adoption of appropriate new laws and regulations; the improvement of the capacity and technical competence of judges and legal personnel; the eradication of judicial corruption; and the strengthening of civil society organisations, especially those involved in legal and human rights advocacy.

The need for justice is particularly acute in Aceh and West Papua. However, it is unlikely that progress will be made if the government continues to use repressive policies which deny space for credible investigations and prosecutions into past abuses.

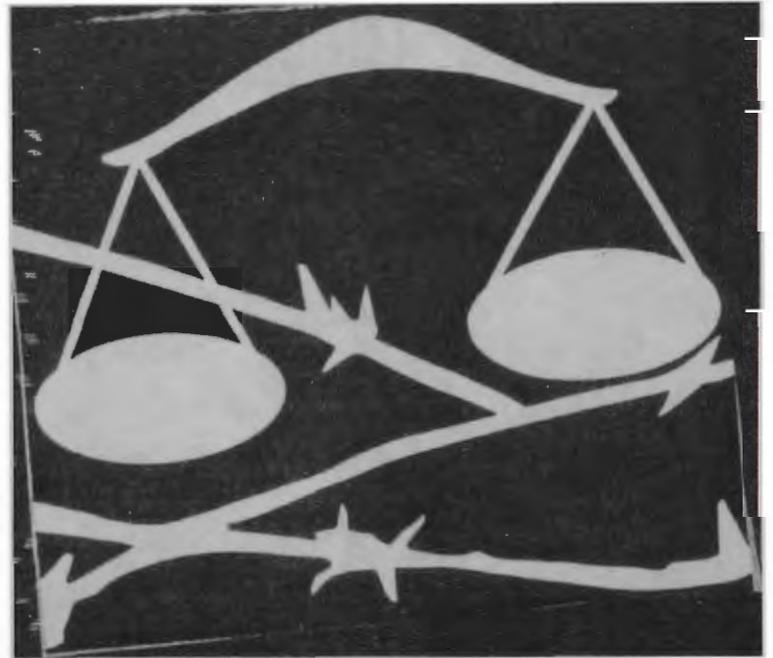
## Piecemeal approach

So far the Indonesian government appears to have adopted a piecemeal approach to transitional justice. This is evident from the experience of the aptly named ad hoc human rights courts for East Timor and Tanjung Priok. This approach does not augur well for the Truth Commission.

The flaws in the trials conducted by the ad hoc court for East Timor have been well documented. The main reasons for their failure were the lack of political will at the highest level and the influence of the military on the outcome of the proceedings. Particular problems arose in relation to the lack of independence and competence of prosecutors - epitomised by a prosecution request for the acquittal of one of the main suspects, Adam Damiri - and the inadequacy of protection for victims and witnesses.

Ominously for the Truth Commission one of the main features of the trials was the way in which the prosecution and defence comprehensively distorted the truth of what

happened in East Timor. The violence was falsely portrayed as resulting from a struggle between two violent East Timorese factions in which the Indonesian security forces were essentially bystanders. Primary blame was directed at the UN.



The Tanjung Priok trials have also been criticised for continuing the cycle of impunity for perpetrators of rights violations [see separate item].

Unsurprisingly, during the initial debates on the Truth Commission Law, the military/police faction in parliament objected to provisions designed to reveal the truth about past violations. A spokesman for the faction suggested that 'the nation bury all hatchets in the past along with the truth, otherwise it would lead to a greater cycle of conflict' [*Military Objects to 'Truth'*, Jakarta Post, 11 May 2004].

At best, the Truth Commission can be only one of several transitional justice mechanisms. If complementary mechanisms, such as the ad hoc human rights courts, are ineffective, the Truth Commission is unlikely to succeed. And impunity, instead of being ended, will be further strengthened.

## Test for Yudhoyono

The idea of a Truth Commission was initiated by the administration of former president Wahid. It was provided for in Law 26/2000 on Human Rights Courts, the law under which the ad hoc courts for East Timor and Tanjung Priok were established. Law 26/2000 states that the 'resolution of gross violations of human rights occurring prior to the coming into force of this Act may be undertaken by a Truth and Reconciliation Commission' (Art 47(1)). Many human rights

advocates hope that one of the Commission's first tasks will be to expose the truth about one of the last century's most heinous crimes - the slaughter of hundreds of thousands of leftwing suspects following the rise to power of former president Suharto in 1965.

The Truth Commission was neglected by the Megawati administration until this year and it will now be a major test of the political commitment to transitional justice of the new administration under Susilo Bambang Yudhoyono.

## Perpetrators favoured

Unfortunately, Yudhoyono's administration will have to deal with a Truth Commission Law which is seriously flawed. It has been criticised in Indonesia because it 'leans too heavily towards the possibility of pardoning past perpe-



trators of human rights violations, and not enough toward rehabilitating and compensating their victims' [Towards reconciliation, *Jakarta Post* editorial, 8 September].

The Law is concerned only with gross violations of human rights as defined by Law 26/2000, namely genocide and crimes against humanity. There are particular problems with the provisions which deal with the possibility of amnesties for the perpetrators of such crimes. Articles 28 and 29 provide that in circumstances where the perpetrator and victim have agreed to reconcile, the Commission must issue a recommendation to the President to grant an amnesty. If the perpetrator admits wrongdoing but the victims or their relatives refuse to forgive him or her, the Commission can recommend whether or not an amnesty should be granted. If the perpetrator denies wrongdoing, he or she foregoes the right to an amnesty and the case will be referred to an ad hoc human rights court for trial.

Arguably, the Law should not include any provision for amnesty since it is concerned with crimes of such gravity that the appropriate course is for suspects to be tried in a court of law. A recent report by the UN Secretary-General, 'The rule of law and transitional justice in conflict and post-conflict societies' [S/2004/616], explicitly rejected any 'endorsement of amnesty for genocide, war crimes, or

crimes against humanity'.

The provision for a perpetrator who denies wrongdoing to be referred to an ad hoc court could offend the principle that criminal laws (in this case Law 26/2000) should not be applied retroactively. However, the same problem was overcome by the ad hoc court for East Timor on the basis that the crimes in question (perpetrated in 1999) were crimes under international law at the time they were committed.

The new law's approach to reparation is anomalous and unlikely to provide adequate restorative justice to victims. Article 27 states that compensation or rehabilitation can be ordered only if the perpetrator is granted an amnesty. It is not clear what is supposed to happen in other cases although reparation can be ordered under Law 26/2000 for cases referred to an ad hoc human rights court. A government regulation on compensation, restitution and rehabilitation was issued under Law 26/2000 but was rushed through on the day before the start of the East Timor trials. It is not yet clear how it will work in practice. A similar regulation will presumably be required for the Truth Commission. Amongst other things, it will have to clarify the extent to which the government is obliged to provide reparation [for an analysis of the right to reparation as applied in Indonesia, see 'Justice for victims should include right to reparation', *Jakarta Post*, 8 September 2004].

## Justice paramount

The record of other Truth and Reconciliation Commissions around the world, particularly those in South America, is not altogether encouraging. Certainly, it is clear from past experience that there can be no reconciliation without justice. The Commission on Reception, Truth and Reconciliation in East Timor is regarded as a good initiative but there is concern that the Government of East Timor will be reluctant to implement what it considers to be politically sensitive recommendations when the Commission reports in the next few months. Furthermore, it does not and cannot address the paramount issue of securing accountability for serious crimes. This remains a major concern for Indonesia.

\*

*continued from back page*

claimed by the military?

The government should show its commitment to a new and productive approach in Aceh by allowing access to the province. Independent rights groups that are currently not allowed in can make credible assessments of the human rights situation in Aceh. Aceh should also be accessible to Indonesian and foreign journalists.

The other critical way to move forward in Aceh requires the new government to lay out their strategy for a viable, credible peace process. The president has stated, on many occasions that he would like to see the situation in Aceh improve. What is not clear yet is what actions he will be taking to bring about this improvement. On the contrary, he continues to cling to ambiguous commitments. It is imperative for him to show the Acehnese that he really does want to bring peace and positive change to Aceh. \*

# Horrendous abuses persist in Aceh

*The Acehnese still suffer widespread abuses at the hands of Indonesian troops. Although martial law was downgraded to a civil emergency in May 2004, abuses have continued unabated. Without doubt, finding an early solution to the conflict in Aceh is a top priority for the newly established government of President Yudhoyono.*

*'Of course it's alright to think about human rights but the more important thing is to think about is the territorial integrity of the Unitary State of the Republic of Indonesia, NKRI.'*

Former Minister of Defence, Matori Abdul Djalil.

The situation in Aceh has been comprehensively covered in reports published recently by the New York-based Human Rights Watch (September 2004) and by Amnesty International (October 2004). While the HRW report is based almost entirely on personal interviews, Amnesty deals with the manifold abuses under thematic headings. Given that the province is now officially closed to outsiders, the two organisations were compelled to find ways round the difficulty, in order to draw the world's attention to what is undoubtedly Indonesia's worst case of human rights violations.

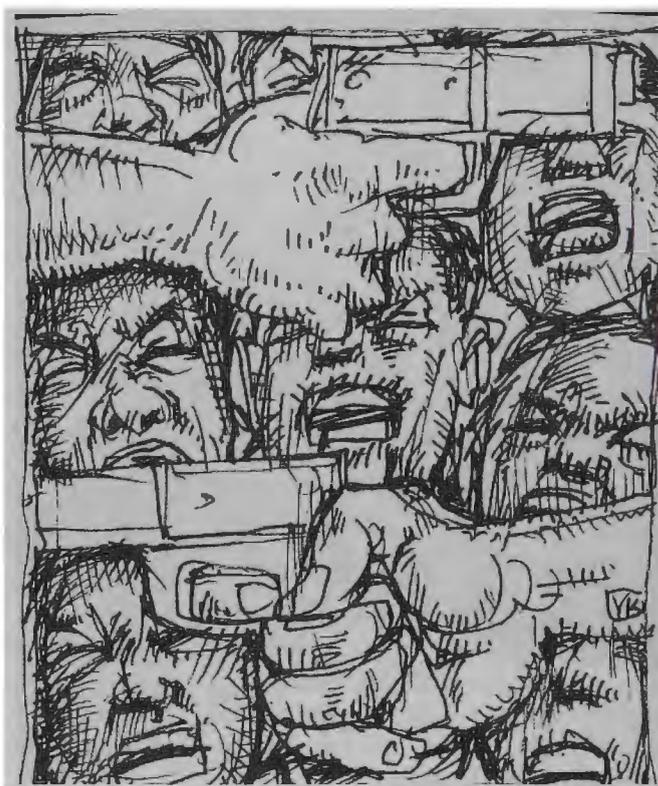
HRW describes the military campaign now underway in Aceh as 'Indonesia's largest military undertaking since the invasion of East Timor in 1975'. It reproduces on the cover of its report the photograph of a group of Acehnese being led away in chains by Indonesian soldiers. The photograph on the cover of Amnesty's report shows three Acehnese women cowering in fear, seen through the jack-booted legs of heavily armed soldiers.

The HRW report bears the title 'Aceh at War: Torture, Ill-Treatment and Unfair Trials' and opens with a quote from a foreign embassy official in Jakarta: 'Arbitrary detention, abuse and torture, these appear to be standard operating procedure (in Aceh).'

## Data on casualties impossible to ascertain

According to official figures given to Human Rights Watch in July this year, 1,285 GAM members had been killed in military operations while 1,520 had been captured. According to a UN mission report, 353 members of the Indonesian army had been killed or wounded. However, HRW states that the Indonesian embassy in Washington provided 'wildly different' numbers, namely that since May 2003, 231 GAM had been killed, and 94 had been captured and 112 had 'voluntarily surrendered'. But at the beginning of May 2004, the Indonesian military claimed that 1,963 GAM 'rebels' had been killed, 2,100 had been arrested while 1,276 had surrendered. It added that 130 soldiers had been killed and 289 had been wounded since the offensive began.

These figures refer to all the victims as 'GAM', concealing the fact that most were undoubtedly civilians caught in the middle. Non-governmental organisations are quoted by HRW as saying that they are unable to collect data effectively. 'Accurate figures for civilian casualties are difficult to determine, though all parties suggest that combatant and civilian casualties have been extensive.' The organisation adds that 'in light of what we know about the treatment of



detainees generally,' the dearth of information 'raises concerns about possible mistreatment of wounded combatants and civilians by both sides'.

## Torture and mal-treatment

The Human Rights Watch report includes a note on the Pattern of Torture in Indonesia. It explains that in November 2001, following Indonesia's first report on implementing the UN Convention Against Torture (following its decision to ratify the Convention), the UN Committee against Torture was concerned about 'a large number of allegations of acts of torture and ill-treatment committed by members of the police force, especially brimob, and the army and paramilitary groups... in areas of armed conflict...'

The Committee made recommendations on measures that should be taken by the Indonesian authorities to meet its obligations as a state party to the Convention against Torture. They included 'amending the penal legislation so that torture and other cruel, inhuman or degrading treatment

or punishment are strictly prohibited under criminal law; establishing an effective, reliable and independent complaint system to undertake impartial and effective investigations into allegations of ill-treatment and torture, reducing the length of pre-trial detention, ensuring adequate protection for witnesses and victims of torture, excluding any statement made under torture from consideration in any proceedings, except against the torturer and inviting the UN Special Rapporteur on Torture to visit Indonesia.

The note concludes by saying that 'none of these recommendations have been implemented'. It is little wonder that, as so many victims have confirmed, torture is routine for political detainees throughout Indonesia, but particularly in Aceh, as the following testimonies reveal.



*TNI presence in the villages*

## Victims speak out

A 22-year old Acehnese detainee being held in Central Java told HRW: 'In that cell there were many kinds of torture. Some was severe and some was light, but there was always torture.' The organisation interviewed thirty-five Acehnese, including two children, during the course of its investigations, all of whom said that the Indonesian military and/or police had subjected them to burning with cigarettes, electro-shock, repeated kicking and severe beating while in pre-trial detention in Aceh. Most said that torture had occurred so as to obtain written or oral confessions of GAM membership or involvement with GAM.

One man told HRW: 'They bound my hands and covered my eyes and I was repeatedly hit on my body, then they shocked me with electricity and I was abused until I was bruised.' According to his testimony, 'about 50 people' had been involved in the torture. The men were wearing army uniforms... and [carrying] guns and torture instruments'

Another man who had been arrested by the police in June 2003 in Southeast Aceh, said that after two weeks, he was transferred to Medan, to the barracks of brimob, the special unit of the police known for its brutality. While there he was badly beaten by his captors, some of whom were wearing

the uniform of Kopassus (which is the army's special force) He said: 'For three days we slept standing up, naked, only in the trousers that I are wearing. We were not allowed to sit even for a little... and they took my money, about Rp. 50,000, then they bought drink and ... cigarettes. Then with those cigarettes, they burnt my chest until the fire had extinguished and then I was ordered to inhale the cigarette so that the embers came back and I was burnt again. It was like that until I was trembling/shaking, waiting to feel the burning.' The testimonies reveal that one of the prime aims of the interrogation of male Acehnese detainees, whether by the police or the army, was to force them, by means of torture, to confess to being members of GAM.

An eighteen-year old Acehnese boy being held in a prison in Central Java described the night he was taken into custody at midnight on 28 June 2003 by five marines who interrogated and tortured him. He was seventeen at the time:

'They arrived in a group of ten, knocked on the door, then straight away shot at the door of my house. I was then arrested and my eyes were covered. Then they took me with them and I don't know where. The next day when my eyes were uncovered, I was already in their post. That night I was tortured heavily and they asked about an act of arson and the whereabouts of other GAM. I said I didn't know but I was still accused of being GAM. They abused me until I was black and blue and I was unconscious.'

Another victim, arrested by members of soldiers from Battalion 143 told Human Rights Watch: 'During interrogation I was ordered to admit that I was GAM and I didn't admit it because I am not GAM... I was continuously ordered to admit that I was GAM but I just did not admit this; it is obvious that I am just an ordinary civilian.'

Another man who was detained in August 2003 said he was handcuffed and blindfolded and therefore unable to identify his perpetrators. He told Human Rights Watch: 'I was ordered to confess to a Kapolda [head of provincial level police] bombing. When I did not confess they continued to beat me until I was black and blue. So I confessed. It was only because I was hit that I confess. They said that if I did not confess, I would "be taught another lesson".'

## Unfair trials and charges of treason

The first Acehnese reported as a GAM member to go on trial since the start of martial law in May 2003 was named Syamsul Syahputra. He was charged with treason in a series of trials apparently aimed at establishing that GAM members were trying to break up the Republic of Indonesia. Since his trial, hundreds of others have taken place, largely unreported and without independent monitors.

Hundreds have been charged, tried and convicted for makar, a charge for which the maximum sentence is life imprisonment. Human Rights Watch states that prisoners interviewed in Java 'spoke at length about arbitrary arrests, lack of access to legal counsel, the failure of the prosecution to produce evidence or witnesses at trial, inability to contact defence witnesses'.

The widely-respected Indonesian human rights NGO, PBHI announced in a press conference in March 2004 that they had found 43 cases of legal violations by law enforcement officials in Banda Aceh, Aceh Besar and Lhokseumawe between May 2003 and February 2004. Its then chair, Hendaridi, was quoted as saying: 'We found a

great many cases of arrests which were not carried out by police officers, which were made without written warrants and then, during interrogation [the detainees] were invariably tortured'.

According to HRW, the government seems to favour using the charge of makar rather than prosecute persons for specific offenses such as weapons possession or kidnapping adding that moreover 'membership of GAM itself is not a violation of the law in Indonesia as GAM is not an illegal organisation'.

The charges filed against 140 of the 143 prisoners transferred from Aceh to Java in January 2004 included makar.

Under Indonesia's Criminal Code, there is no evidentiary requirement for makar. The provisions in the Code are vague and, as HRW asserts, have historically been used to target non-violent political activists across Indonesia. 'In the context of the armed conflict in Aceh, the open-ended language of the law has permitted convictions without a real demonstration of wrongdoing. Mere association with GAM or allegations of providing material support to GAM members has resulted in convictions in Aceh.

### **Arbitrary arrests under martial law**

The imposition of martial law in Aceh in May 2003, which subsequently became a 'civil emergency', has seen the widespread occurrence of arbitrary arrests, in virtually all cases without a written warrant. Although the Acehnese interviewed by HRW gave differing accounts of their arrests and pre-trial detention, they had one thing in common: none said they had ever been shown an arrest warrant or informed in writing of the charges against them. An Indonesian lawyer who has monitored trials in Aceh for the past year told Human Rights Watch: 'From our own monitoring, sixty per cent of the arrests are not valid because [the suspects] were not arrested with an arrest warrant. They were like kidnappings.'

Prisoners arrested under these unlawful conditions were then frequently tried and convicted without adequate representation; some had no legal counsel whatsoever or received court-appointed lawyers who made no effort to challenge the prosecution's case, often serving as go-betweens for the payment of bribes. As a result defendants were often left on their own, with no witnesses or other evidence presented on their behalf. Yet, under Indonesian law, persons charged with makar are entitled to free legal



*A relatively peaceful Aceh during the presidential elections*

counsel because the crime carries a sentence of up to life imprisonment.

An Indonesian NGO that monitored the trials in Aceh found that court documents were sometimes manipulated to give the appearance that a defence lawyer was present at the trial when none was present. One activist said: 'There are many cases without a defence lawyer but the documentation has a falsified signature.'

The Human Rights Watch report also affirms that the trials were unfair and did not meet international fair trial standards. It states: 'Persons may be convicted with little or no evidence presented, bringing into serious question the competence, impartiality and independence of the courts.'

### **Amnesty: A well-established pattern of violations**

The report published by Amnesty International is entitled: 'Indonesia: New military operations, old patterns of human rights abuses in Aceh (NAD)'

It regrets that monitoring the rights situation in Aceh during the latest military campaign 'has been made difficult by tight restrictions on access to the province.' It was able nevertheless to gather data from a variety of credible sources by conducting interviews outside Indonesia with Acehnese activists and lawyers, with some 55 refugees who fled the province since May 2003 as well as with independent experts and observers.

The overall conclusion is that the information 'provides ample evidence of a disturbing pattern of grave abuses of civil, political, economic and cultural rights in NAD. The Indonesia security forces have primary responsibility for these human rights violations, although GAM has also committed serious human rights abuses, most notably the taking of hostages and the use of child soldiers.'

While noting that there have been dramatic changes in the political landscape in Indonesia, 'little has changed in the

way the security forces respond to both armed and civilian independence movements. Moreover it says that there is virtually no part of life in the province which remains untouched.

Amnesty draws attention to the forcible displacement of civilians from their homes and villages. 'Civilians, including children, have been forced to participate in military operations and other activities [while] disproportionate restrictions have been placed on freedom of expression and movement and the delivery of humanitarian assistance has been severely disrupted.' It confirms that 'international human rights organisations are denied access to the province entirely.'

### To be 'shot on sight'

Unlawful killings appear to have been sanctioned by the Head of the Regional Civil Emergency Authority (who is also the provincial governor) who stated in June 2004 that 'unidentified, suspicious-looking people' will be shot on sight.

The Amnesty report draws attention to the use of militias, civilian defence groups and military auxiliary units who are reported to have carried out human rights violations with impunity. In June 2003, a member of the National Human Rights Commission (Komnas HAM) stated publicly that militias were being recruited in Central Aceh and were receiving military training, including the use of firearms. The allegation was denied the following day by army chief-of-staff General Ryamizard Ryacudu, although provincial-level military commanders have since acknowledged the presence of such groups.

A report from April 2004 produced by an Acehnese human rights defender in exile described the establishment of at least seven different militia groups in Central and East Aceh since 2001, with members being recruited predominantly from transmigrants (who come from Java) and from the Gayo ethnic group. Equipment can include military-style uniforms, assault rifles and two-way radios, as well as home-made guns, knives and machetes. Militia groups are also reported to have participated in joint operations with the military.

Although forbidden by military regulations, children under the age of eighteen have been used by the military for cooking, cleaning, spying and communications.

### Internal displacement

Tens of thousand of people have been displaced, in some cases under the threat of force. Interviewees told Amnesty how military or police came to their village and ordered them to leave, sometimes without time to pack their belongings, and often under threat of being branded as GAM.

As of June 2004, the official number of IDP was 6,946. Some who had been able to return to their village reportedly found their homes and other property looted or destroyed and their livestock stolen or killed.

In a campaign to isolate GAM members from the population, people were forced to take part in demonstrations of support for the military operations against GAM. As a ploy to remove GAM members from the bureaucracy, new identity cards ('Red-and-White' cards) were introduced in the first weeks of the military emergency. The process entailed registering at four different local government, military and police offices, undergoing questioning and proclaiming loyalty to the unitary state of Indonesia. Anyone not in possession of such a card risked being labelled as GAM.

Starting in July 2003, civil servants in Aceh, who number

over 85,000, were required to undergo a screening process to prove their loyalty. There are reports that some were dismissed for refusing to make the pledge.

There have been mounting restrictions on access for humanitarian and human rights organisations. As a result, the civilian population has been almost entirely cut off for over a year from the assistance and protection afforded by the presence of independent human rights monitors and humanitarian workers.

Under a government decree issued in June 2003, international staff were required to apply to the government for a permit to travel to Banda Aceh. An additional permit was then required from the provincial authorities to travel outside Banda Aceh. The process for applying for such permits has been described as a 'bureaucratic nightmare.'

In the absence of qualified and independent humanitarian actors, it is not possible to make a meaningful assessment of the humanitarian situation in the province. Activists told Amnesty that their communities had experienced food shortages which, typically, occurred in rural areas during



*Cut Nur Asyikin, serving a sentence of 11 years*

intense military operations when villagers were prevented from tending their paddy fields and gardens, or from going to the forest to gather food.

### Extra-judicial executions

Amnesty quotes statements made by a number of top-level government officials, including President Megawati, justifying the shooting dead of people deemed to be a danger to the state. Megawati is quoted as saying, at the beginning of the military operations in Aceh: 'It won't do any damage to Indonesia to lose several people rather than jeopardising 220 million other people.' The commander-in-chief of the

armed forces, General Endriartono Sutarto, in a briefing of military officers about GAM, in May 2003, is quoted as saying: 'Hunt them down and exterminate them,' while the military commander of the Lilawangsa military resort, giving a briefing on the eve of the anniversary of GAM's declaration of independence, said: 'We will not tolerate people in this territory who join the separatist celebration. No matter who they are, we will shoot them on sight for supporting the movement.'

As Amnesty says, such statements have set the tone for the behaviour of troops during the military operations, the message from their superiors being that 'they should shoot first and ask questions later.' The military acknowledge that civilians have been killed but figures coming from military sources vary wildly. In mid-August 2004, it was reported in the Indonesian press that the military had confirmed that 147 civilians had been killed in the preceding ten months, yet according to figures from the military information centre, made public just one month later, in September 2004, the number of civilians killed since martial law was



*Aceh, a place at war*

declared in May 2003 was 662, of whom 579 were killed during the martial law period, while 83 have been killed since the beginning of the civil emergency in May this year.

As Amnesty reports, the majority of those killed appear to be men mainly of an age likely to be suspected of GAM membership. But there have also been reports of the killing of women and children. It says furthermore that it has evidence of suspected members of GAM being unlawfully killed, after having been taken prisoner.

A man interviewed by Amnesty said that a mentally ill man from his village, Muhammad Hussain, was shot dead in his paddy field by members of the marines after being accused of possessing a cache of weapons. A second man was shot and wounded in the leg but managed to escape. Following the incident, some thirty villagers were lined up by the marines and beaten.

### **Unfair trials**

Of the more than 2,200 suspected members of GAM who

have been arrested, according to official figures, hundreds and possibly more than a thousand are being tried and are facing charges of rebellion (makar) under Articles 106 and 108 of Indonesia's Criminal Code. These articles carry penalties of up to 20 years, or under some provisions, the death penalty. Among those brought to trial are children under the age of 18. Amnesty states that while condemning the use of child soldiers by GAM, 'it believes that priority should be given to prosecuting those who have recruited the children as soldiers and not the children themselves'.

The Amnesty report provides many examples of unfair trials which have been conducted in such a fashion that lawyers have called them 'instant trials'. It gives the example of a woman from Pidie district, accused of providing logistical support to GAM, whose trial was completed in a single day; she was given a one-year sentence. A teacher accused of collecting rice from villagers to raise money for GAM, was quoted in the media as saying: 'I blinked and the judges banged the gavel to end the trial.' No witnesses appeared at his trial, and he later said that many people from his village had wanted to testify that he was raising money for his school, but were too afraid to appear in court.

Attempts by defence lawyers to challenge procedural violations or complain about the use of torture have been met with threats of longer sentences by judges. According to Amnesty, many people do not appeal their sentences, 'either because they are not informed of their right to do so, or because they fear that their sentence could be increased on appeal.'

### **Ill-treatment of political prisoners**

Amnesty quoted lawyers in Aceh as saying that, almost without exception, political detainees are tortured within the first days of detention, than primary objective being to extraction a confession of GAM membership or support. Methods of torture include beating with the butt of a gun, a rattan stick, metal bar or wooden beam; slapping, punching and kicking with heavy military boots, electric shock, near strangulation by placing a noose around the neck, near suffocation with a plastic bag being put over the head, burns with lighted cigarettes, cutting the flesh with a bayonet or other sharp instrument, pushing the muzzle of a gun in the mouth, immersion in water for long periods, showering with cold water or urine, sexual molestation or rape. In addition, detainees are forced to watch others being tortured or take part in the maltreatment of fellow prisoners.

Although the intensity of the treatment may decrease after the first few days, or after a confession has been obtained, detainees face the danger of being returned to police or military custody to face further torture. Such threats compel many of those who are tried for political offences to plead guilty or offer no defence.

### **Arbitrary detention of women**

Amnesty draws attention to women who have been detained for providing logistical support for GAM. In some cases they are effectively being held as hostages, in lieu of their menfolk.

In April 2004, there were thirty-three women convicted of GAM-related offences in Lhoknga, serving sentences of between one and eleven years.

Amnesty draws attention to the long-established pattern of rape and other sexual crimes against women in Aceh, occasionally during military exercises. There are reports of women being stripped naked in front of soldiers, or being forced to expose their breasts to soldiers, so that they can check for crescent moon tattoos which members of Inong Bale are said to bear on their breasts.

The Amnesty report includes a number of cases of violence against women. One woman interviewed by Amnesty said she had been stripped naked and raped by six soldiers while in military detention from July to September 2003. With her family being suspected of having close links with GAM, her four brothers and her husband have all been shot dead by the military over the past ten years. She denied having links with GAM but said she thought her family had been targeted because her father is a wealthy coffee merchant who infuriated the military by refusing to pay bribes.

A 27-year old human rights activist who was arrested in June 2003 was reported to have been subjected to sexual violence. According to a report in the media, her headscarf and shirt were ripped off and she was forced to fondle the genitalia of a soldier and threatened with gang-rape if she refused to admit to being a member of GAM.

The Amnesty report also contains information about the raping of young girls. One was just 12 years old. A neighbour said he had seen the military arrive in trucks, firing shots into the air and burning houses. While the raid was in progress, according to the witness, the rape occurred. The weekly magazine Tempo has also printed reports of teenage rape. In June 2003, it reported the cases of three girls aged 14, 15 and 16, who were allegedly raped by members of the police unit, Brimob. The 16-year old said she had been gang-raped by soldiers who had come to her home, looking for her brother.

### Human rights abuses by GAM

A section of the Amnesty report is devoted to revealing abuses committed by members of GAM, who have taken several hundred people hostage over the past year. Around 140 people were released by GAM in May 2004; they included people suspected by GAM of collaborating with the security forces, as well as local politicians, journalists, civil servants, people engaged in government projects and relatives of army or police officers.

Among the hostages held by GAM was Ersu Siregar, a television journalist working for Rajawali Citra Televisi Indonesia, his cameraman and driver, who were seized at the end of June 2003. They were apparently targeted because their vehicle was transporting the wives of two military officers, who were also taken hostage. One of the women was pregnant at the time. A spokesman for GAM subsequently said the five were being held 'for investigative purposes'. A spokesman for GAM in Sweden denied that the persons were hostages because no demand had been made for payment in exchange for their release. On 19 December, Rahmatsyah, the 20-year old driver of the television crew, was released, but ten days later, Ersu Siregar was killed in cross-fire between GAM and Indonesian marines. An investigation by the Indonesian military found that the 62-year-old journalist had been killed by an

Indonesian military bullet. In January 2004, the two women were released.

GAM has also been accused by the Indonesian authorities of carrying out unlawful killings. An Australian journalist reported interviewing a trader from Selimeum sub-district who claimed to have witnessed the killing by GAM of the village secretary.

Amnesty states that it has received other credible reports that GAM has carried out unlawful killings. However, without access to the province, it has not been possible to verify these reports.

Amnesty is also concerned that GAM has recruited children, most of them boys. According to local NGOs, the children are used for a range of tasks, acting as informants, collecting levies, collecting wood, and cooking.

The Amnesty reports states categorically that the use of children in armed conflict is a violation of the Optional Protocol on the Rights of the Child which prohibits governments and armed groups from using children under the age of 18 in a conflict and bans the voluntary recruitment of children under 18 by armed groups.

### What the Indonesian Government and GAM should do

Amnesty International makes a series of demands to both sides in the conflict in Aceh.

It calls on the Indonesian Government to establish a high-level fact-finding team composed of independent experts, to conduct a comprehensive inquiry into human rights abuses committed in Aceh. 'It should establish and make public the truth about the situation and recommend measures to ensure full accountability of those responsible.' It calls also for the immediate and unconditional release of all prisoners of conscience and calls on the government to conduct an independent review of all those convicted in trials which failed to comply with international standards for fair trials. It also calls for unimpeded access for domestic and international human rights defenders to all parts of Aceh, and says that UN thematic mechanisms and experts should be invited to visit Aceh.

Amnesty calls on GAM to publicly declare its opposition to human rights abuses and its intention to adhere to Article 3 of the Geneva Convention which stipulates that persons who take no part in hostilities should be treated humanely. GAM should also take immediate steps to prevent the recruitment, either voluntary or compulsory, of anyone under the age of 18, and ensure that no children are allowed to serve with its armed forces. \*

# Prospects for Papua under SBY

*It is not yet clear whether the election of Susilo Bambang Yudhoyono as president of Indonesia is a positive development for West Papua and whether he will bring peace and stability to the restive territory any closer. The signals are ambiguous and we simply do not know what policies the new president will pursue when in office.*

Yudhoyono was the preferred candidate of many Papuans. He was regarded as the more competent and wiser leader who in the past has supported dialogue as a means of resolving the West Papua conflict and made encouraging statements about reforming the military.

However, his attraction may have been more a reflection of Megawati's inadequacies than his own merits. Megawati was a largely ineffectual leader, an ultra-nationalist who relied on military solutions to political problems and left West Papua in a state of chaos through her attempt to divide the territory into three provinces in contravention of Law 21/2001 on special autonomy.

On the other hand, Yudhoyono is a military man who retains a team of retired military officers from the Suharto era as advisers. His reformist credentials are questionable given his support for the military's territorial command structure, which provides it with a means of control and political influence at the provincial and local level. This is highly significant in the context of Indonesia's current devolution of power from Jakarta to the regions.

It should also be remembered that Yudhoyono, while an apparent supporter of dialogue, did little to resolve the West Papua conflict when in the influential position of security minister under presidents Wahid and Megawati, despite some early progress under Wahid.

Furthermore, although his hand may have been forced by hard-line military leaders, Yudhoyono was the government minister responsible for declaring and co-ordinating martial law in Aceh in 2003/04.

Unfortunately, policy debate on West Papua and Aceh was notable by its absence from the election campaign so we are none the wiser about what approach Susilo might adopt.

One point that needs to be made very strongly is that although the Indonesian national elections were proclaimed as peaceful, free and fair, West Papua and Aceh continue to suffer from huge democratic deficits. Local political parties are forbidden and people are still thrown into jail for exercising their right to express their support for self-determination and independence.

There can be no meaningful progress towards democracy in West Papua as long as human rights remain unprotected, the rule of law does not function properly and military personnel enjoy impunity for gross violations.

One of Susilo's first tasks should be to attempt the peaceful resolution of the West Papua conflict. At all times he should ensure that human rights and an understanding of the specific grievances of the West Papuan people remain at the centre of his policy making. He should concentrate on three key issues.

## Dialogue essential

Firstly, the political status of West Papua. He must resolve the crisis caused by Megawati's divisive three-way split

policy and her failure to establish a Papuan People's Assembly as required by the special autonomy law. He must also remember that special autonomy falls far short of the self-determination desired by the overwhelming majority of Papuans since the fraudulent 'Act of Free Choice' in 1969.

His response should be to institute a process of peaceful dialogue with West Papuan representatives to consider all options for the future of the territory.

## Demilitarisation

Secondly, he must address the need for demilitarisation of West Papua. The continuing military operations in West Papua and the activities of pro-Jakarta militias are inimical to the peaceful resolution of the conflict and the establishment of democracy. He should end all military operations, start a process of demilitarisation and halt all militia activities.

He should also respect the proposal of the West Papuan people for West Papua to be made a 'Land of Peace'.

The recent announcement that the military would lose its role in protecting vital assets, such as the Freeport mine and BP Tangguh project, was encouraging. Susilo should ensure that this decision is implemented without delay.

## Protection of human rights

Thirdly, he must take immediate steps to improve the human rights situation. He should press for credible investigations and prosecutions, according to international standards, of all serious crimes committed in West Papua since its occupation by Indonesia in 1963.

In particular he should respond to the findings of the National Commission on Human Rights that gross violations were committed in Wasior in 2001 and Wamena in 2003. He should press the Attorney General to complete his own inquiry into these incidents without delay and prosecute those responsible, including those with command responsibility.

He should note the persistent and credible allegations of military involvement in the killing of an Indonesian and two Americans near the Freeport mine in August 2002 and he should ensure that the police are able to complete their current follow-up investigation without obstruction and harassment.

Finally, he should respond positively to requests for UN human rights rapporteurs and monitors to visit West Papua and ensure that human rights defenders are not subject to threats and intimidation and that they are freely able to carry out their vital work. \*

# Leading human rights activist dies

*Indonesia has lost its most outstanding human rights activist with the untimely death of Munir on 7 September. Munir was widely known and highly respected, at home and abroad, for his activities on a wide range of issues. He was fearless in his determination to take on the Indonesian military for their abuses in East Timor, in Aceh and in all parts of Indonesia.*

Munir died suddenly while on a flight from Indonesia to the Netherlands where he was planning to take a course in international humanitarian law. He was 38 years old. His passing was seen as a profound loss to Indonesia's NGO community, to civil society and to the people of Indonesia. Munir stands out as a shining example of a man who confronted the forces of evil without fear of the consequences, setting an example to many. His contributions to the cause of human rights in Indonesia are incalculable.

He was unassuming, without a trace of arrogance, an activist who worked closely with others and shared his wisdom and insights freely. In the words of Sidney Jones, who lived and worked in Indonesia for Amnesty International, Human Rights Watch and most recently for the International Crisis Group, and worked closely with him for six years, 'he was everything a human rights champion should be: principled, tough, smart, funny, and fearless. He stood up to people in power, he made them angry, he got threat after threat after threat, and he never gave up.'



While still a young student in Surabaya, he took up the cause of workers' rights in East Java, where he studied workers' conditions and came out in their support. This led him repeatedly to pour scorn on members of the political elite who felt intimidated by actions of workers, which they regarded as anarchic. In the mid 1990s, he joined the ranks of YLBHI, the Legal Aid Institute, Indonesia's foremost human rights organisation at the time, first in Surabaya, and later in Jakarta.

In the closing months of the Suharto era, he took up the cause of dozens of activists who had disappeared in highly suspicious circumstances and helped to restore many of them to freedom. This represented a direct challenge to State violence which had held Indonesia in its grip for more

than thirty years. To consolidate this work, he co-founded KONTRAS, the Commission for the Disappeared and Victims of Violence, which became a powerful force within the human rights movement, challenging the impunity which protected and still protects, members of TNI, the Indonesian armed forces.

After the downfall of the New Order in May 1998 when tens of thousands of students took to the streets, calling for the resignation of Suharto and raising the banner of reformasi, he frequently exposed the many people who joined the bandwagon, speaking out in favour of reform 'while still harbouring the ideas of the New Order in their heads,' as he once said.

His activities provoked the fury of thugs acting on behalf of the military, making him the target of brutal physical attack. The head office of KONTRAS in Jakarta was on several occasions surrounded and threatened by gangs of youths, acting as proxies for the military, who were bent on striking fear among its activists. The attackers made it very clear that the target of their assaults was Munir. These were blatant attempts by proxies of the military to intimidate him but they never had any effect on his work and his attitude.

Munir also founded Imparsial, the aim of which was to strengthen the process of democratisation. The organisation placed a strong focus on campaigning for Aceh, an issue that had scant attention at the time from many people in the human rights movement.

On one occasion in 2001, when Munir and his wife and son were on vacation at their family home in Malang, East Java, gangs threatened them, apparently planning a terrorist attack on the family. The action was thwarted with the help of the local police force, after a cache of bombs was discovered near the residence.

## Investigations on East Timor

Following the atrocities that were visited on the people of East Timor in the wake of the 1999 referendum when they voted overwhelmingly for independence from Indonesia, a special Commission of Investigation into the Human Rights Situation in East Timor, known as the KPP-HAM Timtim was set up. The Commission report, for which Munir was largely responsible, was acknowledged as being a far more thorough piece of work than that produced at the time by a UN investigation team.

The report clearly identified the worst offenders, first and foremost General Wiranto. The Commission's findings led to judicial investigations into the conduct of senior army officers but the subsequent failure to secure convictions or to lay formal indictments despite the mass of evidence stacked against them was yet another proof that the military still, and still continues to, enjoy impunity.

*continued on page 20*

***Mendobrak Penjara Rezim Soeharto,***  
***(Breaking Down the Prison of the Soeharto Regime)***  
***by Adam Soepardjan, Jakarta, 2004***



In the past year or so, several books have appeared in Indonesia, dealing with the experiences and sufferings of men and women who were thrown into prison and held without charge or trial for many years following the seizure of power by Suharto in 1965. In the twilight years of their lives, they have shown a determination to relate their horrifying experiences, so that younger generations of Indonesians should be reminded of the dark period when the country was under the jackboot of General Suharto.

As we approach the fortieth anniversary of the terrible events of October 1965, it is as well to remember that for much of the time that Suharto ruled the country, western powers turned a blind eye to the fearful human rights situation in Indonesia, showering the regime with unlimited financial support even though they knew that Suharto had taken power in the wake of the 1965/1966 massacres when hundreds of thousands of people were killed in cold blood. And it was not until 1979 that the last tapols (political prisoners) were finally released.

It took several years before Adam Supardjan could find a publisher for his memoirs, which eventually saw the light of day in June 2004.

In a short comment, printed on the back cover, the late human rights activist, Munir wrote:

*'The title of the book led me to believe that this book would give an account of a mighty political struggle to bring down the Soeharto regime. But this is not the case. Adam Soepardjan was able to defeat the Soeharto regime twenty years before students succeeded in bringing about his downfall. The author uses imprisonment without trial*

*and without the right to defend himself as a portrayal of the arrogance of power. It is as if the slaughter and banishment of those chosen by the rulers was necessary in order to reinforce the effectiveness of their power. For the Soeharto regime, absolute power over the state apparatus was not enough. The dank, stuffy prison cells were part of the very heartbeat of the ruling forces.'*

Adam Soepardjan, a trade union leader from East Java, spent altogether twelve-and-a-half years in prison, for most of the time in Kalisosok Prison, Surabaya. Before his arrest, within days of the events in Jakarta in October 1965, he worked for a Dutch-owned metal-producing company. He devotes the first few chapters to the takeover of the Dutch company for which he worked in the mid 1950s and the conflict that erupted between the workers and their leaders who had seized the companies to put an end to vested Dutch interests and army officers who saw this as an opportunity to take control of a crucial sector of the economy.

During the initial years of his detention, conditions under which the prisoners were held were appalling. He spent several years in isolation, as punishment for the discovery of a letter that had come into his possession quite by accident.

The prison authorities managed to recruit some of the prisoners to help 'keep order'; they included prisoners who had been convicted of criminal offences. These assistant warders were known as 'PKD', or Internal Security Assistants. These men were capable of behaving particularly harshly towards the rest of the inmates so the prisoners needed to watch their pattern of behaviour and act accordingly, depending on who was on duty. This amounted to a policy of 'divide and rule'.

### **A risky protest**

When Adam Soepardjan received a brand new sarong from one of his relatives, it was stolen from his cell by a PKD. On many occasions, baskets of food sent in by his brother reached him almost empty. So he took a decision to expose the starvation policy. On one of those rare occasions when some prisoners were allowed to receive visits from their families, Adam stood up, threw an empty food basket on the floor and shouted for all to hear that they were being starved to death:

*'My things have been stolen. They are trying to kill me. They are taking our food. They want to kill us all. Please tell the authorities what they are doing to us!'*

This was a high-risk strategy but because many visiting families were made aware of the complaint, his protest action had the desired effect. From then on, there was a significant improvement in the food situation.

In a somewhat more relaxed atmosphere, the prisoners were able to start organising activities, learning languages, organising study groups or organising dance performances. Adam used this situation to improve his English, though he recalls bitterly that sometimes, their reading materials were

confiscated.

But the long period of food shortage, living in dank cells and sleeping on a concrete platform took its toll. Adam fell ill with tuberculosis which persisted until after he was released in 1978.

He gives a very moving account of the re-union with his mother, brothers and sisters, and children at the time of his release. (His wife had died some months before he was arrested in 1965.)

*"I rushed forward and embraced my youngest sister who I had always been very fond of. She welcomed me, her face full of emotion. She could not say a word and tears were streaming down her cheeks. During the whole time I had been in prison, my sisters had never visited me. We had not met for more than thirteen years, and they were shocked to see me as I now was."*

Although his release document bore the words **BEBAS PENUH** (Fully Released), this was far from true as released prisoners were subjected to a range of restrictions and the requirement to report regularly to the local military.

Let us hope that this prison memoir dealing with a harrowing period in Indonesia's recent history is widely read, as it deserves to be. \*

Carmel Budiardjo

### Environmental activist jailed

One of Indonesia's best-known and highly respected environmental activists, Bestari Raden, has been sentenced to two years and six months imprisonment, on charges of being a member of the Aceh Freedom Movement, GAM. Bestari and his team of lawyers vigorously deny the charge and have vowed to challenge it in the courts.

Bestari was arrested by local police for organising a protest rally against PT Medan Remaja Timber for plundering protected forests in Kubang Gajah village, South Aceh. But the court alleged that Bestari took part in a raid conducted by members of GAM in several villages in South Aceh in October 2002. GAM has strongly denied that Bestari was in any way involved.

Bestari has been involved for years in environmental issues in Aceh and in recent years, has focused his attention on protesting against the construction of the Ladia Galaska Highway because it will cut through protected forest in Aceh and North Sumatra.

A member of his legal defence team, Bambang, said after the verdict was announced that the prosecutors had failed to present a single witness who could testify to having seen him being involved with GAM. Those who did appear could only say they had heard about it from other people.

Bambang condemned the court proceedings for having been 'politically motivated'. 'His past activities have had nothing to do with rebellion.' [*The Jakarta Post*, 6 October 2004] \*

### International acclaim

In 2000, he became a laureate of the Right Livelihood Award in Sweden, an award that is widely recognised as the alternative Nobel prize. The citation praised him 'for his courage and dedication in fighting for human rights and the civilian control of the military in Indonesia'. In the same year, his organisation KONTRAS was given the Yap Thiam Hien award, the highest award in Indonesia for services to human rights. He was also named Man of the Year by the Muslim periodical, *UMMAT*.

### Personal note

TAPOL staff members enjoyed a close personal, working relationship with Munir. We got to know the young Munir in the days when he dealt with workers' struggles in Surabaya. He moved from East Java to Jakarta at a time when the Legal Aid Institute, the YLBHI, was overwhelmed by personal and political differences between the older and younger generations. It was Munir who was able to take the lead, acting as a beacon, a wise activist capable of restoring the organisation to its original purpose, that of seeking justice in a period of political chaos which characterised the final years of the Suharto dictatorship.

Several of us met Munir on many occasions, in Indonesia as well as overseas, and we will never forget the passion and dedication with which he carried out his work, whether at the UN Human Rights Commission in Geneva, the numerous international gatherings in Portugal, the Netherlands and elsewhere, and his unrelenting efforts to push for reform of the Indonesian military.

Our thoughts go out to his wife and two children who lost a partner and parent so early in life. \*

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July 2003, two months after the imposition of martial law in May. She was seized while, along with other villagers, she was evacuating to another part of Aceh Jaya as the security situation was deteriorating. She was accused of being a member of Inong Balee and sentenced to three years. She admitted in court that she had taken part in military training, but insisted that she had been under duress to do so. In parts of Aceh where the position of GAM was very strong, families were ordered to provide one family member to take part in this training. 'My father wasn't happy about this but I decided to take part, otherwise our family might suffer,' she said. But she only spent a week on the training after which she returned home to her village. She said there is no difference between the military training by GAM and the army's military training, except that it is done in Acehnese.

Her only hope is for peace to be restored in Aceh. She said she voted for Susilo Bambang Yudhoyono as president, with this in mind.

### Rahmaniah

This 38-year old woman was taken into custody when troops came to her home looking for her two brothers, who are both suspected of being GAM members. She was charged in court with giving a hiding place to members of GAM and failing to report their whereabouts. She was sentenced to a year and a half. She has taken her two small children, a girl aged two and a boy aged four, into prison. \*

# Using the courts for oppressive purposes

*Things have changed markedly since the fall of the dictatorship in 1998. Nevertheless, old political forces are still trying hard to turn the clock back. Freedom of speech, for example, is one of the major political achievements since 1998, to much dismay in some circles. Four-star General Hendropriyono is a striking example of somebody who refuses to accept present-day political freedoms.*

General Hendropriyono is more than just one of many middle-of-the-road retired generals. During the Megawati presidency, he was head of BIN (Badan Intelijen Negara, National Security Agency), the main intelligence body in the country. Hendropriyono has such a close relationship with the Megawati family that he joined her party, PDI-P, in return for which he got the job as intelligence supremo.

In the past few months Hendropriyono has been particularly busy harassing two key advocates in Indonesian civil society, Indro Cahyono, former student leader and currently coordinator of SKEPHI, a leading environmental NGO, and Hendardi, the very vocal chair and spokesperson for many years of PBHI, one of the main human rights NGOs in Indonesia.

Both men have recently been taken to court by Hendropriyono for allegedly publicly defaming and destroying his good name. In both cases, Hendropriyono has demanded Rp. 10 billion compensation and an order for the two to publish half-page apologies in the press for five days running in the three main dailies: *Kompas*, *The Jakarta Post* and *Media Indonesia*.



*Indro Sukmaji Cahyono*

## Putting Hendropriyono in context

Hendropriyono has an abominable track record as an army officer and has been widely condemned by human rights groups, in Indonesia and abroad. He is widely known as the 'Butcher of Lampung', in connection with an incident going back 15 years when he ordered a raid on a Muslim community in Lampung, South Sumatra. As the local commander at the time, he organised hundreds of troops to launch a massive attack, backed by helicopters and Brimob, the Police special forces. Hundreds of villagers died in the massacre and so far there has been no attempt to make anyone accountable for the crime. Meanwhile, his military career had soared by leaps and bounds.

He is known as a good communicator, a typical example of key army officers in those days. Over confident about their leading role in society and shamelessly meddling in major political matters. He became an important public figure when he was appointed commander of the Jakarta military command (1993-1994), one of the most prestigious posts in the army, and became part of the Jakarta jet-set. Hendropriyono is known to be very ambitious and he has never made a secret of his ambitions.

His military career was phenomenal and typical of other military high flyers of those days. He possesses a *Kopassus* (red berets) background combined with a variety of posts in the intelligence branch. In the eighties *Kopassus* officers were excessively represented at the top of the army.

In the late eighties he became the intelligence chief of

*Kopassus* and later moved upwards to serve as one of the directors of BAIS, the military intelligence body. Hendropriyono belongs to the generation of top-ranking officers who combined military positions with business connections. He is a wealthy man and likes to put in an appearance when important happenings take place. He has also established a successful lawyers' office, winning many clients from the business community. Along with all these activities, he is also chair of the National Boxing Association and more recently of the Indonesian Judo Association.

## Sidelining the police

In the heyday of the Megawati reign, key military figures like General Hari Sabarno and General Hendropriyono planned to boost co-ordination between the intelligence agencies and upgrade the position of BIN.

In the post-Suharto days, the police gained more power and took charge of intelligence work such as investigating the Bali bombing and the Marriott Hotel explosion, with good results, obtaining considerable assistance from police officers from the UK, the US, Japan and Australia.

This support for the police has provoked a lot of jealousy. BIN's place in the jungle of intelligence bodies has not been clarified. The ministry of defence has its own intelligence unit and the three wings of the armed forces, (the army, navy and air force) all have their own groups. Special units like *Kopassus* have kept their own intelligence units.

The police force was officially separated from the armed forces in 2002 and has an own intelligence unit. The entire discussion about the overhaul of intelligence agencies has become a burning issue because of the security threat placed in the global war against terrorism.

Hendropriyono has always regarded his job as BIN chief as being comparable to the national security advisor to the White House, ready with advice for the president at a moment's notice. Megawati upgraded the position of head of BIN to a ministerial post.

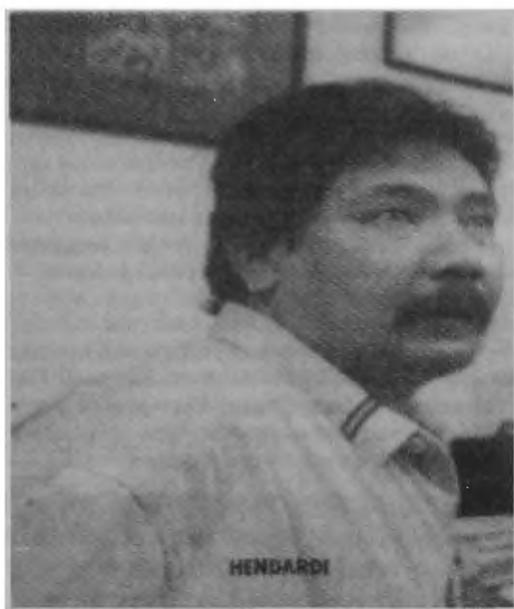
Hendropriyono also wanted BIN to retain its operational functions, so as to be able to arrest people and launch operations when needed. It all sounds like the old police state of Indonesia in the seventies.

But in the meantime, the political constellation has changed and Hendropriyono has lost his job after the installation of the new cabinet. The four star general is without a job but will likely find ways to remain an active player in the power politics of Jakarta.

### The Indro Cahyono case

Indro Cahyono's track record of criticising the military goes back to 1978 when he was put on trial because of his active opposition role in the student movement. His defence plea was called : *Dibawah Sepatu Lars* (Under the Jackboot) which was acknowledged as being the most substantial writing on the disastrous role of the military since the birth of the Indonesian republic in 1945.

He has retained this staunch anti-military tradition and is often interviewed and quoted by the press. In a recent interview, he criticised the way Sidney Jones, the ICG (International Crisis Group) director, was kicked out of the country. It is a public secret that Hendropriyono, as chief of BIN, had much to do with her deportation. Indro was interviewed by Radio Netherlands in the summer and some time later, Hendropriyono struck back with his anti-defamation case. He also demanded the confiscation of Indro's house and land.



**Hendardi**

photo:Gatra

In the meantime Indro and his family had to face many acts of intimidation. His house in Bekasi has frequently been visited by suspicious individuals, making strange demands, such as wanting interviews or saying they are going to measure the property. In late August, Indro

received a letter from the District court in Bekasi with more information relating to the confiscation of his property. The case is still continuing.

### The case against Hendardi.

Hendardi also criticised Hendropriyono in public and went so far as to demand that he should step down as intelligence chief because of the poor quality of his performance.

Several terrorist incidents have occurred lately in Jakarta, such as the bombing of the KPU (Elections Commission) office and the bomb in Kuningan, in front of the Australian embassy. In the last few years Jakarta has been hit by several serious terrorist attacks but so far BIN has failed to come forward with a single clue.

Hendardi has expressed the opinion that intelligence performance has been weak, unprofessional and like a lame duck. As in the old days, it still focuses on observing and monitoring groups in society like NGOs, student groups and people who concentrate on analysing the situation in Indonesia such as Sidney Jones.

Hendropriyono gave the same reaction to this as he has done with the case against Indro, demanding the confiscation of Hendardi's house in Cipete. The case continues.

### Heavy sentences for flag-raisers

On 21 October, the district court in Ambon handed down jail terms to Rezon Leatomu, Philips Patty and Rio Talabessy. The three are described in press reports as supporters of FKM (Maluku Sovereignty Front). They were sentenced after being found guilty of treason. Leatomu got 24 months while his co-defendants got 16 months each.

The crime for which they were convicted was to have taken part in an event organised by the separatist movement which allegedly was the trigger for a new wave of violence in Ambon. The authorities allege that the flag-raising triggered three days of violence resulting in 41 deaths. The victims were said to have been shot by 'mystery snipers'.

The three men were among people who were rounded up after the commemorative event or after violence had subsided. Altogether 27 people were arrested at the time, all of whom were taken to court. Ten were formally charged, including the three named above, and were sentenced to terms of between 16 and 24 months.

Rezon was singled out for the harshest sentence because he 'refused to admit that he was guilty', according to the judge.

Presiding judge Iim Nurahim said the three had been proven guilty beyond 'reasonable doubt' for promoting the cause of independence of the South Malukan Republic (RMS), which they insist has been in existence since 25 April, 1950.

The flag-raising took place at the home of FKM leader, Alex Manuputty on 25 April in commemoration of the 54th anniversary of the RMS. Anniversary commemorations are held every year, and the participants are routinely rounded up and charged. The violence that erupted this year is reported to have been the worst since 2002.

Over the years, there have been outbreaks of sectarian clashes in Maluku between Christians and Muslims, but there have been no significant clashes for the past two years. \*

# Acehnese women prisoners

*There are several dozen women among the many hundreds of Acehnese who have been arrested in the past few years. Some were arrested simply for being married to members of GAM, or are being held as hostages for their husbands. Some were pregnant when they were arrested, and some had no alternative but to take their small children into prison with them. Most are being held in the Lhok Nga Women's Prison in Aceh Besar.*

## Rape sexual harassment

According to an Urgent Action issued on 22 October by Amnesty International, reliable sources have revealed that rape is systematically used by members of the Indonesian army and police, to subdue the Acehnese.

A regulation is in place ordering all people to go to the nearby army or police post, under the pretext of checking whether the women are members of the GAM women's unit, Inong Balee. At first, parents may accompany their daughters but if the security forces believe that a woman is a member of the unit, she must report alone. According to Amnesty: 'The women are drugged then raped and become the sexual commodity of the TNI and police personnel.'

The Urgent Action draws attention to seven women, the youngest of whom, Sidjut Hanum, is 12 years old. The oldest in the group is Salwa Hanum, who is 22.

The UA also states that the army and police have targeted GAM families. 'They force the wives or daughters of GAM guerrillas to come to their posts where they force them to strip while the TNI/Polri personnel molest them and rape them in front of other family members.'

The following cases are taken from the latest issue of the monthly, *Acehkita*, which is focused on 'Acehnese Women Under Martial Law'.

## Salbiah alias Elit Baleno

The woman serving the longest sentence for alleged involvement with GAM is in fact a Javanese woman who came to Aceh with her parents more than a decade ago as transmigrants. As we report elsewhere, Salbiah, who is 18 years old, is serving an eighteen-year sentence. She was seized while travelling by bus to visit her parents. The bus was ordered to halt and all the passengers were ordered out by soldiers on what is known as a 'sweeping'. One of the soldiers claimed that he recognised Salbiah from her identity card photo as the sought-after commander of a women's fighting unit, known as Inong Balee'. The fact that she did not understand a word of Acehnese made no difference. She was tried and found guilty during proceedings which she was unable to understand, without the help of a defence lawyer.

She had been taken to several detention centres and interrogated. She was forced to strip down to her panties as her tormenters claimed that they were looking for tattoo marks (which they never found). She was beaten for refusing to confess to the charges. Although she insisted that she knew nothing about GAM, she eventually decided to sign the interrogation report known as BAP to avoid further maltreatment. This fabricated document became the basis for her trial and conviction.

## Cut Nurasyikin

Cut Nurasyikin is a well-known figure in Aceh, the chair of a women's organisation, Srikandi Aceh and the proprietor

of the popular Hotel Rajawali in Banda Aceh. Members of the peace-keeping negotiation teams stayed at the hotel.

She was arrested on 21 May 2003 and charged with rebellion (makar). Without a trace of material evidence, the prosecution accused her of being the commander of the women's fighting unit, Inong Balee. She was found guilty and was sentenced to eleven years. The sentence she received as compared with the 18 years given to Salbiah exposes the arbitrary nature of the way the judicial system in Aceh functions.

Since her arrest, the office of her organisation, Srikandi Aceh has been deserted, with other members not daring to go there, especially after the police raided the office. The organisation was set up in 1999 and has legal status, having been registered with the authorities in November 1999. Its activities included holding press conferences to protest against the use of violence against women and drawing attention to other women's issues. Some of its activists have now fled to Malaysia or Thailand. In the meanwhile, Hotel Rajawali has been badly damaged. 'They did that,' said Cut Nurasyikin, 'because they say that I am a separatist.'

Srokandi Aceh has been regularly involved in humanitarian activities, along the lines of the Red Cross, organising the provision of medicines and other support for displaced persons. It also organises education activities for the children of displaced persons.

According to Cut Nurasyikin, of the fifty-one women prisoners in Lhok Nga, only seventeen are members of Inong Balee. Yet, forty have been convicted of involvement with GAM, in some cases for nothing more than giving rice to GAM members or buying them a pack of fags.

## Mutia

This 19-year old woman has been convicted only because she is the wife of a GAM fighter, whom she married in March 2003. After her marriage, she continued with her studies at university.

On 4 September 2003, while on her way to her campus, she was seized in a sweeping and taken into custody because the soldiers recognised her as the wife of Tgk Nasrul, a GAM member who is being hunted down by the military. Mutia told *Acehkita*: One of the soldiers said: 'You knew your husband was a GAM so why didn't you report him?'

At the time of her arrest, she was two months pregnant. In court a short time after her arrest, she was sentenced to a year and two months. She gave birth in prison to a baby boy in March this year, named Raja.

According to *Acehkita*, her views have not altered. When they spoke to her, she called on Indonesia's recently elected president to 'arrest all the political prisoners'.

## Nilawati

This 22-year old woman from Aceh Jaya was arrested on 17

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# Hoping for peace in Aceh under SBY

*Aceh will be the best place to judge whether the incoming government is any different from previous regimes in Indonesia. One of the biggest challenges for the government of Susilo Bambang Yudhoyono is to resolve the conflict in Aceh peacefully. The way he approaches resolution of the almost 30-year conflict in Aceh will show whether he is indeed different.*

Not long after the election, Yudhoyono met an audience of teachers. He promised to work to settle the conflict by peaceful means, saying: "Let us not just go ahead with the military operation" (*AP*, 22 September 2004). However, he has shown considerable ambiguity. He also stated that the country must remain united and that there could be no compromise on this, as well as stating that the conflict must be resolved in a fair manner, and as peacefully as possible.

His statement clearly aimed to show that the Aceh problem is on his priority list. On several other occasions, he promised to create a more peaceful Aceh. However, Aceh is a place where actions are infinitely more important than words. In the past many Indonesian politicians have made numerous promises about Aceh while rarely, if ever, doing anything to deliver on them. In Megawati's acceptance speech after her election to the presidency, the new leader wept in public and promised that no blood would fall in Aceh during her time in office. Contrary to these tears and promises, the situation in Aceh was allowed to deteriorate until she declared martial law in May 2003. Similar commitments for a better Aceh were also made by Abdurrahman Wahid. He made even grander promises, favouring a referendum for the Acehnese people. Needless to say this never happened.

So history has taught us caution in expecting new presidents to deliver on their promises. Will Yudhoyono's words of peace be put into practice in Aceh? This has to happen. There are no other viable long-term options available to Jakarta for resolving the conflict in Aceh. Equally, the Acehnese have little confidence that Jakarta can generate the political will necessary to bring about change and a positive, peaceful future in Aceh. This is an opportunity for the new president to demonstrate his presidential ability, by proving that he is more effective than any previous Indonesian leadership.

## Start the peace process again

These realities of the conflict provide a number of opportunities for SBY, as Yudhoyono is also called, to start improving the situation in Aceh. His much touted legitimacy, as the country's first directly-elected president, provides him with a powerful platform from which to pursue peace. Re-engaging in dialogue with GAM, and giving the non-combatant population space at the negotiating table will always be hugely unpopular for nationalistic Indonesia but SBY's unique position may mean he can take this path to a peaceful solution.

SBY needs to assess the current military approach immediately. The new government should evaluate the adminis-

tration of martial law from May 2003 to May 2004, as well as monitoring and reviewing the events of the civil emergency administration to date. It is imperative that an impartial assessment is made of how these military operations were conducted and how many civilians have been killed. SBY should also immediately respond to rampaging human rights violations allegedly perpetrated by government troops, as described in the report by Indonesia's own human rights commission, Amnesty International and Human Rights Watch [see separate article].

When the military operations got underway last year, the military stated that their operations were targeting five thousand members and supporters of GAM. Yet by the end of martial law, the military claimed to have killed over two thousand, arrested over two thousand and acknowledged the surrender of over one thousand (*The Jakarta Post*, 24 May 2004). Even though this meets the military's own target figures civil emergency status was nonetheless imposed. Some five to ten people a day have been killed under this new civil status. The new Indonesian government needs to tell us who they are. Are they really all GAM, as

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