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tapol

British Campaign for the Release of Indonesian Political Prisoners

TAPOL Bulletin No 37 January 1980

Editorial

CAMPAIGN AGAINST REPRESSION WILL CONTINUE

With the official conclusion of KOPKAMTIB's 3-year release programme, TAPOL is being asked whether it will continue to campaign. As a TAPOL representative told Tempo (29 December 1979), "TAPOL will continue to be active because it campaigns not only for G30S/PKI prisoners but for all people detained because of their political views". Many problems still remain:

Tried Tapols and Those Awaiting Trial

This issue is largely devoted to an interim analysis of the hundreds of political trials held since 1965. A major part of TAPOL's work during the coming period will be devoted to completing this study which concerns not only the trials as such but also the role they have played in underpinning the military government's claim to legitimacy. Comments on this analysis are welcome, as well as help in obtaining additional material. At the same time, we shall campaign for the release of all tried and A-category tapols.

The 1965 Tapols

Now that KOPKAMTIB claims there are no more B-category tapols, an independent assessment is essential. Nearly 200 ex-tapols, half with their families, are still on Buru; KOPKAMTIB claims they "opted" to remain. A thousand or so tapols or ex-tapols are in labour camps in Kalimantan, with others in Sulawesi; they too are said to be there "voluntarily". As we were going to press, news was received that one Buru prisoner is now detained in Wirogunan Prison, Jogjakarta, in order to testify at a forthcomong trial. Just prior to the December releases, fears were expressed that some tapols would be mixed with people on criminal charges so they could not be identified. With KOPKAMTIB figures unreliable right up to the last (see page 18) there is no way of confirming that 33,094 were actually released, or indeed that this was the number of B-category tapols eligible for release.

'Tapol' is an Indonesian contraction for 'tahanan politik' meaning political prisoner. It is still widely used although it was banned in 1974 because the military authorities said that all prisoners are 'criminals'.

Complete Amnesty for All Released Tapols

Ex-tapols released in the past few years face serious discrimination which obstructs their rehabilitation and efforts to make a living. Army officers often call upon society "to welcome them back" but this is hypocritical because it is the Army which officially excludes them from the public sector, the Armed Forces and "vital" industries.

The Government must be pressed to issue an edict granting amnesty and abolition (*amnesti dan abolisi*) to everyone held in connection with the G30S/PKI affair. As a precedent, this was granted by the Sukarno Government to all those held for alleged involvement in regional rebellions in the late 1950s. Some government officials argue that the G30S/PKI is "different" because it involves "ideology", but surely, this is all the more reason why complete amnesty must be granted!

Amnesty and abolition means clearing the names of all those victimised, and formally deleting the "G30S/PKI affair" as an issue for discrimination of any kind. It is essential for the complete restoration of civil rights to tens of thousands victimised for so long for political reasons.

Other Political Prisoners

Many student leaders have spent time in detention in the past few years; 36 were tried and all verdicts so far have been guilty, with sentences ranging from 9 months to two

continued on page 20

Received from an ex-tapol

NEW YEAR'S GREETINGS TO ALL GOOD FRIENDS ABROAD!

On behalf of many friends here, I wish you a Happy New Year and new successes in 1980.

Over the past 14 years or so, you have given us enormous support, political, moral and material, and have been able to force the military government

- to halt the mass murder of Indonesian people,
- to soften its inhuman attitude towards the Indonesian people, particularly towards political prisoners and their families,
- to release all C- and B-category political prisoners, and
- to allow us to survive though some of us have been crippled physically and mentally as a result of brutal tortures.

Please accept our boundless thanks for this invaluable help. May God repay you for all you have done. Without your help it would not have been possible to achieve all this because dark forces and the military government here were intent upon our complete annihilation.

A-category prisoners, those still awaiting trial, are still being held, as well as those who are serving sentences. In these trials, the charges are fabricated by those in power, and the verdicts and sentences are fixed before the court's judgement is made without regard for the evidence and defence presented by the accused. We earnestly hope that you will help us by pressing the Indonesian Government to release them immediately.

And we also need your help to alleviate the hardships of those who are ailing as a result of past torture. To mention but a few: **ex-Colonel Abdul Latief** is suffering from unhealed gunshot and bayonet wounds in both legs inflicted at the time of his arrest, and is serving a sentence in Cipinang Prison, Jakarta; former mayor of Magelang, **Argo Ismoyo** has asthma with complications and is serving a sentence in Wirogunan Prison, Jogjakarta; **Widadgo**, a former medical student at Gaja Mada University, is paralysed and dumb as a result of torture while at Wirogunan Prison, and is now being cared for by his grandmother in Kebumen, Central Java; **Sugeng Maryono**, formerly an activist, is paralysed and is now living in Ngawi, East Java; ex-Member of Parliament **Hutomo Supardan** is paralysed and is living in Bandung. In most cases, their families live in extreme hardship as a result of the political treatment they have experienced which makes it very difficult for them to care for these sick people.

Besides all this, we are living today under a military dictatorship, with no real democracy or basic human rights. People can be arrested and detained by the government on any pretext, at any time. Working people get very low wages (some as low as Rp 100* a day) with no right to defend themselves; peasants are cheated of their land on numerous pretexts without being able to defend themselves; unemployment is rocketing and together with it, homelessness, crime and prostitution. Prices of essential goods are soaring and there is a continual decline in the already meagre real earnings of the people. Taxation and other levies are increasing. More and more children are failing to find places in the schools. Domestic production, expecially of basic necessities, is declining whilst those in power get richer and richer. Corruption is worsening. On the other hand, students, intellectuals and other well-meaning people are deprived the right to freely express their views.

The Indonesian people are striving in many ways to bring about a system of democracy in which basic human rights and justice can be upheld. We urgently need your help—political, moral and material. Just as, in past years, your help has been effective in attaining its objective, so now we are convinced that the help we feel sure you will provide will be successful, and democracy, justice, humanitarianism and basic human rights will prevail in the end.

Please accept our most fervent greetings.

Indonesia, 31 December 1979.

*$1.00 = Rp. 624.

3 - YEAR RELEASE PLAN ENDS

On 20th December, 105 tapols were released in Jakarta and other towns bringing to a formal conclusion KOPKAMTIB's three-year release programme during which, according to its commander, Admiral Sudomo, 33,094 B-Category tapols were freed (Tempo, 29 December, 1979). The final 105 tapols had had their releases delayed because, it was claimed, they were "unco-operative".

KOPKAMTIB now asserts that there are no more G30S/PKI prisoners being held, although it still admits to holding many hundreds of tried political prisoners as well as almost two dozen people awaiting trial (see figures below). It will now be necessary to undertake an independent assessment of the situation in Indonesia's prisons, camps and military offices. Reports from contacts in various parts of the country should shortly be coming in. As TAPOL has reported in previous issues, there are many tapols or ex-tapols who are now in labour camps, allegedly as "voluntary transmigrants", in Kalimantan, Sulawesi and possibly elsewhere. There are also 92 former tapols and their families

continued on page 18

INDONESIA'S POLITICAL TRIALS: 'LEGAL' DIMENSIONS OF A CONTINUING TRAGEDY

1,014 people have been tried in Indonesia on political charges since 1966. According to our records, nearly 50 per cent were given death sentences, life imprisonment or 20-year sentences. If our records which include nearly 400 verdicts correctly reflect the general pattern, there could be about 150 people under sentence of death (minus the unknown number already executed) and a similar number of people serving life. Indonesia's political trials figure along with political trials in many other countries are show trials, totally unrelated to justice and the rule of law.

All tried prisoners as well as those awaiting trial must be released immediately. *We call on our readers to support this just demand by exerting pressure on the Indonesian Government.*

The following article, by **Julie Southwood,** *summarises the preliminary results of TAPOL's research into the trials. It is hoped that the study will lead to the preparation of a major work on politics and law in Indonesia.*

> . . . the state of Indonesia is based upon Law and not based upon mere power . . . (Elucidation, 1945 Constitution of the Republic of Indonesia)

> Fortunately the massacre of the communists did not lead to strong protests abroad. Our problem has never been the dead communists, but those who are still alive in our prisons and concentration camps. (A 'member of the Indonesian Government'.)[1]

Indonesia seems to have shed a political problem of international significance with the release of what the Suharto government describes as "the remainder" of its B-Category prisoners at the end of 1979. These prisoners have been described officially as:

> those for whom strong indications exists (sic) that they played similar roles to those of the A-Category detainees, especially in the preparations for the attempted coup. Owing to an insufficient amount of evidence so far, they could not yet be brought to trial, but neither could they be set free precipitately without endangering national security and stability and their own safety[2]

The fact that there remains a group of prisoners who have been tried or who are awaiting trial has gone almost unremarked both inside and outside of Indonesia. The official description of these A-Category prisoners is:

> those who were clearly and directly involved as planners, leaders or executioners (sic) in the attempted coup, with sufficient evidence of their guilt so that their cases could be brought to the court of justice for trial[3]

Those who have been tried and sentenced are described as *nadapols.*[4] These prisoners are the victims of a massive state intervention in a legal system, and the implications go far beyond the suffering of a group of prisoners. This particular form of human rights violation represents a present and future threat to the basic rights of all Indonesian people.

One of the most important spheres of opposition to the Suharto government today is focussed on the establishment of rule of law and the restoration of civil liberties. The call for operation of rule of law is of profound importance. There can be no doubt that the Indonesian state could no longer function in its present form were the rule of law to operate effectively. However, so far the government has been able to ensure in a variety of ways that the demands of the rule of law advocates have remained muted, and contained to issues which do not touch upon the issue of the A-Category prisoners and *nadapols*. The events which led to the imprisonment and trials of these people were the same events which led to the establishment of the Suharto government. The paradox that rule of law advocates have all but ignored the problem of a massive infringement of justice and its processes represented by these prisoners, begins to come clear when the relationship between law and state power in Indonesia is understood, and the hows and whys of this relationship starts unfolding when the political trials and their prologue are investigated.

Recognising the dangers of the demands of the rule of law advocates who constitute an increasingly vocal, urban and predominantly middle-class opposition, President Suharto has repeatedly promised that his government would respect the rule of law. Yet the government does not depend on a legal system, but on its control of a strong, centralised apparatus of repression, of which the legal system has become a part. Contrary to accepted practice by oppressive military regimes, the Indonesian military has not found it necessary to abrogate the Constitution. Rather the government postures as the upholder of the Constitution, while at the same time violating it continuously, and justifying its excesses on the grounds of "national security".

Shortly after the 1965 'coup' the formidable apparatus, KOPKAMTIB (Operational Command for the Restoration of Security and Order) was set up for a 'transitional period' to deal with the 'coup' "without having to resort to a State of Emergency or to Martial Law".[5] Fourteen years later KOPKAMTIB still wields near-absolute powers of arrest and interrogation and may be regarded as the embodiment of martial law. In 1973 the MPR (Peoples' Consultative Assembly) agreed (MPR Decision No. X/MPR/1973)

> To give mandate to the Presiden (sic)/Mandatory of the Peoples' Consultative Assembly to take necessary steps in order to secure and to maintain the unity and integrity of the Nation and to prevent the re-occurrence of the threat of G30S/PKI[6] and other threats of subversion in safeguarding national development of the Pancasila Democracy[7] and the 1945 Constitution.[8]

Presidential Decision No. 9/1974 then entrusted KOPKAMTIB to carry out this mandate, and a government publication[9] comments,

> Previous experiences of Indonesia in dealing with subversion, rebellions and the like, have taught Indonesia a lesson in how to cope with these problems and made her more convinced of the need to foresee subversion as a latent threat to its internal security and stability. The establishment of a body that specialises in preventing such problems, the KOPKAMTIB, is deemed to be the more effective way.

While the existence of KOPKAMTIB continues to mock the legal system, no law reforms can be effective against its abu abuses. KOPKAMTIB has in recent years been responsible for the arrests and detention of former New Order supporters who have been outspoken in their demands for basic civil liberties. Amongst these arrests were those of Adnan Buyung Nasution, the head of the Legal Aid Institute (LBH), and Mr Yap Thiam Hien, the defence lawyer, who were both detained without trial after student demonstrations in 1974. Since then many student critics of the regime have been detained, and some of them tried. Their trials also serve as examples of how a legal system may be pressed into the service of a repressive state, and not of justice. Yet to say that KOPKAMTIB and the legal system are on opposite sides of the spectrum would be misleading. The so-called legal system of the Indonesian state is organically bound up with the profoundly repressive functions of KOPKAMTIB, and it is only a small and courageous group within the legal system who have opposed its abuses.

The Problem of Numbers

What should be the simplest aspect of the situation of the A-Category prisoners and *nadapols*, ie. how many are involved, presents a problem. In their case, the government has been even less rigorous in its statements of their numbers than it has been in the case of the B-Category prisoners. This may be regarded as symptomatic of the absolute disdain with which the government regards the legal rights of its political detainees. At the end of 1978, General Yoga Sugama, the Chief-of-Staff of KOPKAMTIB made the extraordinary assertion that there was no date on the numbers of tried prisoners.[10] Previously in 1975, Admiral Sudomo, then the KOPKAMTIB Chief-of-Staff, had said that "856 hard-core communists have been convicted of participation in the G30S".[11] Almost three years later, President Suharto in a state address on 11 March 1978 said that only 894 had been tried, while two months earlier the Department of Foreign Affairs said that 904 had been tried.[12] On the occasion of the December 1979 B–Category releases Sudomo said that 1014 people had been tried.[13] Whatever the case, the tried prisoners are excluded from all official figures about political prisoners as a whole. The number of convictions obtained in the trials approximates to the number of defendants because there have been virtually no acquittals and so the distinction between A-Category prisoners and *nadapols* is a specious one. The A-Category prisoners were already condemned by the Presidential Instruction 09/KOGAM/1966 which determined their status on the basis of "sufficient evidence of their guilt".

Government figures of the number of A-Category prisoners awaiting trial are hardly more enlightening. In September 1971, it was acknowledged by General Sugih Arto, the Prosecutor General, that there were about 5,000 A-Category prisoners.[14] In April 1979 several sources stated that the figure was 52 7, while in December 1979 the government stated that there were only 23 A-Category prisoners left.[15] These figures in no way tally with the numbers of trials held, and no proper explanation has been offered for the drops in numbers, beyond some off-hand statements that some have been "downgraded" to B-Category. According to Tempo (29 December 1979), the most recent development is that following an Instruction by President Suharto to the Minister of Justice that G30S prisoners must be given retroactive remission, (which until now has been granted often to ordinary convicts, but only to one G30S prisoner–Mr Oei Tju Tat). 331 tapols are said to have received remission, of whom 118 have been released.

Prologue to the Trials

As already noted, the rule of law advocates in Indonesia have avoided articulating their case around the plight of tried prisoners, although there is substantial documentation from the trials which makes a searing indictment of the Indonesian legal system. For many people who campaign for legal reforms, the tapols (political prisoners) are tainted with the stigma of being communists or communist sympathisers and are simply beyond the pale, so that the desired legal norms do not apply to them. This fact gives some idea of the fear of communists, and of reprisals generated after the 1965 'coup' and which has become a major political element, inextricably linked with the repression which is the cornerstone of Indonesian politics.

The generation and maintenance of this fear was the final outcome of tensions which had developed from the early 1960s in an increasingly bitter polarisation of Indonesian politics. In 1957, coinciding with serious regional rebellions, President Sukarno replaced parliamentary democracy with martial law. In 1959 "Guided Democracy" was introduced, featuring an appointed legislature and a major increase in executive power. In this period from 1957, the Indonesian army which had played a decisive role in the independence struggle against the Dutch some ten years earlier, greatly expanded its influence in political and economic spheres, as some army officers became administrators, in many cases with few restrictions on their powers by the central government. At the same time the expansion of left-wing groups, especially the Indonesian Communist Party (henceforth PKI), provided a serious challenge to the military. Until October 1965, the leaders of the army and the PKI maintained a tense and uneasy equilibrium, precariously balanced by President Sukarno. The main areas of conflict were with the PKI's criticism of the military's management of the economy, and then in 1964-5 the PKI supported unilateral attempts by the peasantry to occupy land in a bid to enforce the greatly delayed implementation of the 1960 Land Reform Law. At a time when PKI-military relations were strained to breaking point, the party

proposed the establishment of a Fifth Force of armed peasants and workers to fight in the Confrontation with Malaysia. This later became a major issue in the political trials which followed the 'coup'.

The 30 September Movement, G30S, or the 'coup' of 1965 involved a number of middle ranking army officers, led by Lt-Col Untung, who were concerned about corruption, high living and disloyalty in the higher ranks of the army. The plotters claimed that they had planned to kidnap the army leaders and to bring them to account before the president. In preceding weeks rumours had circulated in Indonesia that a "Council of Generals" was planning a coup early in October and tensions were high. For reasons which are still debated, six generals and another officer who were kidnapped were then killed on the night of September 30th, some of them at the plotters' headquarters at Halim Air Force base near Jakarta and others during their capture. At the time people from PKI-affiliated youth and women's organisations were being trained at Halim as volunteers for the Confrontation with Malaysia. There are many accounts and interpretations of these events[16] and strong evidence has been presented which suggests that the coup was Suharto's. A leading member of the G30S group, former-Colonel Latief stated during his trial that Suharto knew about the G30S movement before the 'coup' occurred, and that in making no attempt to stop it he was deeply implicated. He then committed acts of insubordination when he refused to allow General Pranoto who had been appointed by Sukarno as Caretaker Minister for Defence to report to the president, and refused to stop the slaughter and excesses in the regions, although Sukarno had ordered that bloodshed must stop.[17]

In the confused period following the 'coup' the army led by Suharto quickly gained control, and with the upper hand was able to eliminate systematically and thoroughly its main rival for power, the PKI, which at the same time became the scapegoat for the 'coup'. Offering very little resistance, hundreds of thousands of PKI members and sympathisers, and many others with no PKI links, were horribly slaughtered in massacres which if not committed directly by the army were performed by intermediaries, often militant Muslim groups who were secure in their knowledge that they had unequivocal military backing. No assessment of contemporary Indonesian politics should overlook the scale of the killing. Amnesty International estimates,

> In the aftermath of the 1965 events, more than half a million were killed and about one million people arrested, interrogated and detained.[18]

In a lingering atmosphere of fear, the completeness of the military's victory in physically removing the PKI, and the subsequent campaign of vilification has prevented Indonesian human rights advocates from campaigning around abuses which began with the installation of the Suharto government and the annihilation of the PKI.

Why Trials?

Considering the ferocity and unrestrained nature of the massacres, it seems reasonable to ask why prisoners were tried at all. There is strong evidence that Aidit,[19] Njoto[20] and probably Lukman and Sakirman, all key PKI figures, were executed *after* they had been arrested. Certainly these people would have been able to reveal to the courts more than anyone else, the extent of the undoubted links between some PKI leaders and the G30S officers. Yet to remove the PKI from the political scene and to efface its memory would have only represented a partial victory for the army. The victory was made complete by the launching of a major propaganda campaign. Ideologically it has been necessary to prove that the PKI instigated the 'coup' and that it poses a continuing threat to the Indonesian people. It has thus been important to keep the memory of the PKI alive, and the trials have provided a way of doing so, repeating time and again the government doctrine of the 'coup', while at the same time legitimising the victimisation of the PKI.

In practical terms, in order to pave the way for the army to assume power by way of the roles of protector of President Sukarno and the people, and as the restorer of security and order, it had to be shown that the PKI was a menace, bent on the overthrow of the legal government. Immediately after the coup there were many lurid fabrications in the mass media. Photos of the decomposed bodies of the dead generals, which had been three days in a well at Lubang Buaya in the Halim base, were widely circulated. It was claimed that the generals had been castrated and that their eyes had been gouged out by communist women at Lubang Buaya. Shortly afterwards the dead generals and the dead officer were declared Heroes of the Revolution. Although doctors' postmortem reports discounted this story, the trials were used to propagate such theories and to force public opinion to accept them. The trials of individuals were in fact trials of the collective responsibility of the PKI so that the Indonesian people would never be able to protest or to question the victimisation and the terrible sacrifice of the PKI.

In the first decree which was issued with Suharto's signature the stories of the menace posed by the PKI were reinforced, while the fate of the PKI was sealed through "legal" means. This Decree No. 1/3/1066 which banned the PKI was of crucial importance subsequently, especially in its retroactive use, and so it is reproduced in full below:

> **Considering**
> 1. That lately, a return of underground activities by remnants of forces of the counter-revolutionary September 30 Movement/PKI (Communist Party of Indonesia) have been increasingly felt,
> 2. That those underground activities take the form of the spreading of slander, instigations, rumours of divide and split, endeavouring to arm themselves, which have caused the return of insecurity and disorder amongst the People:
> 3. That those underground activities really constitute a danger to the running of the Revolution in general, and disturb the consummation of the present stage of the Revolution, especially in regard to finding a solution to economic difficulties and the crushing of the *Necolim* (sic) project of

Malaysia.

4. That for the sake of keeping the consolidation, unity and integrity of the Indonesian progressive, revolutionary People and for the sake of the running of the Indonesian Revolution which is anti-feudalism, anti-capitalism, anti-*Necolim* (sic) and which is heading towards a prosperous society based on Panca Sila, an Indonesian Socialist Society, it is deemed necessary to take swift, precise and firm steps against the *Partai Kommnis Indonesia* (The Indonesian Communist Party).

Taking into Consideration
The results of interrogations and verdicts by the extraordinary Military Tribunal passed on leaders of the September 30 Movement/*Partai Komunis Indonesia.*

In View of:
The Order of the President/Supreme Commander of the Armed Forces of the Republic of Indonesia/Mandatory (sic) of the MPRS/Great Leader of the Revolution, on March 11, 1966.

HAS RESOLVED

Enacted:
With firmly remaining on the basis of the Five Talismans of the Revolution,
Firstly:
To dissolve the *Partai Komunis Indonesia*, including all parts of the organisation from the central level up to the regions and all organisations of similar basis/patronised by it/affiliated to it.
Secondly:
Declare the *Partai Komunis Indonesia* an outlawed Organisation throughout the territory, under the authority of the Republic of Indonesia.
Thirdly:
This decree comes into effect from the day of its promulgation.[21]

A Propaganda Coup

The defence lawyer in the first trial after the 'coup' that of the PKI leader, Njono, made it very clear that she was well aware of the propaganda value of the trials. The lawyer, Trees Sunito said,

> The extraordinary nature of this court[22] does not give it the authority to depart from from the Law. What must be tried is a criminal case and not political opinions. What must be tried is an individual, not a (political) party. The notion of "*collectieve schuld*" (collective guilt–trans) is a primitive one which sometimes comes up as a retrogressive element in the world of modern law . . . we must hold firmly to individual responsibility for actions in accordance with the law in force, free from political evaluations . . .
>
> The inclination here and there towards the opinions of "many people" or the "feelings of the people throughout all corners of the country" is, in brief, what is often described as '*openbare mening*' (public opinion–trans). In this age of mass media, "public opinion" is the opinion of those who control the mass media. And in this connection, I commend the *politeness* of the press–but I do not mean their *onpartijdigheid* (inpartiality–trans.) because the press has already clearly anticipated the decision of the judge in its publications–so just its politeness.[23]

A classic illustration of what Trees Sunito refers to is in the following exchange from the trial of Colonel Sudjono.[24] The prosecutor is questioning the witness, First Air Marshall Susanto:

> Pros: Whose actions undermined the good name of AURI (Indonesian Air Force)?
> Susanto: It was the result of PKI infiltration into AURI.
> Pros: Who instigated the infiltration?
> Susanto: Amongst others, the accused Sudjono himself.
> Pros: How do you know this?
> Susanto: From the newspapers at the time of this Mahmillub (Extraordinary Military Tribunal).

The feelings which the military thrust upon the Indonesian people are clearly outlined in a remarkable document entitled "Custodial Action Towards Fifteen Ministers",[25] Announcement of the President of the Republic of Indonesia, No. 5, dated 18 March 1966, and signed by Suharto on behalf of President Sukarno. Only a week before, Suharto had wrested effective executive power from Sukarno with the signing of a document known as SUPERSEMAR[26] by President Sukarno. This document was later ratified to become known as an "Emergency Powers Act" and,

> . . . its executor was given broad powers to take whatever measures he may deem necessary in order to restore security and the rule of law in Indonesia.[27]

In finding it necessary to arrest the ministers, who were all members of the (still in force) Sukarno government, Announcement No. 5, 18 March 1966 claimed to be protecting Sukarno and the "stability of the process of government". The ministers were all supposedly connected with the "counter-revolutionary adventure", the G30S, and the document states that the authorities in response to,

> . . . the innermost feelings of the people as set forth in various ways and also which have been presented in written form which basically reflect a consensus of opinion, have been compelled to take custodial action, for the purposes of ensuring that the said ministers should not become the victims of the peoples' uncontrollable anger, and of ensuring that the deep-felt demands of the people should not be disconnected with their good faith.[28]

Discrediting Sukarno

The ensuing trials of Dr Subandrio, Jusuf Muda Dalam and Omar Dhani eased Suharto's assumption of power by discrediting Sukarno "by proxy".[29] In this way it was suggested that Sukarno had become an unfit president since he had been influenced unduly by incompetent and corrupt advisors. The three trials were particularly successful in agitating the public, especially the students, so that the threat of still more bloodshed could then be used to force Sukarno's final capitulation, when he was forced publicly to implicate the PKI leaders in the 'coup' and ultimately to hand over complete power to Suharto.

In the trial of Sukarno's Foreign Minister, Subandrio in October 1966, Sukarno was attacked for his domestic reliance on the PKI and for his foreign policy which leant increasingly towards the Peoples' Republic of China. Subandrio was charged under the colonial criminal code (henceforth KUHP) in connection with the crime of 'economic subversion'.[30] Under this rubric, it was alleged that he had given other people, including D. N. Aidit the "means, opportunity or information" to assist them to prepare a rebellion aimed at overthrowing the government. The 'subversive' acts which subsequently condemned Subandrio to death[31] included some of his actions as Foreign Minister and Deputy Prime Minister, and referred to his policy of buying arms from China, his advice to Sukarno to halt repayment of debts to the Soviet Union, and his encouragement of Indonesian withdrawal from the United Nations. Additionally it was alleged that he had spread rumours in order to incite people against the army, that he had foreknowledge of the coup, but had not tried to prevent it.

The second charge stated that after the 'coup' he had tried to undermine the authority of the state. Although the "state" was still headed by Sukarno at the time, this is clearly a reference to the "state" which Suharto was rapidly pulling under his own control. Subandrio was accused of trying to minimise the significance of the 'coup' and of organising demonstrations in support of President Sukarno (who after all was still head of state) or in other words, opposed to those in support of Suharto. These charges were made under the Anti-Subversion Law, based on Presidential Decree 11/1963 which carries the death penalty. The definition of "whose state?" was an issue which arose time and again in later trials. For example in the trial of Marsudi, the defence insisted that the charges were groundless because President Sukarno had never said that efforts had been made to undermine his state. Again, a former cabinet minister in the Sukarno government, Mr Oei Tju Tat stated in his defence plea on 3 March 1976 that he had always been known as a close ally of Sukarno,

> Who then would not be astonished and at the same time amused to hear that I, reputedly as a fellow-traveller of Sukarno, am accused of subversion against the Sukarno government of which I myself was a member! Is the purpose here to discredit Sukarno of whom I was a follower? This too is quite absurd.[32]

A month before the Subandrio trial, Jusuf Muda Dalam, the former minister for Central Banking Affairs was also sentenced to death on charges of subversion, corruption, illegally importing arms, raising financial support for Sukarno, and it was also mentioned that he had six wives, two more than allowed by Islamic law. He died in prison in 1976 before the death sentence was executed. The trial of Omar Dhani the former Air Force Commander was clearly less concerned with establishing his personal involvement in G30S than with attempting to indict Sukarno. It was repeatedly suggested during the trial that Sukarno had known about the G30S, but that he had made no attempt to arrest its leaders. The Dhani trial may be seen as the beginning of the final stage of Sukarno's downfall. It compromised military supporters of Sukarno, prompted vocal demands from army-backed student groups for Sukarno's dismissal and trial, while the national associations of judges and lawyers in a joint statement entitled "Declaration of Justice and Truth" and signed by the chairmen of both organisations, condemned Sukarno for his alleged support of G30S.[33] Harold Crouch observes that one of the two signatories was Mashuri, Suharto's former next-door neighbour and close political advisor.[34]

The Army Theory of the 'Coup'

These three trials fulfilled specific propaganda functions while the remainder of the trials have served to promote the army theory of the 'coup' which has been presented trenchantly in the indictments, as well as by judges, prosecutors, witnesses and in government publications. In summary the army theory rests on the following dogma:

* that the PKI had a long history of treachery towards the Republic,
* that in 1965 army units under the influence of the PKI were incited to embark on actions which again imperilled the Republic
* that PKI cadres and members of mass organisations tortured and killed six generals and one other officer,
* that these actions were part of a PKI-orchestrated coup d'etat in which a Revolutionary Council was formed and announced as a counter-government,
* that the PKI had been preparing for this coup by infiltrating the armed forces, the public service and the entire society so that its coup attempt would be coordinated throughout Indonesia,
* that the PKI tried to deny its role in the coup and to shift the blame by claiming that the G30S was an internal army affair,
* that the Sukarno government in hesitating over what action to take caused a breakdown in law and order, which was then exploited by the PKI, causing more unrest in the regions.

A Major Theorist

Nowhere was this theory expounded more clearly than in the trial of the mysterious 'Sjam' or Kamaruzzaman. Not only was it stated in the indictments, in the prosecutor's and judge's remarks, but also by the accused himself who was exceptionally willing to discuss his role in the affair, and through this, the guilt of the PKI. Although sentenced to death, Sjam today is alive and well and reportedly has great freedom of action. He has always been a favoured

witness in G30S trials. Sjam has insisted that the so-called *Biro Chusus* (Special Bureau) headed by him, had formal status within the PKI as the body forming links between the PKI and the armed forces. Some surviving PKI members have professed themselves bewildered by the revelations of the existence of this very important PKI figure and his Special Bureau, which seemingly was very special and secret indeed. With Sjam and the Special Bureau being the only known link between the armed forces and the PKI, Sjam's roles as witness and accused have been pivotal in the trial propaganda. The Dutch writer, Coen Holtzappel quotes a "reliable source" as saying,

> Untung who never trusted Sjam, had attempted several times to make enquiries about his alleged contacts with the PKI Chairman. Sjam however succeeded in preventing any direct contact between other members of the Movement and Aidit.[35]

Sjam obligingly 'confirmed' that Aidit had been alarmed by Sukarno's sudden illness in August 1965 and had feared that the armed forces would take advantage of his sudden death or incapacitation by organising a coup. Sjam has alleged that in an attempt to pre-empt this, Aidit ordered him to mobilise supporters in the armed forces to take action against the army leadership.

Executive Management of the Trials

the government would not have been able to present its case so forcefully had it not been able to control the courts to a considerable degree. In fact the evolution of the Indonesian legal system since colonial times has allowed the executive to rein in the courts under its own jurisdiction. There has in fact been a long struggle in Indonesia in order to bring about basic legal and political change by allowing the judiciary more independence within the state structure and thus imposing limits on executive power.[36]

For centuries Indonesia has been a state where bureaucratic power is paramount because the bureaucracy has been the locus of political and economic power. Now the Indonesian bureaucracy may be considered as an armed one as for two decades the military has taken over more and more bureaucratic functions. This leaves a rather weakened middle class without a strong property base, whereas in Europe it was the clamouring of the propertied middle classes for an impartial judiciary to protect basic rights and contracts which led to the separation of powers held dear in the west. In Indonesia those who wish to see an independent judiciary tend to be rule of law and civil rights advocates who do not have the push of property rights behind them, and hence the main challenge they present to the New Order is a political one.

In the short-lived period of Sukarno's parliamentary democracy the separation of powers (*trias politicas*) was preserved, but in 1964 Sukarno dealt this a devastating blow with the promulgation of Law 19/1964. Article 19 of this law gave the president the power "In certain matters to intervene in the affairs of the judiciary". Yet in the 1945 Constitution to which Indonesia returned by Presidential Decree of 5th July 1959, articles 24 and 25 state in their explanatory notes that the Judiciary acts as an independent power free from executive influence. Although many have argued that Law 19/1964 was unconstitutional, it remains in practice as the judiciary is still subjugated to the executive.

The Ministry of Justice has executive control of the lower courts, and judges are civil servants. So too are the prosecutors while the advocates (defence lawyers) are something of political pariahs outside of the legal-administrative circles of authority. With the coincidence of political, legal and bureaucratic power, the loyalties of the judges might be expected to be with those in power. A predictable attitude was displayed during the trial of Asep Suryaman, when the prosecutor, J. F. Mambu said,

> ... the side representing the state must be respected ... whereas the defence counsel merely represents the defendant alone.[37]

One defence lawyer, Adnan Buyung Nasution has shown compassion for the situation of the state-controlled judges,

> ... they cry in their hearts because they are forced to make decisions which conflict with their beliefs of the values of truth and justice.[38]

The effects of the questionable impartiality of Indonesian judges are even greater than suggested above as judges play a very active role in court processes. This issue has been raised in a recent debate in Indonesia centring about a proposed new bill, aimed at replacing the 130-year-old Revised Procedural Code (HIR-*Herzien Inlandsch Reglement*). The HIR allows for the active participation of the judge in examining the accused and witnesses. Tempo[39] comments that for the defence lawyer,

> ... the real opponent is not the prosecutor but the judge—who controls the rules of the game.

In many trials which followed the 'coup' the defendants were bullied and wearied by relentless questioning by the judges, and it was made clear that an 'unco-operative' attitude would be penalised.

Early in his presidency, when Suharto made much of the claim that he would be the champion of rule of law and freedom of expression, lawyers and judges were greatly encouraged by these signs. In this atmosphere, pressures grew to rescind Law 19/1964 and some other disputed laws. The main issues involved in the demands were the independence of the judiciary and the powers of judicial review over legislation. The issue of judicial independence was a highly charged one as it made a fundamental challenge to the structure of state power. The government resisted, and Suharto

> ... insisted that as the executive was no longer interfering in the work of the courts, judicial independence was no longer really a problem.[40]

But during the debate, the former Minister for Justice, Oemar Seno Adji (now Chairperson of the Supreme Court), stated,

> ... that the judiciary was no less in need of control than the executive and that a rigid concept of separation of the powers

was less productive than one of institutional co-operation.[41]

Eventually when Law 14/1970, the Basic Law on the Judiciary was promulgated it reconfirmed the independence of the judiciary and in article 4 para 3 eliminated article 19 of Law 19/1964. The explanatory note for article 4 para 3 states:

> It should be made quite clear that in order that the courts may perform their function in the best possible way, that is to say, to pass down verdicts that are solely based upon truth, justice and honesty, it is not permissible for any pressure or influences to be exerted from outside which would render the judges unfree in passing down verdicts.

That the provisions of Law 14/1970 are not enforced is clear in the following pages. The Law gives some guarantees to prisoners, for example the presumption of innocence (article 6), compensation for illegal arrest and prosecution (article 9), the right to counsel (article 35), but all these good intentions, including the independence of the judiciary cannot be enforced as the ancillary legislation for the implementation of Law 14/1970 has simply not been forthcoming. In fact it is difficult to see that Law 14/1970 can be treated even as a "statement of national intention", as Damian and Hornick said in 1972.[42] Nonetheless the authorities do seem to be making some statements about who is allowed to be in favour of *trias politicas* (separation of powers). Before pronouncing the death sentence in the case of Asep Suryaman, the judge noted that Asep's defence lawyers had talked about *trias politicas*, but asserted that Asep, as a communist could not possibly be in favour of *trias politicas*.[43]

The trial of Asep perhaps best illustrates the difficulties of defence lawyers when they confront the courtroom. A long quotation follows from the *eksepsi*[44] delivered by the defence lawyer, Mr Yap Thiam Hien during this trial on 5 July 1975. Asep was a PKI activist who was charged with subversion. In his defence Mr Yap made a courageous attack on the entire structure of laws and 'legal' practice which have been used to arrest and detain the G30S prisoners. In doing so he attacked state power itself and institutionalised legal corruption, knowingly running the risk of being arrested himself for contempt of court. He was also aware that his stand would not be widely publicised in Indonesia, and indeed this was borne out in the press reports of the trial in July-August 1975. He stated,

> May I invite you Honoured Chairman and respected members of the Court, to look objectively at the legal set-up in the New Order so that we may together try to draw the correct conclusions. What is the status of the Judiciary in the present legal set-up? To consider this matter in its proper proportions and dimensions, I would like to raise the following:
>
> 1. Article 11 of Law 14/1970 states:
> Organs entrusted to implement the law under paragraph 1, Article 10—the spheres of court operations—organisational, administrative and financial—fall within the competence of the respective government departments. In other words, with the exception of the Supreme Court, the Powers of the Judiciary fall within the competence of the Department of Justice organisationally, administratively and financially. The Department of Justice is the executive authority which regulates such matters as salaries, promotions and transfers etc.
>
> 2. Article 31 of Law 14/1970 stipulates that judges are appointed and dismissed by the President as Head of Government.
>
> 3. The Basic Law on Government Employees contains amongst other things, administrative sanctions against government employees, including judges, who deviate. (This can include transfer, postponment of a salary rise, or a reduction in salary or status—see article 20).
>
> 4. Presidential Decision No. 82, 1971 regarding KORPRI (Civil Servant Corps of Republic of Indonesia—trans.) states that all officials of the Republic of Indonesia fall within one repository headed by the Minister for the Interior, that is to say, they are part of the Executive Authority.
>
> 5. SUPERSEMAR which has now been repealed as it has been replaced and raised to the level of an MPRS Decision[45](TAP No. IX/MPRS/1966).
>
> 6. MPRS, TAP No. XV/MPRS/1966 on the dissolution and prohibition of the Indonesian Communist Party and the teaching and dissemination of Marxism and Communism.
>
> 8. The resolve adopted by the military commanders of Java on 7 July 1967.
>
> 9. The extraordinary powers of the Attorney General, conferred on him by virtue of Law No. 15, 1969 (previously Presidential Decision No. 11, 1966).
>
> 10. Last but not least, Presidential Decision No. 19, 1969 regarding the formation of KOPKAMTIB (Operational Command for the Restoration of Security and Order) as further revised in 1974.
>
> Mr Chairman and respected Members of the Court,
> All the MPRS Decisions, the laws, and Presidential Decisions mentioned above show on the one hand that organisationally, structurally, administratively and financially, the Powers of the Judiciary fall within the competence of the Executive Powers, and in fact incorporate sanctions against those who deviate. On the other hand there are regulations and laws that proclaim the PKI (Indonesian Communist Party) and organisations affiliated to it as being prohibited parties and organisations. These regulations incorporate instructions for the restoration of *law and order* from the instabilities resulting from PKI incidents, and issue instructions for the uprooting of all teaching or spreading of communism. Those who teach, study or spread Marxism-Communism are of course people.
>
> Now I am not an advocate or follower of Marxism-Communism, neither am I a sympathiser or fellow-traveller of communists. Nevertheless in my opinion, the order to uproot Marxist-Communists who are our fellow citizens also applies to the courts which have to apply the Law. It is indeed a fact that not a few Indonesian Communists have been uprooted either according to legal procedures, or without "due process of the law". My question is: within the present legal set-up in which the Executive exerts such great influence over the Judiciary, is it possible in the case of persons charged with Marxism-Communism or with involvement in the 30th September 1965 affair, for the Judiciary to be able to, and to have the courage to carry out the trial freely, truthfully, justly and objectively and without prejudice as is required of them in the Constitution and Law No. 14/1970?

In reply to Mr Yap's statement, the Chairman of the panel

of judges, Abdullah, said that he "promised to be honest in this case".[46] But he also cautioned the defence lawyer, saying that if the court was to presume the innocence of the defendant, then the defence should presume the impartiality of the court![47]

The control of the Ministry of Justice over the court structure has been a recurring theme in another way as well. In many *eksepsis*, the manner in which state courts have been constituted has been disputed. It is argued that every state court must be set up according to the law, but pointed out that the Central Jakarta State Court is illegal as it was only set up on the basis of a Decision by the Ministry of Justice.

The Military Courts

Of the 366 cases of trials for which there is some information, 207 were tried in military courts. At least 28 of these were tried in the *Mahmillub* (Extraordinary Military Tribunal). The *Mahmillub* is aptly named for it does indeed have extraordinary powers. It has tried civilian as well as military cases, as the government has explained that the *Mahmillub*

> . . . did not restrict itself to trying military personnel, for to do so would be to accept the 'September 30 Movement' as 'an internal army affair' whish (sic) had been the aim of the PKI.[48]

The *Mahmillub* was established by Presidential Decree No. 16 in 1963, but as far as can be determined, only two cases, those of Ibnu Hadjar and Dr Somoukil, both of whom were tried for armed rebellion, were tried in Sukarno's time. In setting up the *Mahmillub*, Sukarno invoked Presidential Decision No. 226, 1963 which gave him the highest authority to take special measures against threats to security. The Decree stated that there were still threats to the Indonesian Revolution and that it was necessary to create a special court apparatus to deal with these threats quickly. Since the cases were concerned with security and defence, it was considered necessary to set up the *Mahmillub* within the framework of military courts. This court was domiciled in Jakarta but could sit outside the place of domicile.

The President himself was to decide which cases would be tried in the *Mahmillub* (article 1), and would appoint the Presiding Judge, two or more member judges, one *Oditur* (Prosecutor) and a clerk (article 3). Other indications of the truly extraordinary and unconstitutional nature of this court are in:

> **Article 6 (1)**
> Before being announced and implemented, the Decision of the Tribunal must first be submitted to the Minister/Commander of the Force who submitted the case upon which a verdict has been taken, in order to obtain approval for its implementation.
>
> **Article 7 (1)**
> Implementation of a verdict of the Tribunal which does not involve the death penalty shall not be delayed by an appeal for clemency.
>
> **Article 7 (2)**
> If a death sentence is passed, the implementation can only be carried out after the President has taken a decision concerning the matter of clemency in the case concerned.

On December 1965, Suharto obtained the signature of Sukarno to Presidential Decision No. 370/1965. At the time he signed this document, Sukarno was already under considerable pressure. The Decision considered in Article 3 that

> . . . the so-called '30th September Movement is a counter-revolutionary adventure,

which was a threat to the Indonesian Revolution as it was nearing "its decisive stage".

It was decided to use the *Mahmillub* to try those cases which needed to be "quickly resolved",[49] and the Decision determined

> To give authority to Major-General TNI Suharto, or some High Officer appointed by him:
> (a) to determine who among the persons referred to in the first article above shall be tried,
> (b) to act as Officer Submitting Cases in the above-mentioned cases,
> (c) to determine the composition of the Extraordinary Military Tribunal to prepare, examine and try the above-mentioned cases.

In many *eskepsis* it was argued that the *Mahmillub* did not have the legal authority to try the cases, since it was not legally constituted. To give one example, the defence lawyer, Mr Yap Thiam Hien raised the following points at the trial of Dr Subandrio. He recalled that the 1945 Constitution stipulates that the powers and procedures of judicial bodies must be executed in accordance with the law (Law 19/1964, article 8 para 3). Like state courts, military courts in Indonesia are also regulated by law (Law 29/1954, article 35, para 2) and it is stipulated that the Military Supreme Court and the High Military Tribunal are second level courts, ie. that they must allow the right of appeal (Law 6/1950, article 9). This right is emphatically denied by the *Mahmillub*.

The powers given to the *Mahmillub* to try G30S cases were given by way of a Presidential Decision, which legally should not conflict with existing laws or the constitution. Mr Yap also pointed out in the Subandrio trial that Presidential Decision No. 370/1965 conflicts with the Presidential Decree setting up the *Mahmillub* (which arguably is also invalid), which gave special powers to the President of the Republic of Indonesia to determine which cases shall be tried by the *Mahmillub*, but it clearly gives no authority to the President to delegate these powers. Yet in Presidential Decision 370/1965, sub 2, the President delegated his powers to decide who should determine which persons would be tried in the *Mahmillub* to General Suharto who then by way of Decision 1/KOPKAM/12, 1965, further delegated these powers to seven senior officials.

High military courts (*Mahmilti*) are used to try those from the rank of major upwards and they serve major defence areas, that is larger than divisional commands. The

Divisional Military Courts (*Mahmildam*) try those below the rank of major and they represent a divisional command which covers an area equivalent to a province. The Regional Military Courts (*Mahmilrem*) also try those below the rank of major, and represent a sub-divisional command. In addition are the Air Force Courts (*Mahmilau*), the Navy Court (*Mahmilal*), the Marines Court (*Mahmilmar*) and the Police Court (*Mahakda*).

Many civilians objected to being tried in military courts. Sudisman for example, raised the matter in his *eksepsi* and added that the military court could not be expected to be impartial and noted that there were discernible elements of revenge in military trials. Latief complained too that he was being tried as a civilian, in a military court (*Mahmilti*) although he had not received a notice of dismissal from the army.[50] He also protested that the Prosecutor in his case was lower ranking than he. Again the counsel for another prisoner, ex-Brigadier-General Sawarno from the Police Force, who was tried in the *Mahmilti*, stated that the court had no competence to try the defendant and that he should be tried in a police court.

The civilian district courts (*Pengadilan Negeri*) are civil courts of the first resort. Appeal procedure is permitted and most convicted G30S prisoners have given notice of appeal, although appeal courts function extremely slowly. When appeals have been heard the higher court has either upheld or increased sentence. Under Indonesian Law, the prosecution may also appeal against sentence.

Arrest and Detention

All the political prisoners who have been brought to trial have been KOPKAMTIB detainees, although KOPKAMTIB has no legal status as a detaining agency. Tempo[51] has discussed this issue and the continuing powers of KOPKAMTIB which detains people with or without trial on the basis of Presidential Decree 11/1963 on Anti-Subversion. In this case a person may be held for up to one year without trial, after which time it can be prolonged. Some effort has been made to regularise KOPKAMTIB powers of detention which in fact have now been decreed 'judicial'. That KOPKAMTIB's powers of arrest and detention are outside the judicial framework was recognised in 1977 in a Supreme Court Circular which acknowledged that there were two types of detention, the first described as "judicial or repressive" detention and the second exercised by KOPKAMTIB being described as "for security and order". The Circular recommended that since KOPKAMTIB's powers of detention were not judicial, the pre-trial period of detention should not be taken into account when the prisoners came to trial. The later move to declare KOPKAMTIB's powers as 'judicial', although it has some merit in trying to assure that the pre-trial period will be deducted from final sentence, is ultimately retrogressive, for in fact judicial recognition is to be accorded to something which lies outside of the rule of law. On 27th November 1978 KOPKAMTIB issued an instruction in which it declared itself to be the sole arbiter in determining the processes of arrest, detention and interrogation.[52] The statement was issued in response to growing concern about the delayed implementation of Law 14/1970, the Basic Law on the Judiciary, and yet the Instruction seriously erodes the safeguards upheld in the Law. For example the Instruction states that instead of the accused having legal advice from the time of arrest, he or she may only take advantage of this *before* or *after* preliminary interrogation. During this interrogation a legal advisor is not allowed to be present, while any discussion between the prisoner and his/her legal advisor must be witnessed by the investigating official, and the prisoner is only allowed to discuss family matters and matters relating to arrest and detention. The case itself may not be discussed. While the 1970 Law states that legal advice for the prisoner is a *right*, the KOPKAMTIB Instruction merely states that the accused *may* obtain this advice. After the Instruction was issued KOPKAMTIB closed all discussion of the matter.

In the trial of Asep Suryaman the defence lawyer, Mr Yap Thiam Hien, protested that the Prosecutor had not presented the court with valid detention documents. The Prosecutor justified this, saying that Asep had been arrested in 1965, but had then escaped and had not been re-arrested until 1971. He added that, if the defendant had been in prison for many years without documents, it was in order to safeguard the security of the state.[53] Yap still insisted that documents validating the second arrest must be submitted, and in this case he was not merely quibbling over legal procedures, but was questioning the constitutional basis for Asep's arrest, and indeed those of hundreds of thousands of others, and in fact was launching a direct attack on the continuing powers of KOPKAMTIB. The basis of KOPKAMTIB arrests and detention is usually affiliation or sympathy with the PKI which was dissolved and outlawed by Presidential Decree 1/3/1966 (later ratified as MPRS Ordinance XXV/MPRS/1966), which dissolved the PKI, declared it a forbidden party and forbade the dissemination of communist teachings. KOPKAMTIB has been using this Decree retroactively and thus illegally, but in any case the Decree and the Ordinance are in conflict with the 1945 Constitution which guarantees freedom of assembly, association and speech. Mr Yap recalled article 26 during the Asep Suryaman trial, but the court denounced this defence as a

> . . . dangerous submission, as strengthening the communist cause and as not in accord with the code of ethics of the advocates' profession . . .[54]

Furthermore Decree No. 1/3/1966 was not signed by Sukarno although he was still President. Suharto has simply assumed that SUPERSEMAR authorised him to issue instructions on the President's behalf.

The extremely unpredictable process of arrest by KOPKAMTIB has been described by an informed writer,

> Inevitably, in a situation where arrests are so arbitrarily set in motion, many people now being held as political detainees have no political past whatsoever, but have been victimised as relatives or friends of persons being sought by the army; they include people who have been unable to prove their identity to the arresting unit, who have been persecuted as a result of personal difficulties with neighbours or co-workers, or for a host of

equally futile reasons.[55]

During KOPKAMTIB detention political prisoners have often been subjected to "preliminary interrogation". Following this they have been made to sign statements from the interrogation which have then been used as evidence in the trials. Other arrests were then made on the basis of these statements. Many witnesses testified in trials that torture, compulsion and trickery were used in order to extract their confessions. In his trial Njono complained of an atmosphere of "communist phobia" at his preliminary interrogation[56] while the witness Mohammad bin Jacub stated that he had been struck.[57] A reliable source has described how he was interrogated while being made to listen to another prisoner screaming terribly while being subjected to electrical torture.[58] Again Colonel Latief[59] was interrogated while he was in an extremely poor physical condition. He had been very ill and semi-conscious for some time as he describes in his defence plea,[60] but this did not interfere with the process of his questioning, and in fact on one occasion he was carried into interrogation on a stretcher. Latief had been stabbed and shot during his arrest. He also catalogues how others were subjected to torture during interrogation. One man had been handcuffed for a whole year, subjected to electrical torture and struck with heavy objects while unconscious until his whole body was covered with blood. He said that many people were subjected to psychological and physical torture and that many had become mad, blind or impotent. Some were chained and

> . . . tortured with blows from heavy instruments, wooden chairs, plastic piping, whips with sharp lashes, and the tail of the *pari* fish (stingray–trans.) . . . fingers were squashed by table legs, nails were removed, fingers smashed and arms broken.[61]

At his own trial Sudisman commented wryly,

> The results of torture during preliminary interrogations on my Party comrades could be observed immediately they appeared as witnesses before the court. I don't of course deny the statement of the doctor who announced that Mr Sardjono had an attack of the 'flu'.[62]

Amnesty International also reports the widespread use of torture. In the years following 1965, torture was systematically used as an everyday occurrence in interrogation:

> Young girls below the age of thirteen, old men, people who were frail and ill, were not exempt from torture. It was used not only for interrogation, but also for punishment, and with sadistic intent. Cases of sexual assault on women and extreme cruelty were reported to Amnesty International. Deaths from torture were frequently reported up till the end of the 1960s. At the present time, Amnesty International receives reports of cases of torture under interrogation. The worst cases are those of military officers and men suspected of left-wing tendencies, who are tortured by their fellow-officers. The Air Force interrogation centre in Jakarta is particularly notorious for its use of brutal and prolonged torture.[63]

In the trial of Asep Suryaman, Mr Yap Thiam Hien as defence counsel asked a witness, Martosuwadi how his interrogation report had actually been drawn up. At this point the judge intervened and ordered the witness not to answer.[64]

Access to Defence Lawyers

Although it is guaranteed by law, it is very difficult for prisoners to gain access to lawyers. The court reserves the right to veto a defence appointment and thus can and almost always does, delay the appointment of the defence until immediately before the trial, so that the defence has no time to prepare a case. To give two instances one defence lawyer was asked two days before a case and on the following day was taken to see the defendant, but was not allowed to see him alone. In this case the defendant had to write his defence plea in a cell which had no desk or chair, and although the lawyer requested better conditions for the defendant, and more writing paper, this was denied.[65] Another lawyer has described how the defendant was given a copy of the charges against him only three days before the trial was due to commence, and it was only on the day the trial began that the defence counsel was allowed to meet the defendant, and then only in the presence of soldiers and police. The Prosecutor had ordered his subordinates to stay within earshot during this meeting. The defence counsel then only had three days after the charges were read to look up a myriad of laws and to prepare the case.[66]

The Laws

In his defence plea, Sudisman summed up the legal irony of his situation when he objected to the use of colonial laws in his trial for subversion against the state of Indonesia[67]

> As a communist and as a son of Indonesia, I feel ashamed that in the Dutch period before World War II, I was arrested by the Dutch colonial government for *persdelict* (offence against the press laws–trans.) and was charged with violating articles in *Engelbrecht* (the compendium of colonial law–trans.); that in the Dutch period after World War II, I was again arrested by the Dutch colonial government and charged with violating articles of *Engelbrecht*; and that after almost 22 years of Indonesian independence I am once again accused of violating articles of *Engelbrecht* . . .Frankly I cannot accept that the words *des Konings* can be read as "of the President" since we do not live in a *Koningkrijk* (Kingdom) but in the Republic of Indonesia which I love. I also cannot agree with the words '*ministeriale verantwoordelijkheid*' (ministerial responsibility), in this instance of the Dutch government being identified with the Cabinet of the Republic of Indonesia, because their *spirit* is utterly different. On the other hand if the Honourable Prosecutor is willing to equate the *Staten-Generaal* with the present MPRS which is not elected by the People, that is up to him.

Several articles in the colonial Criminal Code, the KUHP, relating to participation in criminal acts (articles 55 and 56) crimes against state security (articles 106, 107, 108 and 110) and crimes against persons–or murder (article 340) have been used consistently in G30S cases. With the exception of article 340 which was only used for those considered directly responsible for the deaths of the generals, none of the articles carry the death penalty. In order to secure the death penalty, two anti-subversion laws, Penpres

5/1959 and Penpres 11/1963, have been used in conjunction with the KUHP articles. This practice of combining the KUHP with the all-embracing Anti-Subversion laws was strongly protested by Mr F. C. Tjam, the defence counsel in the trial of Supardjo,

> Suppose we decide on (KUHP) article 134 in connection with Penpres (Presidential Decision—trans.) No. 5/1959, especially article 2, then we are confronted with something which I am almost sure will not be accepted by the voice of the innermost soul of the Indonesian people. I read article 134, "Deliberate insult to the President or Vice-President is punishable with a sentence of as much as six years or a fine of 300 rupiah. This is in an article of the KUHP. But if used with article 2 of Penpres No. 5/1959, then the accused is suspected of giving a deliberate insult and might be sentenced to death.

The first anti-subversion law, the Economic Subversion Decree or Penpres 5/1959, involves "an increase in the severity of sentence against criminal acts which endanger the provision of basic needs (food and clothing)". In the broad definition of this decree, acts which endanger the "organising of the security of the people and of the state" and those which interfere with the anti-imperialist struggle, (with special reference to West Irian) are liable to the death penalty. In many of the G30S trials charges were made on the basis of the second decree, the Presidential Decree on Subversion, No. 11/1963, which also made subversion a capital offence. The decree only became law in 1969, but was used regardless before 1969. It has provided a far-reaching and draconian measure to the Sukarno, and especially the Suharto governments as a means of suppressing all political opposition. Mr Yap Thiam Hien has described the act as a "rubber law"[68] and elsewhere commented,

> You know, the Anti-Subversion act is so wide and its interpretation so broad that everybody can be affected. Some people even say that breathing is subversive.[69]

The application of these laws has made the job of the prosecution very easy as it has hardly been necessary to draw up a detailed case for the prosecution. Latief objected to the use of Penpres 5/1959 in his case, saying that it gave the prosecutor the punishment "in his pocket". He also observes that the law was supposed to protect Sukarno and points out the irony of his case, saying that if the Prosecutor chose to prosecute him on the basis of Penpres 5/1959, then it meant that he sided with Sukarno in which case he should join Latief in prison. Or if Latief did break this law, then that is what Suharto did, and in this case Latief should be given a medal.[70] Njono was tried under Penpres 5/1959. He had stated that in the undertaking of his duties at the time of the 'coup' he was to see that transport was not disrupted. Somehow the court turned this against him and thus proved that he was guilty of economic subversion. The reasoning went as follows,[71]

> The accused could guess previously that the G30S would create economic difficulties, because the accused said previously amongst other things, that through the workers' federation with whom he was connected, land and air traffic could continue as usual.

Furthermore it was necessary to prove Njono guilty under the KUHP articles 107, 108 and 110 in order to obtain sentence on the basis of the economic subversion charge connected with them. The proof all depended on the decision setting up the *Mahmillub* for the G30S trials, which was signed by Sukarno and which denounced the G30S as a "counter-revolutionary adventure". From here the Prosecutor was able to extrapolate

> The term counter-revolutionary is in essence a political term, not a legal term in the sense of juridical terminology, but the term is certainly a term which is used in the legal terminology of the revolution, the highest law of the people and the state which is in revolution.[72]

In his *eksepsi* Sudisman's counsel argues that the KUHP articles 107, 108 and 110 are centuries old and promulgated to protect the Dutch Indies government. He observes that there are no specific laws on "counter-revolutionary crimes" since Penpres 11/1963 and Penpres 5/1959 are unconstitutional and unlawful. He quotes a legal adage,

> *Geen strafbaar feit zonder voorafgnande strafbepaling (nulla puna sina praevia lage punali)*

—or that there can be no offence without prior penal provision.

In February 1975 four women who were leading members of women's trade union and peasant groups, were tried under the Anti-Subversion Act.[73] Their 'subversive' activities included obtaining false identity cards, publishing and distributing illegal bulletins and providing assistance to the children of political prisoners. One of the women, Sulami, was also accused of having recruited women to go to Lubang Buaya to help with cooking and sewing, which proved to the prosecutor that she had known about the 'coup'. The women received 20, 18, 15 and 15 years' sentences. In another subversion case, two women and a man were sentenced to ten years' imprisonment for circulating illegal pamphlets in West Kalimantan. The defence counsel argued that one of the accused Mariam binti Kadi was mentally abnormal and asked that she be examined by a psychiatrist. The judge rejected the request saying that his experience in court had shown that defendants were always trying to pervert the course of justice and would go as far as feigning disability in order to receive a lower sentence. The court, he said, was in a position to judge which of her statements were true and which were false.[74]

Mr Oei Tju Tat was charged under the anti-subversion act some ten years after his arrest. It was alleged that as a leading member of *Partindo*[75] he had issued a statement that had claimed that the G30S was an 'internal army affair' and that with this statement Mr Oei had tried to undermine or destroy the government. It was shown conclusively in court that Mr Oei was not personally responsible for the statement, and that indeed he had protested against it. Nonetheless he was sentenced to 13 years' imprisonment with deduction for the time already served. After the sentence had been handed down, the International Commission of Jurists commented

> The court's attempted justification of this extraordinary judgement was that Mr Oei 'did not react strongly enough, although protesting against the statement'. This shameful decision can be explained only by factors external to the trial itself, and as an attempt to justify Mr Oei's detention for almost ten years before trial.[76]

Rule of Law advocates who seek the revoking of the anti-subversion laws run the risk of being branded as subversives themselves. A recent editorial in the army newspaper **Berita Yudha**[77] stated that those who wish to secure basic human rights over the interests of the state aimed at "belittling the urgency of national security". Many lesser crimes than this have been labelled 'subversive' and punished accordingly.

Witnesses

While the prosecution evidence given in the trials has been almost invariably flimsy, fabricated or coerced, witnesses a decharge (defence witnesses) have seldom been allowed to appear. Latief complained bitterly in his defence plea that he had been unable to call a single witness. His witnesses a decharge included President and Mrs Suharto, as well as foreign journalists who had interviewed Suharto about a meeting on the night of the 'coup' at which Latief had informed Suharto of the plans of middle-ranking army officers to bring the army leadership to account. Latief also wanted to call as a witness Pono, who seems to have been a key figure in the 'coup', but the court refused for "technical reasons". Latief protested and said that other witnesses had been brought from Cipinang prison, where Pono was being held, and that there were no security reasons why he should not be brought, in fact no valid reason at all. The court insisted that written testimony signed by Pono was sufficient, but Latief observed that in 1972 he had testified at Pono's trial and Pono had accepted his testimony as correct. Yet Pono's written testimony presented at Latief's trial was in conflict with Latief's evidence given in 1972, and had in fact been drawn up in 1971, but not signed until 1973. As a last resort, Latief asked whether his 1972 testimony could be read out in court, but this too was refused.[78]

In one case where defence witnesses were "allowed", the cynicism of the court was apparent. During the trial of Iskander Subekti, **Kompas** reported,[79]

> On the request of the accused, Iskander Subekti, the team of judges at the Jakarta State Court which is examining and trying the subversion case, yesterday, Thursday, agreed to produce Aidit and Sudisman as witnesses a decharge . . .The prosecutor in yesterday's session said that he asked for one day to try and present them. As known, at the end of 1967, Sudisman was sentenced to death by the *Mahmillub*, while Aidit was reported as shot dead in a mop-up operation.

Written evidence from witnesses has been commonly used. Often the evidence is a signed interrogation report, and many of the witnesses are themselves under sentence of death, and not knowing if or when it will be carried out. Following a train crash in Java, the railway workers Radi and Kirtam, were tried with committing sabotage in August 1975. In their trial, the most spurious written 'defence' evidence was accepted by the court as proving their guilt. **Kompas** reported,[80]

> Written testimonies were heard in the session from four witnesses a decharge. The four were PKI figures, Towidjari, Mustakim, Yatim and Asep Suryaman, alias Hamin. The evidence was used in an effort to reveal the disguised tactical and political connections with PKI, especially SBKA[81] in connection with the collision in Telama. Witnesses Mustakim and Asep Suryaman spoke more about the PKI and its failed rebellion. Meanwhile the witness Towidjari stated that members of the PKI who were still railway workers were instructed to continue working illegally for the PKI in accordance with the position of SBKA as a mass organisation of the PKI.
> The most important target if necessary was to conduct sabotage and in its organisation there were implementing cadres. He said that the train accident appeared to be a tactic handed by Aidit to Djoko Sumbul who gave evidence in Solo on 18 October 1965.

This case also demonstrates the important fact that when the defence counsel does not have proper access to witnesses, the court can so arrange the presentation of evidence as to severely damage the defence case.

Exhibits

There have been many cases of defence counsel rejecting *barang bukti* (exhibits) produced in the trials. But according to the HIR (Revised Procedural Code) the presiding judge has the ultimate discretion over evidence produced in court. During the trial of Njono photos of the supposedly mutilated bodies of the generals were shown to Njono and then submitted to the session as *visum et repertum* (visual evidence). The defence counsel then asked that the doctor's post mortem report also be submitted, because it was known that this report had shown that the bodies were not mutilated as the government contended. The judge then said that this report was inadmissable and could not be submitted as evidence as Njono was not being charged with murder.[82]

In the trial of Asep Suryaman, the defence rejected the exhibits as unlawful evidence as they were not accompanied by a document of confiscation signed by the accused. Asep denied that the weapons and pamphlets on display were his,[83] but to no avail. In the same case the prosecutor stated with regard to the presentation of witnesses and other procedures, that if all regulations were observed it would retard the processes of the hearings, thus prolonging the detention of the accused.[84]

Presumption of Innocence

It is hardly surprising that one of the most important issues which has emerged in the trials, has been the consistent violation of the principle of the presumption of innocence of the defendant, which is guaranteed in article 8 of Law 14/1970. Procedural irregularities have added their weight to the massive propaganda campaign which has been so prejudicial in all the G30S trials. The best illustration of this practice comes from the trial of Asep Suryaman, where he and his defence counsel took an exceptionally courageous stand on the issue. According to article 289 of the HIR (Revised Procedural Code),

> After all the wintesses have been examined, the judges shall proceed with the examination of the accused, informing him/her of all the aggravating circumstances as a result of the investigations at the hearing.

In other words the prosecution has to prove the guilt of the defendant who is accused of crimes in accordance with the indictment. It has become "customary" in Indonesia since 1950, according to Asep's judge, Mr T. M. Abdullah to open the case with the examination of the accused, and he then refused to commence with the witnesses.

In order to protect his right of non-self-incrimination, Asep was advised by his defence counsel to insist upon the correct procedure and to refuse to answer any questions until all the witnesses were heard. This tactic is known as *gerakan tutup mulut*–"the closed mouth movement". One of the judges then told the defendant that he was entitled not to speak if he so wished, but that he should be warned of the possible consequences if he failed to answer. The defence counsel, Mr Yap then warned the judge that he was violating his judges' oath in making this threat. Nonetheless the trial proceeded as ordained, as the judges decreed it was sufficient to read the reports of Asep's pre-trial interrogation as evidence.

In cases where the violation of article 289 is protested by the defence counsel, the prosecution invariably claims successfully that the HIR is only meant to provide "guidelines" (*pedoman*). However as S. Tasrif, the Chairman of the Bar Association of Indonesia (*Peradin*) points out, not only is article 8 of Law 14/1970 infringed, but also Law 1/1950 which states that the task of the Supreme Court is to ensure that justice is carried out in accordance with the law, no matter what has become "customary".[85]

The PKI Spectre

The trials have served an important legitimating function for the New Order, both within Indonesia and in other countries. The major issue connected with political imprisonment has been the plight of the prisoners detained without trial, while in the case of the others it has been seen that justice at least appeared to have been done. However the trials have played an even more important, in fact a critical role in Indonesia's post 1965 politics. They have kept alive a spectre. While the obliteration of the PKI as a legal and popular party was complete it was necessary to give it life in another form, and so the PKI now lives on as a "communist threat" or as "communist subversion", thus providing the basis of an impressive and multi-purpose apparatus of political control. The penalties associated with the PKI are so well known that people will go to great lengths to avoid this stigma and the suffering it involves.

Not only is the PKI-sanction effective as a central government policy, but it is used by individuals for their own gain, and thus accounts for the pervasiveness of its use. Army officers have reported that they have "defeated" imaginary "advancing communist units" or "underground communists".[86] This language conceals the arrests and killing of innocent villagers and at the same time earns commendations and even promotions for over-zealous army officers.

At all sorts of levels, the enforcement of government policy also depends on the PKI sanction. For example women who refuse to participate in government birth-control programmes become "PKI-sympathisers", and workers who are laid off without pay become the same if they protest. Government officials who come to inform peasants that they must give up their land for some government project, do not hesitate to use explicitly the PKI-sanction. Peasants who protest at the meagre compensation handed out by the government are instantly branded as PKI. On 25 July 1979, for example a number of peasants from Janggawah (Jember) East Java, were arrested after they had protested against the efforts of the State Tobacco Plantation No. 27 to plough up their crops.[87] Following the incident, Major-General Witarmin, the Commander of the East Java Military Command, who mobilised the troops which crushed the peasant demonstration asserted,

> ... there is clearly collaboration between political party elements to utilise this case for their political interests. Besides this, we must be vigilant of the role of G30S/PKI elements who are also utilising this case in the interests of their strategy of struggle. The role of G30S/PKI elements is clear because an ex-BTI (the now banned Peasants' Union–trans.) member who is required to report regularly was active in this incident. One of the persons mobilising the masses was also an ex-BTI/PKI person, and the region where it occurred was indeed a BTI/PKI stronghold in former days. The kind of mass action employed is clearly similar to that employed by the PKI during the old order.[88]

Some days later, **Kompas** which carried this report revealed the difficulties of the press in such cases, and unusually, did not mince words:

> It is necessary for us to be somewhat cautious when discussing the Jenggawah incident, especially following the official statement made by the Brawijaya (East Java) Military Command to the effect that BTI elements were involved. With this, we are, as it were, placed before a formidable and impregnable wall.[89]

Not missing a golden opportunity, foreign companies have also found out that recalcitrant workers can be controlled effectively with the PKI-sanction. Particularly vulnerable to this are former political prisoners, for example those who are working in what amounts to forced-labour camps in foreign-owned timber concessions in Kalimantan. **Berita Yudha**, the army daily, reported an incident where military intervention was used against P. T. Cidatin/Cita workers in Kalimantan. A security patrol had arrested a worker who had allegedly left his work-place in the forest, and the validity of the arrest was questioned by a workers' representative as he worked near logging ponds. **Berita Yudha** claimed in the accounts[90] that police security forces receive Rp 30,000 a month from the company. Although the timber workers had merely protested at arbitrary paramilitary intervention, they were accused by the manager of P. T. Cita Timber of being "PKI inspired".

Now that all the B-Category prisoners are said to have been released, the government has been quick to brand them as future scapegoats in the continuing wave of workers' protests which now shakes Indonesia, and the PKI sanction will continue to be used against them:

"The entire state apparatus must intensify vigilance in exercising supervision of the released B-Category G30S/PKI prisoners. Do not relax in preventing outlawed ex-PKI aspirations from infiltrating and from mobilising forces", declared General Panggabean, Co-ordinating Minister for Defence and Security. He was speaking at a meeting of co-ordinating ministers chaired by President Suharto held at the end of June.
Acting Information Minister, General Sudharmono, reporting this stern warning, said that it was directed not only at officials responsible for security and regional government affairs but also those in other sectors. He specifically mentioned the labour sector which "should not be utilised" pointing out that "past events should not be allowed to recur".91

In its most violent manifestation since 1965, the use of the communist threat justified the Indonesian invasion of East Timor and the subsequent massacre of at least 100,000 people. Without the "PKI menace" and the original foundation of the G30S/PKI theory, this justification could never have been effective. Although the justification has been regarded with some scepticism overseas, within Indonesia itself it has been remarkably effective in ensuring the ignorance of even senior officials and politicians about the New Order's genocide in East Timor.

Apart from the trials of well-known PKI leaders and sympathisers already discussed, there have been numerous and continuing trials conducted under the PKI rubric. In these "subversion" and "sabotage" are favourite charges. Reports of these trials tend to be bland and perfunctory, but they always include the charge and usually the sentence. Such trials help to keep the PKI spectre alive and to reinforce a theory which has served the New Order well for fourteen years. The foregoing account has one main sobering message. While there is good reason to rejoice about the releases of so many political prisoners, the rejoicing should not be unqualified, for the tragedy of G30S has by no means come to an end.

Footnotes

1 Quoted by Barbro Karabuda in "Letter from Indonesia", Part I, pp. 43-46, Eastern Horizon, VIII:5, 1969.
2 Department of Foreign Affairs, Republic of Indonesia, 1978. Indonesian Government Policy in Dealing with the G30S/PKI (The 30th September Movement of the Indonesian Communist Party) Detainees (henceforth Indonesian Government Policy...), p. 17.
3 ibid.
4 *Nadapol* is the acronym for *narapidana politik* or political criminals. It is a term used for the convicted political prisoners.
5 See Indonesian Government Policy..... op. cit. P. 16. The word 'coup' in this and subsequent sentences is deliberately placed in inverted commas as it is the belief of the writer that the G30S was not intended to overthrow Sukarno, and that in fact the real coup was Suharto's in his acts of insubordination and his gradual acquisition of power using G30S as his vehicle.
6 G30S/PKI is the contraction which firmly links the 'coup' with the Indonesian Communist Party (PKI). It stands for *Gerakan 30 September/Partai Komunis Indonesia*, or the 30 September Movement of the Communist Party of Indonesia.
7 Panca Sila (Five Pillars) is the basis of the Indonesian state philosophy which was expounded by Sukarno in 1945. The five pillars are: Belief in One God, Nationalism, Humanitarianism, Democracy and Social Justice.
8 With his Decree of 5 July 1959 Sukarno returned Indonesia to the 1945 Constitution, following a debate in the Constitutent Assembly which failed to agree on the Panca Sila. In this move he rescinded the 1950 (Parliamentary Democracy) Constitution and restored Indonesia to the presidential system.
9 See Indonesian Government Policy... op. cit. p. 16,
10 Suara Merdeka, 6 December 1978.
11 AFP dispatch, 30 June 1975, quoted by van der Kroef in "Indonesia's Political Prisoners", Pacific Affairs, p. 627, Winter 1976/77, pp. 625-647.
12 Indonesian Government Policy... op. cit. p. 30.
13 Sinar Harapan, 10 Decemebr 1979.
14 Amnesty International 1977, Indonesia: An Amnesty International Report, Amnesty International Publications, p. 31.
15 Sinar Harapan, quoting Admiral Sudomo, 10 December 1979.
16 See for example official accounts in:
a) Nugroho Notosusanto and Ismael Saleh, 1968, The Coup Attempt of the 30 September Movement in Indonesia, Pembimbing Masa, Jakarta.
b) Indonesian Government Policy... op. cit.
c) KOPKAMTIB, 1978, Gerakan 30 September Partai Komunis Indonesia G30S/PKI. This document was hurriedly produced in mid-1978, apparently in response to the Latief trial and contains quite a number of remarkable errors. Some alternative views are given by:
i) Benedict R. Anderson and Ruth T. McVey, 1971, A Preliminary Analysis of the October 1 Coup in Indonesia, Ithaca, Cornell Modern Indonesia Project.
ii) Harold Crouch, 1973 "Another Look at the Indonesian Coup", in Indonesia No. 15 (April) pp. 1-21.
iii) Coen Holtzappel, 1979, "The 30 September Movement: A Political Movement of the Armed Forces or an Intelligence Operation", Journal of Contemporary Asia, 9:2.
iv) W. F. Wertheim 1979, "Whose Plot? New Light on the 1965 Events", Journal of Contemporary Asia 9:2.
17 Latief's account of Suharto's role may be found in the full text of his defence plea which has been published outside of Indonesia under the title Mengungkap Sejarah Yang Sebenarnya (Revealing the True History). A good summary of this document may be found in TAPOL Bulletin, No. 35, 1979, pp. 8-10 (Henceforth Latief Defence Plea).
18 Amnesty International, 1977, Indonesia: An Amnesty International Report, Amnesty International Publications, p. 23.
19 D. N. Aidit was the chairperson of the PKI politburo. Two short accounts of his death may be found in Harold Crouch, 1978, The Army and Politics in Indonesia, Cornell University Press, p. 161, and in Brian May, 1978 The Indonesian Tragedy, Routledge and Kegan Paul, London, p. 108.
20 Njoto was the second vice-chairperson of the PKI and third in the party hierarchy. He was also Minister in charge of Land Reform and a senior aide of President Sukarno. There is a brief account of his death in Crouch 1978, op. cit. p. 161.
21 The word *Necolim* should read *Nekolim* and it is a Sukarno acronym for Neo-colonial forces.
22 The court in which Njono was tried was the *Mahmillub–Mahkamah Militer Luar Biasa*–Extraordinary Military Tribunal.
23 G-30-S Dihadapan Mahmillub I (Perkara Njono), Pusat Pendidikan/Kehakiman AD, Jakarta, pp. 261-2 (henceforth Njono Trial).
24 Sinar Harapan, 7 September 1972.
25 The Ministers were: 1) Dr Subandrio; 2) Dr Chaerul Saleh; 3) Ir. Setiadi Reksoprodjo; 4) Sumardjo; 5) Oei Tju Tat S.H.; 6) Ir. Surachman; 7) Jusuf Muda Dalam; 8) Armunanto; 9) Sutomo Martopradoto; 10) Astrawinata S.J.; 11) Major-General TND Achmadi; 12) Drs Mohammad Achadi; 13) Lt. Col. Infantry Imam Sjafi-ie; 14) J. Tumakaka; 15) Maj.-Gen. TNI Sumarno.
26 SUPERSEMAR is the acronym for the Presidential Decision of 11 March 1966 in which President Sukarno was forced to confer special powers on Suharto as the head of KOPKAMTIB.
27 Indonesian Government Policy... op. cit. p. 21.
28 The signs of the "innermost feelings of the people" refer to student demonstrations which were orchestrated by Kemal Idris, Sarwo Edhie and Ali Murtopo, otherwise known as the New

Order Radicals. Although demonstrations had been banned this group made it known to students that anti-Sukarno demonstrations would be welcome, and that they would have the backing of crack troops which had been moved into Jakarta. Following the deaths of two students in the demonstrations, feelings ran high and the political situation was one of grave crisis. In this atmosphere these generals were able to bring about the arrests of Subandrio and the other ministers.

29 Crouch 1978, op. cit. pp. 211-2.
30 The First Charge: Article 110 KUHP para 1 in connection with articles 107, 108, in connection with article 88 KUHP.
The Second Charge: Article 107, para 1 and 2 KUHP.
The Third Charge: Article 108, para 1 (1), para 2 KUHP.
All articles mentioned in the three charges are in connection with article 2 of Penpres (Presidential Decision) 5/1959.
31 Subandrio's death sentence was not carried out, and he is reported to be still alive in prison.
32 Quoted by Amnesty International, 1977, op. cit. p. 130.
33 Angkatan Bersendjata, quoted by Crouch 1978 op. cit. p. 212.
34 Crouch 1978, op. cit. p. 212.
35 Coen Holtzappel 1979, op. cit. p. 227.
36 An excellent account of this struggle may be found in Daniel Lev, 1978, "Judicial Authority and the Struggle for an Indonesian Rechtsstaat", Law and Society Review, 13:1 Fall, pp. 37-71.
37 Kompas, 15 August 1975.
38 Kompas, 27 October 1977.
39 Tempo, 8 September, 1979.
40 Lev 1978, op. cit. p. 53.
41 ibid. p. 54.
42 Eddy Damian and Robert N. Hornick 1972, "Indonesia's Formal Legal System: An introduction", The American Journal of Comparative Law, No. 20, p. 511.
43 Kompas, 29 August, 1975.
44 The *eksepsi* or demurrer is a statement delivered by the defendant or the defence counsel which challenges the validity of the court trying the case or other legal aspects.
45 MPRS stands for Peoples' Deliberative Assembly. The S stands for 'Provisional'.
46 Kompas, 9 July, 1975.
47 Private communication from a person who was present at the trial.
48 Nigroho Notosusanto and Ismael Saleh, 1967, op. cit. p. 89.
49 See article 1, Presidential Decision 370/1965.
50 Latief Defence Plea, op. cit. p. 16.
51 Tempo, 8 November 1978.
52 Tempo, 23 December 1978
53 Kompas, 7 July 1975.
54 Private communication from a person who was present at the trial.
55 Carmel Budiardjo, 1974, "Political Imprisonment in Indonesia", Bulletin of Concerned Asian Scholars, April-August, p. 20.
56 Njono trial, op. cit. pp. 59 and 268.
57 Njono Trial, op. cit. p. 268.
58 Personal communication.
59 Latief as one of the G30S leaders was detained in prison under terrible conditions exacerbated by ill health and solitary confinement for ten years. He was finally tried in mid-1978.
60 Latief Defence Plea, op. cit. pp. 35-48.
61 Ibid. pp. 57-58.
62 Sudisman 1975 (trans. Ben Anderson) Analysis of Responsibility, Defence speech Before the *Mahmillub*, 21 July 1967, The Works Co-operative Ltd. p. 21.
63 Amnesty International 1977, op. cit. p. 76.
64 Kompas, 10 July 1975.
65 Private communication.
66 Private communication.
67 Sudisman 1975, op. cit. pp. 2-3.
68 In the trial of Asep Suryaman.
69 In a television interview with Aag van den Heuvel, KRO Netherlands 23, September 1978 "Indonesia: Wealth Power and Justice" Reproduced in part by TAPOL Bulletin, No. 31, 1978, see p. 11.
70 Latief Defence Plea, op. cit. pp. 134-5.
71 Njono Trial, op. cit. p. 21.
72 ibid. p. 234.
73 The women were Sulami and Sudjinah of *Gerwani* (Indonesian Women's Movement), Sri Ambar of SOBSI (All Indonesia Trade Union Federation), and Suharti Harsono of BTI (Indonesian Peasants' League).
74 Merdeka, 6 August 1975.
75 *Partindo* (*Partai Indonesia*–Indonesian Party) was a small nationalist splinter group which moved under PKI influence in the 1960s.
76 ICJ Review, 17 December 1976. Mr Oei was sentenced to 13 years' imprisonment and was subsequently released after being granted one year's remission. Until very recently, his was the only known case in which remission had been granted.
77 Berita Yudha, 22 May, 1979.
78 Latief Defence Plea, op. cit. p. 224.
79 Kompas, 1 December, 1972.
80 Kompas, 1 August, 1975.
81 SBKA–Union of Railway Workers.
82 Njono Trial, op. cit. p. 229.
83 Kompas, 17 July, 1975.
84 Kompas, 26 July, 1975.
85 Sinar Harapan, 10 July, 1975.
86 Brian May, 1978, op. cit. p. 204.
87 TAPOL Bulletin No. 36, p. 6.
88 Kompas, 4 August, 1979.
89 Kompas, 8 August, 1979.
90 Berita Yudha, 14 and 15 August, 1978.
91 Pelita, 28 June, 1979.

REX MORTIMER

The death of Rex Mortimer on New Year's Eve from cancer has meant the loss of a dedicated scholar and of a man who was deeply concerned about oppression and exploitation. His work was directed towards understanding and confronting these evils, and the analysis of other philosophical and practical attempts to deal with them. Indonesia was a particularly important focus of his concern.

Rex was the author of the very significant study, **Indonesian Communism Under Sukarno: Ideology and Politics, 1959-1965** (1974, Cornell University Press) and the contributing editor of **Showcase State: The Illusion of Indonesia's 'Accelerated Modernisation'** (1973, Angus and Robertson). He also produced numerous, much-discussed articles and seminar papers. His work had a unique Rex Mortimer style, and was reflective, incisive, controversial and always stimulating. As a teacher he won the respect and affection of students, some of whom he inspired with a lasting interest in Indonesia. Many former students will remember his remarkable ability to offer detailed and well-founded criticism, while never discouraging or belittling their efforts.

Despite the pain and mental anguish Rex suffered in his last months, he bore his illness with incredible courage and with determination to complete as much of a formidable array of self-imposed tasks as possible, while also spending as much time as he could with his family, and writing to his friends. Many people will cherish the memory of a much-loved friend and of a dedicated man of great warmth and humour. We feel his loss greatly.

continued from page 2

still living at the Savana Jaya unit on Buru island as well as 89 released tapols who are said to have 'opted' to remain there when the final batch of releases from Buru took place on 13 November last (**Kompas**, 22 November, 1979).

The "Unco-operative" 105

In addition to the general discriminatory restrictions imposed on all released tapols, the last 105 tapols to be released are required to report weekly to the military authorities and have been told that they will be under specially close surveillance. The group includes a number of well-known prisoners: the novelist Pramoedya Ananta Toer, the poet Rivai Apin, woman's activist Dr Tanti Aidit (widow of the murdered chairman of the Indonesian Communist Party), journalists Naibaho and Hasyim Rachman, as well as a number of workers, peasants, students, schoolpupils and government employees. Several official explanations of their "unco-operativeness" have been given. Brig-General Gunarso, Defence Ministry spokesman claimed that they had refused to sign loyalty oaths but this turned out to be untrue. General Yoga Sugama, KOPKAMTIB's Chief-of-Staff then claimed that they "still strongly support the PKI's right to exist even though it has been banned" (**Kompas**, 22 November 1979).

Their eventual release came after it had been asserted that they would not be freed until they "changed their attitudes". But when international concern was expressed over this back-tracking, it was decided to release them after all though they will be required to report weekly till "their attitudes change". Their eventual release proves yet again that international pressure has played a decisive role at every stage.

Discrepancies in Figures Continue

In TAPOL Bulletin No. 35, it was shown that of the 12,146 tapols acknowledged by KOPKAMTIB at the end of 1978, only 9,562 were accounted for in the figures it gave in April 1979 when the release of 1,259 tapols left the total official figure at only 8,303. **Discrepancy: 2,584**

In TAPOL Bulletin No. 36, it was shown that the release of 4,000 in September left a further discrepancy of 149 tapols:

May 1979 official figure	8,303	
September releases	4,000	
	4,303	
New official figures after September releases	4,154	**Discrepancy**: 149

The releases that have taken place in November and December, the closing stages of the release plan, continue to leave discrepancies:

Sept 1979 official figure	4,154	
November releases	1,874*	
	2,280	
New official figure after November releases	2,211	**Discrepancy**: 69
December releases	2,045	
	166	
New official figure after December releases	128	**Discrepancy**: 38

*89 of these releases remained on Buru.

The remaining 128 were said to consist of the 105 "unco-operative" B-Category tapols who were released on 20 December, and 23 A-Category prisoners, awaiting trial.

This leaves a total of 259 tapols unaccounted for since May last year or altogether 2,843 unaccounted for since the end of 1978. It is difficult to comprehend how KOPKAMTIB figures, announced on each occasion with such authority and precision, have every time been proved wrong by their own subsequent figures. Statistically, there is every reason to doubt KOPKAMTIB's claim that there are no more B-Category prisoners.

Tried Prisoners and Those Awaiting Trial

At the time of the first December releases, Admiral Sudomo announced (**Sinar Harapan**, 10 December 1979) that a total of 1,014 persons had been tried since 1966. Apparently there had been no acquittals for he went on to state that 262 persons had now completed their sentences while the remaining 752 were still serving sentences in prison.

The number of A-category prisoners dropped dramatically over the year, as the following official figures show:

End of 1978	1,391
April 1979	527
May	475
November	41
December	23

It is not clear how many of these vanishing prisoners were tried (few trials were reported in the press during 1979) and how many were re-classified to B. The rate of re-classification has apparently been very high despite KOPKAMTIB's consistent claims that it had "sufficient evidence" to prove the guilt of these prisoners.

Remissions

A major change for tried tapols is the long-delayed decision to allow them remission. In November 1979, President Suharto is reported (**Tempo**, 29 December 1979) to have instructed the Minister of Justice to grant remissions to political prisoners in line with normal practice for other prisoners. Until then, only one tried prisoner had obtained remission, and then only after vigorous efforts by his family. The decision to grant remission comes too late to benefit a considerable number of prisoners who received sentences of relatively shorter duration and who served their sentences to the full.

Tempo (5 January 1980) reports that 331 tried tapols have been granted remission. For 118, this meant immediate release; 20 people serving life sentences had their sentences reduced to twenty years. **Tempo** also reports that

a number of cases which had been sent to the courts for trial were withdrawn. These included the cases of Dr Tanti Aidit and D. P. Karim, journalist, both of whom were released in December. General Yoga Sugama is quoted by Tempo as saying that it was not certain that all the remaining 23 A-category prisoners would in fact be tried. "If it is thought", says Tempo "that the sentence they will get is less than the period they have already spent in detention, then they will be released."

Assuming that it is correct to consider the 118 released as a result of remissions as being in addition to the 262 tried persons mentioned by Admiral Sudomo as having been released already, it means that 634 tapols are still serving sentences.

PROTESTORS GREET SUHARTO

During President Suharto's State Visit to Britain last November, a number of demonstrations were held. The largest, in which about three hundred people took part, was held outside the Guildhall, as Suharto was being feted by London's Lord Mayor.

Press coverage of the demonstrations was good, far better indeed than the press coverage afforded to Suharto. A complete set of clippings is available for the price of £1.50 to pay for photocopying, plus postage.

Pickets outside Downing street.

'TEMPO' PUBLISHES LETTER FROM TAPOL

Kami (Tapol) Tidak Anti

Berhubung atribut 'anti-Indonesia' yang diberikan kepada TAPOL (*Membalas Kunjungan Ratu*, TEMPO 17 November), perlu kami jelaskan: bahwa yang ditentang TAPOL adalah sistem represi yang dijalankan Pemerintah Indonesia sekarang ini, baik terhadap tahanan G30S/PKI maupun terhadap gerakan mahasiswa serta lain-lain golongan yang berusaha memperjuangkan haknya. Jadi, TAPOL sama sekali tidak bersikap anti-Indonesia. Bahkan sebaliknya – karena kami yakin bahwa represi sepenuhnya bertentangan dengan kepribadian Indonesia.

Perlu dijelaskan pula, bukan hanya TAPOL yang mengadakan protes selama kunjungan Presiden Suharto ke Inggris. Organisasi yang ikut aktif berdemonstrasi meliputi antara lain: *Conference on Basic and Democratic Rights in the ASEAN Alliance, Liberation, the British Campaign for an Independent East Timor, the Campaign Against the Arms Trade, Third World First*, serta berbagai serikat buruh termasuk *Transport & General Workers Union*, yaitu SB Inggris yang terbesar.

JULIE SOUTHWOOD

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Translation

We (TAPOL) Are Not Anti

In connection with the adjective 'anti-Indonesian' which was attributed to TAPOL ("Returning the Queen's Visit", Tempo, 17 November 1979), we should explain that what TAPOL is opposed to is the system of repression operated by the present Indonesian Government, both towards G30S/PKI prisoners as well as towards the student movement and other groups trying to defend their rights. Thus, TAPOL is in no way anti-Indonesian. In fact, the contrary is true, because we are convinced that repression is completely out of keeping with the Indonesian identity.

It should also be explained that TAPOL was not the only organisation to protest during President Suharto's visit to Britain. Organisations which took an active part in the demonstrations included: the *Conference on Basic and Democratic Rights in the ASEAN Alliance, Liberation*, the *British Campaign for an Independent East Timor*, the *Campaign Against the Arms Trade, Third World First*, as well as various trade unions, including the *Transport and General Workers' Union*, Britain's largest union.

Tempo 29 December 1979

POLITICAL EXILES MAY RETURN BUT. . .

The BBC Short wave Monitoring Bulletin reported on 3rd January 1980 that

> Antara news agency reported General Yoga Sugama, Commander of the State Security Command and Chief of State Intelligence, as stating that all political fugitives who had left Indonesia after the attempted coup of 1965 were allowed to return but would be subject to "interrogation by the authorities". Investigations would show whether they should be detained or "acquitted" (sic).

Many thousands of Indonesians are now living abroad as political refugees. One who did decide to return home in 1977, Brigadier-General Suharjo, was arrested immediately on his arrival in Jakarta. It was recently announced that he is soon to be tried; he is now listed as one of the 23 A-category tapols.

continued from page 1

years. Furthermore, student unions are stepping up opposition to the government-imposed "normalisation" of the campuses, and renewed repression could occur any day; a number of students have already been suspended from their studies and two student leaders have died in suspiciously similar "accidents".

Worker and peasant actions in defence of their basic rights are heavily repressed with the authorities frequently invoking the PKI spectre to justify imprisonment. As economic conditions deteriorate, such actions are certain to increase, with the likelihood of more victims.

East Timor

Massive and brutal repression continues against all who resist the takeover by Indonesia. The death toll is horrendous (some estimate it to be as much as half the population). Some of those captured are being held as political prisoners, though many are known to have been executed or to have died under torture. An estimate of the numbers being held in detention is virtually impossible because of the tight blockade. In addition, hundreds of thousands are being held against their will in "strategic camps", in conditions of widespread disease and starvation. These are all victims of Indonesian repression and can only be freed by strong international pressure.

West Irian (West Papua)

Here too, resistance to Indonesian rule is met with brutal repression. Whatever one may think of the West Papuan people's demand for secession, they have a right to struggle for this demand, as Indonesians had a right to demand independence from the Dutch. An estimated 90,000 have been killed since the installation of Indonesian rule in 1963, and 1,500 are thought to be being held, the vast majority without trial. A campaign to stop this repression and to release these prisoners is long overdue.

Dissolve KOPKAMTIB and End Repression

The only way to end all forms of repression in Indonesia is to dissolve KOPKAMTIB, the Army's special security command, which stands outside and above the law. Not until KOPKAMTIB ceases to exist and the rule of law is allowed to operate without interference from the Executive will it be possible to stop campaigning, in Indonesia as well as abroad.

A MILLION CHINESE TO BE REPATRIATED

Plans to repatriate one million Chinese from Indonesia wer were announced by General Yoga Sugama, Chief-of-Staff of KOPKAMTIB, at a meeting with the Defence and Foreign Affairs Commission of Parliament on 28th November, 1979 (**Guardian Reuter**, 29 November, 1979). The government would, he said "set aside specially designated areas for the non-Indonesian Chinese pending their repatriation", and added that all Peking passport holders were in the process of being re-registered to determine their exact number, family status and employment.

According to the **Far Eastern Economic Review** (4 January, 1980) the decision applies to all "all ethnic Chinese who refuse to Indonesian citizenship" and would include repatriation not only to mainland China but also to Taiwan.

General Sugama is reported to have told parliamentarians that the repatriation programme would be completed by 1984, the final year of Indonesia's current five-year plan.

Reports that *all* three million ethnic Chinese in Indonesia are required to re-register were published earlier in 1979. According to Henry Kamm (**New York Times**, 31 May, 1979), re-registration is costly and frustrating. a 29-page questionnaire must be completed, a $4 fee paid to "cover costs" and photocopies of birth, death, marriage and name-change certificates as well as identity cards and busi-

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