

THE LIMITS OF OPENNESS

Human Rights in Indonesia and East Timor

**Human Rights Watch/Asia
(formerly Asia Watch)**

**Human Rights Watch
New York • Washington • Los Angeles • London • Brussels**

Copyright © September 1994 by Human Rights Watch
All rights reserved.
Printed in the United States of America.

ISBN: 1-56432-140-1
LCCCN: 94-79483

HUMAN RIGHTS WATCH/ASIA (formerly Asia Watch)

Human Rights Watch/Asia was established in 1985 to monitor and promote the observance of internationally recognized human rights in Asia. Sidney Jones is the executive director; Mike Jendrzeczyk is the Washington director; Robin Munro is the Hong Kong director; Dinah PoKempner is counsel; Patricia Gossman and Jeannine Guthrie are research associates; Diana Tai-Feng Cheng is associate; Mickey Spiegel is a research consultant. Orville Schell is vice-chair of the advisory committee.

HUMAN RIGHTS WATCH

Human Rights Watch conducts regular, systematic investigations of human rights abuses in some seventy countries around the world. It addresses the human rights practices of governments of all political stripes, of all geopolitical alignments, and of all ethnic and religious persuasions. In internal wars it documents violations by both governments and rebel groups. Human Rights Watch defends freedom of thought and expression, due process and equal protection of the law; it documents and denounces murders, disappearances, torture, arbitrary imprisonment, exile, censorship and other abuses of internationally recognized human rights.

Human Rights Watch began in 1978 with the founding of its Helsinki division. Today, it includes five divisions covering Africa, the Americas, Asia, the Middle East, as well as the signatories of the Helsinki accords. It also includes five collaborative projects on arms transfers, children's rights, free expression, prison conditions, and women's rights. It maintains offices in New York, Washington, Los Angeles, London, Brussels, Moscow, Belgrade, Zagreb, Dushanbe, and Hong Kong. Human Rights Watch is an independent, nongovernmental organization, supported by contributions from private individuals and foundations worldwide. It accepts no government funds, directly or indirectly.

The staff includes Kenneth Roth, executive director; Cynthia Brown, program director; Holly J. Burkhalter, advocacy director; Gara LaMarche, associate director; Juan Méndez, general counsel; Susan Osnos, communications director; and Derrick Wong, finance and administration director.

The regional directors of Human Rights Watch are Abdullahi An-Na'im, Africa; José Miguel Vivanco, Americas; Sidney Jones, Asia; Jeri Laber, Helsinki; and Christopher E. George, Middle East. The project directors are Joost Hiltermann, Arms Project; Lois Whitman, Children's Rights Project; Gara LaMarche, Free Expression Project; Joanna Weschler, Prison Project; and Dorothy Q. Thomas, Women's Rights Project.

The members of the board of directors are Robert L. Bernstein, chair; Adrian W. DeWind, vice chair; Roland Algrant, Lisa Anderson, Peter D. Bell, Alice L. Brown, William Carmichael, Dorothy Cullman, Irene Diamond, Edith Everett, Jonathan Fanton, Alan Finberg, Jack Greenberg, Alice H. Henkin, Harold Hongju Koh, Stephen L. Kass, Marina Pinto Kaufman, Alexander MacGregor, Josh Mailman, Peter Osnos, Kathleen Peratis, Bruce Rabb, Orville Schell, Gary G. Sick, Malcolm Smith, Nahid Toubia, Maureen White, and Rosalind C. Whitehead.

Addresses for Human Rights Watch

485 Fifth Avenue, New York, NY 10017-6104

Tel: (212) 972-8400, Fax: (212) 972-0905, E-mail: hrwatchnyc@igc.apc.org

1522 K Street, N.W., #910, Washington, DC 20005-1202

Tel: (202) 371-6592, Fax: (202) 371-0124, E-mail: hrwatchdc@igc.apc.org

10951 West Pico Blvd., #203, Los Angeles, CA 90064-2126

Tel: (310) 475-3070, Fax: (310) 475-5613, E-mail: hrwatchla@igc.apc.org

33 Islington High Street, N1 9LH London, UK

Tel: (71) 713-1995, Fax: (71) 713-1800, E-mail: hrwatchuk@gn.apc.org

15 Rue Van Campenhout, 1040 Brussels, Belgium

Tel: (2) 732-2009, Fax: (2) 732-0471, E-mail: hrwatcheu@gn.apc.org

CONTENTS

I. INTRODUCTION	1
II. THREE STRIKES AGAINST THE PRESS.....	4
Background	5
The June 1994 Closures.....	8
Demonstrations, Declarations and More Warnings	12
Tightening Controls	17
Protests Continue Into August.....	18
Conclusion	20
III. EAST TIMOR IN 1994.....	21
Background	21
Controls on Freedom of Expression and Assembly	23
The April Demonstration (24); Events of July 14 (25)	
Disappearances.....	28
Treatment of Prisoners	29
Xanana Gusmao (31)	
Extrajudicial Executions	33
Access to East Timor by Human Rights Organizations	34
Indonesia's Pressure on Its Neighbors	35
IV. LABOR RIGHTS AND THE MARSINAH CASE.....	40
Background	40
Shortcomings of SPSI.....	43
The Emergence of SBSI.....	46
Other Organizing Efforts	47
Military Interference	48
The Marsinah Case	51
The Case of Judi Susanto (53); The Case of Mutiari (54);	
Results of the Trials (55)	
Conclusions.....	56
V. LABOR RIGHTS: THE MEDAN DEMONSTRATIONS.....	57
Introduction.....	57
Background	58
Prelude to April 14.....	60
The Workers' Rally in Medan	63
The Anti-Chinese Element.....	66
Summons, Arrests and Trials.....	68
Who Was Responsible for the Violence?.....	70
After April.....	74

Conclusions..... 75

VI. LABOR RIGHTS: A KALIMANTAN CASE STUDY.....	77
The Organizing Begins	78
Detentions	80
Forced Resignations?.....	83
Freedom of Association and Expression	86
Conclusions.....	86
VII. RELIGION, POLITICS AND TORTURE IN NORTH SUMATRA.....	88
The Arrest and Torture of Four HKBP Activists	88
The Two Sides	94
Background to the Conflict.....	97
The 51st Synod And Its Aftermath	99
Creation of a Civilian Militia.....	104
Conclusions.....	107
VIII. KILLINGS AT THE NIPAH DAM.....	109
Introduction.....	109
Background to the Shootings.....	111
Initial Reaction and Attempts at Redress.....	117
The Appeal to the National Human Rights Commission	120
Conclusion	121
IX. THE INDONESIAN HUMAN RIGHTS COMMISSION.....	122
Why a Commission?	123
Terms of Reference and Methods of Operation	126
Komnas and the Marsinah Case	129
Is the Honeymoon Over?	134
X. CONCLUSIONS AND RECOMMENDATIONS.....	136
Assembly, Association and Expression.....	136
Torture.....	138
Manipulation of the Legal Process	139
Recommendations to the Government of Indonesia	141
Recommendations to the International Community.....	143

ACKNOWLEDGMENTS

The information in the report is based in part on a visit to Indonesia in June 1994, supplemented by extensive documentation and interviews outside Indonesia. It was written by Sidney Jones and edited by Michael McClintock. HRW/Asia would like to express its gratitude to innumerable Indonesians who helped gather material for this report and facilitate interviews inside Indonesia. It is also grateful to officials at the Indonesian embassy in Washington who, in the spirit of "openness," helped obtain a visa for the author.

I. INTRODUCTION

For the last two or three years, the watchword of the Indonesian government has been "openness." It was both a policy -- the Indonesian equivalent of letting a hundred flowers bloom -- and a prescription, from President Soeharto himself, for a dynamic, developing society. In the name of "openness" or *keterbukaan*, controls on the press were relaxed, demonstrations became more frequent and student activism flourished. The non-governmental organization (NGO) movement, working on human rights, development and environmental issues, grew in numbers and influence, and criticism of the government became both more frequent and more trenchant.

Many observers attributed "openness" to the impact of a growing middle class, proof that economic development and rising incomes produced demands for political change and greater individual freedoms. Others were more skeptical. One Indonesian intellectual said that "openness" was a policy *diktat* from above and could be just as easily reversed -- although the fact that his remark was published in a widely read Jakarta magazine indicated just how far the opening had come. Others suggested that the crucial factor behind "openness" was the growing rift between Soeharto and the military, and that the latter's increased tolerance of demonstrations and a freer press was one way of putting pressure on the president and exposing his shortcomings. "It could be argued," a leading political scientist wrote, "that the key figure behind *keterbukaan* is General Benny Moerdani [former commander-in-chief of the armed forces and Soeharto opponent] whose previous record hardly suggests a deep commitment to democratic principles."¹

Whatever the driving forces behind it, the policy of "openness" was abruptly shut down with the closing of three news publications on June 21, 1994, described in detail in Chapter II. President Soeharto reacted to international and domestic outrage by redefining the concept. "Openness," he said on August 16, 1994, "does not mean unlimited freedom, even worse, freedom to be hostile, pitting one party against another and unconstitutionally imposing one's ideas." Ideas that conflicted with the government's, it seemed, were both hostile and unconstitutional.

The closures underscored the arbitrary exercise of power in Indonesia, and it is that arbitrariness, more than anything else, that affects Indonesia's human rights practices. The muted struggle between Soeharto and the military, which came out into the open in early 1993 in the debate over who was to be named vice-

¹ Harold Crouch, "Democratic Prospects in Indonesia," *Asia Journal of Political Science* (Singapore); Vol.1 No.2, December 1993, p.86.

president and thus Soeharto's immediate successor, may be the most important political variable in Indonesia today, but, like "openness," it can be overblown. It does not explain the continuing problems in East Timor (Chapter III), the endemic use of torture, the continuing military interference in labor disputes and violations of labor rights (Chapter IV, V and VI), the abuses associated with a church conflict in North Sumatra (Chapter VII) or the killing of protestors at a development site (Chapter VIII). Elite struggles at both the national and, perhaps more importantly, the local level may exacerbate human rights problems. But those problems are fundamentally caused by a government that is not accountable for wrongdoing and a legal system riven by corruption and political pressure.

The human rights picture is not, however, unremittingly bleak. "Openness" or no openness, the NGO movement in Indonesia is vibrant, creative and growing; it cannot be killed off, as the news weeklies were, in a fit of government pique. The overall impact of the newly formed National Human Rights Commission, described in Chapter IX, has been helpful. Whether it performs poorly or well, it serves to highlight the gap between government rhetoric and practice on human rights. And there is a public debate about the authority of public officials, exemplified by the discussion of the role of the district head in the case of the Nipah Dam shootings, that is fundamentally healthy, even if it has not yet produced noticeable changes in governance. It is also important to stress that there are many Indonesian government officials, both civilian and military, who would like to see less caprice in decision-making and greater adherence to the rule of law. Their influence, however, remains limited.

This report is not intended as a comprehensive survey of human rights abuses in Indonesia. If it were, there would be chapters on trials in Aceh, executions in Irian Jaya, the shooting of members of the "Haur Koneng" Islamic sect, the arrests of students, and perhaps most pervasive, the abuses associated with land disputes throughout the country. Instead, the report focuses on six major issues that, through detailed examination of government actions, give a sense of what human rights violations are all about in the world's fourth largest country.

All of these cases involve major violations of internationally-recognized human rights, whether it is freedom of association in Medan or freedom of expression and assembly in East Timor. But more to the point, these cases illustrate the pervasiveness of the harassment that ordinary Indonesians suffer on a daily basis. The police and army opened fire on protestors at the Nipah Dam site in Madura, for example, and four officers were subsequently transferred. But the threats and intimidation of villagers who dared to protest began long before the shootings and continued long after the bodies were buried. Top army personnel

acknowledged there were violations of accepted procedures on the day of the shootings in September 1993 -- but the villagers were experiencing intimidation as late as June 1994, when HRW/Asia visited Madura.

In Medan, the mass workers' rally that turned violent on April 15 attracted world attention because of the number of workers that joined the protest and the fact that an ethnic Chinese businessman was killed. Largely ignored were the arbitrary detentions that took place before and afterwards, and the fact that the rally would almost certainly not have taken place if workers had been accorded any opportunity to organize themselves into a union not controlled at every level by the government.

The Indonesian government has taken some measures in response to criticism of its human rights record. It has invited United Nations human rights experts to visit East Timor. It has allowed limited access by international human rights organizations to carry out fact-finding investigations. And it has made some legal reforms, as yet not enforced, in the area of labor rights. These steps are welcome, but they are not enough to break a long-established pattern of abuse. That can only come with the transparency that is a hallmark of "good governance", and transparency in turn is linked to freedom of expression and governmental accountability.

II. THREE STRIKES AGAINST THE PRESS

Once marked by caution and self-censorship, the Indonesian press had, by June 1994, become one of the liveliest in the region, with a wealth of newspapers and magazines that in terms of critical reporting could more than hold their own with counterparts in the Philippines and Thailand. The government crackdown in June marked the end of a heady period that had begun almost four years earlier. The question was whether the latest violation to freedom of expression was a temporary setback or a more fundamental blow that signalled a tightening of controls as the post-Soeharto era approached.

Government actions in June were in sharp contrast to statements four years earlier. In August 1990, Admiral Sudomo, then coordinating minister for political affairs and security, told journalists that in the interests of openness, there would be no more restrictions on the press in Indonesia: there would be no more telephone calls from officials to editors telling them what they could print; politically sensitive articles in foreign publications would no longer be censored in black ink; and the government would no longer revoke the publishing licenses of newspapers. From then on, if the government felt that news articles endangered the national interest or violated the code of ethics of the Indonesian Journalists Association, it would take the publication in question to court. "We feel that revoking publishing licenses serves no educative function and does not conform to the notion of a state that upholds the rule of law; moreover, the effect on workers can be very hard," he said.²

But on June 21, 1994, the Indonesian Ministry of Information led by Soeharto favorite, Harmoko, revoked the licenses of three leading news weeklies, *Tempo*, *Editor*, and *DeTik*, on the grounds that the three had violated the journalists' code of ethics and endangered national security. The closures caused a storm of protest both at home and abroad.

Background

The government of President Soeharto had never been a champion of freedom of expression. In April 1994, a press conference in Jakarta of the international writers organization, PEN, noted that some 2,000 books and publications had been banned in Indonesia since 1965, and countless individuals

² "Menguji Buih dan Dalamnya Air," *Tempo*, September 8, 1990.

arrested for speeches or writing deemed to insult to the head of state or undermine the authority of the government. Many others were banned from leaving or entering the country because of what they said or wrote.

Newspapers and magazines were not immune. In 1982, *Tempo* and the Jakarta daily, *Pelita*, were temporarily banned for election-related articles. In March 1983, the economic daily, *Jurnal Ekuin*, was banned after an article on Indonesia's decision to lower its oil prices; the article came out just before a meeting of the Organization of Petroleum Exporting Countries (OPEC) and reportedly embarrassed the government. Three major news publications, *Expo*, *Topik*, and *Fokus* were shut down in 1984 and their publishing permits revoked for highlighting the growing gap between rich and poor.³

That same year, by Ministry of Information Decree 1/84, the press law was amended, changing the old license requirement called *Surat Izin Terbit* or SIT to its current version, *Surat Izin Usaha Penerbitan Pers* or SIUPP. The new license, which like its predecessor had to be obtained from the Ministry of Information, did not lessen government control. In October 1986, the mass circulation daily *Sinar Harapan* was shut down for articles on the currency devaluation of the previous September; the banning order said the reporting had "brought about an atmosphere of gloom, confusion and unease in society." It added that the task of a newspaper was "spreading the message of progress and the success of our development to readers."⁴

That ban was followed by the closing of the newspaper, *Prioritas*, in June 1987, after an article in which Indonesia's ambassador to Japan criticized his government's investment policies. In September 1990, the government revoked the license of the tabloid weekly, *Monitor*, after it published a popularity poll of well-known personalities in which the prophet Mohammed came in eleventh, after President Soeharto, Saddam Hussein and a leading rock star.⁵ The editor was arrested and sentenced to five years in prison for blasphemy.

It was just before the *Monitor* affair that Sudomo announced the end of press censorship in Indonesia. Not that anyone believed him -- especially since

³ For a full discussion on restrictions on the press, see Asia Watch, *Human Rights in Indonesia and East Timor*, (New York:1989) Chapter VII.

⁴ Asia Watch, *Human Rights in Indonesia and East Timor*, (New York: 1989) p.218.

⁵ Asia Watch, "Indonesia's Salman Rushdie," April 10, 1991.

Minister Harmoko was in Havana at the time and returned to complain to Soeharto that Sudomo was bypassing his authority. He announced that he still had the right to revoke a license, and that President Soeharto agreed with him completely. Sudomo then changed tack and acknowledged that revoking press licenses was a legal means of press control used "even in liberal countries."⁶

But a year later, debate over the press law flared again. In May 1991, a member of parliament from the ruling party, GOLKAR, said that giving the minister of information the right to cancel publishing licenses was incompatible with the idea of "openness." Two weeks later, on June 12, a five-hour meeting was held at the national parliament building at which journalists and editors from twenty-three publications took place. Participants agreed overwhelmingly on two points: Article 33(h) of Decree 1/84, allowing for revocation of a publishing license, should be amended, and a publication should have the right to appeal a revocation. "To revoke a driving license, you have go to court, but there is no court for the SIUPP," said Goenawan Mohamad of *Tempo* at the time.⁷

The law did not change, but controls on the press seemed to relax. Newspapers and weekly news magazines grew increasingly lively and courageous in the years that followed, and previously taboo issues, such as presidential succession, corruption, and divisions within the political elite, became matters of public debate. New publications appeared, such as the weekly *Forum Keadilan* or "Justice Forum", in 1992, and the Jakarta dailies *Media Indonesia* (1991) and *Republika* (1992). *DeTik*, a tabloid weekly that had started out as publication for sensational crime stories, abruptly changed course and by 1993 was setting the standard for provocative, colorful and accurate political reporting. Warnings by telephone from Harmoko's office and the military to editors continued, and some student newspapers were shut down, but for the most part, journalists felt increasingly unfettered.⁸

⁶ "Pembredelan pun Ada di Negara Liberal," *Editor*, November 24, 1990; *Jakarta Post*, October 4, 1990.

⁷ "Perlu Direvisi, Ayat h Pasal 33 Peraturan Menpen Tentang SIUPP," *Kompas*, June 13, 1991.

⁸ In January 1992, three editors of the magazine *Jakarta, Jakarta* were sacked for printing graphic, eye-witness accounts of the massacre in East Timor in November 1991 after warnings from the military. In late May 1993, a newspaper, *Arena*, published by students of the Sunan Kalijaga State Islamic Institute (IAIN) in Yogyakarta, Central Java was closed

Some observers saw the new freedom as evidence that President Soeharto was committed to the idea, expressed in his August 17, 1993 national day speech, that differences of opinion were essential to a dynamic society. Indonesian journalists themselves tended to be more skeptical, seeing it as stemming from the Soeharto-military rift. The armed forces appeared to support fewer restrictions on the press primarily, but not exclusively, out of interest in seeing more pointed criticism of the government. There was also no love lost between them and Minister Harmoko, who became the first civilian head of GOLKAR in October 1993 and who was seen as an ally of Minister of Industry and Technology B.J. Habibie, a politician and Soeharto confidant widely disliked by senior officers.

It was the skeptics on openness who were proved right when the Ministry of Information suddenly revoked the publishing licenses of the two magazines and a weekly newspaper on June 21, 1994 -- over articles they had published about a controversy involving Minister Habibie.

The June 1994 Closures

In May and June 1994, the Indonesian press was at its best, with extensive coverage of a bank scandal in which leading members of the political elite and Soeharto's own son were implicated, accurate and critical reporting on the pressure exerted by the government on the Philippines to stop a conference on East Timor and probing into Indonesia's purchase of thirty-nine East German naval vessels at what was said to be a bargain price. The last issue was particularly sensitive, because it played directly into the Soeharto-military rift. The deal for the ships had been arranged by Minister Habibie, who was increasingly taking on defense procurement functions that had once been the monopoly of the armed forces. He

because of an article on the links between big business and political power in Indonesia. (By November 1993, some ten student papers had been closed, but mostly by university administrators.) About the same time, Arief Budiman, an activist professor at Satya Wacana Christian University in Salatiga, Central Java, published an article in the weekly news magazine, *Editor*, questioning the suitability of Mrs. Soeharto's brother-in-law for his new role as chief of staff of the armed forces; Budiman's house was surrounded by intelligence agents and his telephone line cut. See Asia Watch, "Anatomy of Press Censorship in Indonesia: The Case of *Jakarta, Jakarta* and the Dili Massacre," Vol.4, No.12, April 27, 1992 and "Indonesia: Government Efforts to Silence Students," Vol.5, No.16.

had not consulted the military, and the full cost of refurbishment of the ships -- close to \$1 billion -- had not been made public.

On June 1, Habibie denied a report in *Tempo* that the costs of the ships had been higher than disclosed but acknowledged that the total cost of ships, refurbishing and facilities to house them was in fact over \$1 billion. *Tempo* had also reported that the Finance Minister, Mar'ie Muhammad, had turned down Habibie's request for funding, and suggested that it would have been better and cheaper to buy new ships rather than the outmoded East German models. Habibie was reported to be furious over the articles, and most people believed that *Tempo* had obtained its data from anti-Habibie sources within the military.⁹

The press had a field day, and Soeharto was not happy. In mid-June, at a ceremony to hand over three of the East German ships at a port in Lampung, South Sumatra, the President criticized the press for setting one person against another and warned darkly of threats to national stability.

On June 16, Eros Djarot, the editor of *DeTik*, which had covered the same stories, was told he had better end his coverage of political issues or face closure. His paper in 1993 had published an interview with a senior officer, Major General Sembiring Meliala, who openly expressed antipathy toward Habibie; in its next to last issue, it ran a story on presidential succession in which it suggested that the vice-president, rather than Habibie, might be Soeharto's choice to succeed him.

On the same day as the warning to *DeTik*, the Coordinating Minister of Political and Security Affairs was said to be considering action against certain publications for their political reporting.¹⁰

The axe fell five days later. On June 21, *Tempo*, *DeTik*, and *Editor* received letters from the Director General of Press and Graphics in the Ministry of Information revoking their respective licenses. The formal reasons were different in each case.

- In Ministry of Information Decree No.123/1994, the *Tempo* management was cited as having received thirty-three warnings from the Ministry of Information since its last closing in 1982, six of them in writing. The decree noted that it had printed a number of articles that did not conform with national

⁹ "Minister Denies Price of German Ships Inflated," *The Straits Times* (Malaysia), June 2, 1994.

¹⁰ "Indonesia Says Openness Stays But Warns Reporters," *Reuter*, June 17, 1994.

press guidelines, and the content of its articles were not in accordance with a "free, healthy and responsible" press. No specific violations were cited.

- In Decree No.124/1994, *Editor's* editors were told that they had been warned repeatedly over the content of articles, that the license had been issued in the name of individuals who were no longer with the magazine, and that they had violated Ministerial Decree No.3/1993 of August 10, 1993 and No.1/1984, Article 33 (a) and (b).

- *DeTik* was accused in Decree No.125/1994 of having diverted from its stated goals of reporting and information, thereby violating Decree No.1/1984, Article 33 (a) and (b). (The tabloid had been issued a SIUPP for being a crime-and-detection paper, and had all but folded by the early 1990s. When Eros Djarot, now the editor, wanted to open up a new magazine, he could only get a SIUPP by taking over the largely defunct *DeTik*. With the original owner and editor of *DeTik*, H. Abdul Aziz, still appearing on the masthead as such, Eros took charge, installed a new staff, ignored the weekly's origins as a crime journal, and turned it into a mass circulation publication of political reporting and commentary.)

The closures of the three magazines drew immediate criticism, even harsher at home than abroad. On June 22, about seventy-five journalists, students and others marched on the Information Ministry, some with banners saying "Hang Harmoko." On June 24, two more demonstrations took place, one involving about 300 young journalists in front of the Information Ministry, another of artists in front of the Jakarta Arts Center (*Taman Ismail Marzuki* or TIM). Some of Jakarta's leading journalists, including the editors of the banned publications, met the same day at Jakarta's Petroleum Club where Goenawan Mohamad of *Tempo* told his colleagues, "Being a journalist in Indonesia today is like being a pilot hijacked in mid-air." There were further, much larger demonstrations, forcibly broken up by the military and police, on June 27 and again on August 4.

Foreign criticism was also quick in coming but was largely confined to expressions of disappointment, regret or concern.¹¹ It was clear that the demise of

¹¹ Australian Foreign Minister Gareth Evans said on June 22, "It must be said without qualification that this is a very disappointing development indeed..We hope that it doesn't signal any wider-ranging imposition and that the magazines will sooner, rather than later, be permitted to resume publication."

The United States State Department "regretted" the decision. At the annual

three publications would not trigger any stronger measures.

The crackdown did not stop with the three banning orders. The day after the closures, four more news publications -- *Media Indonesia*, *Sinar Pagi*, *Jakarta Post*, all daily newspapers, and the biweekly magazine, *Forum Keadilan* -- were summoned by the Ministry and warned about political reporting. Since the reporting in these four and especially the latter was as pointed as anything that had been printed in the three banned publications, there was much speculation about why some papers had been shut down and others only warned.

One explanation was that the editors of the banned publications, in addition to having offended Habibie, were considered too close to anti-Soeharto elements, particularly former armed forces commander Benny Moerdani and the think-tank called the Center for Strategic and International Studies. Another, not mutually exclusive with the first, was that Habibie's friends wanted to open a weekly news magazine, and *Tempo* and *Editor* between them had the market sewn up. With the competition gone, a new magazine could flourish.

The military, meanwhile, publicly distanced itself from the government's actions. The armed forces spokesman, Brigadier General Syarwan Hamid, said he was close to the press, he was concerned about the banning orders, and he thought the Information Ministry should have considered the move more carefully.

The Indonesian government did not give a formal response to its critics until the first week in July, during the annual meeting of Indonesia's development aid donors, the countries comprising the Consultative Group on Indonesia or CGI. The meeting took place in Paris on July 7-8, and the Indonesian delegation came prepared with a statement in English entitled "The Revocation of the Publishing

donors' meeting on Indonesia on July 7-8, the American delegation buried their sentence of concern in three pages of laudatory verbiage. The relevant paragraph read:

Also in the context of sustainable development, we believe that the Government of Indonesia's laudable efforts to reduce poverty can be made even more effective through complementary efforts to improve governance, to widen participation and to further the development of democratic institutions. These important dimensions of the development process will promote greater efficiency in operations, transparency in decision-making and accountability to the people. Despite progress in opening public debate on important issues, we are deeply concerned about the decision last month to revoke the publishing permits of three prominent weekly publications.

Permits of *Tempo*, *Editor* and *DeTik*." It read in part,

To have an objective understanding of this act, it would seem fair to look at it from the perspective of Indonesia's effort to gradually and orderly [sic] move away from the difficult situation of 1965 to a healthy environment where a free and responsible press can flourish and contribute to the development of democracy within the framework of Indonesia's overall development. It is generally recognized, both nationally and internationally, that the media in Indonesia has been very active both in reporting as well as in analyzing domestic and foreign affairs in an atmosphere of openness. The Government of Indonesia is proud of this achievement and will continue to pursue this policy of openness...

However, the success of this policy also depends on the correct attitude on the part of the media and the Government has noted with concern that the reports and comments of the three publications in the last few months have gone beyond what is stated as proper in the Code of Ethics of Indonesian Journalism. The Code states that the press shall not publish:

- (a) anything that may be destructive and prejudicial to the Nation and the State,
- (b) anything that may create social friction,
- (c) anything that may offend the common standard of decency, religion, faith or belief.

The three publications were during the past few months generating friction, heating up interracial dissension and may even be endangering the stability of the nation.

Demonstrations, Declarations and More Warnings

The aftermath of the closures saw defiance on the part of Indonesia's intellectuals, in the form of demonstrations and a declaration of a new, independent press association. From the government, there were hollow assurances that "openness" was not dead and that the banned publications would be allowed to reopen under new leadership (which would hardly be an advance for freedom of expression). At the same time, the Ministry of Information stepped up its warnings to other newspapers and magazines, and the curtain of self-censorship began to fall

again over the Indonesian media.

The forcible dispersion of the demonstrations against the closures illustrated the continuing restrictions on freedom of assembly. Demonstrations on issues from land rights to wage disputes had been one feature of the "openness;" many felt that it was in the army's interests in particular to have demonstrations, particularly if they were directed against the president. In November 1993, a student demonstration in front of the presidential palace in Jakarta called for Soeharto to be held accountable for human rights violations. Security forces broke up the demonstration and arrested twenty-two students on charges of insulting the President. The dispersal was normal; the fact that a protest of any kind had been allowed near the palace was not.¹²

While the arrest of demonstrators had always been arbitrary, the use of force against demonstrators seemed to have declined.¹³ But on June 27, students

¹² The students were subsequently tried. One, Nuku Soleiman, was sentenced to four years in February, raised to five on appeal, for organizing the demonstration and printing stickers calling Soeharto the "mastermind of all disasters." Twenty-one others were arrested for taking part in a subsequent demonstration on December 14; they were sentenced to six months on May 19, 1994. Given the time served in pre-trial detention, they were due to be released on June 13. But the prosecutor appealed what he considered to be a light sentence, and the detention of the twenty-one was extended to June 16, so the appeals court could make a decision. On June 15, the day before they were to be released, the sentences were suddenly raised by the appeals court. Then, just as suddenly, on August, ten of the students were freed. They were Piryadi Bin Kartodiharjo (Jombang), Munasir Huda (Kediri), Saef Lukman Al Halaz (Cianjur), Yunus bin Kuslim (Yogyakarta), Sunandar (Bogor), Toni Sinaga (Jakarta), Adrianto Bin Achmad Sahrin (Jakarta), Andi Hartono (Jakarta), Ferry Haryono Idachus (Jakarta), M. Farid Bin Rasyad (Palembang). Those still in detention with increased sentences were Adi Kurniawan, Yeni Darmayanti, Masduki, Manri Mardiana, Gunardi Aswantoro, Anthony Leroy John Ratag, Suwito, Hendrik Dickson Sirait, Wandy Tuteurong, Teddy Paulus and Sunandar.

¹³ The arbitrariness was shown repeatedly: in November 1991, after the Dili massacre, authorities sent troops to break up a protest demonstration in Jakarta on November 19 and arrested, prosecuted and convicted the alleged leaders. A counter-demonstration on the same day by the government youth organization, KNPI, was allowed to proceed unhindered. When the government made moves to intervene in the Batak church conflict in November 1992 and in the national congress of the political party PDI in 1993, it allowed rowdy demonstrators to disrupt meetings which were likely to vote against government-favored

and journalists protesting the closure of the magazines found themselves at the wrong end of riot gear, used by soldiers in unusual uniforms: black T-shirts with the words "Opsih" and camouflage pants. "Opsih" is the acronym for "*Operasi Bersih*" or Operation Clean-Up, a project of the Jakarta military command to wipe out crime and dissent before the November 1994 conference in Jakarta of the Asia Pacific Economic Cooperation (APEC) organization. But as many commentators remarked, General Hendropriyono, the flamboyant Jakarta military commander was nowhere to be seen, and some suspected he did not want to be part of the crackdown. The black-shirted soldiers seemed to be a specially-constituted force, and rumors flew, wholly unsubstantiated to Human Rights Watch/Asia's knowledge, that they had direct links to the mysterious "renegade troops" (*pasukan liar*) who had opened fire in Dili in November 1991.

The demonstrators, calling themselves *Solidaritas Indonesia Untuk Pembebasan Pers* or SIUPP,¹⁴ had begun gathering around 9:00 A.M. at the Sarinah Department Store along Thamrin Avenue in central Jakarta; within an hour, their numbers had grown to some 300, mostly students and human rights activists from all over Java, but also including the well-known writer and dramatist, W.S. Rendra and members of his theater troupe. They began marching and by 10:30 had gotten to within two hundred meters of the Ministry of Information. At that point, the demonstrators broke into orderly rows, because the armed forces in front of the ministry were already visible, and they sent a kind of advance team to negotiate with the military. But as the team approached, the military advanced and began attacking them, beating them with sticks. They moved on the rest of the demonstrators as well, and within minutes, dozens -- fifty-six, by one count -- were arrested. Some twenty-two were tried in a speeded-up court process on charges of holding a parade without a permit on a public thoroughfare, and fined Rp.2,000

candidates.

In terms of the use of force, there were points during Soeharto's New Order when public demonstrations were almost guaranteed to end by troops opening fire: the Muslim protest in Tanjung Priok in September 1984 and the Dili funeral march in November 1991 were only two examples. But in Medan, North Sumatra, in April 1994, tens of thousands of workers gathered on the streets, and when the rally turned violent, not a shot was fired.

¹⁴ This was a play on words with the same initials as the acronym for publishing license (SIUPP, pronounced See-yup). The protestors' acronym stood for Indonesian Solidarity for a Free Press.

(about \$1). All but one were then released. Four people required hospitalization. The entire demonstration had been peaceful; freedom of assembly was clearly no more part of the government's definition of "openness" than was freedom of the press.

On June 29, the organization called SIUPP sent a letter to Minister Harmoko, asserting that the real reasons the publications were closed had nothing to do with the reasons stated in the letters they had received. "But whatever the reason," it said, "this arbitrary decision by the government to withdraw the SIUPPs of the three journals is a violation of the right of the people to express an opinion and to obtain information." The letter was signed by thirty-five Indonesian NGOs.

On July 5, another demonstration took place, this time involving about 200 journalists who gathered in front of the servile Indonesian Journalists Association (*Persatuan Wartawan Indonesia* or PWI). Some seventy policemen in riot gear from the Jakarta police command were there to meet them and prevent them entering the building. The journalists passed out a statement in Indonesian and English on freedom of the press, dated July 5, 1994, the English text of which read,

We, Indonesian journalists, are disappointed by the announcement of the Director-General for Press and Graphics Subrata, who on behalf of the Minister of Information Harmoko, banned the *Tempo*, *Editor*, and *DeTik* weeklies through the decisions SK No.123/KEP/MENPEN/1994, SK No.124/KEP/MENPEN/1994, and SK No.125/KEP/MENPEN/1994.

We, Indonesian journalists, are even more disappointed by the stance of the caretakers of the Association of Indonesian Journalists (PWI) who have legitimized the minister's ban by saying they understand his action.

We deplore the revoking of the publishing licenses which abuses the institution, profession and existence of journalism, more so in the midst of all the slogans on openness and human rights being heard in this country. The decision is unjust. We are concerned that the muzzling of the three media will have a prolonged effect.

The ban upsets Indonesian journalists who no longer feel secure in their job. We are anxious at having to work in such uncertainty.

Therefore Indonesian journalists demand PWI executives [to]:

1. Urge the Minister of Information to annul the above mentioned three decisions which have caused public unrest and which have troubled, instead of safeguarded, national stability;
2. End the practice of allowing the Minister of Information and Director-General For Press and Graphics to hold the respective posts of chairman and secretary of the Press Council. Such a practice makes the Press Council impotent;
3. Urge the Minister of Information to drop Clause 33 on the annulment of a press publishing license (SIUPP) in ministerial decree No.01/PER/MENPEN/1984, as action taken concerning mistakes by the press must be done through trial proceedings;
4. Establish a special institution responsible for investigating irregularities in the profession of the press;
5. Demand that the government deregulate the issuance of press publishing licenses and abolish the oligopolistic policies in the press industry.

The statement was signed by 327 journalists, with copies send to the chairman of PWI, Sofyan Lubis; Harmoko; chairman of the association of newspaper publishers and head of the Press Council Jakob Oetama; speaker of the Indonesian parliament Wahono; and editors of the three banned publications.

The demonstrators also sang a song to a familiar tune, the lyrics of which were:

Who owns PWI?
Who owns PWI?
Who owns PWI?
Mr. Harmoko owns it.

Who owns Harmoko?
Who owns Harmoko?
Who owns Harmoko?
Mrs. Harmoko owns him.

The muzzle, who owns it?
The muzzle, who owns it?
The muzzle, who owns it?
The authorities own it.¹⁵

The demonstration broke up at noon without incident.

Two days later, on July 7, another protest against the bannings, this time in the form of a rally followed by a fast, began at the Legal Aid Institute (YLBHI) - Indonesia's largest human rights organization -- in Jakarta at noon. Representatives of various student activist and labor rights organizations read messages of support and the formal program concluded at 1:30 P.M.. Fifteen minutes later, police and soldiers entered the gate of the YLBHI and requested that YLBHI disperse the crowd; its directors refused. Lieutenant Colonel Dadang Garnida of the Central Jakarta police station (Polres Jakarta Pusat) then ordered his men to break up the protest and arrest any students who resisted. Troops then forcibly hauled about fifty students out to two waiting trucks driven by the police mobile brigade (Brimob), beating them as they did so. One truck drove off to the metropolitan police command (Polda Metro Jaya), the second to the Central Jakarta police station. Forty-three people, mostly students from the universities of Airlangga in Surabaya, East Java, and Gajah Mada in Yogyakarta, Central Java, were then detained briefly and released.

Tightening Controls

Despite these and other protests, restrictions on the media increased. On

¹⁵ The Indonesian is "PWI, siapa punya? PWI, siapa punya? PWI, siapa punya? Yang punya Pak Harmoko. Harmoko, siapa punya? Harmoko, siapa punya? Harmoko, siapa punya? Yang punya Bu Harmoko. Breidel, siapa punya? Breidel, siapa punya? Breidel, siapa punya? Yang punya, penguasa." *Kronologi Aksi Wartawan Indonesia Didepan Kantor PWI*, July 5, 1994.

July 26, the Director-General of Press and Graphics Subrata issued another warning to *Forum Keadilan*, this time for the coverage of the press protests in its July 21 issue which had left the impression that the muzzling of the press had been done to protect the interests of the government. "This warning should be brought to your attention to prevent the government from being forced to take action which we do not want to take against *Forum Keadilan*," Subrata's letter read.

A similar warning was sent to the weekly magazine, *Sinar*, for a story on the right to demonstrate, which Subrata termed "confusing." Verbal warnings were also given to the English language *Jakarta Post* and *Indonesia Business Weekly*, and the Indonesian dailies *Kompas* and *Sinar Pagi*, all apparently for their coverage of the demonstrations and protests against the media bans.

It was not just the local press singled out for criticism. On the same day as the warning to *Forum Keadilan*, in a meeting between Harmoko and Singapore's Minister of Information George Yeo, Singapore and Indonesia agreed to explore ways to lessen the negative impact of foreign reporting on their countries. "What we can do," Yeo told reporters, "is to build up our immune system, our own defense system, our own culture, so that we can be selective and use the information to our advantage." He and Harmoko agreed to set up a "technical committee" to study foreign media reporting.¹⁶

Harmoko had already demonstrated his sensitivity to the foreign press by blocking the distribution of several issues of foreign magazines and newspapers after the ban. For example, the July 4 issue of *Newsweek*, which carried a cover story entitled, "Soeharto's Legacy, A Press Crackdown Stirs New Fears," was held up awaiting Ministry of Information approval. Issues of the *International Herald Tribune* and the usually bland *Straits Times* from Kuala Lumpur, which carried stories on the demonstrations, were also held up.

Protests Continue Into August

Another major peaceful demonstration and crackdown took place on August 4, when some 200 journalists and pro-democracy activists staged what they said was a continuation of the July 5 protest in front of the Indonesian Journalists Association. Dozens of riot police awaited the marchers when they reached the PWI building about 10:00 A.M., but a team was allowed to enter the building to meet with PWI officials. At about 12:30, the marchers regrouped near the Sarinah

¹⁶ "Indonesia, Singapore to Monitor Foreign Media," *Reuter*, July 26, 1994.

Department Store for a protest rally. This time, the riot police charged the demonstrators with rattan sticks, lashing out at anyone in sight, according to eyewitness accounts. Eleven people were arrested: three journalists from *Forum Keadilan*, two from *Tempo*, two from *DeTik*, one from *Kompas*, one freelance writer and two students. They were briefly detained, then released.

Four days later, on August 8, a group of journalists and editors issued what they called the Sirna Galih Declaration, after the place where it was issued, setting up the Alliance of Independent Journalists as an alternative to the government-backed PWI. The short proclamation read as follows:

We acknowledge freedom of speech, access to information and freedom of association as a basic right of all citizens.

We recognize that the history of the Indonesian press is marked by press struggle to uphold truth and justice as well as to oppose all types of oppression.

In carrying out its mission, the Indonesian press places national unity and national priorities above individual and group concerns.

Indonesia is a constitutional state. Because of this, the Indonesian press bases its struggles on legal principles rather than power.

Based on the above mentioned principles:

We reject all kinds of interference, intimidation, censorship and media bans which deny the freedom of speech and open access to information.

We reject all efforts to dissipate the spirit of the Indonesian press venturing to fight for their concerns.

We reject one-sided information advanced for the benefit of individuals or groups in the name of national interest.

We reject any diversions from the law and legal regulations

conflicting with Pancasila and the 1945 Constitution.

We reject the concept of a single compulsory organization for journalists.

We proclaim the establishment of the Alliance of Independent Journalists as an organization which upholds the struggles and concerns of the Indonesian press.

The declaration was signed by fifty-eight of Indonesia's best-known journalists including Goenawan Mohamed and Fikri Jufri of *Tempo*, Aristides Katoppo, former editor of *Sinar Harapan*, Arief Budiman and Eros Djarot of *DeTik*.

Conclusion

In banning the three news weeklies in June, the Soeharto government did far more than violate the right to freedom of expression. Months before the APEC meeting, it nearly destroyed its own carefully-constructed image of Indonesia as a country whose economic successes were leading to greater individual freedoms. It exposed the policy of "openness" as a political device, promoted as long as it served the central government's interests, cast off when its natural consequences, such as a freer press, began to hit home. It exposed the arbitrariness with which power is exercised in Indonesia, and it prompted a rash of demonstrations that were a telling display of popular disaffection with the petty sensitivities of its leadership. In violating a basic right, the Indonesian government did more damage to itself than it could ever have done to a free-spirited press.

III. EAST TIMOR IN 1994

East Timor in 1994 is a tense, tightly-controlled territory. Disappearances and politically-motivated killings have become relatively rare, but when cases are reported, controls on information and access are such that it is virtually impossible, even for Indonesian non-governmental organizations, to conduct investigations that would meet international standards for impartiality and thoroughness. East Timor remains a place where arbitrary detention and torture are routine and where basic freedoms of expression, association and assembly are non-existent, as the cases described below make clear. The Indonesian Human Rights Commission, which for all its many flaws has at least helped make many human rights abuses a matter of public debate, had not, as of June 1994, visited East Timor or looked into any of the many reported cases of human rights violations there.

The Indonesian government's attempts to restrict basic civil rights in East Timor took on a new twist in 1994, when it put pressure on its partners in the Association of Southeast Asian Nations (ASEAN) to prevent conferences on East Timor from being held in the Philippines, Thailand and Malaysia. The pressure served instead to draw international attention to problems in East Timor.

Background

The fact remains that almost nineteen years after Indonesia's December 1975 invasion of the half-island, and after massive infusions of aid and development spending, Indonesian troops are still widely regarded as an foreign occupation army. The United Nations has never recognized Indonesia's July 1976 annexation (or "integration," as the Indonesian government prefers) of East Timor as its twenty-seventh province, and, under international law, Portugal remains the administering power. Human Rights Watch/Asia takes no position on the territory's political status, but the disputed nature of that status is key to understanding the human rights violations that take place there. The Indonesian government has tended to see any expression of anti-Indonesian sentiment as tantamount to pro-independence (or "anti-integration") activity, and punish it as such. It also tends to regard expressions of concern about human rights abuses in East Timor on the part of international organizations as being exaggerated, politically-motivated, and instigated either by expatriate East Timorese resistance figures or by the government of Portugal. While political interests clearly exist, the human rights

problems in East Timor are nonetheless real.

East Timor's political status affects human rights in another way as well: less repression does not necessarily mean less resistance to Indonesian rule. In January 1989, Indonesia, with great fanfare, "opened" East Timor to the outside world, no longer requiring special security permits to travel there and relaxing some controls on movement and communication in Dili, the capital and some surrounding districts. The opening was limited, but it was clearly a step forward. One result, however, was more and better information on abuses reaching the outside world, and good information on planned visits of foreign dignitaries reaching East Timor -- providing opportunities for public demonstrations in support of independence. The demonstrations were invariably crushed and the protestors arrested, but their point was made in the presence of international media: during the visit of the Pope in October 1989, the American ambassador in January 1990, and most tragically, the march on November 12, 1991 commemorating the death of a pro-independence activist which was timed to coincide first, with a planned visit of Portuguese parliamentarians which was cancelled, and then with the visit to East Timor of the United Nations Special Rapporteur on Torture, Peter Kooijmans.¹⁷ Indonesian troops opened fire on the marchers as they approached the Santa Cruz cemetery in Dili; the death toll was officially set at fifty and widely acknowledged to be over 100.

The November 1991 Dili massacre, or "incident," in official Indonesian parlance, had far-ranging consequences. It radicalized a new generation of East Timorese. It destroyed the myth that the very real economic development in East Timor had as its corollary a greater acceptance of integration. It prompted greater international scrutiny of human rights abuses in East Timor than ever before, prompting some bilateral economic sanctions (and in response, a renewed vigor to the "Asian concept of human rights" discussion), television documentaries, editorials in the world's leading newspapers, the development of dynamic new grassroots lobbying groups in the West, and renewed interest in the issue of East Timor at the United Nations. It spurred Indonesian activists for the first time to take an interest in a place that had either been too sensitive or too far away for most to worry about. It also provided the pretext for a thorough restructuring of the

¹⁷ For details of the massacre, see Asia Watch, "East Timor: The November 12 Massacre and its Aftermath," Vol.3, No.26, December 1991.

Indonesian intelligence agencies that played into the divisions between President Soeharto and the military.

The international outcry over the massacre led Soeharto, perhaps with those divisions in mind, to establish the first-ever official investigations into an instance of grave human rights abuse, with the National Commission of Inquiry (*Komisi Penyelidik Nasional* or KPN) formed on November 18 and the Council of Military Honor (*Dewan Kehormatan Militer*) appointed to look into military behavior on November 12 and recommend appropriate disciplinary measures. If both bodies were deeply flawed as investigating agencies, particularly from the standpoint of independence, they were also unprecedented responses to international criticism on human rights. They were also reasonably effective as immediate damage-control exercises on the part of the Indonesian government.¹⁸ In part because of its perceived success, the KPN became the role model for the National Commission on Human Rights when it was created in 1993 (see Chapter IX). But it was not able to reverse the forces that the Dili massacre set in motion in East Timor, Indonesia proper, or abroad, and developments three years later must be seen in that context.

Controls on Freedom of Expression and Assembly

Two incidents demonstrate the extent of continuing restrictions freedom of expression and assembly in East Timor. One was the Indonesian government's response to a small, pro-independence demonstration that took place in Dili in April 1994; the second was its reaction to a spontaneous student protest on the campus of the University of East Timor over a perceived insult to Catholic nuns.

The April Demonstration

¹⁸ See Asia Watch, "East Timor: Asia Watch Criticizes Commission Report," Vol.4, No.1, January 1992 and "East Timor: The Courts Martial," Vol.4, No.16, June 1992. The report of the Council of Military Honor resulted in the disciplining, transfer, dismissal or prosecution of nineteen officers, none of whom was directly responsible for giving the command that led to the firing. Who did remains a mystery. Of the ten officers prosecuted and convicted, the longest sentence any received was eighteen months for firing into a crowd. No one was prosecuted for killings that took place after the shooting stopped, for removal and subsequent disposal of bodies or for efforts to cover up the facts.

From April 12 to 15, 1994, twenty-six foreign journalists were taken on an official visit to East Timor at the invitation of the Indonesian government. (Despite the 1989 "opening," access to the territory remains restricted, and journalists must apply for special travel permits.) On April 14, the day before the delegation left Dili, at about 7:00 A.M., a small group of East Timorese held a pro-independence demonstration in front of the Mahkota Hotel in Dili where the journalists were staying.

The demonstration became the focus of most of their subsequent articles, to the Indonesian government's great indignation. On April 17, a military spokesman in Dili, Major L. Simbolon, accused the journalists of "defecting" from the official agenda and conducting an "investigation" rather than looking at "existing reality."

But it was the demonstrators who in fact represented East Timor's "existing reality." Following the demonstration, they were briefly arrested for questioning, then released. After the foreign reporters were safely out of East Timor, however, the real arrests took place. On May 1, Nuno de Andrade Sarmiento Corvelho was picked up. On May 2, it was Rui Fernandes's turn. And on May 3, nine more young people were arrested: Pedro de Fatima, twenty-four; Rosalino dos Santos, twenty-two; Octaviano; Miguel de Deus, aged twenty; Marcos; Pantaleao Amaral, aged eighteen; Lucas dos Tilman; Anibal; and Isaac Soares, twenty-two. All were Dili residents.

A week after their arrest, their families had not been informed of their whereabouts and were too frightened to ask. At least six were, in fact, taken to the regional police command (Polwil) in Dili; the Indonesian government never acknowledged holding more than six.

The trials of three of the eleven began on June 16. At issue was not only the demonstration, but the fact that the young men had taken part in an "illegal meeting" on April 13 at Pedro de Fatima's home in Kuluhun, Dili, to discuss the display of pro-independence banners so that the journalists would be able to see them. According to international standards on human rights, the meeting was a peaceful exercise of freedom of assembly, just as the demonstration itself was a legitimate exercise of freedom of expression. But the Dili court saw it differently. On June 24, Pantaleao Amaral, Isaac Soares and Miguel de Deus were sentenced to twenty months in prison after being found guilty of violating Article 154 of the Criminal Code, spreading hatred toward the government of Indonesia. On July 7, Rosalino dos Santos was given the same sentence for creating public disorder and inciting separatist sentiments. According to a UPI dispatch, Rosalino admitted in court that he was a member of *Juvente das Estudantes de Timor Leste* (East

Timorese Students Organization), an association outlawed by the Indonesian government because of its alleged links to Fretilin, the nucleus of the resistance organization. The defendants were not represented by legal counsel, and it is not known whether this acknowledgement was made under duress. On July 16, the prosecution requested a sentence of three years and six months for Pedro de Fatima, deemed the "brains" behind the demonstrations.

Events of July 14

On July 14, a student protest march to the local parliament building, following a clash on the campus of the University of East Timor (Universitas Timor Timor or UNTIM), was violently dispersed by security forces, resulting in over fifty arrests and many injuries, eight of them requiring hospitalization. Rumors that three people were killed were never substantiated. Most of those arrested were later released, but it is not clear whether anyone remained in detention. The incident produced an unusual public statement by the Javanese rector of UNTIM, disputing the military's claims that the students had provoked the violence.

While some details of the clash remain unclear, it apparently had its origins in a widely publicized incident in Remexio, East Timor, on June 28 when two Indonesian soldiers in plainclothes were said to have taken part in a mass at a Catholic church, took communion, then spat out the host and stomped on it. They were immediately surrounded and beaten by angry East Timorese, eleven of whom were subsequently taken into custody, questioned and then, according to one report, released.

The desecration of the host increased tensions between the largely Muslim Indonesian newcomers to East Timor and the largely Catholic East Timorese. On July 11, while the United Nations Special Rapporteur on Summary and Arbitrary Executions, Bacre Waly N'Diaye was visiting Dili, a large, peaceful march to the local parliament to protest the incident and demand prosecution of the soldiers took place. But it was so large, and so peaceful, and so conveniently timed, that some observers suggested it had been orchestrated by local authorities to demonstrate Indonesia's tolerance to the U.N. representative -- especially since the then military commander of East Timor, Colonel Jhony Lumintang, had already announced that the soldiers would be court-martialled. As Major General Adang Rukiatna, Lumintang's superior and the commander of the Udayana Division later pointed out,

There was no problem about the presence of Waly Bacre

Nidaye, the UN special rapporteur on human rights. On the contrary, this could have a positive impact as it showed that an orderly demonstration was permitted in this country.¹⁹

But the military's reaction three days later was much different. On July 13, in what may have been an offshoot of the Remexio affair, three Indonesian students reportedly insulted two Catholic nuns on the UNTIM campus and were then set upon by East Timorese youth. Hundreds of students gathered the next morning at about 8:00 A.M. and were preparing to march toward the local parliament to protest both the Remexio incident and the insult to the nuns, when security forces arrived on the scene. According to the Indonesian government,

Bearing in mind that the rally might pose security risks, the government took necessary measures to prevent the rally from spreading. At 0950, a physical clash inevitably broke out between the security personnel and the demonstrators in front of the East Timor health service office because the demonstrators threw stones at the security personnel. The authorities finally managed to disperse the demonstrators, but some students regrouped at the university campus...The authorities did their best to disperse the demonstrators who planned to move toward the East Timor Regional House of Representatives, but they continued to throw stones at the authorities. As a result, four persons were seriously injured and 11 suffered minor injuries.²⁰

The rector of UNTIM, Pastor Bratasudarma, who was an eye-witness, gave a different account, however, specifically rejecting the version put out by the armed forces information center in Jakarta:

It is true that the demonstration initially proceeded in an orderly

¹⁹ "Soldiers To Be Court-Martialled for Remexio," *Republika*, July 14, 1994, p.16 quoted in *Foreign Broadcast Information Service*, FBIS-EAS-94-139, pp.51-52.

²⁰ "Ministry Issues Press Release on Dili Protest," Jakarta Radio Republik Indonesia, 1200 GMT, July 15, 1994, quoted in *Foreign Broadcast Information Service*, FBIS-EAS-94-137, July 18, 1994, p.57.

and peaceful fashion, as it had been granted a permit by the local police force which knew that the demonstrators wanted to have a meeting with their representatives in the local assembly (DPRD). It is not true that the mass rally that made its way towards the DPRD turned brutal and highly emotional because of issues and incitements by irresponsible elements. It is not true that a physical clash with the people on the march began with the throwing of stones by the demonstrators. Nor is it entirely true that it was only the stone-throwing that caused the demonstrators to sustain injuries.

According to the facts and our own witnessing of the event and eye-witness accounts which we have been able to gather, it is our impression that the initiative for the physical clash started with the security forces violently attacking the demonstrators, which they did first with batons, kicks and striking people with their shields, tear-gas and attacks by two sniffer dogs. The East Timor Chief of Police in his press conference on 14 July...even admitted that the wounded people were bruised all over and that their bodies were lacerated.

We saw the event as it unfolded and were witness to the fact that the violence was not initiated by the demonstrators, that the injuries inflicted on the wounded were not only the result of stone-throwing, but were more the result of the violence perpetrated by the security forces...The most serious injuries were sustained by those who fled, jumped over the hedge and entered the complex of Company C and were thrashed by members of the Armed Forces.²¹

The army responded that it was impossible for the armed forces to start such an incident because their role was to safeguard law and order.

The violent breakup of the protest illustrates Indonesia's intolerance of

²¹ "Statement by the Rectorate of the University of East Timor on the Events of 13 and 14 July at the Campus of the University of East Timor," signed by Pastor Drs. Bratasudarma, SJ and dated July 17, 1994.

demonstrations that do not serve its own interests; the conflicting statements of the Indonesian government and the rector are also clear evidence of Jakarta's propensity for disinformation when it comes to events in East Timor.

There was one disturbing postscript to the demonstration with grave implications for freedom of expression. On July 23, a van belonging to the newspaper called *Suara Timor Timur* or Voice of East Timor, was blown up outside the newspaper office. The deputy editor said he believed the blast was linked to the paper's coverage of the protests the week before.

Disappearances

As noted above, new cases of disappearances are rare. But there are hundreds of outstanding, unresolved cases. No progress has been made on accounting for those who remain missing in the aftermath of the Dili massacre, for example, or, indeed, for more recent incidents.

In May 1994, relatives of Gaspar Luis Xavier Carlos in Dili revealed to a visitor that Gaspar remained missing after his arrest by military intelligence (*Satuan Gerakan Intelejen* or SGI) on September 3, 1992, just prior to the summit meeting in Jakarta of the Non-Aligned Movement (NAM). Aged thirty at the time of his disappearance, Gaspar was an employee in Kupang, West Timor of a national bank, Bank Bumi Daya. His family was told by the military that he was arrested in connection with security measures being taken for the Jakarta summit. Gaspar, other sources said, had been planning to go to Jakarta with a few others to present information to NAM delegates about the situation in East Timor, but security officers became aware of their plans. In addition to Gaspar, a man named Malacu is reported to have been arrested and severely tortured; his fate is not known. Gaspar was taken to the SGI office in Colmera, Dili and from there a few days later to the Comarca prison in Balide, Dili. Shortly thereafter, he was taken out of the prison at night and has not been seen since. The family has made repeated inquiries to the military in Dili without success, and recently sought help from Indonesia's National Commission on Human Rights. Gaspar's employers, Bank Bumi Daya, fired him after his arrest, and the family has no regular source of income.

In its report to the United Nations Commission on Human Rights, the UN Working Group on Enforced or Involuntary Disappearances reported that of twenty disappearance cases from Indonesia and East Timor submitted by the Working Group to the Indonesian government for clarification, the government reported that five had returned home. "In the remaining 15 cases, the names of the persons

contained in the Government's reply did not correspond to the names of the missing persons contained in the lists of the Working Group.²²

It should be noted that in its resolution 1993/97 in March 1993, the U.N. Commission on Human Rights urged the Government of Indonesia to invite the Special Rapporteur on the Question of Torture, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances. The Special Rapporteur on Summary Executions did indeed visit East Timor in early July, but no invitation has been extended to the Working Group on Arbitrary Detention or the Working Group on Disappearances.

Treatment of Prisoners

Some two dozen East Timorese prisoners are serving sentences for participating in protests or communicating with the resistance or both. They include East Timor's most famous prisoner, Xanana Gusmao, former commander of the East Timorese guerrilla forces and acknowledged leader of the resistance, now serving a twenty-year sentence in Cipinang Prison, Jakarta; Gregorio da Cunha Saldanha, sentenced to life in prison for his role in organizing the November 12, 1991 march; and Fernando de Araujo, winner of the 1992 Reebok human rights award, serving a nine-year sentence for organizing a peaceful demonstration in Jakarta on November 19, 1991, a week after the Dili massacre, and for heading a student organization allegedly linked to the resistance.

It should be noted that none of the ten prisoners like Gregorio and Fernando currently serving lengthy sentences for their role in the Dili or the Jakarta march, used or advocated the use of violence; they should never should have been arrested in the first place.²³ Their sentences stand in sharp contrast to those of the

²² Commission on Human Rights, *Report of the Working Group on Enforced or Involuntary Disappearances*, E/CN.4/1994/26, December 22, 1993, p.66.

²³ In addition to Gregorio and Fernando, the ten include Bonifacio Magno Pereira, six years; Carlos dos Santos Lemos, eight years; Francisco Miranda Branco, fifteen years; Filomeno da Solva Periera, five years, eight months; Jacinto das Neves Raimundo Alves, ten years; Juvencio de Jesus Martins, six years, ten months; Saturnino da Costa Belo, nine years; and Joao Freitas da Camara, ten years. Da Camara and Fernando Araujo are the two arrested for the march in Jakarta; all the others were arrested for their role in organizing the November 12 march in Dili.

nine army officers and a policeman tried for their role in the massacre. The heaviest sentence handed down in those cases, for firing into a crowd, was eighteen months.

Conditions for sentenced prisoners in the two main prisons in Dili are believed to be minimally acceptable, largely because of the presence and regular visits of the International Committee of the Red Cross. (The ICRC temporarily suspended visits to East Timorese prisoners from May to late July 1993 after military refusal to meet standard ICRC conditions for such visits.) The problems are rather in the military interrogation centers used to detain some East Timorese immediately after arrest, where torture is still endemic, and in the practice of sending East Timorese with lengthy sentences to prisons in Java where visits by friends and family become almost impossible without the ICRC's assistance.

One such transfer took place on June 9, 1994, when six East Timorese activists sentenced in connection with events in October and November 1991 were secretly moved from Dili to Semarang, Central Java. (They were initially reported to have been moved to Wirogunan Prison, Yogyakarta, and when they never arrived there, alarms were raised about the possibility that they had disappeared.) The prisoners moved were Gregorio da Cunha Saldanha, mentioned above, and three others given heavy sentences for allegedly organizing the November 1991 march: Francisco Miranda Branco, aged forty; Filomeno da Silva Pereira, thirty-three; Jacinto das Neves Raimundo Alves, thirty-three; Juvencio de Jesus Martins; and Saturnino da Costa Belo.²⁴

Transfers of East Timorese prisoners to Java are in violation of Principle 20 of the Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment: "If a detained or imprisoned person so requests, he shall if possible be kept in a place of detention or imprisonment reasonably near his usual place of residence."²⁵

Xanana Gusmao

²⁴ "Enam Tapol Insiden Dili Dipindah ke Lembaga Pemasyarakatan Wirogunan," *Republika*, June 16, 1994 and "Enam Tapol Insiden Dili Raib?" *Republika*, June 18, 1994. The best summary of information about political prisoners is in Amnesty International, "East Timor: Who Is To Blame?", Statement before the UN Special Committee on Decolonization, July 1994, ASA 21/31/94.

²⁵ General Assembly Resolution 43/173 of December 9, 1988.

The treatment of Xanana Gusmao has attracted particular attention because of his status and stature within the resistance movement and because of the publicity surrounding his trial in 1993. The Indonesian government allowed unprecedented access to that trial, even letting an Asia Watch representative attend one session, as long as Gusmao appeared to be playing by its rules. When it became clear that he was merely preparing the groundwork for a rousing defense speech that was effectively an indictment of Indonesian rule in East Timor, the government clamped down.²⁶

Xanana's initial sentence of life in prison, handed down by the Dili District Court in May 1993, was reduced to twenty years in August after his court-appointed lawyer, Sudjono, made a successful clemency appeal to President Soeharto on his behalf. He was then moved first to Semarang in Central Java and then in October 1993, to Cipinang Prison in Jakarta. Once he was in Jakarta, he was able to smuggle out a series of letters that received international attention -- and brought a sharp Indonesian government response.

A letter dated October 31 and published in Portugal called on the Indonesian government to release all East Timorese prisoners of conscience and extend his sentence in exchange. On November 30, 1993, he smuggled a letter to the Legal Aid Institute (*Yayasan Lembaga Bantuan Hukum Indonesia* or YLBHI), saying he had never sought clemency because it was a violation of his principles, that Indonesian authorities had prevented him from responding to YLBHI's initial offer after his arrest to take up his defense, and that he would appreciate YLBHI's legal assistance in reviewing his case. A letter dated December 1 to the Geneva-based International Commission of Jurists said that Sudjono had failed to respect his wishes, broke agreements they had made and colluded with the Indonesian authorities.

Citing these letters, the Indonesian government suspended all visits to Xanana from the ICRC. According to Baharuddin Lopa, director general of corrections in the Justice Ministry, the suspension was ordered because Xanana had blackened Indonesia's name in the eyes of the world and that it was an appropriate response to a prisoner who broke a regulation.²⁷ (The action, among other things,

²⁶ See Asia Watch, "Remembering History: The Trial of Xanana Gusmao and a Follow-up to the Dili Massacre," Vol.5, No.8, April 1993.

²⁷ "Indonesia Suspends Red Cross Visits to Timor Rebel," *Reuter*, January 8, 1994 and "Indonesia Defends Restrictions on Timor's Xanana," *Reuter*, January 13, 1994.

raised questions about possible conflict of interest in Lopa's concurrent role as secretary-general of the new National Human Rights Commission -- see Chapter IX.)

On January 17, YLBHI officially requested a visit to Xanana, together with members of the National Human Rights Commission (Komnas). The request was finally granted two months later on March 19, but Xanana's request for a review of his trial was not. According to Justice Minister Oetoyo Oesman, it was not possible because no trial in Indonesia had ever been reviewed: "Such a demand has never materialized in our country, because it can set a bad precedent in our legal system."²⁸ It was hardly a satisfactory meeting between client and lawyers. Xanana was brought out in a group of other political prisoners to meet the visiting joint YLBHI-Komnas delegation, and it was not clear what, if anything, the meeting achieved. Xanana reported restrictions on his ability to get reading material, especially Indonesian newspapers, but had little opportunity for further consultation. Marzuki Darusman, a Komnas member, told the press he was satisfied that the Xanana's jail conditions met international minimum standards.

Xanana was put in strict solitary confinement in May after smuggling out another letter, this time announcing that he would not accept a life of exile, as he said had been proposed to him both by a United Nations representative who visited him in January and by the Indonesian government's "adviser" on East Timor, Francisco Lopes da Cruz. The strictness of the isolation was almost certainly related to the planned international conference on East Timor in Manila at the end of the May and an effort to prevent any further smuggled correspondence.

With the conference safely over, on June 30, 1994, the Indonesian government, through the intercession of the ICRC, allowed Xanana Gusmao's family to visit him in Cipinang Prison. They had been separated after the Indonesian invasion, and the family had moved to Australia; it was the first time in almost twenty years that Xanana was able to see his wife, Emilia, and their two children. He was reported to be in good physical condition.

Extrajudicial Executions

Several cases of summary executions were reported to HRW/Asia in 1993 and 1994 although, because of lack of access, we have not been able to independently confirm the incidents. Even if the facts as stated could be verified, it

²⁸ "No Review of Jailed Timor Leader's Trial," *Reuter*, March 24, 1994.

is possible in the two cases described below that there were circumstances, not known to HRW/Asia, that could affect the characterization of these killings as extrajudicial executions. But it is important to recognize that East Timorese in Lautem reported these incidents as such to Indonesian human rights monitors in Jakarta, suggesting, at the very least, that a full investigation should be undertaken, with prosecution of those responsible should the executions be confirmed.

In the first case, in the hamlet of Assalaino, Lautem district, a farmer and father of four named Tito Teles, aged thirty-three, was reportedly killed by members of army battalion 611 on November 1, 1993 as he was leaving his home to go hunting. He had reportedly obtained a permit from security forces in the region to hunt in an area known as the "free zone", as he had on two other occasions. People in the village heard him calling his dog as he was moving toward the zone, but special forces hidden along the path from the village opened fire. When the dog returned alone to Tito's house, villagers questioned the security forces who claimed they had no knowledge of Tito's whereabouts. Only after Tito's body was discovered on November 2 did they acknowledge the shooting.

In the second case, a fifteen-year-old elementary school student named Ilario Rodrigues, son of Teofilo and Benefito Rodrigues of the hamlet of Foema-a, Souro village, Lautem, was shot and killed on July 30, 1993 by men described by villagers as army commandos as he was going into a nearby garden to cut down coconuts to sell. He was a student of State Elementary School No.6 in Souro. His body was immediately buried by those who shot him; it was exhumed the next day by his neighbors. It is not clear why, or under what circumstances, he was killed.

Access to East Timor by Human Rights Organizations

The visit of U.N. Special Rapporteur Bacre Waly N'Diaye in July 1994 was a welcome development. But despite the claims of Indonesian Foreign Minister in early May that he was inviting Amnesty International and Asia Watch (now Human Rights Watch/Asia) to visit East Timor, no non-governmental human rights organizations have been given access since Asia Watch and the International Commission of Jurists were allowed to attend selected sessions of the Xanana Gusmao trial in March 1993. Human Rights Watch/Asia was explicitly refused permission to visit East Timor in June 1994.

France Libertes, a human rights foundation headed by Mme. Danielle Mitterand, has also been refused access. One of the people invited to the Manila conference on East Timor (see below), but subsequently denied a visa by the Philippines government, Mme. Mitterand had asked the Indonesian government

through private channels in September 1993 whether she and the Paris-based International League for Human Rights could visit East Timor; she was told that it was "not the right time" and to wait another six months. After six months, Frances Libertes made another request, this time not mentioning Mme. Mitterand's name. The request was turned down.

It is not only international human rights organizations that have difficulty getting to East Timor; some Indonesian human rights organizations do as well. In early May, a seminar on the topic of sustainable development and the environment was due to take place at the University of East Timor, co-sponsored by a number of Indonesian NGOs including members of a coalition called the Joint Committee for the Defense of the East Timorese (*Komite Bersama Pembelaan Masyarakat Timor Timur*). The coalition includes some of Indonesia's most respected NGOs: the Legal Aid Institute (YLBHI); the Indonesian Council of Churches (*Parpem Persekutuan Gereja-Gereja Indonesia* or PGI); the Institute for Social Advocacy and Study (*Lembaga Studi dan Advokasi Masyarakat* or ELSAM); and the Catholic organization, LPPS *Caritas Katolik*. A week before the seminar was to take place, the military commander for the region that includes East Timor called the university rector and told him the conference would have to be postponed. When it eventually did take place, the Indonesian NGOs were not permitted to attend, nor was Florentino Sarmiento of ETADEP, an East Timorese development NGO.

Indonesia's Pressure on Its Neighbors

The Indonesian government's determination to prevent any criticism of its role in East Timor reached new heights in May, June and July 1994 when it tried to prevent conferences on East Timor from being held in the Philippines, Thailand and Malaysia. Its tactics were extraordinary and backfired badly, with the result that the conferences were transformed from obscure meetings that would have gone largely unnoticed to major international events that caused headlines around the world -- to the delight of the organizers and the East Timorese resistance.

The first and most contentious was the Asia-Pacific Conference on East Timor (APCET), scheduled to be held at the University of the Philippines from May 31 to June 4. It had been in the works for almost a year and was expected to attract about 200 people from solidarity groups, human rights organizations, the academic community and luminaries ranging from Jose Ramos Horta, external spokesman for the National Council of Maubere Resistance, to Danielle Mitterand.

The stated objectives in the conference literature were to "bring the East

Timor issue right to its own backyard" and to "explore actions of convincing the Indonesian government to formally negotiate with the East Timorese people to finally bring freedom and justice to their bloodied Maubere nation."

In a section in one pamphlet headed "Why the Philippines?", the organizers wrote that the conference was being held there because,

Of all the Asian neighbors of both East Timor and Indonesia, only the Philippines can offer a relative democratic space vis the possibility of an unbridled media coverage without the danger posed in authoritarian and militarist governments.

But that space was to prove narrower than expected. Indonesia apparently had been trying to stop the conference since October 1993, when plans first surfaced. At that point, Indonesian Foreign Minister Ali Alatas expressed displeasure to the Philippine ambassador in Jakarta. He conveyed the message to Philippine president Fidel Ramos who asked his security adviser, Jose Almonte to take charge.

"They asked us to scrap the meeting," recalls Almonte, "but we told them we can't do that because it would go against our core democratic value, which is freedom of expression. However, we told them we would mobilise forces to ensure that the Philippines will not be used to embarrass Indonesia."²⁹

Almonte then met with the organizers several times, not to persuade them to stop the conference but to ensure that it would not be "inflammatory." The issue seemed resolved on all sides, but as the conference date approached, the Indonesian government got tougher.

On May 16, it threatened to pull out of a business conference in Davao, in the southern Philippines, if the APCET conference were not canceled. Ramos said he was powerless to stop the meeting, but he issued a statement saying that his government "disassociates itself from the conference and that it looks with disfavor upon the use of Philippine territory to question the territorial integrity of its neighbors. He also sent Raul Manglapus, former foreign minister, to Indonesia on May 17, as his special envoy to cool Indonesian tempers.

²⁹ E-mail communication from APCET conference.

It did not work. Indonesia canceled the participation of a student delegation at an Asian-Pacific student conference in the Philippines, pulled out of the business conference that more than 200 Indonesians led by the governors of North Sulawesi and East Kalimantan were planning to attend and postponed the next meeting of talks between the Moro National Liberation Front and the Philippines government in which it was acting as intermediary.

Philippine officials were clearly getting more anguished. "Stopping the conference will violate what we have fought for," said Almonte on May 19, and Ramos reiterated that he had no authority to impose a ban.³⁰ On the same day in Jakarta, the Indonesian government organized about thirty youths from the government-controlled youth organization, KNPI, to demonstrate in front of the Philippine embassy, carrying posters in English that said, "Stop Asia-Pacific Conference on East Timor, otherwise our relations be harmed," and "Philippines, ASEAN solidarity should not be lip service."

On May 19, Indonesian security authorities in Malang, East Java, arrested an East Timorese theological student named Jose Antonio Neves as he was posting a letter from Konis Santana, Xanana's successor as head of the armed resistance in East Timor; the letter was apparently intended to be read to participants at the Manila conference.

It is not clear whether the arrest and the alleged link between the resistance and the conference affected the Philippine government's decision to act, but the next day, Ramos capitulated and said he would ban East Timorese and other foreigners from attending the conference because it was "inimical to the national interest." It may also have been because Indonesia upped the pressure: on the same day, the Indonesian navy captured 250 Filipino fishermen allegedly fishing in Indonesian waters and detained them, and canceled twelve joint ventures worth between \$200 and \$300 million.

Ramos's announcement was greeted with outrage -- "Indonesia has succeeded in invading the Philippines," said conference organizer Renato Constantino, Jr. Ramos also apparently tried to persuade Emil Javier, president of the University of the Philippines, to ban the conference from being held on government-owned property, but Javier refused, on the grounds that the Philippines Constitution guaranteed freedom of assembly.

On Friday, May 27, a local court in Quezon City, a Manila suburb where the University of the Philippines is located, issued an injunction against the

³⁰ "Manila Fears Reprisal Over East Timor," *Reuter*, May 19, 1994.

conference, acting on a complaint by a newly-formed organization called the Philippines-Indonesia Friendship Association. The next Monday, May 30, the Supreme Court overturned the injunction and ruled the conference could go ahead, but it also upheld Ramos's ban on foreigners.

The ban did not prevent the APCET conference from opening as scheduled on May 31, even though some foreigners who were denied visas, like Danielle Mitterand, did not show up and others, including Nobel Peace Prize laureate Mairead Maguire, were turned away at the airport. Virtually every newspaper in Manila and senior leaders of the church and government inveighed against Indonesian pressure, and the conference was as much a humiliation for the Ramos government as it was a triumph for the conference organizers and participants.

The whole controversy was repeated again in Malaysia and Thailand. In late June, the Indonesian military said ties with Malaysia would be harmed if a planned NGO seminar on East Timor went ahead in Kuala Lumpur. And in late July, when an NGO coalition in Bangkok called the Southeast Asian Human Rights Network organized a conference on human rights in Burma and East Timor to coincide with the annual meeting from July 22 to July 28 of ASEAN foreign ministers, the Thai government felt the heat. As with the Philippine conference, the Indonesian government put strong pressure on Thailand to ban the conference altogether, and the Thai government responded by drawing up a blacklist of foreign activists. On July 22, it managed to deport three; it also managed to pressure first a university and then a hotel to cancel bookings for the conference. But reporters covering the ASEAN ministerial meeting had a field day, and again, the big loser was the Indonesian government, which was universally portrayed as a bully.

The Indonesian Foreign Ministry, which bore the brunt of the criticism of its government's tactics, even if the decision to use those tactics was widely believed to come from Soeharto himself, tried to defend itself by calling the Bangkok and Manila conferences "political campaigns directed by outside forces." Foreign Minister Alatas said the "ASEAN spirit included not allowing one country to be used as a platform to discredit another."³¹

One key side-effect of the Indonesian pressure and its neighbors' response was to underscore how fruitless any attempt to form a regional intergovernmental

³¹ "Jakarta Defends Timor Policy, Slams Activists," *Reuter*, July 27, 1994.

human rights body in Southeast Asia would be, if "ASEAN solidarity" was to mean not only acquiescing in the suppression of basic freedoms in a member country but extending that suppression to other members.

IV. LABOR RIGHTS AND THE MARSINAH CASE

Indonesian workers lack the most basic of labor rights, the right to freedom of association. That right is restricted by the effective prohibition on unions other than the government-controlled federation, the All-Indonesia Workers Union (*Serikat Perburuhan Seluruh Indonesia* or SPSI); the constant interference of the military in labor negotiations; and the harassment, arrest, torture and even murder, of labor organizers. Two of the most publicized instances of human rights abuses in Indonesia over the last two years involved workers: the murder of Marsinah, an East Java labor activist, in May 1993 and the riots in Medan in April 1994.

Violations of the right to freedom of association almost certainly exacerbated the labor unrest that swept Indonesia in 1993 and 1994. While most of the wildcat strikes and work stoppages were over wages and working conditions, the lack of functioning unions made it impossible for workers to present their grievances and negotiate with their employers using more conventional methods.

The Indonesian government has responded to domestic and international allegations of labor rights violations by a mixture of denials and limited legal reforms. It has joined with other members of ASEAN in insisting that by raising labor rights, for example, developed countries are trying to deny access of developing countries to Western markets at the same time they are trying to impose their own standards.³² But the denials are negated by the reforms, which are a tacit admission of shortcomings, even though the reforms have not been enforced.

Background

Labor rights are a particularly sensitive issue in Indonesia for three reasons. For one thing, the Indonesian government is justifiably proud of its rapid economic development and its image as a dragon-in-the-making and does not want labor unrest discouraging growth and foreign investment. Its attractiveness to investors is tied in part to cheap labor costs, and it does not want higher wages to force Asian, American and European partners to move to China or Vietnam.³³

³² See, for example, Indonesia's stance at the 75th annual meeting of the International Labor Organization in Geneva in June 1994. "ILO Calls for Worker Rights to Have Bigger Role," *Reuter*, June 7, 1994.

³³ Parts of this section appeared previously in Human Rights Watch/Asia, "Indonesia: New Developments on Labor Rights," Vol.6, No.1, January 24, 1994.

For another, the Soeharto government continues to associate labor activism with the banned Indonesian Communist Party, banned in 1965 and subsequently annihilated. As the Indonesian government noted in a submission to the United States Trade Representative in November 1992, "One possible inroad for communist subversion is through worker unrest. The Government especially fears that the communist ideology might be attractive to young people who did not live through the national distress of the 1960's, and many of those young people can best be reached on the job through labor disputes.³⁴ Dark hints of use of communist tactics and the alleged communist backgrounds of well-known labor organizers also surfaced during the Medan disturbances.

Finally, labor rights practices have come under international scrutiny at a time when Indonesia is taking an increasingly high-profile role in the region. Worker unrest is a potential source of major embarrassment as the Asian-Pacific Economic Cooperation (APEC) summit approaches in November 1994. That international scrutiny is perhaps best exemplified by the threat of the United States in late June 1993 to suspend tariff benefits provided under the Generalized System of Preferences (GSP) program because of violations of worker rights.³⁵

Perhaps because of these sensitivities, the Indonesian government has

³⁴ *Statement of the Government of Indonesian before the Office of the United States Trade Representative, Trade Policy Staff Committee, Generalized System of Preferences Subcommittee*, November 16, 1992, pp.88-89.

³⁵ Under section 502(b)(7) of the Trade Act of 1974, the U.S. President, at the recommendation of the U.S. Trade Representative (USTR), must end tariff benefits under the GSP program if the country in question is not "taking steps to afford internationally recognized worker rights." In June 1992, Asia Watch (now Human Rights Watch/Asia) and the International Labor Rights Education and Research Fund petitioned the USTR's office to review labor rights in Indonesia. The petition was accepted, and the review began. On June 25, 1993, the USTR announced that GSP benefits might be withdrawn unless steps were taken within eight months to end abuses that included restrictions on freedom of association and the right to organize and bargain collectively, as well as forced labor and child labor. On February 17, 1994, after the Indonesian government announced limited reforms, the USTR's office said the review would be "suspended, but not terminated" but that another assessment would be conducted in August 1994. Most observers believed that President Clinton's decision to attend the APEC summit in Jakarta in November meant that no further pressure would be exerted on Indonesia.

handled labor rights issues in a confused and often contradictory fashion. It has been responsive to demands for an increase in the minimum wage, even though the increases still fall short of the demands, and the current wage is still short of what Indonesian economists consider the amount necessary to meet basic physical needs of an adult wage-earner with a family. The last wage increase was implemented on August 1. The government has also made some token efforts to punish companies who fail to pay the mandated minimum.³⁶

These steps have not significantly affected the unrest, however, and Indonesian labor activists say one reason is the effort of employers to get around the law either by ignoring it or by cutting other benefits so that the higher wage results in no loss to the company. Another reason is the absence of real worker representatives on the council under the Ministry of Manpower that sets wages; if workers had a hand in determining the minimum, say the activists, they might be more comfortable with the outcome.

But without freedom of association, that representation is not likely. As noted, SPSI remains the only officially-recognized trade union. While other unions are in theory permitted, requirements for registration are so onerous, even after a reform of February 1993, as to make it virtually impossible for a new union to meet them.³⁷ The 1993 reform did sharply reduce the number of members required for registration, but at the same time, the government stepped up a campaign of harassment and intimidation of workers trying to organize to meet the requirements.

Shortcomings of SPSI

³⁶ The Manpower Ministry announced on May 25, 1994, for example, that thirty companies operating in Jakarta and West Java would be prosecuted for non-payment of the minimum wage and overtime. An owner of a company found in violation of labor laws can be jailed for up to a year, but in the rare cases where a prosecution is seen through to conviction, the penalty is usually a nominal fine.

³⁷ Prior to the reform, unions to gain official recognition needed representation in twenty of Indonesia's twenty-seven provinces, 100 districts and at least 1,000 workplaces. The new regulation of the Ministry of Manpower reduced the requirement to five provinces, with at least twenty-five district-level branches, 100 workplaces and 10,000 members.

The main complaint of workers against SPSI are that it either sides with employers or it does not function at all. It is controlled by the government at all levels, and the leadership is dominated by the ruling party, GOLKAR. The government claimed in 1992 that SPSI had a total membership of just over one million workers, representing less than six percent of the workforce. It stated that main obstacle to forming more workplace units of SPSI were "lack of worker familiarity with trade union practices, employer resistance, employee apathy and employee fear of possible employer retaliation."³⁸

But more often than not, SPSI units where they did exist failed to represent the workers, as the following examples illustrate:

- On May 4, 1994, about 2,600 workers from a biscuit company called PT Mayora Indah in the village of Pasirjaya, Jatiuwung, Tangerang (West Java) stopped work, demanding the minimum wage and benefits guaranteed workers under Indonesian law, but also raising a number of specific complaints. Workers, mostly women, were forced to work twelve-hour days with compulsory overtime, including on Sunday. Whenever they wanted to use the toilet, they had to hand in an identity card and sign in with a security guard in the production unit who timed their absence from the job. The health clinic at the factory was open one hour a day, not enough to meet the needs of the employees who could not afford to buy medicine outside. The workplace unit of SPSI had done nothing on behalf of the workers, and they demanded that its officials be replaced. The work stoppage lasted for two days, and when management agreed to meet with the workers, the negotiations were supervised by the district military and police commands of Tangerang. The only point of agreement was that the workplace unit of SPSI be dissolved.³⁹

- In mid-March 1994, eighty-five workers from the lumber company PT Iradat Puri, in Palu, Central Sulawesi, reported that they had received no wages for the last eleven months because of the near-bankruptcy of the company and a general slowdown in the lumber industry. The workers lived in a housing complex

³⁸ *Statement of the Government of Indonesia*, November 16, 1992, op.cit., p.71.

³⁹ "Ribuan Buruh Masih Mogok, PUK SPSI PT MI Akan Diganti," *Kompas*, May 6, 1994; "2,600 Buruh PT Mayora Indah Mogok Kerja," *Merdeka*, May 5, 1994; "6,000 Buruh Mogok Karena Tidak Deperhatikan SPSI," *Kompas*, May 5, 1994.

on the timber concession logged by the company and were forced to report for work every morning, even though there was nothing to do and no money to pay them. At the same time, they were told that if they took on secondary employment, they would be fired, thus losing their housing, and receive no compensation. They complained to the Central Sulawesi office of the official government-controlled union, SPSI, and to the provincial office of the Ministry of Manpower but got no response. When questioned by a local reporter about why the SPSI office always seemed to side with the company in cases of labor disputes, the director explained that as most companies in the province were family-run, disputes had to be settled within the family, rather than by outside intervention by his office.⁴⁰

- On May 3, 1994 about 300 workers of the Toyo Tex textile factory in Lugosobo, subdistrict Gebang, Purworejo (Central Java) joined a sit-down demonstration to demand the minimum wage. They were receiving between Rp.1,000 and Rp.1,600 a day (50 to 80 cents), half the stipulated minimum of Rp.2,700 (\$1.35). When a few delegated workers got nowhere talking with the company director, they threatened to go on strike. At that point, the director called for reinforcements, and the subdistrict head or *camat*, together with the subdistrict police commander and an intelligence officer from the district military, arrived on the scene. The *camat* asked the workers to be patient and said he and the police would try to ensure that the workers demands were met -- clearly the SPSI had no role to play.⁴¹

- The ineffectiveness of SPSI is perhaps best illustrated by the remarks of the head of its South Sulawesi office, Syamsul Paewangi. Syamsul told a journalist that the fact that there were no strikes or demonstrations was evidence that working conditions in Sulawesi were basically good. His idea of helping workers was to set up a post office box to which workers could complain, but out of 64,000 employed adults in his jurisdiction, only four had ever written to the box. Moreover, as the journalist quickly found, workers in South Sulawesi faced wages and working conditions at least as bad as many of their colleagues on Java, but they had had no contact with SPSI or anyone purporting to work for labor rights, and the idea of

⁴⁰ "SPSI Dinilai Rugikan Karyawan," *Suara Pembaruan*, March 18, 1994.

⁴¹ "Sekitar 300 Pekerja Toyo Tex Unjuk Rasa Menuntut UMR," *Suara Merdeka*, May 4, 1994.

organizing to demand improvements was unheard of.⁴²

Despite the clear failure of SPSI to defend worker rights, it is true that in many of the strikes called in 1993 and 1994 in Java and Sumatra, workers without a workplace-level SPSI unit demanded that one be set up, so as to at least have some channel for grievances. But where SPSI units already existed, the demand invariably was for them to be dissolved or for the leadership to be changed.

In an effort to meet some of the criticisms of SPSI as well as to demonstrate that it did, in fact, allow more than one union, the Indonesian government in November 1993 announced that the union would be restructured into a federation with twelve "autonomous" sectoral unions.⁴³ That change, however, has to be formally ratified by an SPSI Congress that will not take place until December 1995. The fact that the government announced that it had registered what had been twelve departments of SPSI as "unions" before the union itself had a chance to agree on the change is clear evidence of the extent of government control.

The Emergence of SBSI

The only serious challenge to SPSI has come from another organization with a similar acronym, *Serikat Buruh Sejahtera Indonesia* or SBSI (Prosperous Workers Union of Indonesia).⁴⁴ On April 25, 1992, a group of pro-democracy

⁴² "SPSI Belum Dikenal Pekerja di Ujung Pandang," *Suara Pembaruan*. May 14, 1994.

⁴³ The twelve sectors are construction and public works; wood and forestry; trade, banking and insurance; publications and printing; food, drink and cigarettes; chemicals, energy and mining; metals, electronics and machinery; textiles, garments and leather; agriculture and plantations; tourism; transportation; and seamen [sic]. See "Statement of the Government of Indonesia Before the Trade Policy Staff Committee, Generalized System of Preferences Subcommittee," November 3, 1993, p.8.

⁴⁴ In 1990, activists had tried to form a union called *Setiakawan* or "Solidarity" (also known as *Serikat Buruh Merdeka* (SBM), the Free Labor Union, but it lacked a real base among workers and eventually disintegrated. Two other small unions emerged in 1994, the Bogor Genuine Trade Union (*SB Sejati Bogor*) and the Tangerang Trade Union (*Serikat Buruh Tangerang*).

activists convened a three-day "national workers meeting" in Cipayung, West Java. Over 100 workers from eighteen provinces attended, and at the end of three days, they announced the establishment of SBSI. Supporting the new organization were such luminaries as Abdurrachman Wahid, a leading Muslim intellectual and head of the Muslim organization Nahdatul Ulama; Sabam Sirait of the Indonesian Democratic Party (PDI); and Asmara Nababan, later to become a member of the Human Rights Commission. A labor lawyer from Medan, Mochtar Pakpahan, became its secretary-general, and the new organization began a serious effort to organize a sufficient number of workers to gain official recognition as a union.

It was stymied at every turn. In October 1992, for example, local police broke up a meeting of the SBSI leadership in Tangerang, West Java, site of many strikes in textile, garment and shoe factories, and held the participants overnight. On June 14, 1993, seven workers of a commercial shrimp farm, P.T. Tambaksari Jalmorejo in Medan, were dismissed for being involved with SBSI. Later, on June 25, the chair and vice-chair of SBSI's Medan branch were arrested without warrant on a Medan street by the military, interrogated and tortured, and then released on July 2.⁴⁵ On July 29, 1993, the government prevented SBSI from holding its first national congress in Cisarua, West Java, ostensibly because the workers did not have a permit.

By January 1994, SBSI claimed to have branches in every province of Indonesia and sent a letter to the Ministry of Manpower saying it now met all the requirements for being officially recognized as a union. In addition, it called for rise in the minimum wage to Rp.7,000 a day and said it would call a one-hour general strike for February 11 if that demand were not met.⁴⁶ The military was concerned enough about the proposed strike to arrest Mochtar Pakpahan and two other SBSI officials in Semarang, Central Java, on February 9, as well as seventeen other SBSI members in Tangerang and Bekasi, West Java, on charges of "spreading hatred against the government of Indonesia." All were released within two days, but the charges against Pakpahan and five SBSI members in Tangerang were not dropped. In April 1994, the military blamed SBSI for fomenting the Medan labor unrest and formally arrested Pakpahan in August.

⁴⁵ Asia Watch, "Indonesia: More Restrictions on Workers," Vol.5, No.15, September 1993.

⁴⁶ Letter No.01/E/SBSI/1/1994 from SBSI to Manpower Minister Abdul Latief, dated January 29, 1994.

The attitude of the government toward the independent union was summed up by the Minister of Manpower, Abdul Latief, in a press interview in May 1994. "In the eyes of the Ministry of Manpower, there is no SBSI. From the beginning, we have referred to it only as 'Mochtar Pakpahan's group.' As of June 30 last year, we have refused to acknowledge SBSI as a labor union."⁴⁷

Other Organizing Efforts

The moves by the government against SBSI were clearly violations of freedom of association (and often involved arbitrary detention and torture). But it is important to note that not all labor activists saw SBSI as the solution to labor rights abuses, and some were unhappy with what they saw as Pakpahan's efforts to exploit the labor movement for his own purposes, sometimes at the expense of other independent organizing efforts by workers and by labor activists. Criticism of Pakpahan's role was particularly pronounced after the Medan riot, described in the next chapter.

The government, for its part, wanted to demonstrate to its critics that despite the heavy-handed interference with SBSI (which it claimed was an NGO, not a labor union), it was prepared to relax controls on labor organizing by allowing collective bargaining agreements to be reached in workplaces where no union existed, as long as the workplace in question had more than twenty-five workers. This reform was announced as Ministry of Manpower Regulation PER 01/MEN/1994 of January 17, 1994. It might have been seen as a breakthrough, had it not stated that the aim of such agreements was to encourage the formation of a union -- and then defined "union" as SPSI. At least one workplace-level agreement, however, was negotiated after the new regulation went into effect.⁴⁸

Military Interference

One of the demands made by Indonesian labor activists and echoed by the U.S. Trade Representative's office throughout 1993 was for an end to military

⁴⁷ "Mencari Dalang di Balik Amuk," *Forum Keadilan*, Vol.3, No.2, May 11, 1994.

⁴⁸ The agreement was reached at the Deli Rubber Factory (*PT Industri Karet Deli* or IKD) in Medan that was a nerve center for much of the unrest that wracked North Sumatra in March and April.

interference in the resolution of labor disputes. The military and police were called in to prevent labor organizing from taking place, to stop strikes, to force negotiation between workers and employers and to oversee that negotiation when it took place.

One of the key legal grounds for military intervention was Ministry of Manpower Decree No.342 of 1986, "Guidelines for Mediating Industrial Labor Disputes, Especially Those Regarding Overtime, Strikes, Contract Labor, Dismissals and the Change in Status or Ownership of Companies."⁴⁹ Repeal of the decree became a major demand in 1993 of NGOs such as the Legal Aid Institute and the Workers Solidarity Forum. The U.S. Trade Representative's office also indicated that repeal would be seen as a sign of progress.

Accordingly, on January 16, 1994, the Indonesian government, by Ministry of Manpower decree No.15A, obligingly repealed the law. It made no difference at all. At the time, labor rights groups, while welcoming the decision, pointed out that the internal security agency, Bakorstanas, continued to have a broad mandate under Decree No. 02/STANAS/1990 to intervene in strikes and demonstrations in the interests of political and social stability.

But the problem went deeper than that. It is a basic fact of the New Order political system that the military and police, also a branch of the armed forces, are key components of the structure of local government. Key decisions are made by a council known at the provincial and district level as the Muspida, and at the subdistrict level as Muspika, in each case consisting of the head of the administrative bureaucracy (governor at the provincial level, *bupati* at the district level and *camat* at the subdistrict level), the military commander and the police commander, as well as the prosecutor's office which plays a lesser role.

The military and police are not only automatically involved at the slightest hint of trouble -- a demonstration, a strike, even a written protest to management. Local officers are also often on the payroll of companies, sometimes to keep labor under control, more often as a kind of protection arrangement. Their involvement is so taken for granted that sometimes the workers themselves see the resolution of a dispute as valid only if the military and police sign on. Thus, the same workers who protest at the military and police sitting in on negotiations between labor and management may copy the local commander in on all protests.⁵⁰ It is not so much

⁴⁹ See Asia Watch, "Indonesia: New Developments on Labor Rights," Vol.6, No.1, January 24, 1994 for a full discussion of the regulation and its contents.

⁵⁰ For example, in a strike of workers at PT Indonesia Miki Industri in Batang, Central

that the workers hope for intercession by the military on their side, but rather an acknowledgement of where power lies.

Moreover, instances of employers failing to implement the terms of agreements supposedly reached with workers after wildcat strikes are so numerous that in some cases, workers may feel that the prospects for enforcement are actually enhanced if the agreement is witnessed by a local commander.⁵¹

Military intervention in labor disputes is linked to the absence of functioning trade unions. It is only by wildcat strikes, demonstrations or work stoppages that workers have any hope of drawing attention to their grievances. Once they undertake a public protest, however, they become, in the eyes of the Muspida or Muspika, a security problem and all the techniques of the security forces are brought to bear in resolving it -- including intimidation, interrogation and all too often, arrest.

Evidence was plentiful that military interference continued long after Decree No.342 was revoked.

- As noted above, Mochtar Pakpahan of SBSI was arrested in February 1994 for calling a general strike. The military commander for Central Java, Maj. Gen. Soeyono, was quoted two days after Pakpahan's arrest as saying with reference to the proposed strike, "There is clearly someone manipulating this in the name of human rights, and their primary objective is to destroy Indonesia."⁵² The

Java on May 2, 1994, workers addressed their demand for the minimum wage as per Ministry of Manpower Decree No.101/MEN/1994 not only to the company but to the subdistrict military and police commanders, the social and political affairs official of the subdistrict government, and the ministry of manpower's local representative.

⁵¹ There is no reason, however, to believe this is so: in one of many such examples, an agreement reached on May 2, 1994, between labor and management at PT Tensindo, an electronics plant in Semarang, Central Java, and witnessed by the deputy chief of police of Semarang and the municipal office of the ministry of manpower was abrogated two days later by the head of the firm. (See "3000 Karyawan Tensindo Unjuk Rasa," *Republika*, May 5, 1994.) According to this article, when the company director decided to ignore the agreement, the workers took to the streets, beating drums and blocking traffic, to the point that "dozens" of troops from the metropolitan police, the district military command and the provincial command (KODAM IV) were sent to "stabilize" the situation.

⁵² "Subversif, Seruan SBSI agar Buruh Mogok," *Bernas*, February 11, 1994

next day, General Soeyono, accompanied by his assistant for military intelligence, Col. R. Siregar, conducted an "emergency inspection" of factories throughout Semarang to warn workers that the military was prepared to confront any strike such as was being "incited" by flyers sent out by SBSI. He told workers that problems never needed to be settled by strikes, and while the army did not prohibit demonstrations, they had to be based on "rational objectives" (rather than demands for a minimum wage of Rp.7,000) and could not be allowed to disrupt public order.⁵³

- At the PT Evershinetex company in Bogor, the site of major labor unrest in 1992, some 2,500 workers went on strike on March 4-5, demanding a one-month holiday bonus. Armed police (*Brimob* or mobile brigade) were called to the company, even though there were no signs of violence, and used their guns to intimidate workers. An earlier work stoppage had led to an "agreement" between the company and workers, drafted by the SPSI, accepting the company's terms for the bonus. The workers said they had been forced to sign the agreement.

The Marsinah Case

The nature of military interference in labor disputes is perhaps best illustrated by the case that became the most publicized human rights case in Indonesia in years -- the murder of Marsinah, a twenty-four-year-old labor organizer who had questioned the dismissal of her colleagues. The case was extraordinary because labor unrest, up until that point, had rarely resulted in murder, and because there seemed to be circumstantial evidence of military involvement in the killing. It had been clear for some time that worker rights was a major issue in Indonesia, and the use of the army to break up strikes was common. The idea, even the suspicion, that agents of the government would take part in murder to silence unrest, however, was chilling -- and raised the issue to new heights.

The details were as follows:

On May 3 and 4, 1993, workers at the Catur Putra Surya watch factory in Porong, Sidoardjo, East Java went on strike, demanding, among other things, that the new minimum wage law be met and the unit of the government-controlled union be dissolved. On May 4, a delegation of CPS workers, including Marsinah,

⁵³ "Pangdam Sidak ke Beberapa Pabrik," *Suara Merdeka* (Semarang), February 11, 1994.

met with management, the local military and police, a representative of the local office of the Ministry of Manpower and a government union representative, and settled the strike.

One of the provisions of the settlement was that workers who had taken part would not be penalized. The next day, however, the district military command summoned sixteen male workers for interrogation. Thirteen responded to the summons, and all were ordered to sign letters of resignation on the grounds that they had held illegal meetings and had forced other workers to strike. Marsinah wrote a letter of protest to the CPS management. That evening, she went to the military command in Sidoarjo to try and visit her colleagues, who had not returned home, but was told they had left. She returned to Porong and, at about 9:30 P.M., went out to eat. Three days later, on May 8, her body was found some 200 kilometers away; a post mortem indicated she died as a result of injuries inflicted by torture, including severe beating which caused internal bleeding and having had a sharp object inserted into her vagina. Later reports indicated strangulation as well.

For six months, there was no progress in the case, despite demonstrations and extensive publicity in the Indonesian press. Then, suddenly, on October 1, a rash of secret arrests took place of eight civilians employed by CPS and one military officer. Details of the arrests came out at the trials that took place in 1994. It turned out that the civilians had been taken from their homes on October 1, 1993 by men in plainclothes who showed no warrant. They were taken to the military intelligence command of the 5th "Brawijaya" Division of the Indonesian army in Wonocolo, Surabaya where they were held incommunicado for eighteen days. Their families were informed neither of the reason for their arrest nor of their whereabouts, and when relatives checked at the intelligence command in Wonocolo and at provincial police headquarters, officials denied they were there. While in detention, they were subjected to various forms of psychological and physical torture, described in more detail below, in order to force them to admit to involvement in the murder. On October 19-20, they were moved to the provincial police headquarters in Surabaya and formally charged.

After the arrests the public prosecutor reported what seemed to be a water-tight case of premeditated murder involving the senior management of the watch factory and one military officer. On May 5, according to the official version, a meeting to plot Marsinah's death was held in the office of the factory manager, Yudi Astono; present were the owner, Judi Susanto; the personnel manager, Mutiari; and the subdistrict military commander, Captain Kusaeri. The manager and owner were reportedly fearful that Marsinah would reveal that the factory was

illegally producing name-brand watches. Accordingly, they arranged to have Marsinah killed. She was picked up by a security guard working for the owner, transferred to another car where she was bound and gagged, and taken to Judi Susanto's house in Surabaya where she was given no food or water for three days and then killed. The precise facts in the case may never be known -- the systematic torture of the civilian suspects tainted the evidence that might have been presented and perverted the course of justice in violating the suspects' right to a fair trial.

The Case of Judi Susanto

Judi Susanto's experience was a case in point. He was charged with taking part in the murder of Marsinah and with having raped her prior to the killing. He confessed to both charges during interrogations that took place in the military intelligence command while he was being held incommunicado. His lawyer, Trimoeoyo D. Soerjadi, went to provincial police headquarters in Surabaya with members of Susanto's family at least four times; each time they were told that Susanto was not there, but were given no information about his whereabouts. (Like the others, he was held at the military intelligence command until October 19.) Nevertheless, when he finally surfaced, his family was given a copy of a detention order backdated to October 1 that said he was detained at the provincial police headquarters where for the previous two weeks, officials had denied any knowledge of his existence.

Susanto brought a petition for a pre-trial hearing (*praperadilan*) before the Surabaya District Court on October 29, 1993, alleging that he had been illegally arrested and detained, and on November 11, in an unusual victory for a suspect, the judge ruled in his favor. He was released for only a matter of minutes before he was re-arrested, on different charges relating to the illegal use of trademarks. When he was finally brought to trial on February 28, 1994, however, not only was he charged again with rape and murder, but the interrogation depositions that he had signed while illegally detained were used as evidence to incriminate him.

Those depositions also appear to have been extracted by torture. On January 29, 1994, his lawyer sent a letter to the new national Commission on Human Rights in Jakarta alleging that his client had been tortured. The letter states that Susanto was given electric shocks on two occasions, once with an electric wire tied around one finger with another tied around his penis, and a second time with a wire attached to his earlobe and another to his penis. He was ordered to "mop" the floor of the room where he was being interrogated using his tongue. On another occasion, an intelligence officer told him to open his mouth; the officer then spat

into it and ordered Susanto to swallow the spittle. One night, he was taken outside to the courtyard of the command and ordered down on all fours to chew the grass like a goat. He was also ordered to chew on an oily rag which had been used to clean a gas stove. Because he could not stand the smell of gas, he vomited, and was then ordered to eat his own vomit. Finally, he was ordered to give a demonstration, with many people standing around, of how he raped Marsinah.

Trimoelya Soerjadi, the lawyer, also pointed out other violations of both Indonesian and international law. Although Susanto was charged with a capital offense and therefore, under the Indonesian Criminal Procedure Code, was entitled to have a lawyer present throughout his interrogation, Susanto was never offered the services of a lawyer during the first nineteen days of his detention. In his interrogation deposition, dated October 20 and 21, or after he was officially acknowledged as being in custody, Susanto was asked if he wished to be accompanied by a lawyer, and he replied, "Not for the moment." By that time, however, he had already confessed to the charges. Soerjadi also cited repeated efforts by the military and police to deny him access to his client, in violation of the Indonesian Criminal Procedure Code which says a suspect has the right to contact his lawyer from the moment of arrest.

On June 30, 1994, Susanto was sentenced to seventeen years in prison for torture and murder.

The Case of Mutiari

Mutiari, aged twenty-six, the personnel manager at the CPS factory, was charged with having been present at the May 5 meeting at which the murder of Marsinah was planned. Because she did not say anything at the meeting, her silence was construed as complicity in the plot. (The lawyers of all defendants say no such meeting ever took place.) She, too, had been taken from her home on October 1. Her husband searched for her repeatedly but officials in the police and military denied any knowledge of her whereabouts. She was not subjected to physical abuse, but her interrogators threatened to strip and rape her if she did not confess to the charges against her and sign a prepared statement. If she did confess, she was told, she would receive a light sentence, even though complicity in premeditated murder carries a charge of fifteen years to life.

Mutiari went on trial in November in Sidoarjo district court. By January, the prosecution had demanded a two-year sentence. On February 14, Mutiari read her defense statement, saying that she had been in the CPS director's office on May 5 but only to discuss severance pay for dismissed workers. She noted that five

witnesses who testified for the prosecution -- Soewono, Soeprapto, Widayat, Bambang Wuryantoro and A.S. Prayogi -- later recanted their testimonies after they had been moved from the police lock-up in Surabaya to the Medaeng Detention Center. They said they had testified under duress and had been forced to memorize prepared statements, even to the point of what color dress Mutiari had been wearing in the May 5 meeting. They recanted not only in a written statement to the Sidoarjo court, but they also took back their statements when they themselves appeared as defendants in the Surabaya district court.

After the witnesses recanted, Mutiari's lawyer asked the judges for permission to re-examine them, but he refused on the grounds that what they said in the courtroom, according to the Criminal Procedure Code, was what counted as evidence, not what they said outside.

On March 10, Mutiari was sentenced to seven months in prison; the sentence was reduced on appeal to six months on May 13. She had been released already, however, on April 26, having already been detained for almost the full term.

Results of the Trials

Except in the case of Mutiari, who attracted widespread public sympathy, the evidence of torture and highly improper arrest and detention procedures made no difference in the sentences of the defendants which were heavy: twelve years in four cases (Suprpto, Suwono, A.S. Prayogi and Bambang Wuryantoro); thirteen for Ayip Karyono Wongso; seventeen for Judi Susanto; and four for Yudi Astono. The one military defendant, Captain Kosairi, received a nine-month sentence from the military court in Surabaya on July 29, 1994 on the grounds that he had failed to report to his superiors about an incident related to his duties as an officer.

Most of the human rights lawyers involved in the case believe that while some of those sentenced may well have been involved in the murder, the use of torture and violations of due process completely invalidated the proceedings against them. Moreover, those abuses prevented the full facts of the case from coming out and contributed to a cover-up that obscured the role of the Sidoarjo district military command in the murder.

In a footnote to the case, on May 3, 1994, eleven of the workers sacked by the CPS company, whose dismissal Marsinah had protested, brought a lawsuit against the company, the district military commander and the head of the village where the factory is located. They claimed that after the strike on May 4, 1993, they had been summoned to the district military command (Kodim) where they had

been forced by the commander to sign letters of resignation. The village head was accused because it had been he who delivered the summonses on behalf of the Kodim to the eleven employees (as well as to two others who did not join in the lawsuit).

Conclusions

The Marsinah case highlights the major problems of labor rights in Indonesia. The workers at the watch factory had no effective union. When they tried to organize, the military moved in and detained those suspected of calling a strike. The latter were then dismissed, and when Marsinah protested the dismissals, she herself was murdered.

There was no action on the case until a combination of factors forced the issue, including the domestic outcry and secondarily, pressure on worker rights from the United States. The action then taken violated the internationally-recognized rights of all of the defendants.

It was decidedly anti-climactic, then, when the Indonesian government, in January 1994, announced the series of reforms that included repeal of the decree authorizing military interference. If enforcement of the law was treated so contemptuously by Indonesian soldiers and judges, there was little hope that legal reforms in themselves would have a noticeable effect.

V. LABOR RIGHTS: THE MEDAN DEMONSTRATIONS

Introduction

For a week beginning April 14, 1994, tens of thousands of workers took to the streets in Medan, Indonesia's third largest city, and other towns in North Sumatra, demanding higher wages, improved benefits and freedom of association. The demonstrations were notable for their sheer size, at one point involving an estimated 15-20,000 workers in Medan alone, and for the fact that one demonstration on April 15 degenerated into anti-Chinese violence, resulting in the death of an ethnic Chinese and injuries to two others. It was the ethnic violence that attracted international attention, but the government was clearly more concerned about the ability of workers' organizations to bring such a large number of laborers into the streets.

Hundreds of workers were arrested; over eighty were scheduled for trial, and of the forty-eight tried by mid-August, most had generally received light sentences of four to six months on charges of having thrown stones. The attention of most Indonesian human rights lawyers, however, focused on the labor activists formally accused or suspected of incitement under Article 160 of the Indonesian Criminal Code. The charges stemmed not from any violence that they had advocated but simply from their organizing activities -- in exercise of their right to freedom of association.

Two of these were labor activists from Medan-based NGOs, Janes (also seen as Jannes) Hutahean, executive secretary of the Creative People Foundation (*Yayasan Pondok Rakyat Kreatif*) and Parlin Manihuruk of the Prosperous Light Group (*Yayasan Kelompok Pelita Sejahtera*, better known as KPS). Both men were abducted on June 13, 1994 from the office of a community service organization in Jakarta and flown back to Medan, where, as of late August, they remained in detention in Tanjung Gusta prison. Five members of the Medan branch of the independent labor union Serikat Buruh Sejahtera Indonesia (SBSI) were also in detention, and one, Riswan Lubis, who went on trial in early August, was reported to have been badly tortured after arrest. Ronsen Purba, a lawyer and labor rights activist, was arrested by fifteen intelligence agents and, as of late August, was detained in the police command of Pematang Siantar. On August 13, SBSI leader Mochtar Pakpahan was arrested at his home in Jakarta by nineteen members of the Medan police on charges of incitement; he was immediately taken to Medan where, as of late August, he was being held at the Medan police command. Another

labor activist, Maiyasyak Djohan of the Indonesian Institute for Children's Advocacy (*Lembaga Advokasi Anak Indonesia* or LAAI) had also been named as a suspect but was not formally arrested.

Background

The Medan riots were not a sudden, unexpected outburst. Labor unrest had been building throughout the country, but particularly in urban Java and Sumatra, for several years. One factor was the rapid growth of export-oriented manufacturing, particularly of products such as shoes, textiles and garments, and the concentration of many factories in the same area which facilitated communication among workers. The area around Jakarta, Bogor, Tangerang and Bekasi in West Java was one such concentration, but the development of industrial estates housing dozens of factories, like the Medan Industrial Estate in Belawan, became increasingly common elsewhere. A second factor was the growing awareness of workers of what they were entitled to under Indonesian law, thanks to the efforts of labor and legal aid organizations and fairly unrestricted reporting on labor issues in the Indonesian press. Finally, the government's own actions, such as raising the minimum wage, in response to domestic and international pressure, demonstrated to workers that they could get results by organizing and making demands.

Several additional factors, however, led to the increase in the quantity and intensity of labor disputes in the first four months of 1994. One was the approach in mid-March of Lebaran, the most important Muslim holiday in Indonesia that marks the end of the fasting month, Ramadan. Throughout Indonesia, labor unrest intensified in January, February and early March. Workers, Muslim and non-Muslim, are traditionally given a holiday bonus, called *tunjungan hari raya* or THR, to enable them to buy new clothes, pay for transport home to celebrate with their families and finance the feasting and other activities that are a part of the Lebaran holiday. As spending for Lebaran begins well before the holiday itself, workers expect the bonus, which in many companies amounts to a month's salary, to be given in advance. The THR in early 1994 was not required by law (the minister of manpower announced, as a result of the wave of strikes, that it would be made compulsory in 1995), and many companies either did not pay, some citing financial reasons such as the rise of the minimum wage, or paid amounts that were considered unreasonably low, or calculated the amount of the bonus on length of

service, so that newly hired employees received very little. The high level of labor activism over the last year on a range of wage and benefit issues may have led to an increased demand for the bonus in 1994, but it was also an issue tailor-made for labor organizers. An NGO in East Java calculated that of forty-two strikes in the province in February, thirty-two were over the THR, as were thirteen of sixteen strikes in the first eight days of March.⁵⁴ The proportion was probably similar elsewhere.

SBSI, the independent union, had also stepped up its organizing activities in January and February, calling a general strike on February 11. The timing was almost certainly linked to the February 15 deadline of the United States Trade Representative to decide whether or not to revoke tariff benefits for Indonesia under the Generalized System of Preferences (GSP) program because of worker rights violations; the USTR's decision, to end the formal review and continue GSP but reassess the situation of worker rights in six months, was announced in Washington on February 17. The general strike fizzled, not least because of the arrest of key SBSI leaders in Semarang two days before it was scheduled to begin, but it did not seem to dent the union's growth.

Publicity over the Marsinah case was also intense during this period, as her alleged killers went on trial. The Indonesian press was saturated with Marsinah-related stories, heightening attention more generally to the issue of military intervention in labor disputes.

The most important cause of the increased unrest, however, remained the basic violations of worker rights, from forced dismissals for taking part in strikes to military supervision of labor negotiations to a continuing de facto ban on trade unions other than SPSI. Reforms announced by the Minister of Manpower in January 1994 had had, by early May, no visible effect on increasing freedom of association or decreasing military involvement in labor disputes. And in a major source of worker unrest, employers found numerous ways of getting around new minimum wage laws. At one company, income tax that used to be paid by the company began to be deducted from workers' salaries. In another, the THR was decreased. The Ministry of Manpower was notoriously lax about investigating the compliance of companies with minimum wage laws, and the penalties for doing so, in any case, were not onerous. Even with the history of unenforcement of labor laws, workers expected that the widely-publicized rise in wages announced on January 11 would mean an overall increase in their take-home pay, but for many,

⁵⁴ "Tinggi, Jumlah Pemogokan yg Tuntut THR di Jatim," *Kompas*, March 12, 1994.

the anticipated increase did not materialize. Another increase, scheduled for February 15, was delayed six months and only implemented on August 1, further increasing resentment.⁵⁵

Prelude to April 14

A series of wildcat strikes, some involving violence, hit Medan in early March, most of them linked to the demand for the THR bonus. On March 2, thousands of workers from PT United Rope went on strike, claiming that insurance was being deducted from their salaries, but that they had never received insurance cards and still had to pay their own medical costs. Complaints to the provincial SPSI office produced nothing. They also demanded one month's THR.⁵⁶ The next day, some 4,000 workers from the company took to the street, blocking the Medan-Belawan road, tying up traffic and climbing on top of stalled cars. A delegation of nineteen workers met with the subdistrict council called the Muspika, including the military and police commander (thereby demonstrating the institutionalized nature of military intervention), the owner and manager of the company, and representatives of SPSI and the Ministry of Manpower. A complicated "agreement" was reached that resulted in the workers going back to their jobs, but with most still dissatisfied.

Workers in other factories followed suit, and by the end of the first week in March, the North Sumatra provincial office of the Ministry of Manpower office estimated that 30,000 workers had demonstrated during the week in support of their demands for a Lebaran bonus and other benefits. By March 11, some twenty-nine factories in and around Medan were hit by strikes, most focusing on the failure of employers to pay a reasonable THR as well as to provide other benefits, such as insurance. Most of the protests were peaceful, but several companies suffered minor vandalism. The head of the Manpower office, Khairun, was quoted in one paper as saying, "These actions arose because SPSI at the factory level is not functioning as it should," and indeed, some workers demanded the dissolution of SPSI. But the Medan workers complained that the Ministry of Manpower was also

⁵⁵ "Indonesia to Raise Minimum Wages in Nine Provinces," *The Nation* (Bangkok), July 31, 1994.

⁵⁶ "Tuntut THR, Ribuan Buruh Medan Gelar Mogok Kerja," *Republika* (Jakarta), March 3, 1994.

at fault for not forcing employers to comply with the provisions of Indonesian law.⁵⁷

On March 11, violence broke out during demonstrations involving an estimated 12,000 workers at seven factories along the Medan-Belawan road. Half of the demonstrators came from three factories, PT Tjipta Rimba Djaja, PT Gunung Gahapi Sakti and PT Industri Karet Deli (IKD), all located in the Medan Industrial Estate. After security guards at IKD, a factory which produces tires for export, tore down posters put up by the workers and the personnel director refused to discuss the demonstrators' concerns, a group of workers proceeded to sack the main IKD office, smashing computers, typewriters and other equipment. At PT Gunung Gahapi Sakti, workers blocked the road to the Belawan port and damaged cars. The police and army were called, but a police patrol car was stoned as it tried to make its way down the Medan-Belawan road where the workers were gathered. Riot police tried to break up the crowd, and in one incident, apparently chased a group of nine people including a twenty-two-year-old IKD worker named Rusli. To evade capture, all nine reportedly jumped off a bridge into the Deli River. Eight swam to shore, but Rusli drowned; his body was found two days later.

By the end of the day, twenty-nine people had been arrested and taken to police headquarters. Ten days later, all but five had been released, although criminal charges against most of them were not dropped. Human rights organizations in Medan complained that their arrests had been in violation of the Indonesian Criminal Procedure Code, as they were shown no warrant, even though they were arrested at home and not caught red-handed in any act of violence; several returned home with faces bruised from being beaten while in detention.⁵⁸

⁵⁷ Khairun responded to criticism by noting that of 7,936 companies in the province, only 17 percent were in violation of the law, based on the ministry's own inspections; it also acknowledged, however, that its eleven-member inspection department could not assess all companies in the province. Given the labor problems, however, his department was going to classify them into "troubled [by unrest]"; "moderately troubled" and "not troubled," and would give priority to the 1,920 "troubled." He noted that just because they were "troubled" did not mean that they were breaking the law; it had more to do with location, since about eighty percent of the companies concerned were located in and around the city of Medan. ("1,187 Perusahaan di Sumut Langgar UU Ketenagakerjaan," *Pelita*, March 9, 1994.

⁵⁸ Of those arrested, eight were from PT Tjipta Rimba Djaja, twelve from PT Gunung Gahapi Sakti, and nine from PT Industri Karet Deli. Within a few hours, thirteen were released. Of the sixteen who remained, six more were released on March 18, five more two

One worker from IKD, for example, a man named Sukiman, was seized by men in civilian clothes from his house on the afternoon of March 11, after the demonstration was over. He was taken to a sugar plantation, beaten up with a piece of wood and a length of cable until he confessed to throwing rocks at security forces, and brought back to his house. The same men then took him to the Medan police headquarters, where police charged his wife Rp.10,000 (about \$5) to visit him. Of all those arrested, Sukiman was the last to be released; a local labor rights organization close to the family thought the police wanted his injuries and bruises to heal before anyone outside his family saw him.

The next day, March 12, some 5,000 workers gathered in front of the provincial parliament building to press their demands for THR and improved benefits, as well as to seek the release of their detained colleagues. The local military commander, Lt. Col. Agus Ramadhan of district command (Kodim) 0201, who spoke with the workers, told them he had no objections to demonstrations, as long as they were peaceful.⁵⁹ Mobil brigade police officers, meanwhile, were deployed around police headquarters to prevent a group of several hundred workers from entering to free their friends.

Unrest died down during the Lebaran holidays but picked up again shortly afterwards, with the death of Rusli, the IKD worker, a major issue. Since he was known as a good swimmer, many assumed he had been beaten and then pushed over the bridge by police. (According to the police, who were hardly independent sources, an autopsy showed no marks of beatings.) By March 16, thousands of workers were demonstrating again, many of them from the factories in the Medan Industrial Estate, demanding the minimum wage, a seven-hour workday, and food and transport allowances. A week later, at PT Growth Pasific, hundreds of peaceful demonstrators marched around carrying posters with slogans such as "We Are Not Robots" and "Long Live the Head of SBSI."

On April 11, Amosi Telaumbanua, head of SBSI-Medan, led a delegation of 900 workers to the provincial parliament building; he was arrested and held overnight at the Medan police headquarters as a result. It was the second arrest of

days later. The police said the charges against the sixteen were not being dropped, but the suspects were allowed to return home. They were charged with destruction of property.

⁵⁹ "5000 Masuk DPRD Sumut," *Waspada* (Medan), March 13, 1994. The KODIM commander was quoted in Indonesian as saying, "Silahkan unjuk rasa, tapi jangan merusak dan ribut."

Telaumbanua in less than a year.

The Workers' Rally in Medan

In response to their many unresolved complaints, workers planned a major demonstration for April 14 that was to be known as the Medan Workers' Rally (*apel besar buruh Medan*). The Medan branch of SBSI later claimed credit for organizing it, a claim later used to charge SBSI members with incitement. But according to labor activists who attended the planning meetings, the initiative came from workers at the Medan Industrial Estate and SBSI-Medan was only peripherally involved. The workers agreed that it was imperative that the march be peaceful and divided themselves into seven teams to handle everything from traffic control to poster-making.

At about 6:30 A.M., thousands of workers from over forty factories in the Medan Industrial Estate and outlying areas of Medan began to gather in Lapangan Merdeka, a large open area in the city. Three hours later, they began to march peacefully toward the office of the governor of North Sumatra, carrying banners with slogans such as "Give us the right to organize!" "Long Live SBSI!" and "We're Not Beasts of Burden." When they reached the office, they demanded to see the governor. The governor's staff tried to persuade them to select three representatives, and after the workers demanded to have one representative from each factory, a compromise of twenty-three worker representatives was agreed on.

At noon, the workers' delegation was received not by the governor, but by an officer from the regional internal security agency, Bakorstanasda⁶⁰, a few provincial officials including the public relations chief, and three members of the provincial Manpower office. The workers were led by Hayati, treasurer of the Medan branch of SBSI. The four key demands raised in the meeting were an increase in the minimum wage from Rp.3,100 to Rp.7,000 (about \$3.50); repeal of Ministry of Manpower regulation No.1/1994 that reinforced SPSP's position as the sole trade union; that the death of Rusli be investigated and those responsible punished; and that the governor intervene directly in settling the problem of 389 workers from the Deli Match Factory who had been fired en masse in late 1993.

⁶⁰ Bakorstanas is the Indonesian acronym for "Coordinating Agency for the Maintenance of National Stability." The regional offices, which overlap with the regional military commands, have the suffix "-da" attached, short for "daerah" or region, hence, Bakorstanasda.

Col. Latmono of Bakorstanas assured them that their demands would be seriously considered, although the wage increase could not be guaranteed. The workers were not happy with the outcome of the dialogue, but were told to return the next day and they could meet directly with Governor Raja Inal Siregar.

As they left to return along Yos Sudarso Street, heading toward the Medan-Belawan road, some workers began to stone shops and banks, most of them owned by ethnic Chinese. Two cars and motorcycles were destroyed. An anti-riot squad was sent, assisted by the garrison from the district military command, and three workers were arrested; all were later released. That night, Riswan Lubis, the secretary of the Medan branch of the SBSI, was arrested from his home at 2 A.M. and reportedly was later severely tortured by his military interrogators.

By Friday morning, the military had erected a virtual blockade around Medan to prevent the workers from coming back into the city along the Belawan-Medan road. The blockade consisted of units from the police and army, and troops were also stationed at strategic points around the city, including the governor's office, Lapangan Merdeka and the shopping center called Sinar Plaza. About 1,000 workers succeeded in entering the city despite the troop presence, and by 10 A.M., the number had grown to some 25,000. The demonstration quickly turned violent, with workers throwing stones at security forces and engaging in vandalism. Security forces used tear gas to control them. More trouble erupted at the Medan Industrial Estate, where workers clashed with security forces and broke the glass of windows at two factories. About a dozen cars and vans were also wrecked. A Chinese businessman, Yuli (July) Kristanto or Kwok Joe Lip, was killed when he tried to enter the Industrial Estate by car, and the mob seized him. Kristanto, aged fifty-three, was the director of PT Saudaratama Agra Perkasa, a bleach factory.

On April 16, two demonstrations broke out in Pematang Siantar, about 127 kilometers to the east of Medan, and Belawan. In the first, about three hundred women from a cigarette factory, PT Sintong Sari Union, went on strike, demanding that their legal rights be respected. Seven women were injured after a clash with security forces, who later tried to prevent them from going to the home of the company president to seek a meeting.

In Medan itself, security forces were on high alert, with six trucks of troops brought into the city and two military helicopters ready to take off if needed. The city, for all practical purposes, was shut down.

The next day, Brimob troops broke up a demonstration of two hundred workers from PT Ganda Seri Utama in Binjai, about thirteen kilometers from Medan, who were demanding, among other things, a rise in the minimum wage to Rp.3,100 and dissolution of SPSI. In the course of the demonstration, the factory

gate and several windows were broken; twenty workers were detained.

On April 18, in Tanjung Morawa, about eighteen kilometers east of Medan, some 4,000 workers in a furniture factory demonstrated, calling on the company to respect their legal rights and pay their wages on time. Troops had ordered shopkeepers to close down shops and factories in the town even before the demonstration began; they broke it up by mid-afternoon. The next day, however, some 8,000 workers from fifteen factories in Tanjung Morawa came to work to demonstrate; in the course of the protests, some six cars were destroyed, including a Mercedes Benz belonging to one of the owners. Many workers in Medan stayed out on strike or factories were kept closed by the owners, who feared that violence would erupt if the workers were allowed back in. Troops ringed many of the larger factories in the city. About 2 P.M., rumors began spreading in Medan that another mob of demonstrators was about to enter the shopping district. Immediately, all major shopping centers in the area, including Medan Plaza, Olympia Plaza, Sinar Plaza, Perisai Plaza, Thamrin Plaza and Aksara/Buana Plaza, began to close down in a panic.

Sporadic unrest continued through April 21. By April 22, Medan was relatively calm, but *Reuters* reported that fourteen squads of 120 soldiers each had been deployed to guard factories and keep order, and many Chinese-owned shops remained closed.

The Anti-Chinese Element

The anti-Chinese violence was apparently incited in part by flyers (*selebaran*), which first appeared on the afternoon of April 14 and were waiting for the workers in factory dormitories when they returned from the abortive meeting with Governor Siregar. They appear to have been hastily prepared, although it is not yet known by whom. One flyer, partially legible, read as follows:

Crush the Chinese, who have totally colonized *pribumi* [indigenous] Indonesia, who rape, murder, steal state money which belongs to the pribumi, oppress the workers and drain the riches of Indonesia which is needed by and belongs only to the pribumi.

Send the Chinese back to their own country; Indonesia is not their native land[...]They are moneylenders who squeeze and oppress pribumi working men and women, students, employees

and civil servants. The Chinese are ex-convicts who commit economic crimes, rob us of our independence, and besmirch the Constitution and Pancasila and the laws and regulations of the country.

Take nationalist action against Chinese factory owners who have become arrogant maharajas,[...] who treat workers like animals and obliterate the rights of pribumi in our beloved land.

Lynch, crush [...]and cripple the bosses and corrupt state officials who work with the Chinese colonizers and surrender Indonesia into Chinese hands, who cannot even see the next generation, who do not value our heroes or the history of our struggle, who join forces to oppress students, workers, the army[...]to their hell as a result of their economic and political pressure. They are selling our nation and people cheap, to the point that the Chinese have become citizens and total owners of our beloved Indonesia.

Where has our status and pride gone, what will become of the next generation? There is no need for development if the Chinese own our prosperity and our rights.

In periods of social upheaval or in specific incidents of unrest in Indonesia, the ethnic Chinese have often become a target, in part because of their domination of the economy. They were targeted by the armed forces during the anti-Communist pogroms of 1965-66 and the invasion of East Timor in 1975. In 1980, a wave of anti-Chinese violence swept Central and East Java; and Chinese-owned shops, banks and houses became targets of crowd violence after a riot in the Tanjung Priok area of Jakarta in 1984.

In recent years, ethnic Chinese financiers in Indonesia have taken on a higher profile, in part because of their participation, with other overseas Chinese, in the economic boom in Asia in general and in China in particular. President Soeharto, in a very calculated way, drew particular attention to their wealth by inviting dozens to his ranch in Tapos, West Java in 1990 and urging them to share their wealth. Some observers suggested at the time that he was focusing public attention on the wealthiest so as to set up a potential target that might deflect criticism from himself. In the last two months, a major financial scandal involving a

Chinese financier has been in the front pages of the Indonesian media; stories have focused not only on his ability to draw on virtually unlimited credit from state banks but also on his ties to leading officials and the President's son.

Anti-Chinese feeling would thus seem relatively easy to incite, and Medan has a higher percentage of ethnic Chinese than many other cities in Indonesia. Chinese families there are also less assimilated, partly because their ancestors arrived in the 19th century in large groups, rather than as individuals. If some people wondered why the violence had not happened sooner, others pointed out that none of the earlier strikes and demonstrations in Medan or elsewhere had raised the question of Chinese economic dominance.

In a notable sidelight to the killing of July Kristianto, the Chinese government sent a formal expression of concern to Jakarta about the treatment of Chinese, urging that the Medan case be handled speedily and appropriately. Coming from a government that had always deemed human rights a matter of internal affairs, Indonesian officials were offended.

Summons, Arrests and Trials

No one knows how many people involved in the Medan disturbances were ultimately arrested and released, but by early June, eighty-four people were scheduled for trial. Some of those arrested were tortured; others faced interference with their right to have access to counsel and to be represented by counsel of their choice. Most were accused of violating Article 170 of the Indonesian Criminal Code, the use of violence against people or things, a charge that carries a maximum five-and-a-half year sentence, although of the few sentences handed down by August, the sentences were unexpectedly light. Two men were charged with the murder of Yuli Kristanto.

The defendants were divided into forty-four "baskets" or group dossiers, twenty-two in Medan, twelve in Lubuk Pakam, nine in Belawan and one in Pematang Siantar. Sixty-two of the accused had given power of attorney to the Legal Aid Institute in Medan after their arrest, but on June 6, the day the first two trials opened at the district court in Medan, the four defendants revoked that power.⁶¹ The press suggested that they had been pressured to do so, and

⁶¹ The defendants were Rianto, aged twenty-five, and Nurlala Boru Manalu, aged twenty-four, who were accused of throwing stones and taking part in a demonstration that had no permit. Their defense team was headed by Muchtar Pakpahan, soon to become one of the accused.

circumstantial evidence supported the suspicion.

The Legal Aid Institute had letters from the first two defendants, Rianto and Nurlela Boru Manulu, appointing them as defense counsel; the letters were dated May 2 and June 2, 1994. The letter produced in court on June 6 withdrawing power of attorney was dated June 11 -- five days into the future, and the lawyers said the withdrawal had been engineered.⁶² Lawyers had seen the second set of defendants, Ridwan and Djamian, a half hour before the trial opened, and they were prepared to have the defense go ahead as planned.

In the second set of trials, which opened on June 7, the defendants (Robert Sitompul, Budiman Syahril, Samsul Bahri and Juman) kept the Legal Aid Institute lawyers as their counsel. They said, however, that they had not been accompanied by lawyers when interrogated and had been told that their sentences would be lighter if they were not.

It was the incitement charges that were particular cause for concern because they went to the heart of Indonesia's restrictions on freedom of association. Amosi Telaumbanua of SBSI-Medan turned himself in to the military in Jakarta, with Mochtar's Pakpahan's help, on April 30, together with two other officials who had been in hiding: Fatiwanolo Zega, aged twenty-three, the deputy head of the executive council of the Medan branch, and Soniman Lafao, aged thirty-two, deputy secretary. The three were taken back to Medan where they underwent marathon interrogation sessions in the Medan police headquarters but were treated reasonably well. Riswan Lubis, as noted above, had been arrested in the early morning of April 15, and tortured. Hayati, the woman who negotiated with the Bakorstanas official on April 14, was arrested a few days later.

On June 13, the two Medan-based labor activists, Janes Hutahean and Parlin Manihuruk, were arrested in Jakarta at the NGO where they had taken refuge since the events of April. Parlin's organization, KPS, had been raided on April 23 by the Medan police, with documents and two typewriters seized. No search warrants were presented at the time of the raid. The arrests of Parlin and Janes were likewise without warrant and in violation of the Indonesian Criminal Procedure Code; both men were taken back to Medan where they underwent periodic interrogation through July 5. Because the questioning did not produce sufficient evidence to formally charge them, their detention was formally extended another forty days by the public prosecutor. As of late August, both remained in detention at the Tanjung Gusta prison in Medan; they had not been ill-treated and were

⁶² "Para Terdakwa Kasus Medan Cabut Surat Kuasa," *Republika*, June 7, 1994.

allowed access to their families. Requests by their lawyers that they be released and allowed to live at home, pending further investigation, were denied.

Mochtar Pakpahan himself was formally declared a suspect on June 14 but was not arrested until two months later, on August 13. He had been in Semarang, Central Java, at the time of the April 14 rally, and the confused messages coming from SBSI headquarters after April 15 indicated that SBSI-Jakarta had little idea of what SBSI-Medan was doing. To charge Pakpahan with incitement was to use the Medan rally as a pretext for cracking down on the independent labor movement and deflect attention from the grievances of the workers.

In another disturbing move, Medan police issued a summons to labor activist and human rights lawyer Maiyasyak Djohan of LAAI on June 9, although as of late August, he had not been arrested. He was also named as a suspect in the Medan demonstrations. But in a statement he issued on June 16, he said he believed he was suspected because of the assistance he had given to workers who had been arrested after the March 11 and April 14 demonstrations, and that to interrogate him about his conversations with those workers and others, as the Medan police subsequently did, was to violate the principle of lawyer-client confidentiality.

Who Was Responsible for the Violence?

Four explanations were put forward for how and why the April 14 march turned violent. The military placed all the blame on SBSI, with armed forces chief of staff Lieutenant Colonel Mantiri saying that SBSI had used "communist-like tactics" to mobilize the workers and the Medan police chief asserting that the anti-Chinese violence, far from being an unfortunate byproduct of labor unrest, was in fact the primary aim of SBSI and its leaders. SBSI said the violence and the anti-Chinese sentiment were deliberately incited by "certain parties" (read the military) and implied that the aim of those parties was first and foremost to crush the labor movement. A third explanation was that the army sought to discredit Governor Siregar, a Soeharto protege, as part of the ongoing struggle between President Soeharto and the military. Only a handful of observers suggested that the violence was spontaneous -- "the natural outcome in a blocked political system", according to former parliamentarian and current human rights commission member, Marzuki Darusman.

What evidence is there for any of these positions? The Medan branch of SBSI, as noted, openly claimed a role in organizing the April 14 rally, together

with local NGOs⁶³ but denied any part in the violence. The head office of SBSI in Jakarta issued a statement on April 16 condemning the violence and blaming it on unnamed elements who "did not want to see workers struggling for their rights." It went on to note that SBSI had never tolerated its members resorting to violence and regarded strikes as a measure of last resort when negotiations had failed. It urged the government not to use repressive means against workers but to recognize the need to improve working conditions throughout the country. It also said it would send a team to Medan to investigate.

A second statement, issued a few days later, blamed the violence on manipulation by "certain parties" -- meaning thugs employed by the security forces:⁶⁴

When the workers came back to meet with the governor, they were blocked by thousands of security forces, including the police, Brimob, Yon Zipur [infantry battalion]; Kodim [district military command]; Linud [air force] and CPM [military police] equipped with shields and tear gas. Confronted with a force like this, the frustrations of the workers exploded, to the point that they were easily provoked into destructive acts by certain elements, who deliberately turned the strike to their own advantage.

The involvement of certain parties, some consisting of gangsters from Medan [*preman Medan*], indeed is beginning to be uncovered by the SBSI team which is now conducting an investigation in Medan. Various kinds of evidence are being collected, including several flyers and the admissions of several civilians that they were indeed paid by certain parties to manipulate the strike by various means such as vandalism and beatings directed at a certain group of people, in a way that

⁶³ "Pangab: Kerusuhan di Medan, Liar," *Republika* (Jakarta), April 17, 1994.

⁶⁴ Medan has been wracked in recent years by fighting between two gangs, Pemuda Pancasila and Angkatan Pemuda Karya, which compete in protection rackets. See Jeremy Wagstaff, *Reuter* dispatch, April 24, 1994.

smacked of racism.⁶⁵

Mochtar Pakpahan claimed that a few workers in Medan had admitted receiving payments from the army to incite the workers. SBSI leaders were not the only ones to suggest third party involvement. One human rights organization noted several peculiarities of the April 14 demonstration:

- posters with anti-Chinese slogans were not carried by workers marching into Medan from outlying industrial areas on April 14, but they appeared after workers had gathered in the Lapangan Merdeka field.
- the anti-Chinese posters were professionally prepared and painted, in sharp contrast to the crudely drawn placards with labor rights slogans that many of the workers carried.
- the anti-Chinese flyers made no mention of the most common of worker demands, such as a rise in the minimum wage.

While it was clearly to SBSI's advantage to demonstrate its capacity to mobilize tens of thousands of workers, it is difficult to see what advantage it could gain from inciting the workers to violence. In contrast, the violence gave the military a useful pretext to crack down on a labor movement that seemed to be growing with a speed and intensity that the military found alarming.

The escalation of labor unrest in March, and SBSI's growing prominence, may have led to a decision of military officials to take action. On the other hand, local military officials in Medan seemed to take the growing number of strikes and demonstrations before Lebaran in stride; the general tolerance toward worker demonstrations did not appear to foreshadow a major confrontation. Indeed, many thought the military was deliberately letting the demonstrations grow larger in order to embarrass Soeharto and to eventually convince the wealthy Chinese industrialists in the region that they needed military protection from unruly, unpredictable and potentially violent workers.

The third explanation, of local politics mirroring a larger power struggle

⁶⁵ Serikat Buruh Sejahtera Indonesia, "Press Release: *Mogok Sebagai Pilihan Terakhir Menyalurkan Kekecewaan Yang Menumpuk*" (Strikes As the Last Resort to Channel Accumulating Grievances), Jakarta, undated, but probably April 20, 1994.

in Jakarta, went as follows: one odd feature of the April 14 demonstration was that workers chose to present their grievances to Governor Siregar, whereas in all previous demonstrations, workers had sought out either the local parliament, the DPRD, or the provincial office of the Ministry of Manpower. Governor Siregar was a particularly interesting choice, because in the "election" for governor two years earlier, he had been backed by President Soeharto and the Association of Muslim Intellectuals (ICMI), while his opponent, Modiono, had been favored by the military. As labor unrest increased in 1993 and 1994, Modiono, chairman of the DPRD, was seen as sympathetic to worker demands, whereas Siregar was not. By inciting the workers, the army would effectively have shown Siregar's inability to control the situation and thus the weakness of the hand-picked candidate of President Soeharto.

Governor Siregar himself appears to be a supporter of the theory that the violence was linked to the interests of the political elite in Jakarta and the struggle between Soeharto and the military. According to the outspoken Jakarta magazine *DeTIK*, the governor claimed that the aim of one -- unspecified -- faction of the elite was to "present impossible demands in order to inflame the workers and hence destabilize Jakarta. The mastermind is not in Medan but on the national level..."⁶⁶

Finally, there are those who believe the violence was spontaneous, variously triggered by the failure of the governor to meet with the workers; the arrest of three workers on the afternoon of April 14; or simply accumulated frustration. Given the destruction that occurred in the IKD office on March 11 and other sporadic incidents of vandalism, the possibility of some violence during a mass demonstration involving 30,000 workers was reasonably high. It is also possible that ethnic Chinese could have been a target of that violence, even without being incited by flyers or provocateurs. But the source of those flyers continues to be a mystery, even if their intent seems clearly to have been incitement to racial violence. This is a key factor suggestion the violence was not spontaneous, and the absence of ethnic violence in the preceding months suggests that it could have been averted.

After April

Labor unrest in North Sumatra did not stop with the arrests of late April. In June, trouble broke out at a cigarette factory complex called the Sumatera

⁶⁶ *DeTIK*, April 27-May 3, 1994.

Trading Tobacco Company (STTC) in Pematang Siantar. The complex consisted of four factories: STTC itself, PT Sintong Sari Union, PT Permona Pematang Siantar and PT Wongso Pawiro. All were owned by a businessman named Edwin Bingei, and all had been wracked by labor unrest since early April.

The origins of the trouble lay in a collective bargaining agreement reached by workers in the complex on May 13, under which the company agreed to pay overtime, insurance, and back pay to cover the difference between the wages already paid out and the legally constituted minimum wage. The package was to go into effect on June 1.

In June 2, the workers received their wages, but they claimed overtime was not included and their working hours had been wrongly calculated. The next day, a delegation of thirty workers went to the personnel manager to try and get full compliance with the May agreement, but the discussions were unsuccessful. As one of the thirty was reporting back to a crowd of her colleagues, who had already stopped work, about a dozen security guards and civilian militia (*hansip*) rushed at the workers, and according to the latter, began attacking them with knives. Eight workers were taken to a hospital for treatment, three with serious injuries.

When news of the attack spread around the complex, thousands of workers massed to march on the STTC factory, but found the entrance blocked by security guards. This time it was the workers who attacked the guards, wounding five. The regional military (Korem 022 from Pematang Siantar) was called in, and one worker named Abdul Ikhwan Siagian was taken away. He was held at the Korem for the next four days before being turned over to the police.

On June 6, an estimated 6,000 workers demonstrated in front of the local office of the Ministry of Manpower office, demanding that the collective bargaining agreement be honored and that Abdul Siagian be freed. On June 7, they held another demonstration in front of the Korem and then at the police command, after learning that Siagian had been moved there. On June 8, they returned to work, only to have soldiers in civilian clothes come into the workplace and arrest a man named Effendi Simbolon, aged twenty. He was taken off to an undisclosed location where he was later reported to have been tortured with electric shocks.

All of the workers then went on strike, fighting broke out between workers, guards and militia members, and three staff of STTC were taken hostage by the workers who occupied the STTC factory. About 3 A.M. on June 9, a combined force consisting of the anti-terrorist unit of the airforce (Linud 100 Galang, based about 150 km from Pematang Siantar); the district military command, Kodim 0207, and Korem 022 stormed the factory. At the end of the afternoon, four truckloads of workers were taken off to the Korem. All but twenty-

six were let go some hours later. Twelve of the workers subsequently alleged that they were tortured in the Korem: Roince Sagala, Togar Marbun, Khairani Lubis, Edwin Sihotang, Heleng Galungging, Hotmauli Situmorang, Rosmauli Sipayung, Roslince Nainggolan and Usmiadi. All were accused of hostage-taking, under Article 333 of the Criminal Code, and later moved to the police command in Simalungun, Pematang Siantar.

As of early September 1994, a total of forty-eight workers were still being held at that police command, including the twelve named above, Abdul Ikhwan Siagian and Effendi Simbolon. Human Rights Watch/Asia condemns the taking of hostages under any circumstances and acknowledges the responsibility of the Indonesian government to arrest those who engage in physical assaults and violence. But security guards and members of the civilian militia should be treated the same as workers in this respect, and any member of the police or military alleged to have used torture should be immediately investigated and prosecuted in a court of law.

Moreover, as in the Medan demonstrations, the violence could have been averted from the beginning if the workers had had confidence in the channels available to them for presenting grievances and if the collective bargaining agreement negotiated in May had been honored.

Conclusions

By denying workers the right to freedom of association, the government of Indonesia contributed to the tensions that led to prolonged worker unrest in North Sumatra. It then compounded the problem by failing to distinguish between acts involving the legitimate exercise of freedom of assembly, association and expression, such as calling a rally of workers to press specific demands, and criminal acts, such as destruction of property or murder. That failure led to the arbitrary detention of Janes Hutahean and Parlin Manuhuruk, Mochtar Pakpahan, Ronsen Purba and the leaders of the Medan branch of the SBSI.

Moreover, the rights of many of those detained in connection with the worker unrest were systematically violated: some workers were tortured; others were not informed of the charges against them at the time of their arrest; still others were denied access to lawyers or to lawyers of their choice.

To HRW/Asia's knowledge, the government undertook no serious investigation into the allegations that the anti-Chinese violence had been incited by provocateurs aiming to disrupt the rally and stigmatize the conduct of the labor protests. Instead, it chose to blame the entire course of events on SBSI and to

sweep aside the larger issue of labor rights. By doing so, it ignored the Ministry of Manpower's failure to carry out adequate inspections of workplaces to ensure that wages and conditions were in accordance with existing law; the inability of workers to channel their grievances through procedures other than public demonstrations since the existing "union" does not work and no others are allowed; and, not least, the connections between the Medan security forces and the underworld that might shed some light on the anti-Chinese violence.

VI. LABOR RIGHTS: A KALIMANTAN CASE STUDY

The case of workers in a West Kalimantan plywood mill is another example of ongoing military intervention. It also demonstrates restrictions on the right to organize and how the lack of institutions to effectively address worker grievances can make a complicated situation worse.

Over the last five years, young men and women workers from central and east Java had registered with the local Ministry of Manpower and had volunteered to go to Kalimantan to work in a variety of industries. One of the companies to which they were sent was the P.T. Erna Djuliawati Plymill, better known as EDP, in West Kalimantan. The company controls an extensive timber concession (*hak perusahaan hutan* or HPH) in the districts of Sanggau, Sintang and Ketapang, but the plywood mill is in the village of Kayutunu, subdistrict Sanggau Kapuas in the Sanggau district, about fifteen minutes by speedboat down the Kapuas river from the town of Sanggau. In mid-1994, when a major dispute broke out between management and labor, about sixty percent of the 4,000 workers were from Java with another twenty-five percent hired locally. The remainder came from other parts of Indonesia.

The workers had complaints over wages and working conditions, especially the management's demand for compulsory overtime to meet production targets. According to the workers, if they did not meet the targets, even if the failure was due to broken-down machinery, they would be fined.

The deepest grievance for the Javanese workers who were Muslim, however, was that the management gave them no time or space to carry out daily prayers and docked them pay if they stopped work to pray. Workers were forced to pray while they were ostensibly at the toilet or sneak out when the foreman was not looking. Eventually, in July 1993, the workers presented a written request with 600 signatures demanding time and space to pray. In a meeting on July 29, attended by worker representatives, the company and the army, police and civilian administration of the district, the company agreed to construct a small mosque on the premises of the mill. The mosque was about a fifteen-minute walk to and from the workplace for most of the workers.

In September, EDP issued a directive signed by the manager, the head of the district office of the Ministry of Manpower, the secretary of the provincial office of SPSI and the head of the local religious scholars council (like SPSI, a government-controlled body). The directive stated that now that there was a

mosque, praying in the mill itself was forbidden, and workers who left the mill to pray had to fill out an "absence card." The time used to pray would not be considered work time. Workers figured that they thus lost about Rp.250 or twelve cents every time they prayed; since their daily wage was Rp.3,500 or \$1.70, it was not an inconsiderable loss.

The Organizing Begins

On April 4, 1994 fifteen EDP workers held a meeting and agreed to demand an end to the practice of docking pay for prayer. The following week, they distributed leaflets calling for freedom of religion, and a group of workers met secretly to plan a demonstration. Someone present apparently informed on the others, and on April 15, at about 8:00 P.M., two of the women workers present, Yohana and Puji, were met by Sanggau police at their dormitory and taken to the EDP office where they were questioned for four hours about the planned demonstration. Two days later, on April 17, at 3:00 A.M., seven more workers were dragged out of their beds by uniformed police and taken to the company office for questioning about the proposed demonstration.

The next day, April 18, after the seven had not returned to their dorms, the workers held a demonstration to demand their release, an end to docking pay for prayers, and a guarantee that those who demonstrated would not be fired. The district head or *bupati* of Sanggau, H. Baisuni, came to the mill together with the army and police, and met the workers. The result was an agreement that met all the workers' demands, including that they would not be docked for prayer as long as they were not away from their jobs more than ten minutes.

But the next day, a worker named Sartono was fired for his role in the demonstration. A week later, on April 27, another worker named Marfuah was fired, also for demonstrating. As both were still in their first three-month probationary period, the workers said they would let these dismissals pass, as long as there were no more, probationary or not.

On May 4, however, another new worker still on probation, a woman named Siti Lestari, was fired. By 3:00 P.M. that afternoon, some 2,500 workers had gathered to protest and demand a dialogue with the *bupati*, whom they regarded as sympathetic to their problems. Instead of the *bupati*, it was the district army and police commanders as well as the subdistrict head who showed up at the factory, and they did not succeed in dispersing the demonstrators. The next day, the *bupati* appeared. He negotiated an agreement whereby the dismissed workers would be rehired. He also suggested that a bipartite committee of labor and management be

set up for resolution of future disputes. EDP management agreed, and workers chose fifteen representatives to sit on the committee.

But the local office of the Ministry of Manpower and the provincial office of SPSI were unhappy with the idea of the committee, in which they clearly would have no role. SPSI, it should be noted, had a representative at the mill, but he had never tried to organize the workers or defend their rights. But confronted with the possibility of a mechanism that effectively bypassed them, provincial SPSI officials suggested instead that a functioning workplace unit of SPSI be established. The workers agreed and chose their leaders, all of whom were organizers of the demonstration, on the understanding that they would be sworn in as SPSI officers on June 1.

In the meantime, relations between the workers and the community surrounding the mill began to deteriorate. The community was overwhelmingly composed of ethnic Dayak who, for the most part, were Christian. Rumors began circulating in the village that the workers were fundamentalist Muslims, protected by a *bupati* who shared their views. There were also rumors that workers were planning to burn down the mill and that EDP itself would shut down the mill if there were any further demonstrations. Since the mill was the center of the local economy, the community began to get increasingly hostile toward the Javanese workers. Many of the non-Javanese workers also increasingly set themselves apart from the demonstrators to the point that the latter considered them pro-EDP, and tensions at the mill ran high.

On May 9, local officials held a meeting to discuss the problems at EDP. Present were the provincial manpower office; the head of intelligence for the district military command; twenty-two workers; and the retired military officer, H. Usman, who represented the company. At this meeting, it was apparently decided that the workplace unit of SPSI should be purged of the activist workers.

On May 13, copies of a typed letter was distributed in the workers' dorm urging that the organizers of the May 4 demonstration be dismissed from EDP and evicted from the dorm. The letter, signed by other residents of the dorm, named Suherman as leader of the demonstration and listed a series of actions on the part of the demonstrators that they, the dorm residents, protested: banging drums, hitting sticks on the roof of the dorm and calling for the lynching of two men [positions unknown] named Pardede and Yosep. Some of the Javanese workers who lived in the village were told that the Dayak villagers were planning to attack them, and they fled as a result.

Detentions

On May 15 at about 5:00 P.M., sixteen workers considered by EDP to be the masterminds of the unrest (including all those chosen to head the local SPSI unit) were summoned by EDP security guards to the official conference room of EDP to meet with the military and police of Sanggau.⁶⁷ When they arrived, at about 6:30 P.M., they were taken straight to the dock along the Kapuas river by about seven men from the district military and police commands. They were put on a speedboat and taken to the town of Sanggau. There they were put on three public minivans (the common form of mass transport), and, accompanied by an intelligence officer, were taken to the district military command. On arrival, they were put not in cells but in the mosque in the command complex, given pillows, and told to sleep. They were also told that they had been brought there for their own safety, as Dayaks in the community were getting increasingly angry and might attack. One of the sixteen told HRW/Asia that while they were not detained, there was an implicit threat that if they left the complex, they would be in trouble. The next morning, a friend brought clothes and other personal items from EDP to the Kodim.

One worker told HRW/Asia he thought the factory wanted to get rid of them because after EDP was forced to agree to the worker demands during the first demonstration on April 15, managers began to lose their authority with the workers. The only way to prevent further erosion was to remove the workers who were causing it.

The next day, May 16, Yanuri, a former EDP employee, and Tukimin, two friends of the sixteen, tried to visit them in the Kodim complex. They were initially prevented from doing so, but they waited until prayer time and then were able to meet most of the sixteen in the mosque. At about 2:00 P.M., Yanuri and Tukimin returned to the mill.

That afternoon, typed flyers began circulating in the workers' dormitories. Dated May 16 and signed by thirty-three villagers in the hamlets surrounding the factory, the flyers contained a statement addressed to the local government and the mill management saying they, the signatories, acting on behalf of their neighbors, could no longer tolerate the behavior of workers at EDP who were trying to instigate communal hostility and disturb stability. They said their lives were tied to

⁶⁷ The sixteen included Suherman, slated to be head of the SPSI workplace unit; Joko, deputy head; Pjiwati, secretary; Slamet, Ahmad, Jayus, Indrawati, Ali Munawar, and Yohana.

the plywood mill but they felt increasingly uneasy by the actions of the workers whom they considered to be extremists. They ended the statement by asking that the workers be sent back to their own areas. The statement was officially witnessed by the village head of Pelaman, a man named Petrus Kimsui who for years had been on retainer to EDP for security services. It was copied to the *bupati*, the district military and police commander, the head of the district parliament, and the director of EDP.

On the evening of May 16, Yanuri and Tukimin persuaded thirty-five other workers to go to Sanggau and meet with the sixteen activists being held in the Kodim. The group went down to the river about 8:00 P.M. and divided themselves into two speedboats. But as they approached Sanggau, the boats were intercepted by a police patrol and turned away from the dock nearest the Kodim. They were forced to go the dock nearest the district police headquarters. When they docked, police officers were waiting with official vehicles. The workers were taken to the police station after a stop at the EDP office in Sanggau, and while, like their sixteen co-workers, they were not formally detained, they were also not allowed to leave. One of the policemen told the group that the sixteen were suspected of having links to Darul Islam and Kartosuwirjo -- a guerrilla movement active in West Java in the 1950s whose former members have been periodically accused of trying to establish an Islamic state.

May 17 was an eventful day at the factory, in the town of Sanggau and at the Kodim complex. At the latter, the sixteen, including three women, were ordered to take a test to determine whether their families were free of Communist influence (*bersih lingkungan*). The test, which took five hours, was administered by Captain Imam Rajitno, from the intelligence division of the district military. The sixteen were then interrogated by intelligence officers. One by one, each of the sixteen had to appear before a Kodim officer who sat behind a typewriter and took down each response. Most of the questioning focused on who was behind the various demonstrations. Periodically, officers asking the questions would compare notes, and if there was a contradiction between the responses of two of the workers, the officers would bring the two together and make them explain the contradictions. The questioning lasted from about 2:00 P.M. to 10:30 P.M.

In the town of Sanggau, between 300 and 400 workers from EDP marched on the local parliament building to demand the release of the sixteen at the military command and the thirty-five at police headquarters. They were surrounded by security forces. They were forced to go to a building run by the Muslim Foundation (*Yayasan Muslimin*) in the main mosque of Sanggau where they were effectively detained. About one hundred women were put on the ground floor

guarded by about seven security officers; the men were on the floor above.

Meanwhile, back at the mill, things seemed unnaturally quiet, according to B., one worker who remained there. Around 8:00 A.M., B tried to go out to the local market and found many of the stores closed up tight. He kept on walking to the mill, but there were very few workers around. In the distance, he said he could see about 100 villagers and pro-EDP workers gathered together and someone giving them advice, but it was too far away to identify who that person was.

On May 18, tension around the mill increased. At about 11:00 A.M., fire broke out in two dormitories. A half hour later, B. heard yells that the dorms were on fire, and he ran to help some of the workers remove their belongings. That afternoon, young men from the village and the pro-EDP workers joined forces to hunt down those responsible for the fire, carrying short, traditional knives as they did so. Many of the anti-EDP workers who had been active in the demonstrations became frightened and fled towards Sanggau and Pontianak, the provincial capital.

At midnight, hundreds of pro-EDP workers were brought into Sanggau on a motor launch belonging to the company; after docking they were taken to the local parliament building. Most had headbands made of red cloth, a traditional sign of war among the Dayak -- but some of the workers were not Dayak.

That same night, B. went to work on the night shift. At midnight, after only a few hours work, he was sent home with ten others. They were nervous because of the repeated rumors that there would be attacks on workers from the community, angered by the fires. B.'s group thus decided to report on the way home to the security guard (*satpam*). The *satpam* ordered the eleven to wait at the post, as young men with red headbands gathered around them. It got later and later, and still the eleven were told to wait. The villagers began to accuse one of the group, a young man named Nurcholish (Nur, for short), of setting the fire. An intelligence officer who was with the villagers ordered Nur to admit that he was responsible. When he refused, the officer began knocking him around as the villagers urged him to hit Nur harder. By this time, it was about 6:00 A.M. on May 19. Nur and a woman named Tuti were asked to stand up and walk around so all the villagers could see their faces and, B. thought, mark them for future reprisals.

By this time, there were hundreds of villagers surrounding the security post, and EDP staff brought out chicken and pork for the villagers. At one point, one villager said, in what was a veiled threat, "The pig we just ate was as good as the one standing in the post." B. said he saw two assistant managers and two unit heads from EDP in the crowd, urging on the villagers. Eventually the eleven agreed to try and negotiate a way out, and by 7:30 A.M., they were allowed to leave, followed by a mob of villagers with their fists in the air.

That same day, in Sanggau, the sixteen workers in the Kodim and those in the police station were "released" and taken to the Transit Dormitory (Asrama Transito) on the outskirts of Pontianak, run by the minister of transmigration to house Javanese settlers en route to new sites in Kalimantan. They were closely monitored, but they were allowed to enter and leave the dormitory.

Forced Resignations?

Meanwhile, the three hundred still detained at the Muslim Foundation in Sanggau were in increasingly dire straits. Entering their fourth day detained at the Foundation, they had no change of clothes and only one meal a day provided by the ministry of social affairs. Into the middle of this state of affairs, on Friday, May 20, came a delegation consisting of the deputy governor of West Kalimantan, the district military commander, the head of the local parliament and an official from the manpower ministry.

The deputy governor asked the workers whether they wanted to go back to work or return to Java. One hundred and sixty-eight wanted to return to work, but only if their security could be guaranteed. Officials told them, as if to scare them into changing their minds, that two workers were being hunted by villagers and had fled into the jungle. No one knew whether it was true, but it conveyed the impression that security forces were powerless to prevent revenge for the disruptions caused by the labor dispute from being wreaked on the Javanese.

The rest of the group, 149 workers in all, said they would go home, but not before receiving their salaries. They were told they could only receive their salaries if they signed a formal letter of resignation according to a model that had already been prepared by the company. If they wanted to add anything to the letter, such as the fact that they were going home because they were afraid, the letter was not accepted. Many of the workers felt they were being coerced into signing the letters, although no physical force was used. They were tired, hungry and wanted a bath, and they clearly were not going to be allowed to leave the Muslim Foundation, where they were effectively detained, unless they went back to what officials were deliberately portraying as a dangerous climate at the mill or they signed the letter -- there was no middle ground.

Those who signed a letter of resignation were then told they would receive their salaries for the first half of May as well as severance pay in accordance with the length of time worked. They would have to pick up those payments from the police command in Sanggau.

Those who had agreed to go back to work were taken to the district police

command where they were told by the head of intelligence, "If you go back to work, we can't guarantee your safety." Then they were taken and held in the EDP office for twenty-four hours. While there, the Kodim commander came to address them. He warned them that if there was any more trouble or any more demonstrations, they, the workers, would be held responsible; he did not elaborate. Several of the workers interviewed by HRW/Asia said these warnings were an effort by the company, conveyed through the security forces, to persuade the Javanese to leave. Not only did EDP want to get rid of the troublemakers, but as the company was in increasingly difficult financial straits, if it could get resignations rather than dismissals, it would not have to pay severance pay. And severance pay for so many workers would have bankrupted the company.

The disposition of the fate of the workers at the Muslim Foundation left the future of the forty-nine at the Transit Dormitory still undecided. On May 24, three of that group were interrogated by the provincial police, after having been summoned to the police command by telephone; there was no written summons. Two others were interrogated on May 26, 1994.

On May 29, sixty of the 149 workers who had "chosen" to go home were taken to Pontianak in three buses, heavily guarded by police and military personnel from Sanggau. On arrival in Pontianak, they were taken straight to the harbor to a ship called the KM Sirimau, bound for Cirebon, Central Java. But about thirty managed to escape and went directly to the EDP office in Pontianak where they began a protest action, together with students and NGO representatives who joined forces in an informal organization called the Forum for Solidarity with the Victimized Workers of EDP-Kayutunu (*Forum Solidaritas Buruh Korban PT EDP Kayutunu*). They were joined by six workers scheduled to be sent back in a second group on May 31. Those six had also escaped from their guards at the Muslim Foundation. At 8:00 P.M., the workers and Forum members spoke with the Pontianak office of the ministry of manpower without much success -- the latter official said he considered the dispute was over when the workers signed their resignation letters.

Over the next two days, the protest in front of the EDP office grew to hundreds of people, as students from local universities and others joined in. On May 31, the second group of EDP workers were put on four buses at Sanggau, with two soldiers and two police on each bus. The workers were taken to a police barracks outside Pontianak where they were given their tickets. They were then taken to the ship where security was increased to prevent another round of escapes. Workers were made to line up and board the ship one by one under close military supervision. Even so, one young man did manage to escape and joined the forty-

nine who remained at the Transit Dormitory. The next day, the workers demonstrating in front of the EDP office were rounded up, put on boats and also taken to the Transit Dormitory.

On June 3, the local Pontianak newspaper, *Akcaya*, published an announcement by the commander of the regional military command (Korem 121) stating that any form of demonstration by individuals or groups or members of the public "calling themselves a Forum" was banned, whether that demonstration was directed against the government, private interests or any other institution. Such demonstrations could only take place with a permit from the police."

Freedom of Association and Expression

That same day, members of the Solidarity Forum, consisting of ten student and human rights organizations, were summoned to a meeting by the head of the Social and Political Affairs office (usually abbreviated Sospol, the Indonesian equivalent of the thought police) on June 3. The summonses gave no reason for the meeting and were delivered to each organization about an hour and a half before it was scheduled to take place. Both the timing and the lack of specifics were interpreted by those summoned as a form of intimidation, even more so when they arrived and found not only the social and political affairs office, but also officers, in both uniform and plainclothes, from the regional and district commands of the police and army.

The Sospol official stated that the purpose of the meeting was to find out if those involved in the Forum were involved as individuals or as representatives of organizations -- with the implied threat to the organizations. As if proof of the effectiveness of the intimidation, on June 4, one of the ten groups, Pemuda Katolik Komda Kalbar, formally pulled out of the Forum. The next day, PMKRI Cabang Pontianak, also pulled out -- and announced its withdrawal in *Akcaya* on June 6. A few days later, Senar Mahasiswa UNTAN resigned. A number of other organizations taking part in the Forum that had not formally registered with the Social and Political Affairs office were told that they would be "taken care of" by other means. Not long afterwards, an illegal flyer (*selebaran gelap*) appeared on the streets of Pontianak accusing the Forum's member organizations of being funded by foreign countries.

Conclusions

The problems at the EDP mill might have been resolved by a skillful labor

negotiator trusted by both workers and management. But by calling in the military to interrogate workers at the first sign of organized unrest, the management effectively closed off real channels for discussion. Rivalry between the district military and police on the one hand and the *bupati* on the other exacerbated the problem, as did the military's apparent encouragement to EDP officials to pit the local community against the Javanese newcomers, to the point of getting pro-EDP workers of all ethnic backgrounds to use ethnic Dayak symbols, such as red headbands, to signal their pro-company stance.

The detention, interrogation and forced resignations of workers who took part in the dispute were in violation of basic labor rights, and the problem was compounded by the efforts of the provincial government in Pontianak to intimidate supporters and prevent public criticism of its handling of the EDP case.

VII. RELIGION, POLITICS AND TORTURE IN NORTH SUMATRA

A conflict that began almost a decade ago in North Sumatra as a leadership dispute within the largest Protestant congregation in Indonesia, the *Huria Kristen Batak Protestan* or HKPB, escalated dramatically in 1992 as the result of deliberate manipulation by provincial political and military officials; it continued to deteriorate through June 1994 as it overlapped and became intertwined with major labor unrest in the province. As government intervention in the conflict increased, so did human rights violations ranging from arbitrary arrest to torture.

While the labor unrest in Medan and other towns and cities of North Sumatra has attracted widespread international attention, the conflict in what is known as the Batak church has not, in part, perhaps, because it is seen as a complex internal struggle in which both sides are at fault. But that struggle appears to have been very deliberately manipulated by government and military officials to achieve specific political ends, and the victims of human rights violations have all been from the faction opposed by the government.

This chapter explores the background to the conflict and the abuses that have been associated with it. But before plunging into the sometimes arcane details, one case study of torture in May 1994 illustrates vividly why the conflict should be cause for concern.

The Arrest and Torture of Four HKBP Activists

On May 12, 1994, three HKBP ministers and a student were arrested in the town of Tarutung, North Tapanuli district, North Sumatra on suspicion of holding an unauthorized meeting. They were taken to the district military command where they were badly tortured, then to the district police station where torture was commonplace and they faced additional abuse. A month later, two were still being treated for their torture-related injuries in a Jakarta hospital. The charges against all were eventually dropped.

The three ministers were Nelson Siregar and Juaksa Simangunsong, both forty-two, and Ramlan Hutahaean, thirty-nine. Siregar, director of the HKBP community development department, is also the executive secretary of the non-governmental organization, KSPPM, which has been the target of government

harassment.⁶⁸ Hutahean is head of the HKBP personnel bureau, and Simangunsong is a pastor assigned to Pekanbaru in the province of Riau, Sumatra. Samuel Sitompul, twenty-one and a relative of Ramlan, is a student at a HKBP college in Pematang Siantar, a town south of Medan.

⁶⁸ Asia Watch, "Indonesia: Ban on Sumatran Organizations," Human Rights Watch, 1990 and "Indonesia: Attempts to Intimidate Labor and Environmental Activists in North Sumatra", Vol.4 No.9, April 1992.

The four were gathered at Pastor Ramlan's home, following services for Ascension Day on May 12. According to the ministers, it was a family gathering to discuss an upcoming wedding; according to the military, it was an illegal meeting without a permit held by one faction of the HKBP conflict.⁶⁹ It is important to note that even if the ministers had gathered to discuss church affairs, it was fully within their internationally-recognized right of freedom of assembly to do so and no permit should have been required. Pastor Simangungsong, his wife and five-year-old daughter, all of whom lived nearby, and Samuel Sitompul were already at the house with Pastor Hutahaean and his wife, when they were later joined by Siregar.

At about 3:00 P.M., four trucks and a jeep together containing some 150 soldiers drove into the neighborhood. The soldiers were a joint force from the district and resort military commands, together with police and some intelligence officers from the North Sumatra regional command based in Medan. According to one of the ministers, most but not all of the men were in uniform.

Two of the trucks, together containing about one platoon, stopped in front of the house; the others blocked the street. Soldiers entered the house and arrested the four men. One minister asked to see a warrant; an intelligence officer told him it was "in the office." The four men were put on a truck and taken to the North Tapanuli district police headquarters in Tarutung. Their families were not informed of the reason for their arrest or where they were detained.

As they arrived, the military commander of the operation, a man named Jansen A., came and told a policeman named Sihombing that there were too many people around the police station, and that the four should be taken to the district military command, just across the way. They were then marched across to the military command and sat down in a row. Jansen then came along and ordered his subordinates to divide them up, with one man per cell. It was in these cells that the four were tortured.

In each cell, there was a small desk, behind which a military intelligence officer sat. In Nelson Siregar's case, Siregar was ordered to stand facing the desk, while two soldiers armed with rifles stood or sat behind him. The interrogation began about 4:00 P.M. The intelligence officer accused him of taking part in a

⁶⁹ On May 23, 1994, in a meeting with journalists to discuss the arrests of the four, the head of the North Sumatra police department's information bureau, Drs. Leo Sukardi, said that any meeting of more than two people needed a permit, and without an official permit, any meeting would be considered illegal. "Kadispen Poldasu: Penangkapan Pendeta HKBP Dilengkapi SPP", *Mimbar Umum*, May 24, 1994.

secret meeting. Siregar denied it, but the soldiers had already worked over Samuel Sitompul, the student, who admitted that some discussion of an upcoming church synod had taken place. The soldiers then made Siregar empty his pockets and found a list of eighteen ministers. When they found it, one of the two took a wooden pole like a javelin and thrust it into Siregar's ribcage.

Interrogation sessions would last about fifteen minutes each, then break. Part of the session consisted of accusations about the secret meeting, part was questioning, part was an attempt on the part of the interrogator to get Siregar to admit that there was only one leader of the Batak church, the man who had been recognized as such by the government.

Siregar was asked what he had discussed with the others, why he was opposing the government and what he thought would happen to his family if he continued with these kinds of actions. Every time he gave an answer his interrogator did not like, the two soldiers would come up behind him and thrust the wood into his side, or beat him with an iron pipe about a meter long or shove their rifle butts into him with as much force as they could muster. Siregar noted that the wooden pole and the iron pipe were propped up in one corner of the room when he was brought in; they were clearly there to be used as torture instruments.

At one point, one soldier took out his revolver and brought it down so hard on Siregar's forehead that it later required three stitches to close the wound. Other soldiers came in periodically and joined the beating, so that at times there were as many as five or six taking part at one time. The interrogation went on for about eight hours.

The other three, two of whom HRW/Asia interviewed in the hospital where they were recovering from the torture, were all burned with lighted cigarettes in addition to being beaten. The scars from the cigarette burns were still visible three weeks later. As Pastor Simangunsong was being interrogated, one soldier took out a pair of pliers, placed it over the fingernail of the fourth finger of his left hand, then crushed the nail and yanked it. Simangunsong collapsed from the pain. His companions said he drifted in and out of consciousness for the next four days. On June 7, three weeks after the torture, his finger remained bandaged, and he was still severely traumatized and disoriented.

Samuel Sitompul had his jaw broken after being hit with a rifle butt during interrogation; it was wired shut when we visited him on June 7. He had been asked why he refused to join the government-backed side, called the SAI-Tiara faction. Pastor Hutahaean was hit on both ears until blood poured out of both, and his hearing may have been permanently damaged.

At midnight on May 12, the four in their blood-soaked clothes were taken

back to the police station, as if the military did not want to be responsible for what had happened to them. The head of the police command, Lieutenant Colonel (Pol.) Pattiasina, signed a "letter of receipt", stating that at this date and time, the district military command formally turned over the four to the custody of the police. The letter also specified the condition of the four men, citing Siregar's head wound, for example. Police helped the men bandage their various injuries and clean up the blood. They were given a change of clothes, but they were not allowed to bathe.⁷⁰ Simangunsong was given a pain-killer, and the others were given a drug of some sort that Siregar thinks may have been a sedative to help them sleep.

Around 11 A.M. on May 13, the four were put in a cell in the police compound with two suspected criminal offenders, a drug trafficker and a gold thief. Both had been held in police custody for about a month but had not yet been processed for trial. Both had also been tortured, but by the police, not the army. The drug trafficking suspect had been made to strip, then kneel on raw soybeans called *kedele*, while a piece of wood was placed across the back of his calves to keep the pressure of his knees on the beans, an extremely painful action which causes no visible injury. Then he was forced to walk on knees across the beans, all the while being beaten. His genitals were also burned with a lighted cigarette.

In the cell, the four HKBP activists had to sleep together with the two other suspects in a cell that measured about one and a quarter meters by one and three-quarters. Because of the limited space, the four had to sleep with their heads virtually on the toilet.

After one day, they were moved to another cell of the same size, with five people accused of killing a policeman in the course of a clash between the two factions of the HKBP. (The killing had taken place around midnight on May 1 or very early on May 2, 1994 in Siraituruk, Porsea, after rumors began circulating that the civilian militia of the SAI Tiara faction was going to attack the church, according to a HKBP source.⁷¹) The five were from the Batak clans or *marga*

⁷⁰ As of mid-June, the families had not been able to recover the blood-stained garments from the police command.

⁷¹ "Gambaran Keadaan Tapanuli Utara Setelah Peristiwa Tanggal 10 April 1994", May 11, 1994. The five were part of a larger group of eighteen arrested, but on May 13, the day after the four HKBP detainees arrived, twelve were allowed to go home after signing a statement agreeing to report regularly to the police in Porsea and paying an "unofficial" fee of Rp.10,000 each. Even as they were leaving the police station to be taken back to Porsea, they were being beaten, one witness said.

Simbolon, Manurung, Butarbutar, Sitorus and Ambarita, and while torture in the Tarutung police station was routine, these five became particular targets, according to their cellmates.

Torture came with meals at Tarutung: after the first roll call of the morning around 8:30; at lunch; in the afternoon; and often two or three times in the evening or at night. Of some 250 to 300 police stationed at the district command, inmates estimated that some fifty were directly involved in inflicting pain, sometimes to get a confession, sometimes to take revenge, sometimes to extort but often, one victim said, because it seemed it was expected: this was what one did to suspects. Every time the door to the cell opened, he said, the inmates knew someone would be hurt. He said one night, a police guard came to their cell around 1:00 A.M., calling for Simbolon, one of the five murder suspects. He said the policeman shouted, "It's one o'clock, Simbolon! Where's my money? Give me Rp.5,000! No money?!" Then he made Simbolon put one of his feet through the bars, took a wooden pole and crunched it down on the foot, causing Simbolon to scream. There were screams of pain from the four cells all the time.

Even the man who had helped bandage their injuries on the day they arrived took part in torture, one minister said. He had seemed like a good man at the time, according to the minister, but then he behaved like everyone else. There was a regular rotation of police on shifts, with about ten men patrolling the four cells in the police command at any one time.

The ministers divided the police at the North Sumatra command into those who gave advice, those who intimidated, and those who tortured, but even those in the first two categories seemed to see nothing wrong with the actions of the latter. Those who tortured did not generally wear nameplates, and those who came around at night generally did not even wear uniforms. The ministers described casual acts of brutality, such as a policeman passing a cell, seizing a prisoner's hand as he reached for his meal, placing two of his fingers on either side of a bar on the cell door and squeezing hard, causing the prisoner to howl with pain. In some cases, this action seemed to sprain or break the fingers.

On May 14, Samuel Sitompul was forced to put his hand under the door, and while one policeman held it down under his boot, another extinguished a lighted cigarette on his fingernails.

After five days at the police command, the four men were moved to the police hospital (Rumah Sakit Brimob) in Medan, still with the status of detainees. The families of the detainees were then for the first time, on May 18, informed of their whereabouts. They had discovered that the men were detained at the police command a day after they were arrested, but officials refused to acknowledge their

presence there and the families were not allowed to see them. The military permitted visits on May 19, and relatives were shocked by the physical condition of the men.⁷²

After a week at the police hospital, the four were allowed to leave, with the charges against them dropped. All were transferred to the Cikini Hospital in Jakarta for further treatment. Simangunsong and Sitompul were still being treated there as late as June 7, but were discharged several days later.

The Two Sides and the Indonesian Government

The kind of torture described above is not unusual, but the victims were better known so the case got more publicity than most. They were arrested for being on one side of the HKBP conflict, and it is important to try and sort out what defines the two sides. For the purposes of this report, the factions will be referred to by their Indonesian acronyms, AP-SSA and SAI-Tiara. AP stands for *aturan dan peraturan* or "rules and regulations," SSA for *setia sampai akhir* or "loyal to the end." Led by Dr. S.A.E. Nababan, it claims that it alone has been faithful to the governing constitution of HKBP and that Dr. Nababan is the lawful *ephorus*, a kind of archbishop.

The SAI-Tiara faction takes its name from a special synod held at the Hotel Tiara in Medan in February 1993 at which a new, government-backed *ephorus* was chosen to replace Dr. Nababan. The special synod (*synode agung istimewa* or SAI) followed the disruption of the regularly-scheduled synod in November 1992, during which the regional military command led by Major General Pramono intervened to oust Nababan and appoint an acting successor. The SAI-Tiara faction, led by Rev. P.W.T. Simanjuntak and Rev. S.M. Siahaan, says that Nababan himself repeatedly bent or broke HKBP rules to serve his own purposes.

Members of both factions have been involved in acts of violence, including several killings. Each has tried to prevent the other from occupying HKBP-owned housing and offices. But the Indonesian government has systematically failed to arrest or prosecute those responsible for acts of violence on the SAI-Tiara side while members of the AP-SSA faction have been routinely

⁷² "Empat Pendeta HKBP Terpaksa Dirawat karena Diduga Dianiaya Petugas", *Mimbar Umum*, May 22, 1994.

arrested, not only for acts of violence but for holding what the government calls "illegal meetings." Many of those arrests have been both unlawful and arbitrary. Torture during interrogation has been the rule, as in the case of the three ministers and a student described in detail above. Members of the AP-SSA side have been prevented from exercising their internationally-recognized rights to freedom of assembly and freedom of religion, as government security forces have tried to prevent them from holding services in churches. One result is that a "house church" movement, akin to the practice among dissident Protestants in China, has grown up among HKBP members, where rather than risk physical clashes, AP-SSA loyalists by mid-1994 were beginning to hold services in the privacy of their own homes.

Not only has the government failed to arrest members of the SAI faction responsible for violence, but it has tolerated -- and some say trained -- a civilian militia called Satgas (an acronym for *Satuan Tugas* or Task Force) SAI-Tiara that has been responsible for intimidation and harassment of villagers loyal to the AP-SSA side, as well as for the destruction of hundreds of homes.

HKBP members -- not only those loyal to the AP-SSA faction -- in conversations with HRW/Asia cited two main reasons for government intervention on the side of SAI-Tiara: the social action program of Dr. Nababan, and the political and economic interests of the North Sumatra elite. Under Dr. Nababan's leadership, HKBP fostered the establishment of a number of non-governmental organizations (NGOs) committed to the empowerment of the poor and disadvantaged in North Sumatra. Prominent among these organizations were the Study Group for the Development of Community Initiative (Yayasan Kelompok Studi Pengembangan Prakarsa Masyarakat or KSPPM) and the Light of Prosperity Group (Kelompok Pelita Sejahtera or KPS).

KSPPM took a leading role in first opposing the construction of a pulp and paper factory called PT Inti Indorayon Utama, or Indorayon for short, in North Tapanuli, the district where HKBP headquarters are located, and then protesting land expropriation and pollution caused by it. Tensions came to a head in August 1990 when the district military commander closed down KSPPM on a spurious legal technicality; it was allowed to reopen two months later but continued to be harassed. KPS, for its part, was founded in 1991 and became involved in labor organizing in the Medan area and incurred the wrath of the local government and military for allegedly fomenting wildcat strikes.

HKBP under Nababan's leadership was thus challenging important economic and political interests in North Sumatra. Long before the overt intervention of the military to oust Nababan in 1992, for example, the Indorayon management was supporting the opponents of Nababan and calling for his

overthrow.⁷³

A second reason, that became linked to the first, was the reported desire in 1992 of the regional military commander, Maj. Gen. Pramono, to become governor of North Sumatra. Precisely because of the concentration of industry and agribusiness in the province, the governorship is a highly lucrative position. Technically, governors are chosen by the local parliament from a list of candidates put forward by the Minister of Home Affairs. But HKBP's size and strength, with over two million members, has traditionally made it something of a kingmaker. Pramono, according to this explanation, needed HKBP support, but it was clear he would not get it as long as Nababan was *ephorus*. He therefore decided to actively intervene on behalf of Nababan's main opponents, PWT Simanjuntak and Siahaan, who later announced in *Sinar Indonesia Baru* that they were making Pramono an honorary minister in the Batak church. In doing so, Pramono reportedly had the support of Indorayon, even though the ministers of both religious affairs and home affairs warned him about the dangers of taking sides in the church dispute.

A third factor, according to AP-SSA loyalists, was the frustrated desire of a prominent retired army general, Maraden Panggabean, to become head of HKBP. Panggabean was one of the most prominent New Order generals; he had been commander of the army in 1969, then deputy commander-in-chief of the armed forces, then head of the powerful internal security agency, Kopkamptib in 1971, and in 1978, coordinating minister for politics and security. He became a member of the governing board of Golkar, the ruling political party, and from 1982 until his retirement was head of the largely ceremonial National Security Council. After his retirement, he reportedly wanted to become recognized as a *tokoh* or influential figure among his own people, the Batak, and the best way of doing so was to become the head, or the de facto head, of HKBP. In 1990, he had made his first attempt to do so by becoming a candidate to replace Dr. Nababan as head of the national Indonesian Council of Churches, Persatuan Gereja Indonesia or PGI. But he was not selected, and he turned to the internal affairs of HKBP. There he, like Pramono, saw Dr. Nababan as the major obstacle to his ambitions and by 1992, was reportedly backing Pramono in his bid to oust the latter. Panggabean also reportedly received support from the Indorayon company.

The initial intervention of the government in the HKBP dispute in November 1992 was thus overwhelmingly the result of local political and economic interests. But once the damage had been done and local political actors

⁷³ See "Kecalonan di Indorayon," *Tempo*, Vo.20, No.31, September 29, 1990, p.28.

had thrown their support to SAI-Tiara, the conflict only deepened and made its resolution more difficult. To the extent that Pramono and Panggabean tried to mobilize support beyond the province of North Sumatra, up to and including President Soeharto, it became impossible for the government to back down from support of one faction and led to supporters of the other being branded as opponents of the government. Expressions of resentment against Nababan, apparently sometimes well-founded, for perceived arrogance and authoritarian actions, became seen by the AP-SSA side as assaults on the integrity of the HKBP structure. And resentment over government interference not only in the choice of *ephorus* but in daily religious activities strengthened the militancy of aggrieved HKBP supporters, including within the social action organizations that the church had helped found.

Background to the Conflict

The roots of the HKBP conflict go back to 1986 and the decision of the church, on the occasion of its 125th anniversary, to engage in a more pro-active program of social action to directly address the problems of poverty in North Sumatra, the church's main base of support. Dr. Nababan, a controversial minister and theologian who was then head of the Indonesian Council of Churches, was urged by church activists to become a candidate for *ephorus* and was duly elected as such during the Grand Synod in February 1987. His main rival was a pastor named PM Sihombing, then secretary general of HKBP.⁷⁴

Nababan's autocratic style, his use of Jakarta-based charismatic preachers for evangelical work, and some of his social programs generated resentment among the more traditionalist circles of HKBP, and an anti-Nababan movement appeared, led by the defeated candidate for *ephorus*, Sihombing, complete with published tracts accusing Nababan of everything from womanizing to Communist tendencies.

In reaction, Nababan ensured that disciplinary action was taken against the rebel pastors at the next synod, and Sihombing and eighteen other were expelled from the priesthood and any posts they held within the HKBP organization. Nababan was warned at the time by the Minister of Manpower that the dismissals were in violation of Indonesian labor law. The opposition to Nababan as a result of these measures only intensified.

⁷⁴ Secretary general is the chief administrative position as opposed to *ephorus*, the top religious/spiritual post.

In the meantime, HKBP's new social activism, involving efforts at legal education and community empowerment, was generating a backlash from the government. That backlash became more pronounced in 1989 and 1990, as HKBP under Nababan led the protests against the Indorayon plant. One form it took was support for Nababan's rivals within HKBP.

In August 1990, the North Sumatra police refused to give HKBP a permit to hold a synod in the town of Pematang Siantar. At the time, they said that because the area was largely Muslim, a Christian conference would contribute to intergroup tensions. But in a letter dated September 5, 1990, the national police commander (Kapolri) accused HKBP of engaging in political activities. Nababan wrote back, asking the police to present evidence to back up the charge, but he never received a response.

About the same time, General Panggabean and seven other serving generals formed a "Peace Team," formally sanctioned by the then minister of religion, Munawir Sjadzali, in a memo dated September 6. The team was set up ostensibly to settle the conflict. But without consulting the Nababan-led HKBP hierarchy, its members set up cells in each HKBP district. According to an AP-SSA document, the main aim of the "Peace Team" was to overthrow Nababan, and Panggabean admitted as much in a "safari" to the town of Sibolga on September 30, 1990. His efforts drew support from some key Nababan rivals, including the secretary general of HKBP at the time, O.P.T. Simorangkir, and the management of Indorayon. The "Peace Team" had the full cooperation of the military at the provincial, district and subdistrict levels, with officers of the Kodim 0210 of North Tapanuli being particularly active in urging residents to attend meetings organized by the team. Such meetings took place in Sipoholon on September 29, 1990; Sibolga on September 30; Pematang Siantar on October 1; and Medan on October 2. Speakers cited Nababan's arbitrary sacking of ministers as one reason why he should be dismissed, but his sponsorship of NGOs that challenged the established order was a key reason behind the government's distrust of him.⁷⁵

Government efforts to build support for Nababan's ouster reportedly

⁷⁵ It is probably no coincidence that a major crackdown on NGOs had begun earlier in the year with the so-called "Brussels Incident" where an international NGO meeting in Belgium on Indonesia, attended by dozens of the Indonesian organizations including several based in Medan, issued an open letter to the World Bank, criticizing it for its support of a dam project in Central Java. The Indonesian government accused the NGOs of blackening the name of Indonesia abroad.

continued through 1991 and 1992, although his opponents claim that moves for the ouster were coming from within HKBP to the point that he no longer commanded a majority in the church's governing council. They say he therefore set up a new forum and changed the rule of the HKBP organization, stripping the Secretary General of his powers and had directors of departments, institutions and bureau chiefs report directly to the *ephorus* rather than the Secretary General.

On October 13, 1992, the North Sumatra provincial government set up a United Working Group to Settle the HKBP Problem (*Kelompok Kerja Terpadu Penyelesaian Masalah HKBP*). Members included the regional commander and the provincial head of police, and one of its first actions was to issue a statement that neither Nababan nor his secretary general, Simorangkir, could be a candidate for *ephorus* in the upcoming synod, scheduled for November. Nababan's followers, however, ignored the directive and nominated him anyway.

The 51st Synod And Its Aftermath

The extent of military intervention at the district (Kodim), resort (Korem) and regional (KODAM) levels at the 51st Synod, held from November 23 to 28, 1992 in North Tapanuli, was unprecedented and took the conflict to a new level. If before, military support of the anti-Nababan forces within HKBP had helped polarize two sides of an internal conflict, the use of troops to close down the synod and appoint a new *ephorus* transformed that conflict into a situation of serious civil strife, often involving violence, that will take years, perhaps generations, to heal. Active government support of one side and severe military abuses against what has become known as the AP-SSA faction have placed the conflict far beyond the bounds of a leadership struggle and removed the possibility that anyone associated in any way with the government can play a mediating role.

Details of the 51st Synod have been published elsewhere.⁷⁶ In summary, hundreds of armed troops, led by Colonel Daniel Toding, commander of Military Resort (Korem) No.021/Kawal Samudera, and Lieutenant Colonel Paris Ginting, deputy head of intelligence for Regional Command (KODAM) No.1, surrounded the meeting in Tarutung, which had been marked from the beginning by organized disruptions.

According to the AP-SSA faction, Nababan's opponents, led by S.M. Siahaan and P.W.T. Simanjuntak, tried to prevent the synod from taking place.

⁷⁶ Asia Watch, "Indonesia: Military Repression Against the Batak Church," *op.cit.*

According to the opponents, Nababan had tried to rig the meeting in advance by firing key members of the governing council the day before the synod opened. In a circular written by a leading figure in the SAI-Tiara faction, Dr. S.M. Siahaan, entitled "The Turmoil in the HKBP, How and Why," Nababan "even prevented anybody he didn't like to enter to Synod by using the police and military personnel of the district commander, a lieutenant colonel friendly to him." On the last day, Nababan, as *ephorus*, dissolved the synod before it had formally concluded. Ginting locked all participants in the meeting hall as Toding held a closed meeting with some members of the governing council -- not including Nababan. When the meeting was over, Toding announced to the participants that the HKBP issue was now in the hands of the government.⁷⁷ The next day, November 29, Toding issued a statement that Nababan was forbidden to perform any functions as *ephorus*.

General Pramono called a meeting on December 18 of the senior figures in HKBP that Nababan did not attend. On December 23, 1992, in his capacity as head of the regional internal security agency Bakorstanasda, he issued decree No. Skep/3/Stada/XII/1992, appointing Dr S.M. Siahaan as "acting *ephorus*."

The appointment was to be on an interim basis until a special synod could be held. But the immediate reaction was one of outrage on the part of those upset with heavy-handed interference in church affairs and the violation of the HKBP constitution. The month of January 1993 was marked by a concerted military crackdown on protestors trying to retain control of HKBP headquarters in Tarutung, North Tapanuli, and its considerable financial assets. They failed, and on January 18, the faction later to be known as SAI-Tiara took over. The crackdown in Tarutung, Medan, and elsewhere led to dozens of arrests, many of them unlawful and arbitrary, and allegations of torture and severe beatings during interrogation.⁷⁸

The special synod was nevertheless held on February 11 to 13, 1993 at the Tiara Hotel in Medan, and the Rev. P.W.T. Simanjuntak was elected *ephorus*. Nababan's supporters charged that the only requirements to be a delegate were to

⁷⁷ Siahaan says that after Nababan left the synod suddenly on the last day, the military commander called the governing council to find out the results of the synod. Colonel Toding stepped in after Nababan refused to answer repeated phone calls and "invited" the governing council to choose caretaker functionaries in the absence of an *ephorus*.

⁷⁸ Asia Watch, "Human Rights Abuses in North Sumatra," Vol.5, No.18, November 10, 1993, pp.3-5.

agree in writing to recognize Simanjuntak as *ephorus* and to acknowledge that Nababan had no claim to speak for HKBP. After the synod, AP-ASS ministers began to be systematically replaced by their rivals, but their parishioners remained loyal, and clashes began to break out on Sundays over which faction would hold services in any particular church. The months of April and May saw particularly violent clashes in the North Sumatran towns of Tebingtinggi, Pematang Siantar, Tanjung Morawa and Medan. Members of the AP-SSA faction in Tebingtinggi were arrested in May for possession of molotov cocktails; they in turn charged that the army had hired thugs to try and take back a church there for the SAI-Tiara faction.

In late May, President Soeharto appointed T.B. Silalahi, Minister for the Utilization of the State Apparatus, who happened to be a Batak, to mediate between the two factions. On June 14 in Jakarta, he succeeded in bringing about an agreement between Nababan and Simanjuntak. In the agreement, Nababan acknowledged the authority of Simanjuntak as *ephorus* pending another synod to be held in accordance with HKBP by-laws. They agreed that Simanjuntak would cease the practice of replacing AP-SSA ministers with his own loyalists, and that churches should remain open for use by all groups wishing to meet for worship. But the dispute had already gone far beyond a leadership struggle, and on the first Sunday after the agreement was announced, AP-SSA supporters stormed a church in Medan where SAI-Tiara supporters had gathered.⁷⁹

Throughout July and August, sporadic clashes took place, many of them sparked by efforts of the SAI faction to evict AP-SSA ministers from their HKBP-owned homes or AP-SSA attempts to hold services in churches in the face of determined opposition from SAI partisans, backed by the army and police. It was clear that support for the SAI-Tiara faction among the general populace in North Tapanuli and other parts of North Sumatra was insufficient to hold on to the physical structures that symbolized HKBP leadership without outside force. AP-SSA sources allege that Simanjuntak and his associates began hiring *preman* -- local thugs -- as early as mid-1993, working in conjunction with the regular armed forces.

⁷⁹ The June 20 attack by AP partisans, who wanted to enter the Helvetia church to take part in services and were prevented from doing so by SAI supporters, was initially reported to have resulted in the murder by the AP side of an SAI man named Petrus Pakpahan. He was later found to have died of a heart attack. Twelve AP supporters, however, were arrested and detained without charge in the police headquarters in Medan for almost two months.

One source of thugs was Pemuda Pancasila, or Pancasila Youth, an organization later accused of having a hand in the anti-Chinese incitement in the labor unrest in Medan of April 1994.⁸⁰ HRW/Asia obtained a copy of three letters from Drs. A.T. Sitio of the SAI-Tiara faction, identifying himself as Security Coordinator of HKBP, District 10, Medan-Aceh, to Pemuda Pancasila. The first letter, dated October 30, 1993 asks for help of the West Medan branch of the organization in "securing and emptying" a house of the Nommensen University Foundation on November 2. Two subsequent letters were addressed to the head of the Medan branch of Pemuda Pancasila. One, dated November 5, 1993, asked for help in emptying official HKBP houses in Binjai, outside Medan, of their AP-SSA occupants. The letter concludes, "We know that with the help of Pemuda Pancasila, together with the faithful and the relevant agencies, we can easily clear out these houses." The next day, Drs. Sitio sent another letter asking for helping providing security for a service that was to take place the next day, Sunday, in the Glugur church on Jalan Pembangunan III in Medan. Several further letters indicated that the Glugur church had become a major point of contention between the two factions, and that the AP-SSA faction was also using violence against their opponents.

By September 1993, the involvement of the regular army on the SAI-Tiara side intensified. On September 3, troops joined about a hundred SAI partisans to evict two ministers from their official residences in Siborongborong. A similar incident took place the next day in Pakpahan, personally led by the military commander of North Tapanuli. On October 15, about one hundred SAI supporters tried to take over the house of the HKBP superintendent (*praeses*) in the Porsea district. In this case, the minister had agreed with local authorities that he would vacate the house as long as no one else occupied it, and the house remained empty. Other attacks on HKBP property took place in October and November in Samosir, Pematang Siantar, Kisaran and Medan. In each case, the army was used to back up SAI attempts to physically occupy HKBP-owned buildings.

In addition, governments at the district and provincial levels took other measures against AP-SSA leaders and sympathizers that violated their rights to

⁸⁰ Pemuda Pancasila, run by a man named Yapto, is perhaps best known for mobilizing youth gangs and underworld figures to engage in intimidation and harassment of voters on behalf of GOLKAR during election campaigns. Another source of thugs was the Ikatan Pemuda Karya, a youth organization linked to the ruling party Golkar; SAI-Tiara leaders wrote to it for assistance in October 1993.

freedom of expression and assembly. On September 11, the governing council of North Tapanuli issued an order calling on all HKBP members in the district to recognize the leadership of Simanjuntak; the order also banned Nababan from speaking or preaching. On September 24, a telex from the office of the Governor of the North Sumatra forbid any HKBP activities inside or outside church buildings unless participants formally accepted the results of the SAI-Tiara synod of February 1993. On April 6, 1994, the office of social and political affairs in North Tapanuli sent a telex to all the *camat* in the district announcing that Nababan was planning to speak in Narumonda and that masses of people from outside the area would probably try to come. "To prevent an undesirable situation from arising such as a physical confrontation," the telex read, "you are requested to work together with the Muspika [army and police commanders] to block people from your area from attending the above program."

The government made efforts as well to prevent HKBP members from exercising their right to freedom of association and religion as well. On April 9, the regional military command asked all subdistrict heads (*camat*) in North Tapanuli to submit lists of names to their respective subdistrict military commanders of all civil servants who supported Nababan. On May 19, the North Sumatra office of the Indonesian civil servants association, KORPRI (*Korps Pegawai Republik Indonesia*) issued a directive to KORPRI officers at the provincial and district levels to ensure that all civil servants in the province uphold the decision of the government and acknowledge the leadership of Dr. P.W.T. Simanjuntak as the rightful *ephorus*. KORPRI officials were instructed in a handwritten note on the second page to get a photocopy of the directive to all KORPRI members with their signatures as proof that they had seen the order.

Creation of a Civilian Militia

In January 1994, Rev. Siahaan announced the establishment of a civilian militia called Satgas SAI-Tiara. The militia only formalized what was already in existence, an unofficial paramilitary force composed, at least in part, of hired thugs that had been working with regular security forces to take control of HKBP assets. With training (but no firearms) reportedly provided by local military commands, Satgas forces emerged over the next few months in Tarutung, Medan and Pematang Siantar.⁸¹ Their emergence coincided with two other developments in North

⁸¹ HKBP members who supported the AP-SSA faction reported that training of the SAI-Tiara militia in which military officers were involved was carried out at HKBP headquarters

Sumatra that were not unrelated: renewed activism against the Indorayon plant and intensified labor unrest in Medan.

On November 5, 1993 a chlorine tank had exploded at the Indorayon plant in the village of Sosorladang, subdistrict Porsea in North Tapanuli, causing fears of another Bhopal. Hundreds of villagers fled their homes to escape what they thought might be poison gas, and the next day, angry villagers burned cars, offices and over 100 houses belonging to the factory and its employees. As it turned out, the explosion did not lead to any immediately visible injuries but it generated renewed demands from villagers, backed by a coalition of social action and environmental organizations, for the factory's closure. The depth of local outrage seemed to take the factory management by surprise, although protests against the damage and destruction wrought by the pulp plant had been going on since 1989.

But the factory embarked on a public relations campaign in January that, among other things, involved token gifts of wall clocks and petromax lamps to local churches and the use of Pemuda Pancasila youth to spread its message of goodwill.⁸² The combination of outreach to churches and involvement of Pemuda Pancasila, combined with strong statements against NGOs made not only by the factory but also by the governor of North Sumatra, almost certainly meant more funds for SAI-Tiara and its Satgas, especially given Indorayon's record of support for anti-Nababan forces. (AP-SSA partisans say that Indorayon security guards or SATPAM have been used in Satgas operations.)

The second development was growing labor unrest. Medan, Indonesia's third largest city, and surrounding towns had been wracked by strikes and demands of workers for rights guaranteed by Indonesia's own laws throughout early 1994.

in Peraja, Tarutung; the Medan-Aceh district office; and on the campus of the theological institute in Pematang Siantar. In Medan, the forces were said to be under the command of retired Colonel J.P. Silitonga; in Pematang Siantar, of retired Lt. Col. S.A.M. Simanjuntak; and in the Toba district, of Columbus Hutajulu.

⁸² See "Peristiwa 5 November 5 93 Di PT.IIU Memberi Hikmah", *Waspada*, January 29, 1994, p.7. A Pemuda Pancasila leader named Baldu Simanjuntak is quoted as rejecting villagers' arguments that the factory caused their impoverishment and its pollution made their fish die. "They just got lazy because their income from other sources was going up. On top of that, they didn't have the skills to manage fish ponds...They're planting two rice crops a year and using chemical fertilizers. The influence of fertilizers and pesticides can cause fish to die if people aren't clever."

As the Muslim holiday Lebaran approached, worker demands for holiday bonuses increased, as did demonstrations and wildcat strikes. Most of the unrest was centered in industrial estates on the outskirts of Medan, where HKBP-linked NGOs had been active in organizing workers, but it extended to Pematang Siantar, another HKBP stronghold.

To the extent that local officials, civilian and military, saw the AP-SSA faction as linked to labor activism, they may have been more willing than ever to back SAI-Tiara -- particularly after the mass demonstration of thousands workers on the streets of Medan on April 14 and 15 in which one Chinese businessman was killed. The perceived linkage between AP-SSA and the labor movement was made explicit by the current regional military commander of North Sumatra, A. Pranowo, in the last edition of the Jakarta news weekly, *Editor*, shut down by the government on June 21. In an interview, Pranowo said,

The HKBP led by S.A.E. Nababan used to have an NGO called KSPPM. This NGO was banned, but then this other NGO sprang up. SBSI also emerged from KSPPM. Amosi Telaumbanua [the head of SBSI Medan who is currently detained in connection with the worker demonstration last April] was a KSPPM leader for labour relations.

To the reporter's question of whether this meant that HKBP and the labor unrest were linked, Pranowo replied, "It could well be. We're still looking into it. Because the supporters of HKBP who call themselves SSA consist of a variety of groups, including NGOs. The connection is complex." When asked if North Sumatra was becoming a testing ground to overthrow certain officials, he replied, "Not just North Sumatra -- Java, too."⁸³

Satgas SAI-Tiara made its first public appearance, complete with uniforms, on April 8, 1994, in Narumonda, Porsea. It was the Friday before Easter, and over 100 uniformed youth, in gray uniforms and red berets, armed with traditional spears and knives, led by a failed businessman named Columbus Hutajulu who had extensive ties to the Medan underworld, tried to break up preparations for Easter Sunday at the Narumonda church, a HKBP church controlled by the AP-SSA faction. As they approached, according to one eyewitness, women preparing food in a kind of outdoor kitchen chased them away.

⁸³ "Bukan Gerakan Makat," *Editor*, Vol.7, No.39, June 23, 1994.

But even as the Satgas retreated, a mobile brigade (Brimob) force moved in, consisting of about 200 men. Armed with bayonet rifles and tear gas, they succeeded where the Satgas had failed in dispersing the parishioners and taking over the church.

On April 10, Easter Sunday, thousands of AP-SSA loyalists tried to enter the Narumonda church in spite of the Brimob forces trying to prevent them. Because Dr. Nababan was personally leading the service, churchgoers from all over North Sumatra were flooding into the town; eventually their numbers became too great even for the troops, who finally allowed people into the church, but Satgas SAI-Tiara forces, backed by armed police and soldiers, tried to blockade the main entry routes to the town. A major confrontation took place on the road in from Tarutung, where AP-SSA men and women threw stones at the troops blocking their way and set vehicles on fire, and soldiers fired bullets into the air and used tear gas against the crowd. One youth was shot in the foot.

Attacks by Satgas SAI-Tiara increased throughout April, with homes of AP-SSA ministers a particular target. AP-SSA supporters fought back, and in one clash on May 2 in Siraituruk, in Toba district, a crowd lynched a policeman thought to be helping the Satgas. Soldiers and police descended on the town and burned over 100 homes, according to residents.

Columbus Hutajulu, one of the Satgas commanders, denied that the Satgas was trying to terrorize anyone as alleged by the AP-SSA faction. "Our task is to liberate churches from occupation by irresponsible persons. After we secure the churches, we turn them over to police and ministers."⁸⁴ Nevertheless, the atmosphere of fear had become so pervasive not only in North Sumatra but in other HKBP congregations that in June, some 200 HKBP ministers went to Jakarta to demand guarantees of protection from the national parliament.

Conclusions

AP-SSA partisans in many cases were responsible for violence themselves in efforts to recover use of their churches, forestall seizure of church property and prevent SAI-Tiara supporters from meeting or speaking. The government clearly has a right to arrest those responsible and charge them with the appropriate violation of the Indonesian Criminal Code. But the government in this case is an active party to the conflict and used its powers not only to arrest AP-SSA

⁸⁴ "Khotbah Protest di DPR," *Tempo*, Vol.24, No.16, June 18, 1994.

supporters for suspected criminal offenses but to coerce them, sometimes through torture, to recognize the church leadership that it had installed. SAI-Tiara members and the thugs they employed were not arrested, nor were investigations into acts of vandalism against property belonging to AP-SSA loyalists seriously pursued. A series of measures promulgated by military and civilian authorities were used to deny the AP-SSA members their internationally-recognized rights to freedom of religion, expression, association and assembly.

VIII. KILLINGS AT THE NIPAH DAM

Introduction

On September 25, 1993, a combined force of local army and police opened fire on hundreds of villagers protesting the construction the Nipah dam, in the Banyuates subdistrict of Sampang, on the island of Madura off the coast of East Java. Four people were killed, and three were wounded.

Less remarkable than the shootings, which were only one more example of how the Indonesian military's "security approach" to public protests can have tragic consequences, was the domestic response. Invoking the 1991 Dili massacre as an analogy, students across Java called for a commission of inquiry, and Muslim leaders demanded action. The shootings were immediately investigated by several different agencies and organizations. The Surabaya branch of the Legal Aid Institute (*Yayasan Lembaga Bantuan Hukum Indonesia*), the country's premier non-governmental human rights organization, did a thorough interim report, published in October 1993. The East Java division of the army sent investigators, and so did the local parliament; and journalists from all major papers and news weeklies descended on the site to do their own analysis. While the versions differ on several crucial points as described below, there seemed to be a consensus that the deaths were avoidable.

The East Java command began almost immediately to take a series of measures that it hoped would pacify the villagers without explicitly admitting wrongdoing. It announced that the men who had opened fire were being questioned, and by the beginning of October, some twenty soldiers had been called in to the East Java headquarters in Surabaya. It offered compensation to families of the four victims, who, after initially refusing any money, were persuaded to accept it at the end of October. Less than a month after the shootings, four local military officers, either themselves directly involved or having relevant chain of command responsibility, were transferred out of the district. In the case of one officer, Sgt. Ali Wafa, the subdistrict police chief, the military went to great lengths to deny that the transfer was a punishment and claimed it had been planned long before the shootings took place. Wafa, indeed, had not been at the site at the time of the shootings.

But the overall impact of the transfers was an admission of error -- the problem as far as human rights organizations were concerned was that the remedy

had been internal disciplinary measures rather than a public trial. It was also true that the main infraction for which the four men were held responsible was not the disproportionate use of lethal force but failing to report the incident to their superiors. Even more disturbing, it appeared that the reason for their transfer was not based on the result of an intensive fact-finding investigation but on instructions from the commander-in-chief of the Indonesian armed forces, General Faisal Tanjung, to the East Java commander, Maj. Gen. Haris Sudarno, to sack a few officers as a way of dealing with the public attention. In addition to the four officer, at least six other members of the subdistrict military command were reported to have been transferred.⁸⁵

The quick, if ultimately unsatisfactory, response of the military appears to have been driven by three main factors. One was a desire to avoid more negative attention when the East Java military was already under a cloud for its inaction and apparent cover-up in the Marsinah case. Second was the need to appease the Muslim leadership of Madura and East Java who, in an unusual public display of anger, had sent petitions within days of the shootings to the East Java governor and military commander, demanding a full inquiry and prosecution of those responsible. Virtually every *kyai*, or learned Muslim on the island of Madura signed a petition, and for reasons explained below, it behooved the army to respond. Finally, the provincial leadership needed to deflect attention, if possible, from the *bupati*, or district head, of Banyuwates whom the villagers and most NGO observers believed was most responsible for the tragedy. Colonel Bagus Hinayana, an active duty officer, had been made *bupati* prior to the 1992 parliamentary elections in order to secure a victory for the ruling party, GOLKAR, in what had been a traditional stronghold of Muslim parties. He succeeded, and it would have been difficult as a result to remove him.

But the military's actions demonstrate the limits of accountability in Indonesia. Like the National Commission of Inquiry (KPN) appointed to look into the Dili massacre, the military avoided any in-depth analysis of who was responsible, and the transfer of the four officers appeared to have taken place more because they were expendable than because of specific shortcomings or offenses that were exposed to public debate. Eight months after the shootings, in May 1994, when the families of victims approached the National Commission on Human Rights, they got a sympathetic hearing and renewed public attention, but the case was effectively closed. Moreover, when they returned from Jakarta to Madura,

⁸⁵ "Setelah Pertemuan dengan Jendral Tanjung," *Tempo*, Vol.23, No.34, p.22.

local security forces tried to harass the leaders of the delegation. The reports of fact-finding missions conducted respectively by the Ministry of Home Affairs, the military, and the governing councils of Golkar and the United Development Party were never made public.

Not only was the issue of accountability left hanging, but more fundamentally, the issue of the dam itself remained unresolved. In Banyuates, the local government applied the "security approach" not simply to a mass protest of villagers but before that to the implementation of a development project in which those most affected had not been consulted. "Obstructor of development" has become the label of choice for security forces who used to brand critics as "subversives." Unless better methods of consultation are developed and more public debate allowed on specific projects, there are likely to be many more Nipahs.

Background to the Shootings

Banyuates is one of twelve subdistricts of Sampang, Madura, and of the twenty villages it comprises, eight, according to government plans, would be affected by the Nipah dam. Construction was originally scheduled to begin in fiscal year (FY)1981/1982. It was first postponed until FY1986/87 and then, apparently because of a shortage of funds, to FY1993/94. Government officials projected that the dam would increase the amount of irrigated land in the area by over 1,000 hectares, but 170 hectares of privately owned land would have to be expropriated first, including some needed for the actual construction; the rest would be submerged when the dam was built. On April 30, 1993, Col. Bagus established a Land Expropriation Committee with himself as head. On May 19, in a decree setting up a team to assist the above committee in Banyuates, Col. Bagus laid the groundwork for involvement of the security forces; the team, he said, was to include Lt.Col. Sugeng Wiyono as head of the district military command (Kodim 0828) and Lt. Col. (Police) Siswinarto, as head of the Sampang police. Contracts were signed in June and July 1993, surveying started on July 5, and Col. Bagus formally initiated the project on July 31, 1993.⁸⁶

The problem was that people in five villages where most of the land expropriation was due to take place, Pelanggaran Barat, Pelanggaran Timur,

⁸⁶ Tim Pencari Fakta, LBH Surabaya, "Insiden Nipah," Yayasan Lembaga Bantuan Hukum Indonesia (YLBHI), October 1993, p.6-7, 10.

Tolang, Nagasareh and Larlar, were never consulted and only learned about the proposed submergence of their land when the surveyors first appeared. The first measuring was scheduled to take place on August 10-14 and again on September 6-8 by the district office of the National Land Agency (Badan Penanaman Nasional or BPN).

In the first round of surveying, BPN teams began planting posts of different colors around the villages --green meant that the land would be submerged when the dam was built, and the owners would get compensation. Red meant that the land would not be flooded. As more villagers began to understand what the posts signified, they began removing them at night after the BPN teams had departed. In addition to their desire to keep their land, the villagers were reportedly opposed to the project because they were skeptical that they would benefit from the promised increase in irrigated area (particularly if they were to lose their land) and because they feared that somehow it would result in an increase in tourism and accompanying social evils.⁸⁷

On August 25, 1993, therefore, thirty-five villagers, including four men named Ma'ruf, Hudori, Misruki and Padot, went to the district parliament (DPRD II) in Sampang, Madura, to register their opposition to the project. They indicated that until clear explanations were forthcoming from the government, they would refuse to have their land measured.

The day after the DPRD II visit, according to K., a village woman, two men in civilian clothes came into the village looking for Ma'ruf. They said they were friends of his and asked K. where he was. K. thought it was odd they should be friends, because they did not speak Madurese. That same day, August 26, Ma'ruf went to a religious meeting called a *pengajian* at Hudori's house. At that point he showed Se'ri, a young religious scholar from Sampang who was present, a written summons that he and each of the other three had received from the subdistrict military command (Koramil), asking them to appear at 9:00 A.M. the next day. Se'ri advised them to go.

The two men in civilian clothes, who in fact were policemen, then "invited" Ma'ruf and the other three who had approached the local parliament to go with them by truck to discuss the issue of the land expropriation with the Koramil commander, who was willing to play a mediating role in the dispute.

When they arrived at the commander's office, it turned out he was not there, so the two men suggested they all go to see the *camat* or subdistrict head.

⁸⁷ Ibid., p.5

They went to the *camat's* office, but he was not there either. The truck continued on to the Kodim in Sampang, where Ma'ruf found himself under interrogation. He was accused of masterminding resistance to the dam as well as the DPRD II demonstration, urging people not to sell their land and leading the opposition to the surveying. The interrogator also made contemptuous references to Kyai Alawy Muhammad, a Muslim leader who had taken a strong interest in the Nipah case, as if to imply both that Ma'ruf was working in concert with the kyai and also that the kyai could be no help to him now. Ma'ruf and his colleagues were held for two days in the Kodim and interrogated constantly but not physically abused. They were released on August 28.

Not all villages reacted to the proposed dam in the same way. In Nagasareh and Pelanggaran Barat, resistance to the dam was much less apparent, whereas in Pelanggaran Timur, Telang and Larlar, opposition was strong and vocal. The people most willing to sell their land appeared to be the families of the village heads in the belief that they would get rich.

On September 8, according to the report from the Legal Aid Institute-Surabaya, the National Land Agency conducted another survey accompanied by the village head of Pelanggaran Barat, a man named Asdin. The team was also accompanied by two police and one soldier. As thousands of villagers gathered near the river around 11 A.M. to protest the team's arrival, Asdin began waving a spear around. He and the three security men placed themselves between the villagers and the BPN team, and he made gestures as if to wave away the team in response to the villagers' wishes. Someone in the crowd picked up a clump of earth and threw it at one of the policemen, hitting him on the ear.

That afternoon, around 2:00 P.M., eight security men came to Hudori's house. He ran out the back and hid in a small cemetery behind the house. The men shot into the trees around his house, then went to the small mosque at the back of his home and shot at the loudspeakers there, destroying them.

Human rights lawyers trace the immediate roots of the Nipah tragedy to two meetings convened by Col. Bagus on September 15 and 20. On September 15, he called a closed meeting of the district military commander and police chief, the head of the Sampang BPN office, two irrigation officials, the social and political affairs officer for Sampang and the head of the district parliament. The *bupati* stressed the need to speed up the surveying, with the assistance of subdistrict military and police officers as well as village security personnel.

On September 20, Col. Bagus called a meeting at the village meeting hall of Pelanggaran Timur, to which some seventy landowners from eight affected villages were invited. Also in attendance were the civilian and military leaders of

Banyuates and Pak Har, the village head of Pelanggaran Timur. Everyone could hear the proceedings because speakers used a microphone and loudspeakers. Police, however, had fenced off the area so that those not invited could be kept out, and dozens of police ringed the hall. Those invited were overwhelmingly in favor of the project, especially those from the village of Nagasareh. A few opponents, including Ma'ruf, had been invited, apparently in the hope that they would be persuaded by the others.

When it came time for questions and answers, Ma'ruf tried three times to ask a question before he was finally given the microphone. He said he was not trying to stop the project, but wanted to know what would happen to those who lost their land -- where would they move? He said there ought to be answers, and he appealed to the invitee to say whether they agreed with the terms of the project. Most of those present shouted, "We don't agree!" At that point, Col. Bagus took the microphone away from Ma'ruf and ordered him to leave. He did so, but most of those present in the hall followed him out. At this point, thousands of people standing outside the village hall began picking up clumps of earth and throwing them at the police. The *bupati* then said there would be another survey on the coming Saturday, September 25, and anyone who tried to obstruct a national project would be arrested by the district police chief and shot on the spot. Few people took him seriously.

On Friday, September 24, news began circulating that the BPN team was back in Pelanggaran Timur and would be conducting another survey that afternoon. After Friday prayers, there was no sign of the team, but a man not known to the villagers said the team had gone home and would be back the next day.

On September 25, villagers gathered around 11:30 to protest the arrival of the BPN surveyors. According to the army, they numbered some 250 to 300 people; according to the villagers, there were thousands; according to the villagers' version as interpreted by the head of the faction of the United Development Party (PPP), the Muslim opposition party, in the Sampang parliament, there were about 500. The army said the protest was organized, with a meeting having taken place early that morning at the home of one of the resistance leaders "to get instructions."⁸⁸ Villagers acknowledge that they began gathering around dawn in response to the beating of a bamboo drum in the village of Nagasareh and then marched peacefully toward Pelanggaran Timur where they believed the BPN team was going to work.

⁸⁸ "Ny'on Odik, Lalu Robohlah Mereka, *Tempo*, Vol.23, No.32, October 9, 1993, p.32.

The East Java commander, Haris Sudarno, claimed the villagers were armed with machetes, scythes and sharpened bamboo; eyewitnesses interviewed by HRW/Asia insist they were unarmed. Near the river where the dam was to be constructed, eight police and twelve officers from the subdistrict military were in place, ready to handle any security problems, according to Sudarno, and saw the crowd advancing. The Koramil commander fired a warning shot into the air, about 100 meters from the advancing crowd, and again at seventy-five and fifteen meters. Then, Sudarno said, the situation became so critical that some members of the security forces fired without orders, killing and wounding some of the villagers. Villagers say the commander opened fire from a distance of 100 meters; a journalist who took part in a reconstruction of the incident estimated about seventy meters.⁸⁹ The issues of whether the villagers were armed and the distance between the soldiers and the crowd are critical to determining whether the officers who fired in fact believed themselves to be in any danger. The distance question could perhaps have been resolved by a thorough forensic study of the bullet entrance wounds on the victims. None of the journalists or human rights organizations who visited the scene believe the villagers were armed, but even an unarmed crowd, under some circumstances, could pose a threat to outnumbered security forces. In this case, while further investigation is needed, it appears that the villagers did not constitute such a threat.

Sudarno denied the men had automatic weapons as some of the villagers claimed. On this point, Col. Sutarmas, head of the armed forces faction in the East Java parliament (DPRD I), told a group of student protestors after the shootings, "According to my experience as a Kodim commander, members of the Koramil usually consist of soldiers nearing retirement who have been sent back to their places of origin. They are usually very patient, most of them remnants of soldiers stationed in East Timor (*sisasisa dari prajurit yg pernah ditugas di Timor Timur*). Usually, their arms are pooled in the Kodim, and the only person allowed to carry a firearm is the Koramil commander."⁹⁰ But neither Sudarno nor Sutarmas were present when the shootings took place, and the type of firearms used by the soldiers remains unclear. According to *Tempo*, fifteen shells were recovered from the site.

The four dead were as follows:

⁸⁹ Ibid., p.33.

⁹⁰ "Kapuspen ABRI: Tak Perlu Bentuk Komisi Penyelidik Insiden Nipah," *Surya*, October 11, 1993.

1. Simuki, also known as P. Supriadi, aged twenty-four. Although he had been living and working in Pontianak, West Kalimantan, since October 1992, he owned land in Nagasareh village that was going to be submerged. It was not clear when he returned to Nagasareh.
2. Mutirah, about fifty-five, from Larlar village, who died instantly after being shot in the neck.
3. Muhammad, twenty-eight, a farmer from Larlar, who died in the Soetomo Hospital in Sampang three days after being shot; villagers claim his life could have been saved if roads had not been obstructed by security forces.
4. Nindin bin Musa, whose age was variously reported as twelve, thirteen and fourteen, a student in the fourth grade from Tolang village. the shooting.

Three villagers were wounded; medical expenses of the two who needed hospitalization were borne by the army. One woman, Suridah, was shot in the foot; Sunari, a farmer from Tolang, was hit in the buttocks; and Dairah was hit in the hand and lower torso. All said they were far from the men who fired the shots. Sunari and Suridah had been attracted by all the commotion and had just come to see what was happening; Dairah had come to the site to look for her ten-year-old nephew.

Initial Reaction and Attempts at Redress

As noted above, public condemnation of the killings was instantaneous, and the government's reaction was also prompt. Three days after the shooting, the East Java police chief announced that members of the military who opened fire had been detained for questioning, and seventeen protestors had been taken into custody for interrogation. They were later released. The East Java division of the army established an inquiry, led by the intelligence division, but the results were never made public.⁹¹ On October 14, the commander of Koramil 0828/9

⁹¹ According to Major General Haris Sudarmo in an interview with *Tempo*, the investigation was led by the chief intelligence officer of the KODAM and included members of the provincial police (Polda), military police (Pomdam), internal security forces (Bakorstanasda) and prosecutor's office (kejaksaan). Such an investigation could hardly be

(Banyuates) was transferred, followed by the commander of Kodim 0828 (Sampang) on October 15; the commander of the Sampang police on October 16; and the chief of the Banyuates police on October 20. Press reports referred to the latter transfer as an unusually simple ceremony, but said it had been planned since the previous August.⁹²

It was important for the East Java military command to appear responsive. Not only had every leading *kyai* in Madura signed petitions demanding an investigation, but their call was echoed by the powerful East Java branch of the national Muslim organization, Nahdlatul Ulama, which with an estimated eighteen million members constitutes the largest independent organization in Indonesia. To ignore the petitions was to risk worsening an always sensitive relationship between the military and Muslim leaders, at a time when the military had no interest in alienating the latter. Since 1991, relations between President Soeharto and senior officers in the military have become increasingly strained, and Soeharto has tried to replace his reliance on the army with a coalition that tries to appeal to a mass Muslim base. The success of that appeal is less important than the fact that the President is perceived as trying to play the Muslim card. In this interpretation, it would have been to Soeharto's advantage for the military, particularly the powerful Brawijaya Division, to have alienated senior Muslim leaders in East Java and Madura.

The provincial military, moreover, was already under a cloud for its handling of the Marsinah case; the last thing it needed was more accusations. But public attention was not on the military officers so much as it was on a military man in a civilian post -- the *bupati*, Col. Bagus Hinayana. A colonel still on active duty, Bagus Hinayana had been sent from the Brawijaya Division headquarters in Surabaya to Sampang as *bupati* in order to ensure a victory for Golkar, the ruling party, in the 1992 parliamentary elections. The district had been a stronghold of the Muslim party, PPP, but Bagus delivered the votes -- and in the process, caused deep and lasting resentment against many of the same *kyai* who signed the petitions to the governor. Bagus did not have chain of command responsibility over the local

considered impartial; on the other hand, if any sanctions against military officers were to be imposed, they would have to be ordered from precisely the services represented in the investigating team. "Mengapa Gampang Menarik Pelatuk," *Tempo*, Vol.23, No.32, October 9, 1993, p.34.

⁹² ""Kapolsek Banyuates Diganti," *Surya*, October 21, 1993.

military and police who opened fire, but it was he who was responsible for calling in security forces to deal with the protestors, not only on the day of the shooting but in the weeks leading up to it. He thus became the focus of demands for accountability. Just as no one really questioned that deaths were avoidable, no one seemed to question the fact that the *bupati* had made some serious mistakes. The local and national press became caught up with the question of who could punish a *bupati* and how, but it was clear from the outset that the answer was going to be determined more by politics than by law. At the end of November, Bagus was officially informed that he could serve out the rest of his term.

In early May, the villagers from the affected area, including families of the victims, sent a delegation to Jakarta to approach the national human rights commission. But with no new information about the September 25 shootings introduced, and the debate over the role of the *bupati* effectively closed, the likelihood that the commission could come to their aid was almost nil. The case nevertheless provides an interesting example of how different sectors of the Indonesian government and public approach the issue of accountability.

Villagers, backed by local *kyai*, held the *bupati* responsible for the deaths. It was he who had brought troops in and he who had warned that anyone protesting the dam would be shot. The initial explanation of Col. Bagus, two days after the shootings, was that the soldiers had fired in self-defense. The East Java governor, Basofi, claimed those leading the opposition to the dam were outsiders trying to stir up trouble, a claim conclusively disproved by the Legal Aid Institute-Surabaya whose investigators listed the plots of land owned by each of the villagers accused of incitement, including Ma'ruf and Hudori.⁹³

Four military officers were transferred -- an insufficient punishment in the view of the villagers -- but Col. Bagus remained in place. One reason for his immunity, many believed, was his political clout. He was an active officer on the way up who had served as assistant to the commander of the Brawijaya Division of East Java. His success in getting a GOLKAR victory in the 1992 elections may have strengthened the determination on the part of local PPP stalwarts to get rid of him at all costs, and it was clear that in the aftermath of Nipah that those pressing hardest for his removal were from the PPP. Moreover, if Bagus removed, there would be reason to question the judgment and role of Basofi, the governor of East Java, who was directly responsible for the *bupati's* actions.

⁹³ "Sedang Diteliti, Apakah Ada Oknum Yg Menghasut Dalam Peristiwa Waduk Nipah," *Suara Karya*, October 2, 1993, and Tim Pencari Fakta, "Insiden Nipah", *op.cit.*, p.22-23, 25.

About four days after the shooting, some twelve police came to K.'s house around 2:00 A.M., looking for Ma'ruf. By that time, he was already in hiding. Like many of the men, he fled to the hills to avoid arrest or worse; since the army had already killed three and a fourth died later, leaders of the opposition to the dam feared they would be next.

Other villagers also faced harassment. On Monday night, September 27, a religious teacher named Junaidi from the village of Tolang, stopped at Kyai Alawy's religious school or *pesantren* to discuss a business deal with a teacher there. He left the *pesantren* about 9:00 P.M., taking a motorcycle taxi (*ojek*) to the nearest village. The motorcycle, however, broke down, and Junaidi went to the house of Saleh Hadi, a man he knew who happened to be a member of the Sampang district parliament from the PPP party. Intelligence agents from the subdistrict military command (Koramil Banyuates) surrounded the house. When Junaidi left and went to see if the motorcycle was fixed, he was apprehended by two soldiers from the Koramil, wearing ordinary T-shirts but camouflage trousers. They asked him where he was going, what he had been doing and discussing, and then they took both him and the motorcycle driver to the Koramil.

At the Koramil office, Junaidi was interrogated, among other things, about what he was doing at Kyai Alawy's *pesantren*. Eventually, Koramil officers called the district police, in belated recognition, perhaps, that under the Indonesian criminal procedure code, only the police, not the army, have investigative responsibility for detained suspects. At about 3 A.M. Junaidi was taken to the police command in a blue jeep, preceded by two motorcycles, "As if," said Junaidi, "I were a big fish." The motorcycle driver was allowed to go home.

At the police station, Junaidi was interrogated by about four men, asked about his student who had been killed in the shooting, and if he had ordered his students to resist the dam construction. If he gave unsatisfactory answers, he was hit with a block of plywood so hard, he said, that other police watching closed their eyes. He was held for a day and a half and released about 7:00 P.M.

The Appeal to the National Human Rights Commission

As the delegation of citizens from the Nipah dam area returned from its meeting in Jakarta with the Human Rights Commission on May 11, two members found plainclothes security officers in their homes waiting for them. K. was questioned for about two hours, about who organized the trip, who owned the car that brought them there and so on. One of the men, from the Koramil in Banyuates, said that he was a soldier and even he had never been to Jakarta -- how was it

possible that someone like her was able to go?

The Koramil commander himself was one of those waiting for the head of the delegation, a man named Ma Rui whose nephew was killed but who himself had been in Kalimantan at the time. A police sergeant was also there. Ma Rui was asked where he had just come from, with whom he had gone, who from the Legal Aid Institute had accompanied the group, why they had brought petitions to Jakarta, who had ordered the thumbprints and signatures collected, and whether Kyai Alawy had instigated the trip. That Saturday, another four security officers came from Sampang looking for Ma Rui, but he was out of the house at the time. The periodic visits by police appear to be deliberate harassment to discourage public expressions of discontent about the follow-up to the Nipah shootings.

Conclusion

Government officials called the Nipah killings the result of a breakdown of military discipline and transferred key military officers. Their actions helped focus attention on the issue of accountability and produced a revealing debate over who has authority over whom in Indonesia. But from a human rights standpoint, the question of military procedures on the day of the shooting was only part of the picture. The villagers had no access to information about the proposed dam to begin with, restricting their ability to express opinions about it. Their right to freedom of expression was further compromised when the villagers who went to the local parliament to complain began to suffer repeated harassment from security forces -- the intervention of the military and police started long before the day of the shootings. Protests over the project and attempts at meetings were regularly countered with threats, and the intimidation did not stop after the killings on September 25. It continued long after the military officers in question had been removed, even after a delegation of villagers sought help from the National Commission on Human Rights.

Villagers want the *bupati* of Sampang held accountable, and all those responsible for the killings tried in a court of law. But without a clearer commitment on the part of the central government to freedom of expression and association and less reliance on security forces as the automatic response to public displays of discontent, it is doubtful whether even those measures would break the pattern of abuse surrounding the Nipah Dam.

IX. THE INDONESIAN HUMAN RIGHTS COMMISSION: WEAK BUT BETTER THAN EXPECTED

On June 7, 1993, by Decree No.50/1993, President Soeharto established the National Commission on Human Rights (*Komisi Nasional Hak Asasi Manusia*, usually shortened to *Komnas HAM* or just *Komnas*). With twenty-five members appointed by the President and with Soeharto loyalist and former military judge Ali Said as chairman, many observers believed the new commission would be little more than a puppet in the hands of its creator.

Few Indonesian human rights activists and scholars were asked to sit on the commission; those who were, such as former director of the Legal Aid Institute Mulya Lubis, declined, and it was not until December 7, 1993 that the full complement of members was announced. The commission was dominated by highly respected academics, most of whom had no particular background in human rights, supplemented by one NGO activist and a few political hacks.⁹⁴ All were appointed to five-year terms. The man chosen as secretary-general, responsible for the day-to-day affairs of the commission, was Baharuddin Lopa. Despite the fact that he served concurrently as director-general of corrections in the Ministry of Justice and was responsible for prisons and prison conditions, Lopa had a reputation for decency and integrity. If not exactly independent, the commission included people of a higher caliber than many expected, and Indonesian NGOs were generally more prepared to give it the benefit of the doubt than were their international counterparts.

Eight months and hundreds of cases later, Komnas has a mixed record. It has proved to be more adventurous than its detractors expected, even though it has no definable powers other than public pressure. But public pressure is important, and Komnas attention has given some issues a legitimacy and profile they

⁹⁴ The twenty-five members are Aisyah Amini, Albert Hasibuan, Ali Said, Asmara Nababan, Baharuddin Lopa, Bambang W. Sunarto, A.A. Baramuli, Clementino dos Reis Amaral, Joko Sugianto, Gani Jemat, Prof. Hamid S. Attamimi, K.H. Hasan Basri, Prof. Charles Himawan, B.N. Marbun, Marzuki Darusman, Prof. Miriam Budiarjo, Prof. Muladi, Munawir Syadzali, Nurcholis Majid, Roekmini Kusumo Astuti, Prof. Satjipto Raharjo, Major General Sugiri, Prof. Sutandyo Wignyosubroto, Prof. Sri Sumantri Martosuwignyo and Bambang Soeharto.

otherwise might not have had. Soon after its creation, it became a lightning rod for complaints from every corner of Indonesia -- if all other avenues for redress failed, it seemed, there was always Komnas. In the first four months of its existence, it received 388 letters of complaint on issues ranging from the right to housing to freedom of religion, and responded to over a third.⁹⁵ With the glaring exceptions of East Timor and Irian Jaya, it has commented on, visited the site of or met with victims of most of the major cases of human rights abuses reported in 1993 and 1994.

But it can do very little, and its capacity for intervention may actually have declined as the novelty has worn off. Komnas has no terms of reference for accepting or rejecting petitions and no operating definition of human rights. Acting more like an ombudsman than a human rights commission, it has sometimes been able to resolve disputes, as in the Rancamaya land dispute in West Java where its intervention ensured that at least some farmers received long-promised compensation or the labor dispute in a garment plant near Jakarta where intercession by the commission led to dismissed workers being rehired.

But its two overt challenges to military authority, including its one foray into investigative fact-finding, led to a backlash from the army and police and have not been repeated. It remains to be seen whether the more activist of the commissioners can rescue Komnas from its own statutory and political weaknesses.

In the following sections, HRW/Asia examines the establishment of Komnas, its mandate and its operations through August 1994.

Why a Commission?

⁹⁵ "Selama 4 bulan Komnas Terima 388 Surat Pengaduan," *Kompas*, May 6, 1994.

The timing of Decree No.50 -- issued exactly one week before the opening of the World Conference on Human Rights in Vienna -- raised suspicions at home and abroad that the new commission was intended as way of silencing international pressure on Indonesia to improve its human rights record. That pressure had been particularly intense since the November 1991 massacre of peaceful demonstrators in Dili, East Timor, and Indonesia had been subject to bilateral aid cut-offs and United Nations scrutiny as a result.⁹⁶ The new human rights commission was deliberately modelled on the National Commission of Inquiry (Komisi Penyelidikan Nasional or KPN), set up by President Soeharto to investigate the Dili shootings. If the KPN was widely denounced by international human rights organizations as being less than thorough and impartial, it was nevertheless regarded in the diplomatic community as a master stroke of damage control by Soeharto and an unprecedented acknowledgement of serious human rights violations by the Indonesian army. It worked for a time to dampen criticism, and the new commission may have been seen in part as playing a similar role. But precisely because international criticism was so focused on East Timor and the new commission was unlikely to get anywhere near such a sensitive issue, foreign pressure is not a sufficient explanation for why Decree No.50 was issued.

Another factor involved was Indonesian prestige and its desire to play a higher profile international role, in human rights as in other areas of global concern. Together with China, Malaysia and Singapore, Indonesia had led the offensive for an "Asian concept of human rights" in the run-up to the Vienna conference. While acknowledging that human rights were universal, the four argued that each country had the right to interpret international standards according to its own culture, values, political system, historical background and level of economic development. A national commission would further that stance and ensure that human rights, among other things, would be defined in accordance with the state ideology,

⁹⁶ Canada and the Netherlands temporarily suspended new foreign aid allocations after the Dili massacre; in October 1992, the United States Congress cut off military assistance to Indonesia under the International Military Education and Training or IMET program, citing Indonesia's failure to provide a full accounting of the massacre. The U.N. Secretary-General twice sent Amos Wako, attorney general of Kenya, as his personal envoy to look into human rights abuses in East Timor, first in February 1992 and again in April 1993. In March 1993, the U.N. Commission on Human Rights passed a particularly stinging resolution condemning Indonesian human rights abuses in East Timor.

Pancasila.⁹⁷

Moreover, in a United Nations workshop on human rights held in Jakarta from January 26 to 28, 1993, President Soeharto promised that a national human rights commission would be soon be formed; a drafting committee was set up shortly thereafter, the membership of which was kept secret. There was thus something of a domestic imperative to see that the presidential commitment was fulfilled before the World Conference opened.

More broadly, there was a sense in Indonesia that a human rights commission was a sign of maturity and development. As a member of the international community, Indonesia's coordinating minister for politics and security said in June 1993, Indonesia could not ignore such issues as human rights and the environment.⁹⁸ If in the 1950s, the appropriate status symbol for a developing country was a steel mill, in the 1990s, apparently, it was a human rights commission -- and very few other countries in Asia had them.⁹⁹

While response to international pressure and the desire to reinforce its image as a regional power may have been the most important factors for

⁹⁷ The final declaration of the Asia-Pacific Preparatory Conference for the World Conference on Human Rights, held from March 29 to April 2, 1993 in Bangkok, stressed national, rather than international, responsibility for interpreting and implementing human rights. Among other things, the declaration reaffirmed "the principles of respect for national sovereignty, territorial integrity and non-interference in the internal affairs of States"; stressed that "States have the primary responsibility for the promotion and protection of human rights through appropriate infrastructure and mechanisms, and also recognize that remedies must be sought and provided primarily through such mechanisms and procedures" and welcomed "the important role played by national institutions in the genuine and constructive promotion of human rights, and believe[d] that the conceptualization and eventual establishment of such institutions are best left for the States to decide."

⁹⁸ "Tak Ada Desakan dari Pihak Luar," *Cenderawasih Pos*, June 10, 1993.

⁹⁹ The Philippines Human Rights Commission was established in 1987; no other country in Southeast or East Asia had one. The government of Taiwan set up a putative NGO called the Chinese Association for Human Rights in Taipei, which is still in existence, and the Kim Young Sam government in South Korea named an ambassador for human rights in 1993. In South Asia, India created a human rights commission in September 1993. The Pakistan Human Rights Commission is an independent, non-governmental organization.

establishing Komnas, many Indonesian observers saw a third: a tool created by Soeharto to use against the military as part of the growing rift between the President and factions of the army. Just as the Dili investigations, however flawed, were used as a pretext to reshuffle military intelligence, where opposition to Soeharto was strongest, the new commission, according to this interpretation, might publicize other military abuses that could be used to Soeharto's political benefit.

Terms of Reference and Methods of Operation

Compared to its counterparts in the Philippines or India, the Indonesian human rights commission is extraordinarily weak. Its members, as noted, are appointed directly by the President, thereby compromising its independence (although Article 4 of Decree No.50 states that the commission shall be independent). It has no power to subpoena witnesses or otherwise compel testimony or the production of documents, and in fact, has no defined powers whatsoever. By contrast, the act of parliament in India setting up the National Human Rights Commission there, while full of large loopholes, at least makes explicit reference to the ability of the commission to investigate allegations of abuse or negligence in preventing such abuse; visit places of detention; review constitutional and legal safeguards; summon and enforce attendance of witnesses; and recommend that prosecutions be initiated.¹⁰⁰

Decree No.50 merely states in Article 5 that the activities of Indonesia's National Commission will be fourfold:

- expanding understanding of national and international concepts of human rights to the Indonesian people and the international community
- studying various United Nations instruments on human rights with a view toward giving recommendations on the possibility of accession and/or ratification
- monitoring and investigating implementation of human rights as well as giving opinions, views and suggestions to government agencies on the implementation of human rights
- establishing regional and international cooperation for the advancement

¹⁰⁰ The largest loophole in the Indian act is the inability of the commission to compel testimony or documents from the armed forces or paramilitary bodies. For a discussion of these and other problems, see Amnesty International, "India: The Human Rights Commission Bill: Amnesty International's Observations," August 1993, ASA 20/33/93.

and protection of human rights.

The Decree defines human rights only by reference in Article 4 to the need to develop "conditions conducive to the implementation of human rights in accordance with the 1945 Constitution, Pancasila, the U.N. Charter and the Universal Declaration of Human Rights. Komnas, as of June 1994, had not tried to further define its mandate in practice. One commissioner interviewed by HRW/Asia said the Commission deliberately avoided getting bogged down in definitional questions, because to do so might mean never actively looking into human rights violations at all.

But the consequence is that Komnas has accepted every complaint put to it without attempting to determine what human right is involved, assess what international or domestic law is being violated, or suggest what other mechanism might be available to address it. If property squabbles are given the same priority as torture, the result is to diminish the gravity of the latter.

The lack of defined powers also meant that the commissioners by trial and error had to develop a range of responses to the complaints they received. The routine response was to forward the complaint on to the relevant agency without attempting to intervene. Since the agency in question was often the alleged violator, the result -- nothing -- was predictable. The most ludicrous example came early on in Komnas's existence when the Legal Aid Institute in Jakarta complained to Baharuddin Lopa about the fact that East Timorese resistance leader Xanana Gusmao, detained in Cipinang Prison, Jakarta, was being denied all visits, ostensibly as a disciplinary measure for having smuggled out a letter to the International Commission of Jurists in Geneva. Lopa told the Institute to send a formal letter to the Directorate-General of Corrections -- which he himself headed.¹⁰¹

In another example, in February 1994, when one commissioner, Professor Muladi, found that the police who arrested independent labor leader Mochtar Pakpahan in Semarang, Central Java, had not shown a warrant, he said he would send a letter to national police headquarters, but at the same time said that Komnas would not interfere with the authority of the police.¹⁰²

¹⁰¹ "Buyung Ajak KOMNAS HAM Temui Xanana", *Kompas*, January 18, 1994.

¹⁰² "Komisi HAM Turun Tangan", *Suara Merdeka*, February 14, 1994, and "Muladi: Polisi Pandai Gunakan Celah KUHAP," *Suara Merdeka*, February 15, 1994.

But the commission experimented with other techniques. Early on, they went to visit a group of students detained in Jakarta police headquarters for insulting the President during a demonstration in November 1993. The commissioners seemed uncertain as to what their role should be on such a visit: they met the students, prayed with them, asked officials about detention procedures and then concluded that their rights under the Indonesian Criminal Procedure Code had been respected.¹⁰³ No question was raised about whether the arrests violated international standards on freedom of expression or assembly.

A more interesting trip took place on February 24, 1994, when two commissioners, Asmara Nababan and Clementino dos Reis Amaral, made an unannounced visit to the prison in Lhokseumawe, Aceh. Asmara noted that they had deliberately kept the visit a secret so prison officials would have no time to prepare, and they found eleven detainees who had been held without charge or trial, one for almost five years, in clear violation not only of international standards on arbitrary detention but also of Indonesian law.¹⁰⁴ The surprise visit led to the release of four of the eleven, but it was never repeated, even though similar case of unjustly prolonged detention could almost certainly be found by flying visits to Irian Jaya, East Timor and elsewhere. Instead, commission visits since have been marked by a high degree of formality and sufficient lead time for all necessary preparations to be made.

The Aceh visit was the first real challenge to military authority that the commission had made, since the detainees had been handed over to the prison by the regional military command (Korem 011/Liliwangsa) and were kept there by order of that command, even though the Lhokseumawe prosecutor's office acknowledged that there was not enough evidence against them to bring their cases to trial.

The second challenge, which had more serious implications, was the decision of Komnas to look into the case of Marsinah.

Komnas and the Marsinah Case

¹⁰³ "Sekjen KOMNAS HAM Berdialog Hangat dengan 22 Mahasiswa" *Kompas*, January 8, 1994.

¹⁰⁴ "Komnas HAM Temukan 11 Orang Ditahan Tanpa Prosedur," *Kompas*, February 25, 1994.

As noted above, the killing of Marsinah resonated in Indonesia more than any human rights case in recent memory. The fact that she was young and female was part of it, the fact that she was so brutally murdered another. Her murder also came at a time of unprecedented domestic and international scrutiny of Indonesia's labor rights practices, and Marsinah's efforts to intercede on behalf of thirteen workers sacked and detained by the local military gave her, after death, something akin to sainthood.

As the major human rights case in Indonesia, as far as the public was concerned, it was inevitable that Komnas would have to find some way of addressing it. But the arrest and torture of the murder suspects put a peculiar twist on the case. It was no longer just a question of who had killed Marsinah, but why had the East Java military gone to such lengths to build a case around her employers? If the Marsinah case had been hot before, it was sizzling now.

Beginning in late January 1994, one suspect after another complained to Komnas about the way they had been illegally arrested, detained and tortured. The first was Judi Susanto, the owner of the watch factory, whose lawyer sent a letter to Komnas on January 29, alleging major violations of due process in his client's case and urging that it send a fact-finding mission to Surabaya. Susanto, like the other male suspects, was arrested by men who showed no identification, took him to an undisclosed location that appeared to be a military office, and began beating him without explanation, before going on to other forms of torture that included electric shocks. He was tortured until he agreed to the scenario for the murder prepared by his interrogators. On February 5, another suspect, Ayip Karyono Wongso, sent a similar letter.¹⁰⁵

After receiving both, Komnas, on February 10, sent a letter under Ali Said's signature to the commander of the East Java (Brawijaya) division, with copies to the head of the East Java police and the head of the Surabaya district court where most of the trials were taking place. The letter noted the allegations of torture and arrest and detention procedures that violated Indonesia's Criminal Procedure Code (which at least one member of Komnas, Professor Muladi, had had a hand in drafting). It then very politely requested an explanation from the commander.

¹⁰⁵ A third man, Bambang Wuryantoyo, sent a letter to Komnas on February 16, describing a similar experience. He had the ranks of the three men involved in the torture and noted that they were occasionally overseen by a lieutenant. He said he was only allowed to consult with a lawyer on October 20, twenty days after his arrest.

Two weeks later, there was still no reply, and pressure began building. Every day, a journalist would ask a member of the commission whether a response to the letter had been received, and each time the answer was "Not yet." Human rights activists made no effort to disguise their impatience. "What if the commander waits until next year to answer, what then?" one said.¹⁰⁶ And in the meantime, other suspects sent appeals to Komnas to get involved.

By early March, Komnas was facing a real dilemma. Whether or not the charges of torture were true, and there was no reason to doubt them, the army, at a very senior level, clearly had been involved in the secret arrests and detentions. If Komnas did anything approaching a serious investigation, it would be in direct confrontation with the East Java command; if it ignored the most highly charged case in the country, it would be revealed to all as a sham institution.

There appear to have been divisions within the commission over what to do, and questions about both whether Komnas needed permission from the commander-in-chief of the armed forces to send a fact-finding team and whether the presence of such a team would constitute interference in the judicial process. Lawyers for the suspects were scathing in their reaction to the idea of asking permission -- one said Komnas should learn to act like an intelligence agency, going out secretly to collect information. "If you only act very formally, go in as a group, and announce everything," he said, "what kind of results are you going to get?"¹⁰⁷

Pressure to send an investigating team mounted. Human rights organizations made public their pleas to Komnas in this regard, and Lopa finally said that if it were just up to him, he would already have left for Surabaya. He also said he would resign if the Marsinah case were not properly resolved.¹⁰⁸ On March 9, the Legal Aid Institute, upping the pressure, turned over its own report on the Marsinah case to Komnas -- a report that concluded that the district military was directly involved in the murder. On the other side, the minister of justice opined that no fact-finding was necessary, saying an investigating mission would be

¹⁰⁶ "Komnas HAM tidak Perlu tunggu Surat Jawaban Pangdam Brawijaya," *Kompas*, March 11, 1994.

¹⁰⁷ "Komnas Harus Seperti Intelijen," *Jawa Pos*, March 17, 1994.

¹⁰⁸ Pengacara Terdakwa Pembunuh Marsinah Mengadu ke Komnas HAM," *Merdeka*, March 5, 1994.

tantamount to another trial outside the court.¹⁰⁹

Finally, on March 16, Komnas received from the East Java commander their letter of more than a month earlier. The contents were not made public, but a week later, ten members of the commission, led by Lopa, left on March 22 for a three-day fact-finding mission to Surabaya.¹¹⁰

It was a hectic three days that sometimes took on a circus-like atmosphere. The commissioner who tried to attend one session of a trial in the Surabaya court was so mobbed by journalists that a judge offered him asylum in his chambers. The team met with many of the key people in the Marsinah case, insisting on confidential interviews with defendants and material witnesses as well as with military personnel. By a strange coincidence, neither the East Java army nor police commander were on hand to meet them; they met with their deputies instead.

On April 4, they issued an explosive statement, reportedly toned down by military censors who insisted on seeing it before it became public. There were four key conclusions: that there had been unwarranted involvement of certain [government] agencies in the Marsinah case; that there were violations of the Criminal Procedure Code in the arrest, detention, and investigation of suspects, including not informing the families of their whereabouts and not allowing suspects to be accompanied by a lawyer; that there was evidence of physical and psychological torture that violated the Penal Code; and that there might be other suspects, not yet detained. The implication of the latter was that other military personnel were involved.

The army was not happy, nor were some senior government ministers. Drs. Moerdiono, the State Secretary, for example, questioned whether an effective fact-finding mission could be carried out in three days and said that when Komnas had been set up, no one ever intended that it should interfere in the functioning of other government agencies, presumably a reference to the courts.¹¹¹

The anger of the military over the Surabaya visit came out in full force

¹⁰⁹ "Menkeh Oetojo Oesman: Tak Perlu, Tim Pecanri Fakta Kasus Marsinah," *Surabaya Post*, March 3, 1994.

¹¹⁰ Others on the team included Marzuki Darusman, Bambang Soeharto, Hamid Attamimi, Djoko Soegianto, Roekmini Kusumastuti and Clementino dos Reis Amaral.

¹¹¹ "Sahetapy: Kalau Diragukan, Bubarkan Saja Komnas HAM," *Republika*, April 7, 1994.

when one of the more active members of the commission who had been on the fact-finding team, Police Brigadier General Roekmini, returned to Surabaya in early May for a speaking engagement, and the military banned the meeting. Roekmini had been scheduled to be the featured speaker at a seminar on Sunday, May 1, entitled "Effectiveness of the National Human Rights Commission," sponsored by a group called the Surabaya Forum and to be held at a local hotel. On Saturday evening, at 11:00 P.M., the sponsors were told that they did not have a permit and Roekmini would not be allowed to speak.

There was no time to inform the participants, and on Sunday, everyone arrived at the Hotel Tanjung as scheduled -- Roekmini; another commissioner, Soetandyo Wignysoebroto; two other speakers; and about fifty others. The head of the Surabaya Forum announced the ban on Roekmini to those present. Roekmini stood up and said she had been asked by Komnas to attend, she had a statement from Baharuddin Lopa prepared and her ticket to Surabaya had been paid by the state secretariat. Her fellow commissioner, Soetandyo, went to the podium and said that the ban proved that Komnas was not well-received by the bureaucracy.

The police commander of East Java and the provincial governor, meanwhile, were insisting that they had nothing against Roekmini, and if the sponsors had followed proper procedures for getting a permit, there would have been no problem. But the application for a permit had only reached the police on Saturday morning, and the time was just too short to get the necessary clearances. As the head of the Surabaya police, using a newly-coined verb, warned, "Don't submit an application the day before the event and try to *fait-accomplir* us."¹¹² Governor Basofi Sudirman joined the fray and said that even human rights commissioners needed a permit, and in this case, "The human rights of police have to be respected."¹¹³

No one took the permit argument seriously. For one thing, Governor Basofi and the police gave different explanations of what the correct procedures were. Basofi said the sponsors had to apply three days in advance; the Surabaya police said permits had to be obtained a week before the event and had to be accompanied by recommendations from both the local police and all relevant government agencies, including the social and political affairs office of the local government.

¹¹² "Diskusi Soal Komnas Dibatalkan" *Jawa Pos*, May 2, 1994.

¹¹³ "Jangan Mentang-mentang...", *Surabaya Post*, May 2, 1994.

For another thing, the Surabaya Forum had sponsored several other seminars at the same hotel in the past, and in each case, the hotel had made the arrangements for a permit without any difficulty -- and without waiting three days or a week for it to come through. But the most obvious flaw in the police logic was their own arbitrary application of the law. It was not as if the armed forces, of which the police are a part, were known for their adherence to the rule of law; moreover, as another Komnas commissioner, Albert Hasibuan noted, failure to obtain a permit was the usual excuse used for banning speakers or public events that the government found objectionable. The consensus of most Indonesian observers was that Roekmini had been banned to send an unmistakable signal to Komnas that it was getting out of line.

Lopa found himself in another difficult position. On the one hand, he said that according to his reading of the law, people could only be banned from speaking if they were inciting others to revolution or violence. But if Roekmini was banned because of not having a permit, well, that was not exactly the same thing. He clearly felt unable to say more or to openly criticize the police, even if other commissioners felt unconstrained to do so.

In another slap to Komnas, the Surabaya court then handed down heavy verdicts in the Marsinah case which completely ignored Komnas's findings that torture had been used to extract the interrogation depositions. Komnas has undertaken no real fact-finding missions since.

Is the Honeymoon Over?

Human rights organizations and lawyers continue to urge their clients to appeal to Komnas for help in the belief that they will at least attract more attention to their case by doing so. But there is a real question whether Komnas has or can develop the capacity to challenge authority in Indonesia and survive. It is one thing to act as a mediator between labor and management or displaced peasants and a developer. But if Komnas is to have a significant role in protecting human rights in Indonesia, it is going to have to be prepared for more frontal assaults on those who abuse power, both military and civilian. It will have to not only say soothing words to victims but recommend prosecutions of their tormentors. It will have to do more of the surprise visits to detention centers, such as the one to Aceh, that uncovered the arbitrarily detained inmates.

It will also have to develop a clearly defined mandate. As one Indonesian critic said, if it can accept every complaint that comes in, what will it do when someone brings a divorce case or a trader complains that she has been cheated by

her wholesaler? Even if it continues to have no power except publicity, it should still choose its priorities more carefully to ensure that its work is not trivialized by minor squabbles.¹¹⁴ At the very least, it could take more care to see that the issues it takes up are in fact clear violations of international human rights standards, and it would help in its education function if it announced what specific rights were allegedly being violated, as each new case is taken on.

Komnas should examine some of its counterparts in the region, such as the new human rights commission in India. That commission, as noted, is badly flawed, but it has far more powers than the Indonesia commission has, and those powers, such as the ability to subpoena witnesses and documents, could be usefully adopted by Komnas.

Finally, it should develop procedures for getting rid of inactive commissioners. Fewer than half of the twenty-five commissioners have been active members; if they were replaced by energetic and independent individuals with real human rights expertise, Komnas could evolve into a real watchdog.

In sum, Komnas in its first eight months proved more responsible and responsive than many expected, but the experience in the Marsinah case was a sobering one. Whether it still has the will or capacity to fight remains to be seen.

¹¹⁴ "Jangan Sampai Hanya Bertaraf Pelobi," *Kompas*, February 21, 1994.

X. CONCLUSIONS AND RECOMMENDATIONS

The cases described above show starkly the limits of "openness." They suggest that "openness" was perhaps a short-term policy rather than a secular trend toward greater respect for human rights. Like the demonstration in East Timor on July 11 that was tolerated, or even orchestrated, by authorities for the benefit of a visiting U.N. official, followed by the demonstration there that was crushed three days later, "openness" can be turned on or off at will. If there is a constant in Indonesian politics today, it is the arbitrariness inherent in periods of tolerance or crackdowns. Whatever the mood of the moment, the heavy-handed reliance on the armed forces to quell dissent -- what Indonesians call the "security approach" -- remains very much in place, particularly outside Jakarta, and is so deeply ingrained that real openness may be a long time in coming.

The "security approach" involves tight controls on freedom of assembly, association and expression; the use of intimidation, harassment and torture; and manipulation of the legal system for political ends.

Assembly, Association and Expression

- The report provides numerous instances of military or police officials arbitrarily breaking up or banning meetings on the grounds that participants had no permit or simply because the meeting was deemed "illegal." Examples in the report include the raids on the independent trade union SBSI's meetings and the arrest of Mochtar Pakpahan in February 1994; the interrogation of workers at the EDP mill in Kalimantan about a meeting called to plan a protest; the meeting of East Timorese demonstrators prior to the April 14 demonstration in front of the hotel in Dili where journalists were staying; the arrest of the four Batak church activists in May on suspicion that they had gathered to discuss the church conflict; and the cancellation of the seminar in Surabaya on May 31 at which human rights commissioner Roekmini was to speak.

The arbitrariness lies in the fact that meetings and demonstrations held by government-backed groups, such as the group of thirty people from the national youth organization (KNPI) who demonstrated in front of the Philippines embassy in Jakarta in May or of one faction of the Batak church conflict or of the pro-company workers at the sawmill in Kalimantan are allowed to proceed unhindered.

The arbitrariness is also facilitated by the use of broad, vaguely-worded

laws to penalize behavior the government decides is unacceptable. The best-known of these is the "anti-subversion" law (Presidential Decree No.11/1963), but they also include the *haatzaaiartikelen*, or Articles 154 to 156 of the Indonesian Criminal Code against "sowing hatred" that are frequently used to punish speech and writing critical of the government; Article 134 of the Criminal Code, Indonesia's version of a *lese majeste* law, which punishes insults to the President or Vice-President; Article 160, punishing incitement to commit violence or disobey laws; and Article 207, punishing public insults to government authorities.

- Denial of permits is used as a means of restricting freedom of expression and assembly. It is clearly within the right of a local government to demand that gatherings the size of the workers' rally in Medan have a permit; municipalities around the world have such regulations. But in Indonesia, the granting of permits is used as a form of control, and it is no coincidence that efforts of activist groups or individuals to get permits are usually fruitless. SBSI, for example, has not succeeded in any of its attempts to obtain one, even when, as in the case of the July 1993 national congress, it submitted a request weeks before the event was scheduled.

- The Indonesian government has attempted to export controls on freedom of expression and assembly to neighboring countries, as its efforts to cancel the East Timor meetings in Manila, Kuala Lumpur and Bangkok demonstrate.

- Demonstrations and unauthorized public gatherings are often broken up by a disproportionate use of force. The most obvious example in this report is the shooting at Nipah Dam, which was out of proportion to the risks faced by the military and police. But the beatings of workers in Medan on March 11 or of people protesting the press ban in Jakarta on June 27 and of East Timorese students protesting anti-Catholic remarks in Dili on July 14 were also wholly unnecessary as law and order measures. Force is not always used, and when it is, it is sometimes used responsibly. But again, the contrasts between the July 11 and July 14 demonstrations in East Timor, or between the June 22 and June 27 demonstrations in Jakarta, point out the arbitrariness with which decisions to use force are made.

- Freedom of association remains restricted and the pressure to form or join single, government-controlled social and professional organizations such as KNPI for youth, SPSI for labor and PWI for journalists remains high. The report

noted the legal obstacles that hinder official recognition of a new union, and efforts of workers to organize independently have met with intimidation and often, arrest. All of the labor activists in Medan, who, as of August 1994, stood accused of incitement, were in fact merely exercising their right to freedom of association.

- Censorship is implemented in a wholly capricious fashion, best exemplified by the closures of *Tempo*, *DeTik* and *Editor* on June 21, while other publications, equally critical, were left untouched.

- Harassment and intimidation of those who express dissent publicly is common, particularly if they are not members of the urban intellectual elite. The villagers protesting the construction of the Nipah Dam faced regular intimidation before and after the shootings; workers at the EDP plywood mill who challenged the mill's management were questioned by the district military about possible Communist backgrounds; offices of labor rights organizations in Medan were stoned or raided. In some cases, the harassment involved the use of army-sponsored civilian militias mobilized to carry out physical assaults or destroy property, as in the church conflict in North Sumatra.

Torture

Torture is used routinely to punish and intimidate as well as to obtain information. The severe torture inflicted on the Batak church activists and the suspects in the Marsinah case was unusual only because of the publicity surrounding it. In North Sumatra, the police and military have a reputation for particular brutality, directed not only against political suspects but against criminal offenders as well, as the treatment of the cell-mates of the Batak priests -- the gold thief and the drug-trafficker -- illustrates. Electric shock torture is reported more commonly from military interrogation centers than from police-lock-ups where the implements are likely to be cruder: lighted cigarettes, thick pieces of wood, pieces of electrical cable and carefully aimed jackboots.

Torture is a factor in all the cases described in this report except for the labor case in Kalimantan. Junaidi, a villager from the Nipah Dam area, was tortured; so were SBSI-Medan union officials; so was Sukiman, a worker in the Medan Industrial Estate; so were the Marsinah suspects; and so were the Batak priests. The most telling comment on torture comes from one of the latter, who said that even the seemingly good-hearted police in the place they were held accepted that torture was what was done to suspects. Its very ordinariness is frightening.

Manipulation of the Legal Process

The law in Indonesia is more often used as an instrument of control by Indonesian officialdom than as an objective set of rules to which all are subject. Examples of manipulation of the legal process are many, most involving abuse of the Indonesian Criminal Procedure Code as well as of internationally-recognized human rights.

- The army still arrests, detains and tortures suspects, even though under the Criminal Procedure Code, it is the police who are supposed to carry out arrests and investigations. A joint force of army and police arrested the Batak priests, and the army and police were both involved in the detention of the EDP plywood mill workers. The local military detained Marsinah's fellow workers (and forced their resignations) and summoned villagers from the Nipah dam for investigation. It was the powerful Brawijaya division of the army that secretly arrested, interrogated and tortured the suspects in the Marsinah case.

- Illegal arrest and detention, even when acknowledged by the court, does not force a retrial or the invalidation of trial proceedings. Judi Susanto's "successful" pre-trial hearing is a good example. Instead of throwing out the case, the court allowed the prosecutor to charge him with a different crime -- yet when he was finally sentenced, it was on the original charge of murder.

- Defendants in most political cases are denied access to counsel until shortly before their trials begin, and are then frequently denied their choice of counsel. Xanana Gusmao in East Timor was prevented from having attorneys from the Legal Aid Institute defend him; he was not permitted to communicate with them to accept their offer of assistance, and was instead given a lawyer with close links to the military. Defendants in the trials following the Medan riots appear to have been pressured to revoke the power of attorney they gave to the Legal Aid Institute's Medan branch. The Marsinah suspects were denied access to lawyers for the nineteen days they were in incommunicado military custody.

- "Confessions" and interrogation depositions extracted under duress are freely used as evidence in court, best exemplified by the refusal of judges in the Marsinah trials to acknowledge that torture had occurred.

- Because the legal system is so frequently manipulated for political ends, legal reforms in Indonesia cannot be accepted as human rights improvements in and of themselves without some evidence that the new laws are being enforced. This is not to say that reforms are meaningless -- as with the repeal of the 1986 Ministry of Manpower regulation authorizing military intervention in labor disputes, they are very important as statements of principle or as standards to which the Indonesian government can be held accountable. But a new regulation on paper is no indication that the abuse it was intended to address has ceased.

The use of the "security approach" is alive and well, and the dilemma is how to change it. Its pervasiveness is facilitated in part by the principle of *dwi fungsi* or dual function of the military, that is, that the armed forces have a role in social and political as well as military affairs. That principle is institutionalized at the local level in the Muspida and Muspika, the local leadership councils on which the military and police commanders have a role equal, if not more powerful, than their "civilian" counterparts: governor, *bupati* or *camat* (who may in fact be active or retired military officers, like the *bupati* in Sampang, Madura, Col. Bagus Hinayana).

Short of a rethinking of the *dwi fungsi* principle, changes in the security approach are going to be incremental at best. It is important to note that neither the bureaucracy nor the military are monolithic, and there are many officials, both civilian and military, who would like to see an end to the "security approach" and the emergence of a more genuinely open society in Indonesia. There are also those, who, while horrified by accounts of torture, see greater tolerance of freedom of expression and association as pandering to irresponsible agitators or leading to demonstrations that will turn violent or causing unrest that might cut into Indonesia's unquestioned economic achievements.

But just as workers who have no genuinely representative institutions available to channel their grievances turn to wildcat strikes and demonstrations, because it at least gets the attention of their employers, the continued tight controls may end up causing far more problems than would a relaxation of controls.

Recommendations to the Government of Indonesia

In making the following recommendations, Human Rights Watch/Asia is recommending very specific, concrete steps that the Indonesian government could take immediately, without major changes in its political system. At the same time we recognize that full protection of human rights will not be possible as long as the

military plays such a central role in dispute resolution and the administration of "justice," and as long as some senior officials are shielded from public criticism by controls on freedom of expression and assembly.

1. We urge the President, the Commander of the Armed Forces and the Minister of Justice to issue a public statement explicitly outlawing the use of torture at all times, particularly as a method of interrogation. That statement should be read out publicly in every police and military post from the subdistrict level on up, and any incidents of torture should be swiftly investigated and the perpetrators punished. Human rights organizations and the National Human Rights Commission could select a few areas to monitor closely to see that the prohibition was being enforced; the district of North Tapanuli and the city of Medan would be good places to start. East Timor should also be included. The Indonesian government, which has signed the U.N. Convention Against Torture, should ratify it without delay.

2. The Indonesian government should explicitly ban arrests and interrogation by military intelligence agents and detention in military commands. While treatment in police custody is often brutal, for criminal and political suspects alike, treatment by military intelligence personnel is often worse, as the experience of the Batak church activists, the Marsinah defendants, and many others indicates. Eliminating the role of the military (most often in its internal security capacity at the regional level) would facilitate human rights training and monitoring because only one agency, the police, would be responsible for arrests; it would also conform to the spirit and letter of the Indonesian Criminal Procedure Code which specifies the police as the sole investigating body in criminal matters. (It is worth noting that when the internal security agency in its current guise, called Bakorstanas, was set up in November 1988, then Commander of the Armed Forces Try Sutrisno said, "There will be no more arrests of university students by green-shirted officers. There will be no more military men acting against bustouts or managing land disputes. There will be no more military personnel investigating cases of smuggling or corruption. And there will be no more special personnel arresting subversives...We will use the existing legal instruments, namely, the police and prosecutors.")¹¹⁵

3. All those arrested for their non-violent beliefs or activities should be

¹¹⁵ *Indonesian News Service*, No.162. quoting *Tempo and Editor*, November 19, 1988, p.4.

immediately and unconditionally released, including the labor activists arrested for incitement in Medan, the East Timorese arrested for taking part in demonstrations or expressing pro-independence sentiments, and students accused of insulting the President.

4. The Indonesian government should amend or repeal laws or regulations that restrict basic freedoms and then enlist the assistance of a powerful citizen's group to ensure that the changes are enforced. The laws in question would include the licensing requirement of the press law (No.1/PER/MenPen/1984); all of the Ministry of Manpower regulations that restrict freedom of association; and articles of the Criminal Code mentioned above. (The Criminal Code is currently undergoing revision, and a new draft is expected to be presented to the Indonesian parliament in the near future; it is not known whether provisions such as the *haatzaaiartikelen* are to be retained.) The anti-subversion law should be repealed in its entirety. The citizen's committee established to monitor enforcement could include appropriate members of the legal profession, human rights community, and National Human Rights Commission.

5. The Indonesian government should ensure that all members of its security forces receive training by human rights experts in international human rights standards, with particular attention to the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment.

6. The Indonesian government should ratify or accede to the two major international human rights agreements, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as a manifestation of its stated commitment to the universality of human rights.

7. Following the pattern already established of visits to East Timor by the U.N. Special Rapporteur on Torture in 1991 and the Special Rapporteur on Summary or Arbitrary Executions in 1994, the Indonesian government should invite the U.N. Working Group on Disappearances and the U.N. Working Group on Arbitrary Detention to visit Indonesia and East Timor in the near future and make recommendations for the prevention of those abuses. A visit by the current Special Rapporteur on Torture would also be desirable.

8. While we acknowledge moves by the government towards increased access by human rights organizations, there should be further relaxation of controls on visits, including full access by international and Indonesian human rights organizations to East Timor. The practice of placing human rights monitors, Indonesian or foreign, under constant surveillance should cease.

Recommendations to the International Community

1. Governments making up the Consultative Group on Indonesia (CGI) that provide development assistance to Indonesia should, at the annual CGI meeting convened by the World Bank, raise concerns about "governance issues" and the ways in which the limits on openness relate to economic, social and political development in Indonesia. At the June 1995 meeting, there should be a concerted effort to press for specific steps by Indonesia to expand freedom of assembly, association and expression and, in particular, to allow workers freedom to organize without suffering arrest, torture, harassment, and intimidation by the military.

2. Delegates to the Asian-Pacific Economic Cooperation (APEC) summit in Jakarta in November 1994 should use the opportunity of bilateral discussions with Indonesia to express concern over continuing human rights violations, particularly with regard to freedom of expression, worker rights, and ongoing restrictions of basic freedoms in East Timor. Delegates should take advantage of their presence in Jakarta to meet with representatives of human rights organizations, independent Indonesian journalists and labor rights activists. They should also stress the need for Indonesia's full compliance with the March 1993 resolution on East Timor by the United Nations Commission on Human Rights, including the extension of invitations to the U.N. Working Group on Disappearances and the Working Group on Arbitrary Detention. They should also urge Indonesia to fully comply with standards of worker rights set by the International Labor Organization. If serious human rights violations occur just before or during the APEC summit in connection with tightened security measures taken by the Indonesian government, delegates should be willing to speak out publicly against them.

3. Japan, as Indonesia's major aid donor,¹¹⁶ has a particularly important role to

¹¹⁶ In 1992, Japan gave \$1.3 billion in bilateral aid (ODA, Official Development Assistance) and pledged, at the annual donors' meeting in July 1994, approximately \$1.67

play. Japan's ODA charter includes guidelines linking provision of ODA to respect for human rights and progress toward democratization. But the latest ODA report (published by the Ministry of Foreign Affairs in March 1994) describing application of the ODA charter in 1993, makes no reference to Indonesia and ODA human rights principles. During its policy dialogue with Indonesia on ODA, Japan should raise concerns about specific human rights issues and urge that Indonesia undertake some of the measures outlined in point (2) above.

4. Visiting delegations of members of parliament should make a specific point of seeking unrestricted access to Medan, North Sumatra, East Timor, and any other areas where the "security approach" has resulted in serious human rights abuses. Expanding outside access to these areas should be a key objective of such delegations.

5. Foreign companies operating in Indonesia should make concern about human rights there a key element of corporate responsibility; that should include a willingness to raise specific issues with their Indonesian government counterparts, such as the closing of the three newspapers in June, and other human rights issues that relate directly to areas of Indonesia where their operations are located. Corporate programs designed to increase respect for transparency and the rule of law (as key elements of good governance) should be initiated. Chambers of commerce representing U.S., Japanese, and other foreign investors should engage in regular dialogue and exchanges with Indonesian NGOs to explore appropriate ways to increase openness in Indonesia.

6. Trade benefits should be linked to concrete improvements in labor rights. The U.S. Trade Representative should reinstate the formal review of Indonesia's labor rights practices suspended in February 1994 with particular attention to monitoring Indonesia's enforcement of the reforms announced in January 1994 -- especially with regard to military interference in the settlement of labor disputes. If the Indonesian government does not take steps toward greater freedom of association, suspension of benefits under the Generalized System of Preferences program should be considered.

7. The World Bank, through its office in Jakarta, should actively consult with labor

rights and human rights organizations in Indonesia about how the World Bank might address aspects of worker rights concerns. A study commissioned by the Bank in 1994 on worker rights in Indonesia should be discussed with relevant Indonesian NGOs prior to publication. The Bank should also make clear to Indonesian officials the negative impact of the press closures on transparency and accountability.