

# Indonesia

## Old laws - new prisoners of conscience

### 1. Introduction

*Ignatius Mahendra Kusuma Wardana and Yoyok Eko Widodo are serving three-year prison sentences in Yogyakarta town, Central Java Province. They were convicted of “insulting the President and Vice-president” after burning their portraits during a peaceful demonstration.*

*Muhammad Opu is appealing against a five month prison sentence imposed on him for leading a peaceful strike in East Kalimantan Province.*

*Muhammad Nazar was sentenced to five years’ imprisonment on 1 July 2003 for his peaceful pro-independence activism with the Aceh Referendum Information Centre (SIRA) in Nanggroe Aceh Darussalam Province (NAD).*

Since Indonesia embarked on a transition from authoritarian rule five years ago, at least 46 prisoners of conscience have been sentenced to prison terms. Five of them are currently serving prison sentences for the peaceful and legitimate exercise of their right to freedom of expression.

Amnesty International considers anyone who has been detained or imprisoned solely for their beliefs or because of their ethnic origin, sex, colour, language, national or social origin, economic status, birth or other status, who have not used or advocated violence to be a prisoner of conscience, and calls for their immediate and unconditional release.

The imprisonment of prisoners of conscience in Indonesia represents a sign that the trend towards greater openness which immediately followed the collapse of the Suharto regime in May 1998 is being reversed. During the 32 years of President Suharto’s rule, the right to freedom of expression and association was severely curtailed and thousands of political opponents, trade unionists, journalists and other peaceful activists and government critics were detained or imprisoned. The arrests are also at odds with measures taken by two successive presidents, former President Yusuf Habibie and former President Abdurrahman Wahid who released over 230 prisoners of conscience and political prisoners in a series of presidential amnesties in 1998 and 1999.

Many limits on freedom of expression, including restrictions on the media, political parties and labour unions were removed following former President Suharto’s resignation. Among the more significant measures was the repeal in 1999 of the Anti-subversion Law, which had been widely used to imprison prisoners of conscience. However, other legislation which had been used to silence government critics remained on the statute books, although for a short period fell out of use. Where politically motivated charges were still brought, they were used exclusively against independence activists in the provinces of Papua (formerly known as Irian Jaya) and Nanggroe Aceh Darussalam (NAD, formerly known as Aceh), rather than the broader range of government opponents who had been imprisoned under former President Suharto.

Yet, since early 2001, repressive legislation has once again been used with increasing frequency against government critics, including labour and political activists as well as advocates of independence in NAD and Papua. The reversal of the trend began under the presidency of Abdurrahman Wahid (October 1999 – July 2001) when seven prisoners of conscience were imprisoned. Since President Megawati Sukarnoputri took office in July 2001, at least 39 prisoners of conscience have been sentenced to terms of imprisonment.

Amnesty International is particularly concerned at the increasing use of articles in the Indonesian Criminal Code (KUHP) which punish “insulting the President or Vice-president” (Articles 134, 136 and 137 KUHP) with up to six years’ imprisonment. At least four people are currently detained under these articles. A group of articles collectively known as the “Hate-sowing Articles” (Articles 154, 155 and 156 KUHP) which punish “spreading feelings of hostility, hatred or contempt against the government” with up to seven years imprisonment are also increasingly being applied. Amnesty International considers these articles to be in contravention of the right to freedom of expression, and has long campaigned for them to be repealed.

This document provides an overview of prisoners of conscience in Indonesia since the end of the Suharto era, and describes unfair trials of prisoners of conscience and the legislation used to detain them. It concludes with a set of recommendations to the Indonesian government. A list of prisoners of conscience and possible prisoners of conscience known to Amnesty International is attached in Appendix I. The recommendations of the Working Group on Arbitrary Detention (WGAD) following its visit to Indonesia in January and February 1999 are included in Appendix II.

## **2. Prisoners of conscience in post-Suharto Indonesia**

The profile of prisoners of conscience today bears a striking resemblance to those arrested during the Suharto era. They include independence and labour activists as well as political activists, in particular those belonging to left-wing organizations.<sup>1</sup>

### **2.1 Independence activists in Papua**

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<sup>1</sup> During the rule of former President Suharto, political opponents were regularly accused of being communist and imprisoned. The Indonesian Communist Party, (*Partai Komunis Indonesia*, PKI) was banned after it was accused of being behind an alleged coup attempt in 1965. Thousands of alleged communists were killed and detained during the following years. Despite the political reforms since 1998, the communist label continues to have strong negative implications in Indonesia and the PKI remains banned.

By May 1998, at the point of the collapse of the Suharto regime, there were at least 50 prisoners of conscience in prison, although during the 32 years of his rule thousands of prisoners of conscience and political prisoners had been detained and imprisoned. Among those released in presidential amnesties in 1998 and 1999 were peaceful independence activists from NAD and Papua Provinces where independence struggles have been waged for decades. However, it was only a matter of months before such activists were once again being detained and charged, often in connection with their peaceful activities.

Since late 1998, more than 50 people have been brought to trial in Papua in connection with activities in support of independence, of which around 20 are believed to have been engaged only in peaceful activities. These have included organizing or attending meetings and ceremonies in which the Morning Star flag – a popular symbol of independence – has been raised. Initially, the charges used against independence activists were “rebellion” (*makar*) (Articles 106 and 110 KUHP) which is punishable by a maximum sentence of life imprisonment. More recently, they have also been charged with “spreading feelings of hostility, hatred or contempt against the government” (Article 154 KUHP).

Twelve people are currently detained and awaiting trial in connection with flag-raising ceremonies in Manokwari town, Manokwari District and in the provincial capital of Jayapura in November and December 2002 respectively. Three of them have been accused of carrying weapons, but the others appear to have been arrested purely because of their involvement in peaceful independence activities. If this is the case, Amnesty International would regard them as prisoners of conscience.

Those arrested include nine men who were among 41 people arrested on 26 and 27 November 2002 during police operations in Manokwari town against a series of activities to commemorate the anniversary of a declaration of Papuan independence in 1997. The first arrests took place at a house in the Fandini Dalam neighbourhood of Manokwari town where police arrested 22 people. Among those arrested were a group of people who had arrived from Babo District earlier that day, in order to attend the flag-raising ceremony. A witness described how they were beaten and kicked by police who arrested them. They were then taken to the Manokwari Police Resort (*Kepolisian Resort*, Polres) where all but Keliopas Fenitruma (m), the head of Tugama village in Babo District, and Rudi Fenitruma (m), a farmer, were released the following day. Keliopas Fenitruma was accused of carrying 40 bullets, and Rudi Fenitruma of carrying a knife at the time of their arrest.

On 27 November 2002, 13 more people were detained during an early morning flag-raising ceremony at which the Morning Star flag was raised. A further six people, four women and two men, were detained later that day, during police raids on Amban and Sowi neighbourhoods of Manokwari town in connection with the independence celebrations.

All of those detained were held without access to families and lawyers. Twelve were released in late November and early December 2002. The nine remaining detainees were eventually given access to lawyers after being held in incommunicado detention for more than a week at Manokwari Polres. They are Keliopas Fenitruma and Rudi Fenitruma who were detained on 26 November 2002, and Dominggus Antoh (m), Bernardus Acame (m),

Zeth Dimara (m), Boas Sraun (m), Karel Kosama (m), Frans Nauw (m) and Manfred Bame (m) who were arrested during the flag-raising ceremony on 27 November 2002. On 21 February 2003 they were transferred to Manokwari Prison (Lapas Manokwari). All were charged with “rebellion”, and Keliopas Fenitruma, Rudi Fenitruma and Dominggus Antoh were additionally charged with illegal weapons possession. At the time of writing, the trial of the nine men was ongoing and they remained in detention in Manokwari Prison.

Among others put on trial in Papua have been members of the Papua Presidium Council (*Presidium Dewan Papua*, PDP), an umbrella civilian pro-independence group established in February 2000. Five PDP leaders, Don Flassy (m), Reverend Thaha Al-Hamid (m), Theys Eluay (m), John Mambor (m) and Reverend Herman Awom (m) were charged with “rebellion” and “spreading feelings of hostility, hatred or contempt against the government” in connection with their involvement in organizing two meetings to discuss plans for a political strategy for the civilian independence movement in Papua in 2000. Three of the five were subsequently acquitted – John Mambor died of natural causes and another, Theys Eluay, was extrajudicially executed.<sup>2</sup> When Don Flassy, Reverend Thaha Al-Hamid and Reverend Herman Awom were acquitted in March 2002, the judge noted that although he believed them to be guilty of rebellion they would not be punished because former President Abdurrahman Wahid had approved and partially financed the events.<sup>3</sup>

In another case, Obed Komba (m), Amelia Yiggibabm (f), Reverend Yudus Meage (m), Murjono Murib (m) and Yafet Yelemaken (m), all members of the local branch of the PDP in Wamena town, Jayawijaya District, were sentenced to terms of imprisonment of up to four years’ and six months’ in 2001. The evidence for the charges of “rebellion” focused on their membership of the PDP and on their activities in informing local people of the results of meetings held by the PDP. They were found guilty on 10 March 2001 and were held under town arrest until they were pardoned by the President in early 2003. In the meantime, Yafet Yelemaken had died of natural causes in June 2002. Amnesty International regarded them as prisoners of conscience.

## **2.2 Independence activists in Nanggroe Aceh Darussalam (NAD)**

Since late 2000, leaders of civilian pro-independence organizations in NAD have been detained and sentenced to prison terms. Unlike in Papua, where many of those detained were charged with “rebellion”, Acehnese pro-independence activists have exclusively been charged under the “Hate-sowing Articles”.

### ***Case: Muhammad Nazar***

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<sup>2</sup> On 21 April 2003, four members of the Special Forces Command (Kopassus) were sentenced to between three and three-and-a-half years’ imprisonment for the killing of Theys Eluay in a military court. Three more Kopassus officers were facing trial at the time of writing, in connection with his killing.

<sup>3</sup> See *Indonesia: Impunity and human rights violations in Papua*, Amnesty International, AI Index: ASA 21/015/2002, 3 April 2002.

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Muhammad Nazar (m), the head of the Aceh Referendum Information Centre (*Sentral Informasi Referendum Aceh*, SIRA) which promotes a referendum on independence for NAD was sentenced to five years' imprisonment on 1 July 2003. He had been arrested on 12 February 2003 and charged with violating Article 154 of KUHP and of failing to obtain the required permission to hold a public event (Article 10, Law 9/1998).

In Muhammad Nazar's trial, which opened on 17 April 2003, the accusations against him focused on his involvement in peaceful pro-independence events organized by SIRA in January and February 2003. At the time, a Cessation of Hostilities Agreement (COHA) between the Indonesian government and the armed opposition movement, Free Aceh Movement (*Gerakan Aceh Merdeka*, GAM) was in force, under which freedom of expression was explicitly guaranteed.<sup>4</sup> However, in May 2003, while Muhammad Nazar's trial was ongoing, the COHA broke down and a military emergency was subsequently declared in NAD.<sup>5</sup> SIRA is among a number of political and human rights organizations named by the military as suspected supporters of GAM and SIRA members have been identified as targets for arrest. The deteriorating situation in NAD may account for the heavy sentence against Muhammad Nazar which is considerably longer than other sentences so far handed down for the same charges.

This is the second occasion on which Muhammad Nazar has been imprisoned for his peaceful pro-independence activities. He was first arrested in November 2000 after organizing a rally in the provincial capital of Banda Aceh. On 28 March 2001, he was sentenced to 10 months' imprisonment for violating Article 154 of KUHP. The charges were connected with his political activities in August 2000, including the distribution of banners and leaflets describing the Government of Indonesia as "neo-colonialist". He was released in late 2001 after having served his sentence.

Three other SIRA activists have also been summoned in connection with their peaceful political activities. Faisal Ridha (m) is suspected of violating Article 510 of KUHP and Law No. 9/1998 concerning Freedom to Express an Opinion in Public by holding a public event without the permission of the authorities. Nasruddin Abubakar (m) and Fajri M. Kasim (m) have been summoned as witnesses in the same case. Only Faisal Ridha has answered the summons. He has not been detained.

***Case: Kautsar bin Muhammad Yus***

Another pro-independence activist arrested in NAD was Kautsar bin Muhammad Yus (m), the former chairman of the People's Front for Democracy in Aceh (*Front Perlawanan Demokratik Rakyat Aceh*, FPDRA). He was arrested in July 2001 and charged with violating Article 154 of KUHP and Article 160 of KUHP which punishes "inciting in public to

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<sup>4</sup> Article 2(f) of the COHA states that "Both parties will allow civil society to express without hindrance their democratic rights".

<sup>5</sup> See *Indonesia: Protecting rights in Nanggroe Aceh Darussalam during the military emergency*, AI index: ASA 21/020/2003, 23 May 2003, and *Indonesia: Protecting the protectors: human rights defenders and humanitarian workers in Nanggroe Aceh Darussalam*, AI index: ASA 21/024/2003, 3 June 2003.

commit a punishable act” with a maximum sentence of six years’ imprisonment. The charges related to a peaceful protest against Exxon-Mobil, a United States based oil-company whose operations in North Aceh District have been the subject of local controversy. He was acquitted of all charges in November 2001 after having spent four months in pre-trial detention.

Kautsar bin Muhammad Yus, together with Tengku Muhammad Nasir Asiz (m), was also detained by members of the North Aceh Military on 22 September 2002 following a public meeting they had helped organize. The two men were reportedly interrogated and beaten for two hours at the North Aceh District Military Command (Kodim) before being transferred to police custody. They were released two days later without charge. No investigation is known to have been carried out into the alleged beatings.

At the time of writing, Kautsar bin Muhammad Yus is once again at risk of becoming a prisoner of conscience. He has been summoned by police for questioning as a suspect of violating Article 510 KUHP for holding a public event without the permission of the authorities and of violating Law No. 9/1998 concerning Freedom to Express an Opinion in Public which requires the organizers of a meeting to give three days notification of a public event to the relevant authorities.

The accusations against Kautsar bin Muhammad Yus focus on his participation as a speaker at a rally organized by the Voice of the Acehnese People (*Suara Rakyat Aceh*, SURA) in Lhokseumawe town, North Aceh District on 9 January 2003. During the demonstration, activists reportedly called on all sides to respect the COHA between the Government of Indonesia and GAM signed one month earlier. Four men were reportedly shot and injured by the Police Mobile Brigade (Brimob), apparently to prevent them from participating in the rally.

Kautsar bin Muhammad Yus has stated that he had been informed that SURA had notified the police about the event. In a statement issued on 1 February 2003 he wrote,

*“On 8 January, the day before the rally, the North Aceh police contacted the organisers to confirm that the event would take place and threatened that they might break up the crowd and open fire on those attending. On 8 January, members of the police also patrolled the streets, calling on people not to attend the event being organised by SURA and saying that they would check up on all vehicles on the roads on 9 January. It is clear from this that the police were well aware, in advance, that the event would be taking place...”*

Kautsar bin Muhammad Yus is now in hiding. Amnesty International is concerned for his safety and urges the authorities to drop any charges against him that are based solely on his peaceful and legitimate right to freedom of expression.

### **2.3 The new wave of prisoners of conscience**

Increasing political uncertainty during the first half of 2001, which culminated in the impeachment of former President Abdurrahman Wahid on 23 July 2001, provided the backdrop for some of the first arrests of prisoners of conscience outside of Papua and NAD since 1998. A number of labour and political activists were arrested in the context of large

demonstrations by supporters and opponents of President Abdurrahman Wahid in cities across Indonesia, some of which became violent. Most were quickly released, but some were subsequently charged and put on trial.

Following President Abdurrahman Wahid's impeachment President Megawati Sukarnoputri assumed leadership of the country. Under her presidency there has been a notable increase in the number of political opponents who have been arrested and imprisoned.

### ***Case: Political and labour activists in Bandung***

Around 70 people were detained on 13 and 14 June 2001 in Bandung, West Java Province, during demonstrations against a ministerial decree which cut severance pay to some workers, and also against fuel price increases. Most detainees were quickly released, but 12 members of political and labour organizations were brought to trial. Among them were three members of the People's Democratic Party (*Partai Rakyat Demokratik*, PRD), a small left-wing political party a number of whose leading members had been imprisoned under former President Suharto.<sup>6</sup> Two members of the National Democratic Student's League (*Liga Mahasiswa Nasional untuk Demokrasi*, LMND) and six members of the Young Christian Workers Movement (YCW) were also put on trial.

The trial of the 12 demonstrators opened on 12 August 2001. They were charged with "openly committing violence against persons or property" (Article 170 KUHP), punishable by five years' and six months' imprisonment. Three faced additional charges of "inciting in public to commit a punishable act" (Article 160 KUHP). Although the demonstrations in Bandung had become violent, there is no indication that the 12 were involved in the violence, rather they appear to have been targeted because of their membership of the PRD and other organizations.

Nine of the activists were released on 25 September 2001 after spending more than three months in pre-trial detention, although their trial continued. They were eventually acquitted of all charges in February 2002. Two others, Fransiscus Xavarius Farnebun (m), a PRD member, and Normalinda (f), a LMND member, were found guilty on 7 February 2002, and sentenced to three months' imprisonment each. There is no further information on the twelfth person, George Dominggus Hormat (m), but it is thought that the charges against him may have been dropped.

### ***Case: Political activists in Bondowoso***

On 31 July 2001 – only eight days after President Megawati Sukarnoputri had taken over the presidency - police in East Java Province arrested eight members of the Bondowoso Council of Protectors of People's Sovereignty (*Dewan Penyelamatan Kedaulatan Rakyat Bondowoso*, DPKR), a coalition of political organizations opposed to the policies of the new president. At the time of their arrest, the eight were distributing leaflets to publicize a planned political

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<sup>6</sup> See Amnesty International: *Indonesia: The PRD Prisoners: A summary of Amnesty International's Concerns*, AI index: ASA 21/56/97, October 1997.

meeting. Among other things, the leaflets called for bringing forward general elections as well as opposing fuel price increases. Those arrested included Drs. Muswiyanto (m) and Drs. M. Rozak (m), two local representatives of the National Development Party (*Partai Kebangsaan Bangsa*, PKB) led by former President Aburrahman Wahid who had been replaced by President Megawati Sukarnoputri as a result of his impeachment. Also detained were Rudi Asikoh (m) and Febri Erfinanto (m), both members of the PRD. Other political activists detained were Ir. Joni Fatahillah (m), Hamka Cahyaning (m), Ahmad Noval Kawakid (m) and Abdul Hadi (m). Eusebius Purwadi (m), the Chairman of the East Java branch of the PRD, was detained at his house 10 days later in connection with the same case.

All but Eusebius Purwadi were tried together on charges of publicly disseminating “a writing where feelings of hostility, hatred or contempt against the Government of Indonesia are expressed” (Article 155 KUHP) and “inciting in public to commit a punishable act” (Article 160 KUHP). On 5 November 2001, they were found guilty of violating Article 155 of KUHP and were sentenced to three months and 16 days imprisonment. They were acquitted of violating Article 160 of KUHP. As they had served most of their sentence in pre-trial detention, they were released on 15 November 2001. Eusebius Purwadi, who was accused of being the author of the leaflet, was released in January 2002, after spending more than five months in pre-trial detention. His trial continued until early 2003 when he was finally acquitted of all charges.

#### ***Case: Political activists in Medan***

In Medan, the capital of North Sumatra Province, Nanang Sugih Suroso (m) and Sofandi Sohar (m), both students, were found guilty of violating Article 156 of KUHP which punishes giving public “expression to feelings of hostility, hatred or contempt against one or more groups of the population of Indonesia”. They were sentenced to one year’s imprisonment each in September 2002.

The two were charged after they participated in a peaceful demonstration in March 2001 against Golkar, one of Indonesia’s main political parties. Their trial opened on 28 May 2002. They were not detained during the trial and have remained free pending an appeal against the verdict.

However, their lawyers are concerned about whether the appeal can be pursued because the verdict was only delivered verbally by the judge. Without a written verdict the lawyers are unable to submit an appeal. When the lawyers asked the court for a copy of the judgement, they were reportedly told that it was not available because the judge presiding in the case has since retired and left Medan. The absence of the written verdict has prevented lawyers from launching an appeal, and the current status of the appeal remains unclear.

#### ***Case: Labour activists in East Kalimantan***

Four trade union activists in East Kalimantan Province, Muhammad Opu (m), Amri (m), Shankaria (m) and Idris (m), were found guilty of “inciting in public to commit a punishable act” (Article 160 KUHP) and sentenced to prison sentences of up to six months in

connection with their participation in peaceful labour strikes in January 2002. They are currently free pending the outcome of their appeals.

The strikes, which had been organized by the Indonesian Wood and Forestry Workers Union, (*Serikat Pekerja Perkayuan dan Perhutanan Indonesia*, SP Kahutindo) started after the management at PT Intracawood Mfg. Tarakan and other forestry companies in East Kalimantan reportedly failed to pay previously agreed on minimum wages to forestry workers. In January 2002, thousands of workers in the provincial capital of Samarinda, and surrounding areas participated in a series of peaceful demonstrations outside the office of the Provincial Governor demanding that he enforce the minimum wage agreement.

The protests ended after a peaceful resolution was reached between management and the workers. However, Muhammad Opu, Amri, Shankaria and Idris were later dismissed from their jobs and charges filed against them. Muhammad Opu, who was tried separately from the other three, was found guilty of violating Article 160 of KUHP on 22 August 2002 and sentenced to six months' imprisonment. The East Kalimantan High Court later reduced his sentence to five months. He is currently awaiting the outcome of a further appeal to the Supreme Court.

In February 2003, Amri, Shankaria and Idris were also sentenced to six months' imprisonment after being found guilty of violating Article 160 of KUHP. At the time of writing, they were appealing against their sentences to the East Kalimantan High Court.

## **2.4 Insulting the President**

Since late 2002, a particularly disturbing development has emerged in the form of use of articles of KUHP which punish crimes relating to "insulting the President or Vice-president" (Articles 134, 136 and 137 KUHP) with up to six years' imprisonment. These vaguely defined provisions were widely used by former President Suharto against his critics. Under President Megawati Sukarnoputri they are being used once again against peaceful critics and other activists. Fourteen people have been sentenced to prison terms ranging from a few months up to three years. Three others are currently facing charges under these provisions.

### ***Case: Political activists in Jakarta***

The first activists to be sentenced to prison terms for "insulting the President or Vice-president" were Muzakir (m) and Nanang Mamija (m). The two men, who are both members of GPK (*Gerakan Pemuda Kerakyatan*, GPK), were arrested after they participated in a street theatre action known as "happening art" which took place in front of the Presidential Palace in Jakarta on 24 June 2002. During the performance the actors stamped on portraits of President Megawati Sukarnoputri and Vice-president Hamzah Haz and poured rotten rice on them to draw attention to the situation of the poor. The protesters also demanded that the President and Vice-president be replaced.

Muzakkir and Nanang Mamija were arrested on 30 June and 1 July 2002 respectively and charged with “insulting the President and Vice-president” (KUHP Article 134). According to reports, no arrest warrant was produced at the time of their arrest, and the two men did not have access to lawyers during initial questioning. On 24 October 2002, they were sentenced to one year’s imprisonment each. They were detained in Salemba Prison in Jakarta until their release on 1 July 2003. Amnesty International believes that they were imprisoned solely for their peaceful exercise of the right to freedom of expression and considered them to be prisoners of conscience.

### ***Case: Political activists in Yogyakarta***

Two other people who are currently serving prison sentences for “insulting the President or Vice-president” are Ignatius Mahendra Kusuma Wardana (m), the Chairperson of the Yogyakarta branch of the National Democratic Student’s League (*Liga Mahasiswa Nasional untuk Demokrasi*, LMND) and Yoyok Eko Widodok (m), a member of the Indonesian Street Musicians Union (*Serikat Pengamen Indonesia*, SPI). In April 2003, the two were sentenced to three years’ imprisonment which they are currently serving in Wirogunan Prison in Yogyakarta, Central Java.

Yoyok Eko Widodok was detained by police while he participated in a demonstration against fuel price increases in Yogyakarta on 7 January 2003. Ignatius Mahendra Kusuma Wardana, who had also participated in the demonstration, was detained when he went to search for Yoyok Eko Widodok at Sleman Police Resort (*Kepolisian Resort*, Polres) after the demonstration had finished. The two were accused of “insulting the President or Vice-president” because they had burnt photographs of them during the demonstration.

The protest in Yogyakarta was part of a wave of demonstrations that had broken out across Indonesia in response to the government’s announcement of increases in fuel and electricity prices. President Megawati Sukarnoputri was reported in the media to have responded angrily to these events. In the English language daily newspaper, the *Jakarta Post*, she was quoted as saying,

“When I look at my pictures – and I actually look pretty there – and see people stomping on them, I feel like I want to throw up... like a volcano about to explode...”<sup>7</sup>

In this case, the burning of the portraits was clearly a symbolic action in which violence was neither directly nor indirectly threatened. Amnesty International therefore regards Ignatius Mahendra Kusuma Wardana and Yoyok Eko Widodok as prisoners of conscience and is calling for their immediate and unconditional release.

## **2.5 Independence activists in Maluku**

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<sup>7</sup> “Mega reacts emotionally to stomping protesters”, The Jakarta Post Online, [www.thejakartapost.com](http://www.thejakartapost.com), 29 January 2003.

Since 2001, scores of independence activists in Maluku Province have been detained or imprisoned. The context for these arrests is the religious conflict between Christians and Muslims which began in January 1999 and which has resulted in the deaths of thousands of people. The conflict intensified in mid-2000 with the arrival in the province of Laskar Jihad, a fundamentalist Islamic militia group. The group, which was reported to have received basic military training from a small group of sympathetic officers with the Indonesian Military (*Tentara Nasional Indonesia*, TNI), joined local Muslim militia in an offensive against Christian militia groups. Laskar Jihad operations caused thousands of Christians to flee and inflicted many casualties. The Muslim community also suffered serious human rights violations.

Historically there have been demands by some Christians for an independent Republic of South Maluku (RMS) based on a short-lived revolt in 1950. Recently, pro-independence activities have taken place through the Maluku Sovereignty Front (*Front Kedaualatan Maluku*, FKM), a small organization established in late 2000. Since its establishment, members of the organization has raised the RMS flag annually on the anniversary of a declaration of independence on 25 April 1950.

Generally, activities in support of independence in Maluku have been on a much smaller scale than in NAD or Papua. However, flag-raising ceremonies did take place on 25 April 2003, on several locations in Maluku. According to reports, at least 129 people who participated in the action were detained. As of the end of June 2003, Indonesian media reported that 55 remained in detention. It was unclear at the time of writing how many were still being held and whether any of them had been charged.

***Case: FKM leaders***

Alexander Manuputty (m), the leader of the FKM, was initially arrested in April 2001 after he raised the flag of the RMS, on the anniversary of the declaration of independence in 1950. On 9 November 2001, he was found guilty of violating Civil Emergency Regulation for Maluku, No. 9A/PDSDM/IV/2001 which outlawed activities by the FKM, including the raising of the RMS flag. He was sentenced to four months' imprisonment, which was increased to six months' imprisonment on appeal in January 2002. He was reported to have been released in 2001, while the trial was ongoing.

On 17 April 2002, in anticipation of flag-raising ceremonies on 25 April 2002, Alexander Manuputty along with another FKM leader, Samuel Waeleruny (m), was detained again. The two men were held for seven months until 28 December 2002 when their detention orders expired. Their trial, which had begun in August 2002, continued, and on 28 January 2003, they were found guilty of "rebellion" (Article 106 KUHP) in connection with their role in establishing the FKM and raising the flag of the RMS. Both were sentenced to three years' imprisonment. In May 2003, an appeal court increased their sentences to four years' imprisonment.

Although there are some indications that FKM may have connections with Christian militia groups, Amnesty International is concerned that the specific charges against Alexander Manuputty and Samuel Waeleruny in this case related to their peaceful activities in connection with expressing their desire for independence and that as such they appear to have been politically motivated.

These concerns are reinforced when the treatment of Alexander Manuputty and Samuel Waeleruny is compared with that of Jafar Umar Thalib (m), the leader of the Muslim militia group Laskar Jihad. He was arrested on 4 May 2002, after the violent attack on the Christian village of Soya, Sirimau Sub-district, Maluku Tengah District, Maluku Province in which 12 people were killed. Two days prior to the attack Jafar Umar Thalib had made a speech in which he is reported to have told his followers to “prepare our bombs, and ready our guns”. The speech is widely seen as having instigated or at least encouraged the attack.

Jafar Umar Thalib was charged with violating Article 154 KUHP and 160 KUHP, and also with violating Article 134 KUHP in connection with comments he had made during the speech accusing the Indonesian government of working with the Christian separatist movement. On 30 January 2003, he was acquitted of all charges.

## **2.6 Defamation charges**

Charges of Defamation (Articles 310–321 KUHP) are increasingly being threatened and in some cases filed against individuals and organizations, including human rights defenders, environmental activists and journalists. Amnesty International is concerned that, in some cases, such charges are being used to restrict freedom of expression and prevent reporting on sensitive issues such as human rights violations and corruption.

In the case of Rahman Dako (m), local politics appears to have motivated the charges of defamation. Rahman Dako is the Co-ordinator of the Resources Management Network (*Jaringan Pengelolaan Sumber Daya Alam*, Japesda) in Gorontalo Sub-district, Gorontalo Province. He was sentenced to six months’ imprisonment for defamation (Articles 310(2) and 316 KUHP) against a local government official after he issued a press statement in April 2002 in which he accused the local regent of lying in public about his commitment to protect Gorontalo’s forests. He is currently appealing the sentence to a court of higher instance. He has not been detained during the proceedings.

In both NAD and Papua Provinces, human rights defenders have been summoned and threatened with defamation charges in connection with their reporting on human rights violations. John Rumbiak (m), the Supervisor of the Institute for Human Rights Study and Advocacy (*Lembaga Studi dan Advokasi Hak Asasi Manusia*, Elsham) was issued with a warning (*peringatan*) in November 2002, after Elsham published a report stating that the military may have been involved in an attack close to the Freeport McMoran Copper and Gold Mine on 31 August 2002, in which two American citizens and one Indonesian were killed. The military also threatened to sue the United States newspaper, the *Washington Post* after it reported on the military’s alleged involvement in planning the attack. In February

2003, the *Washington Post* issued a statement saying that, on investigating further, it had found no substantiation that top military officials had discussed or planned the attack.

No further developments occurred until 4 June 2003, when Yohanes Bonay (m), Elsham's director, was summoned by the Jayapura District Court after the Regional Military Commander for Papua (*Panglima Daerah Militer, Pangdam*) issued a lawsuit against Elsham. One day before the first scheduled trial session, on 10 June 2003, the military withdrew the lawsuit, reportedly because of shortcomings in the case. However, on 12 June the case was resubmitted, naming additional suspects. Those named are Yohanes Bonay, John Rumbiak, as well as two national newspapers, *Koran Tempo* and *Suara Karya* and their editors.

### **3. Unfair trials**

Amnesty International is concerned that the trials of prisoners of conscience – who should not have been detained in the first place – have often failed to meet international standards for fairness. Among the trial irregularities reported to Amnesty International are: arrest without warrants; failure to inform the detainees of charges against them; incommunicado detention; denial or restriction of access to lawyers; denial of access to families; and inadequate medical care. Torture or ill-treatment of detainees has also been reported.

#### ***Case: Unfair trial of political activists in Southeast Sulawesi***

Six activists with the Governing Front of the Poor (*Front Pemerintah Rakyat Miskin, FPRM*), a coalition of Indonesian political organizations, are among those known to have been tortured in police custody.

The six, Susyanti Kamil (f), An'am Jaya (f), Sahabuddin (m), Ansar Suherman (m), Hariansyah (m), and Muhammad Akman (m), were detained on 25 January 2003 two days after their participation in a peaceful demonstration in Kendari town, Southeast Sulawesi Province, on 23 January 2003. At the demonstration, which was attended by around 120

people, demands were made for the government of President Megawati Sukarnoputri and Vice-president Hamzah Haz to be replaced with a government of the poor. Demonstrators reportedly spread out photos of President Megawati Sukarnoputri and Vice-president Hamzah Haz in the street so that passing vehicles drove over them. They also burnt portraits of the President and Vice-president in front of the local government building (DPRD) and the office of a local newspaper.

The following day, three officers in plain clothes arrived at the office of Students and People for Democratic Action (KAMERAD), one of the organizations which had participated in the demonstration. The police entered the office, looking for two members of the FPRM. Failing to find the two activists they were looking for, they briefly detained two members of the Popular Youth Movement (*Gerakan Pemuda Kerakyatan, GPK*) who had hidden outside the office after the police arrived. They were released the same day. They also confiscated a banner which read "Change the Mega-Hamzah government with a government of the poor" ("*Ganti Pemerintahan Mega Hamzah untuk Rakyat Miskin*"). The police officers did not show an arrest or a search warrant.

The following night, on 25 January, at around 2am, police officers arrested the six FPRM activists at the house where they were sleeping. The officers had arrest warrants for only three people, but all six people who were in the house at that time were arrested.

The six were taken to Kendari Police Resort (Polres) where, according to credible reports, they were beaten, punched, slapped on their faces and ears and kicked, including in their genitals, by police officers. Objects were also thrown at them. Although the six were permitted to see lawyers the access was restricted. For example, lawyers were not present during interrogations, which frequently took place at night when police claimed that the lawyers could not be contacted. The lawyers were further hampered in assisting their clients because they were initially refused access to official investigation reports and other documents necessary to preparing a defence.

Complaints lodged by the lawyers about the treatment of their clients initially met with no response. However, following a particularly serious incident in which Sahabuddin was repeatedly beaten at two-hourly intervals for a period of around 11 hours on 14 February 2003, one police officer was reportedly transferred from Kendari Polres to a smaller sub-district level police station (*Polisi Sektor*, Polsek), where he reportedly remains on active duty. No other steps are believed to have been taken against him or any other officers allegedly involved in the beatings, including investigations into the allegations of torture.<sup>8</sup>

On or around 20 March 2003, formal charges were filed against the six FPRM members and they were moved to Kendari Prison. There is reported to have been some improvement in their treatment since the transfer, although they are known to have been beaten on one occasion. According to reports, five of the six sustained bruises on their faces, hands and legs as a result. Access to lawyers and families also improved after they were moved to the prison.

Their trial opened on 8 April 2003. They were charged with publicly expressing “feelings of hostility, hatred or contempt against the Government of Indonesia” (Article 154 KUHP) and “deliberate insult against the President or Vice-president” (Article 134 KUHP). The evidence for the charges focused on the burning of and stepping on the President’s photograph during the demonstration on 23 January 2003. The six were sentenced to four months and 15 days imprisonment for “insulting the President” on 4 June 2003. They were released five days later having already served the sentence in pre-trial detention. Amnesty International is concerned that all six were sentenced to terms of imprisonment solely on the basis of their peaceful protests against the government and are therefore prisoners of conscience.

The organization is also concerned about irregularities in the trial process, including allegations of torture. Torture is not explicitly prohibited in KUHP, although under Article 422 of KUHP it is forbidden for an official involved in a criminal case to make use of coercion either to extract a confession or to persuade someone to provide information. The

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<sup>8</sup> Under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) which has been ratified by Indonesia, the authorities have an obligation to undertake prompt, effective independent investigations, protect witnesses and bring the suspected perpetrators to justice.

UN Committee Against Torture (CAT), which considered Indonesia's first report in November 2001, raised concern about widespread use of torture in Indonesia and of allegations of excessive use of force employed against demonstrators or for the purpose of investigation. It also expressed concern about the climate of impunity in part a result of lack of progress in bringing to trial members of the security forces or other officials alleged to have planned, commanded or perpetrated acts of torture or ill-treatment. The CAT recommended among other things amending of legislation so that torture and other cruel, inhuman or degrading treatment or punishment are strictly prohibited and the establishment of an effective, reliable and independent complaint system to undertake prompt, impartial and effective investigations into allegations of torture and ill-treatment and where the findings so warrant to prosecute and punish the perpetrators.<sup>9</sup>

***Case: Political and labour activists in Bandung***

Allegations of torture were also made in the case of 12 labour activists detained on 14 July 2001 in Bandung, West Java. They were held in incommunicado detention between 14 and 19 June 2001 in Bandung Regional Police Station (*Polisi Daerah, Polda*). According to reliable reports, they were beaten, struck with weapons, kicked in the head, genitals and stomach, and burnt with cigarettes. One detainee was reportedly told that the others had been killed. They were repeatedly accused of being provocateurs and members of the PRD, and were forced to sign confessions and statements saying that they did not want legal advice. Families of the activists who attempted to visit them at Bandung Polda were denied access to the detainees (see page 8 for details).

***Case: Reverend Rinaldi Damanik in Central Sulawesi***

Reverend Rinaldi Damanik, a Protestant priest from Central Sulawesi was sentenced to three years' imprisonment on 17 June 2003 after being charged with illegal weapons possession (Article 1, Emergency Law No. 12/1951). Amnesty International is concerned that his trial has not met international standards for fairness, and that there are strong indications that the charges against him are false, making him a prisoner of conscience.

Reverend Rinaldi Damanik has been at the forefront of efforts to resolve the conflict between Muslims and Christians in the Central Sulawesi. He was also a signatory to the Malino Peace Agreement signed in December 2001 to end conflict between Muslims and Christians in the province. Weapons were allegedly found when police stopped the convoy in which Reverend Rinaldi Damanik and his team of humanitarian workers were travelling in Peleru village, Mori Atas Sub-district, Morowali District while helping internally displaced people on 17 August 2002. Reverend Rinaldi Damanik and his colleagues were moved away from the convoy while members of the security forces searched the cars. After the search was completed, the convoy was allowed to depart. Reverend Rinaldi Damanik has stated that he was not informed of the alleged discovery of weapons at the time, but first learnt about

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<sup>9</sup> CAT/C/XXVII/Concl.3. Committee Against Torture, 27<sup>th</sup> session, 12-23 November 2001. Consideration of all reports submitted by states parties under Article 19 of the Convention

the allegations through media reports several days later. On 22 August 2002, he was summoned by police as a suspect of illegal weapons possession. He did not respond, but was later detained on 10 September 2002 at the National Police Headquarters (Mabes Polri) in Jakarta where he had gone in response to another summons as a witness in the same case.

On 22 December 2002, Reverend Rinaldi Damanik was transferred from police detention in Jakarta to the Central Sulawesi Provincial Police Office (Polda) in the provincial capital Palu, reportedly without prior notification to his lawyers or family. Although he was allowed access to lawyers, his lawyers in Poso complained that they were initially denied access to trial documents needed to prepare his defence.

The trial of Reverend Rinaldi Damanik opened in Palu District Court on 3 February 2003. Amnesty International has concerns about the trial process, including that a prosecution witness claims to have been forced to provide evidence against Reverend Rinaldi Damanik under torture. The witness claimed in court that he had been beaten on his head, face and stomach by police officers in Palu Police Resort (Polres). The judge questioned him about the torture during the trial. It was reported that his testimony was disregarded in reaching the verdict. It is not clear whether any further steps have been taken to investigate the alleged torture. There is no victim and witness protection program in Indonesia and it is not uncommon for witnesses in political trials to be subjected to harassment or intimidation and in some cases torture or ill-treatment.

Reverend Rinaldi Damanik was sentenced to three years' imprisonment on 17 June 2003 and is currently detained in Maesa Prison in Palu. He is appealing against the sentence to the High Court.

#### **4. Legislation used to detain prisoners of conscience**

A range of different laws have been used to imprison prisoners of conscience. Among this legislation are provisions within KUHP inherited from the Dutch colonial era. Despite repeated commitments by the Indonesian government to do so, KUHP has not been amended.

In its report following a visit to Indonesia in 1999, the United Nations (UN) Working Group on Arbitrary Detention (WGAD) drew particular attention to articles in KUHP and called for them to be amended. The specific articles raised were provisions relating to crimes against the security of the state (Articles 104 – 129 KUHP); Crimes against the dignity of the President and Vice-president (Articles 130 – 139 KUHP); and Crimes against public order (Articles 154 – 181 KUHP). In referring to the above legislation the WGAD stated that,

*“[50.] Most of these provisions are, especially inasmuch as the intentional element of the crime is concerned, drafted in such general and vague terms that they can be used arbitrarily to restrict the freedoms of opinion, expression, assembly and association. They can be used notably to target the press, peaceful political*

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*opposition activities and trade unions, as they were frequently under the former regimes.*

*[51.] In this context, articles 154 to 157 (some provisions of which date back to the colonial period) which criminalize acts that give ‘expression to feelings of hostility, hatred or contempt against the Government of Indonesia’ (art. 154) deserve particular mention. Another such provision is article 137 (relating to the crime of ‘lèse-majesté’), which targets insults against the President and the Vice-President. These provisions were frequently used to neutralize or intimidate any political opposition or members of trade unions. The majority of persons arrested and tried under these chapters of the Criminal Code under the regime of President Soeharto have now been released. However, these provisions remain in force and carry grave risks of arbitrary detentions, as long as they have not been abrogated or their content amended to make them compatible with international standards guaranteeing the freedoms of opinion and expression.”<sup>10</sup>*

Amnesty International also has concerns about the way in which a relatively new law, Law No. 9/1998, concerning Freedom to Express an Opinion in Public is being applied. This law, which was introduced in October 1998, requires organizers to inform the police of a public event at least three days prior to the event. It also requires the police to be informed of the purpose of the event and the names and addresses of the organizers. Amnesty International recognizes the authorities’ need to control public events in a proportionate and reasonable way, to secure the safety of the public, but is concerned that this law may be being applied in such a way as to place unreasonable limits on freedom of association and that charges brought under it in some cases appear to be politically motivated.

Other legislation which Amnesty International believes limits freedom of expression and, if applied, could result in the imprisonment of prisoners of conscience are a series of articles that were incorporated into KUHP in May 1999. Their incorporation followed the repeal of the Anti-subversion Law in April 1999. The provisions in KUHP reflect some of those repealed in the Anti-subversion Law. Articles 107 (a) – (e) KUHP prohibit the public dissemination or promotion of communist teachings, the establishment of communist organizations and the expression of a desire to abolish and change *Pancasila* as the founding principle of the state.<sup>11</sup> Amnesty International urges the Indonesian Government to amend these articles in its plans to review KUHP.

## 5. Recommendations

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<sup>10</sup> Report of the Working Group on Arbitrary Detention on its visit to Indonesia (31 January – 12 February 1999) E/CN.4/2000/4/add.2, 12 August 1999. Paragraphs 50 – 51. See Appendix II.

<sup>11</sup> *Pancasila*, the state ideology of Indonesia embodies five principles; belief in one God; just and civilized humanity; the unity of Indonesia; democracy guided by the inner wisdom in the unanimity arising out of deliberations amongst representatives; and social justice.

The recommendations below are based on the principles and standards enshrined in international human rights law, particularly the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The latter was ratified by the Indonesian government in October 1998. The former is scheduled to be ratified before the end of 2003 under Indonesia's first Five Year Action Plan on Human Rights.

**Amnesty International urges the Indonesian government to:**

**Release all Prisoners of Conscience**

- immediately and unconditionally release all individuals detained or imprisoned solely for the peaceful exercise of their right to freedom of opinion, belief, expression and association;
- make public commitments that there will be no further arrest of individuals engaging in the peaceful exercise of their right to freedom of opinion, belief, expression and association.

**Legal reform**

- repeal all articles of KUHP which do not conform to international human rights standards, including the "Hate-sowing Articles" (Articles 154, 155 and 156 KUHP); articles which criminalize "insulting the President or Vice-President" (Articles 134, 136 and 137 KUHP); and Articles 107 (a) – (e) which forbid the establishment of Communist organizations and the expression of a desire to abolish *Pancasila* as a founding principle of the state.

**UN Treaties**

- in accordance with the five year National Action Plan on Human Rights, to ratify and implement the International Covenant on Civil and Political Rights (ICCPR), and its first Optional Protocol, which permits the Human Rights Committee to receive individual complaints;
- fully implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) which was ratified by Indonesia in 1998. This should include amending KUHP so that torture and other cruel, inhuman or degrading treatment or punishment is explicitly prohibited; setting up mechanisms by which independent and effective investigations into all allegations of torture; establishing a mechanism to protect victims and witnesses; and ensuring that those found to be responsible for planning, commanding or perpetrating acts of torture are brought to justice in trials that conform to international standards for fair trial.

### **UN Mechanisms**

- implement the recommendations of the United Nations Working Group on Arbitrary Detention;
- implement the recommendations of the United Nations Committee Against Torture;
- issue standing invitations for UN mechanisms to visit Indonesia. Priority should be given to visits by the Special Rapporteur on Torture, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions and the Special Representative on Human Rights Defenders;
- ensure that the Special Rapporteur on Freedom of Expression, who has been invited to visit Indonesia in 2003, is permitted to visit all areas of the country, including Nanggroe Aceh Darussalam and Papua Provinces.

### **Training**

- provide regular detailed training in the practical implementation of human rights standards to all members of the police and the judiciary at the national, provincial, district and sub-district levels. Training should be practical, ensuring that officers know how to implement human rights into their daily working practises, and should be followed up to monitor the effectiveness of facilitating change.
- Training should be based on international standards including the International Covenant on Civil and Political Rights; the UN Standard Minimum Rules for the Treatment of Prisoners; the UN Code of Conduct for Law Enforcement Officials; UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; and the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.

**Appendix I: List of Indonesian Prisoners of Conscience (POCs) and Possible POCs who are currently facing charges or serving prison terms.**

NAME	DATE OF ARREST	SENTENCE (DATE OF SENTENCE)	CHARGE	CATEGORY	PLACE OF DETENTION	OTHER INFORMATION
<b>ACEH PRISONERS</b>						
Kautsar bin Muhammad Yus (m)	Not detained		Article 510 KUHP + Law No. 9/1998		Not detained	Former Chairman of the People's Front for Democracy in Aceh (FPDRA). Wanted in connection with a speech he held at a peaceful rally on 9 January 2003.
Muhammad Nazar (m)	12 February 2002	5 years (1 July 2003)	Article 154 KUHP	Prisoner of Conscience (POC)	Banda Aceh Regional Police Office (Polda)	Chairman of the Aceh Referendum Information Centre (SIRA). Arrested for his role in peaceful pro-independence events in January and February 2003.

<b>PAPUA PRISONERS</b>						
<b>Jayapura</b>						
Jordan Ick (m)	14 December 2002	Trial process ongoing (Trial opened 4 June 2003)	Article 106 + 88 KUHP	POC	Abepura Prison	Arrested during a peaceful independence celebration in the provincial capital of Jayapura at which the Morning Star flag was raised.
Yohanes Wanggai (m)	14 December 2002	Trial process ongoing (Trial opened 4 June 2003)	Article 106 + 88 KUHP	POC	Abepura Prison	Arrested during a peaceful independence celebration in the provincial capital of Jayapura at which the Morning Star flag was raised.
Edison Waromi (m)	14 December 2002	Trial process ongoing (Trial opened 4 June 2003)	Article 106 + 88 KUHP	POC	Abepura Prison	Arrested during a peaceful independence celebration in the provincial capital of Jayapura at which the Morning Star flag was raised.
<b>Manokwari</b>						
Bernardus Acame (m)	27 November 2002	Trial process ongoing	Articles 87 + 88 + 106 + 110 KUHP	Possible POC	LP Manokwari	Arrested during a peaceful pro-independence flag-raising ceremony in Manokwari town.
Manfred	27 November	Trial process	Articles 87 +	Possible POC	LP Manokwari	Arrested during a peaceful pro-

Bame (m)	2002	ongoing	88 + 106 + 110 KUHP			independence flag-raising ceremony in Manokwari town.
Zeth Dimara (m)	27 November 2002	Trial process ongoing	Articles 87 + 88 + 106 + 110 KUHP	Possible POC	LP Manokwari	Arrested during a peaceful pro-independence flag-raising ceremony in Manokwari town.
Amelina Kiri (f)	16 November 2002	Trial process ongoing	Articles 164 + 106 + 56(1)	Possible POC	House arrest ( <i>Tahanan luar</i> )	Arrested in Wasior Sub-district, Manokwari District, after handing herself in to the authorities. Currently in house arrest after giving birth in June 2003.
Karel Kosama (m)	27 November 2002	Trial process ongoing	Articles 87 + 88 + 106 + 110 KUHP	Possible POC	LP Manokwari	Arrested during a peaceful pro-independence flag-raising ceremony in Manokwari town.
Frans Nauw (m)	27 November 2002	Trial process ongoing	Articles 87 + 88 + 106 + 110 KUHP	Possible POC	LP Manokwari	Arrested during a peaceful pro-independence flag-raising ceremony in Manokwari town.
Boas Sraun (m)	27 November 2002	Trial process ongoing	Articles 87 + 88 + 106 + 110 KUHP	Possible POC	LP Manokwari	Arrested during a peaceful pro-independence flag-raising ceremony in Manokwari town.
<b>MALUKU PRISONERS</b>						

Alexander Hermanus Manuputty	17 March 2003	4 years (6 May 2003)	Article 106 + 55 (1) + 64 (1)	Possible POC	Jakarta	Chairperson of the Maluku Sovereignty Front ( <i>Front Kedaulatan Maluku</i> , FKM). Charged in connection with pro-independence activities in Maluku.
Semmy Waeleruny	17 March 2003	4 years (6 May 2003)	Article 106 + 55 (1) + 64 (1)	Possible POC	Jakarta	Leading member of the Maluku Sovereignty Front ( <i>Front Kedaulatan Maluku</i> , FKM). Charged in connection with pro-independence activities in Maluku.
<b>POLITICAL ACTIVISTS</b>						

Andi Abdul Karim (m)	Unclear	Trial process ongoing	Article 134 KUHP	POC	Unclear	Student at Makassar Islamic University in Makassar town, South Sulawesi Province. He was charged after participating in a demonstration in front of the office of the South Sulawesi governor on 28 October 2002, at which he allegedly stepped on posters of President Megawati Sukarnoputri and Vice-president Hamzah Haz, and encouraged others to burn their portraits.
Bilal Abu Bakar Ahmad Fauzi (m) (also known as Fernandes)	30 July 2002	1 year (23 December 2002)	Article 134 KUHP	POC	LP Salemba, Jakarta	Member of the People's Cultural Network (Jaker). Arrested during a peaceful demonstration and found guilty of insulting the President and Vice-president by stepping on their portraits.
Frans Kurniawan (m)	25 September 2002	Trial process ongoing	Article 134 KUHP	POC	Manado Police Resort (Polres)	Head of PRD Manado in North Sulawesi Province. Arrested after allegedly burning a poster of President Megawati outside the office of the governor of North Sulawesi on 24 September 2002.

Ignatius Mahendra Kusuma Wardana (m)	7 January 2003	3 years (28 April 2003)	Article 134 KUHP	POC	Wirogunan Prison, Yogyakarta	Chairman of Yogyakarta branch of the National Democratic Student's League ( <i>Liga Mahasiswa Nasional untuk Demokrasi</i> , LMND). Arrested following a demonstration against fuel price increases and found guilty of burning portraits of President Megawati Sukarnoputri and Vice-president Hamzah Haz. See also Yoyok Eko Widodo.
Nanang Sugih Suroso (m)	22 March 2001	1 year (October 2002)	Articles 156 +55 KUHP	POC	Detention suspended pending appeal	Arrested after a peaceful demonstration against Golkar in Medan, North Sumatra Province. See also Sofandi Sohar.
Sofandi Sohar (m)	22 March 2001	1 year (October 2002)	Articles 156 + 55 KUHP.	POC	Detention suspended pending appeal	Arrested after a peaceful demonstration against Golkar in Medan, North Sumatra Province. See also Nanang Sugih Suroso.
Supratman (m)	Not detained	Trial process ongoing (Trial opened 3 June 2003)	Articles 137 (1) KUHP	POC	Not detained	Executive editor of the newspaper <i>Rakyat Merdeka</i> . He is accused of insulting President Megawati Sukarnoputri in relation to several articles published in the newspaper.

Yoyok Eko Widodo (m)	7 January 2003	3 years (28 April 2003)	Article 134 KUHP	POC	Wirogunan Prison, Yogyakarta	A member of the Street Musicians Union. Arrested in connection with a demonstration against fuel price increases. Found guilty of burning portraits of President Megawati Sukarnoputri and Vice-president Hamzah Haz. See also Ignatius Mahendra Kusuma Wardana
<b>LABOUR ACTIVISTS</b>						
<b>East Kalimantan</b>						
Amri	Not detained	Six months (February 2003). Appeal process ongoing	Article 160 KUHP	POC	Detention suspended pending appeal.	Sentenced after leading a peaceful strike in January 2002 in which protesters demanded minimum wages for forestry workers in East Kalimantan Province.
Bro. Muhamad Opu (m)	Not detained	Five months. Appeal process ongoing	Article 160 KUHP	POC	Detention suspended pending appeal.	Sentenced after leading a peaceful strike in January 2002 in which protesters demanded minimum wages for forestry workers in East Kalimantan Province.

Idris	Not detained	Six months (February 2003). Appeal process ongoing	Article 160 KUHP	POC	Detention suspended pending appeal.	Sentenced after leading a peaceful strike in January 2002 in which protesters demanded minimum wages for forestry workers in East Kalimantan Province.
Shankaria	Not detained	Six months (February 2003). Appeal process ongoing	Article 160 KUHP	POC	Detention suspended pending appeal.	Sentenced after leading a peaceful strike in January 2002 in which protesters demanded minimum wages for forestry workers in East Kalimantan Province.
<b>OTHER CASES</b>						
Rev. Damanik	9 September 2002	3 years (17 June 2003) Appeal process ongoing	Emergency Law No. 12/1951 + KUHP 55(1)	Possible POC		Christian leader in Central Sulawesi Province. Found guilty of illegal weapons possession after police allegedly found weapons in the car in which he was travelling. He was not informed of a weapons find at the time.

Rahman Dako (m)	Not detained	Six months (30 December 2002) Appeal process ongoing	Articles 310 (2) + 316 KUHP	POC	Detention suspended	Environmental activist found guilty of defamation of the Regent (Bupati) of Gorontalo Sub-district, Gorontalo Province after issuing a press release about illegal logging in the area.
<b>Desecration cases</b>						
Esteriana Nona Eni	28 March 2002	4 years July 2002	Article 156 KUHP	Possible POC	LP Kupang	A follower of the Merapu indigenous belief system of Sumba, Esteriana Nona Eni reportedly accompanied a friend to church, where she took communion. Not knowing what to do with the wafer, she put it under her seat.
Frans Manumpil	14 July 2002	8 years 12 September 2002	Reported to be Emergency law no. 1 1967, Article 156 + 177(2) KUHP	Possible POC	LP Kupang	Reportedly sentenced after he took communion in a Catholic church in Maumere, Flores, and not knowing what to do with the wafer, walked out of the church holding it in his hand.

## **Appendix II: Recommendations of the report of the UN Working Group on Arbitrary Detention on its visit to Indonesia**

**Report of the Working Group on Arbitrary Detention on its visit to Indonesia (31 January – 12 February 1999), E/CN.4/2000/4/Add.2, 12 August 1999**

### V. RECOMMENDATIONS

94. Apart from encouraging continuation of the process of ratification of several international human rights instruments which is either under way or under examination, the Group makes the following recommendations.

#### Recommendation 1

95. First priority: to intensify, on a non-discriminatory basis, measures consistent with the current policy of releasing all political prisoners incarcerated or convicted under the old regime.

#### Recommendation 2

96. Second priority: to reinforce the independence of the police by separating them from the armed forces and placing them under the sole authority of the Ministry of Justice or, at the very least, a civil authority.

#### Recommendation 3

97. Third priority: to reinforce the independence of the judges by placing the judiciary under the authority not of the Ministry of Justice but of the Supreme Court. The law should guarantee that they cannot be removed from office, which implies that their status of civil servants should be eliminated and that they should be granted a specific status guaranteeing their personal independence.

#### Recommendation 4

98. Information and education efforts should be intensified, especially in the context of bilateral or multilateral technical cooperation programmes, with a view to ensuring respect for and proper implementation of certain existing laws which provide sufficient procedural guarantees. Priority should be given to:

A campaign to sensitize lawyers, NGOs, prosecutors and judges to the procedure of habeas corpus (pre-trial hearing procedure), so that confidence in this procedure may be restored;

Technical cooperation programmes necessarily require the training of members of human rights organizations, as well as of the lawyers defending the activities of such organizations;

The sensitization of prosecutors to the fact that they must ensure that every prolongation of their detention is effectively notified to detained persons in conformity with the applicable provisions of the Code of Criminal Procedure;

The establishment of the habeas corpus (pre-trial) procedure for military justice.

Recommendation 5

99. Reform of the Code of Criminal Procedure: there should be a legal obligation to present the detained person before a judge or any other authority authorized by law to exercise such functions, promptly and in person.

Recommendation 6

100. Creation of a central detention register: the Government of Indonesia should establish a central register of detainees, which would enable judicial authorities and penitentiary administrations to monitor the location and transfers of, and status of judicial proceedings in respect of, all detainees in Indonesia.

Recommendation 7

101. National Commission for Human Rights (KOMNAS HAM): legislation should be drafted and enacted promptly which would guarantee the independence of all activities of the Commission by taking into account all the Principles relating to the status of national institutions for the promotion and protection of human rights (the so-called "Paris Principles", adopted by the General Assembly in its resolution 48/134 of 20 December 1993).

Recommendation 8

102. Emergency laws: all emergency laws and measures should be abrogated and replaced by a legal system which would be applicable in times of national crisis and in states of emergency and which would be compatible with article 4 of the International Covenant on Civil and Political Rights, i.e.: legal procedure for the proclamation of the state of emergency; listing of all non-derogable rights; measures ensuring respect for the principle of proportionality, both in relation to time (limited duration and renewal subject to specific conditions) and to space (limitation to the zones covered by a state of emergency).

Recommendation 9

103. Military tribunals: their competence should be limited strictly to offences committed under the Code of Military Justice by military personnel. Cases involving non-military victims, especially in the field of human rights, should be excluded from the military jurisdiction.

Recommendation 10

104. Legal assistance: the Government should take initiatives to inform detained individuals of their rights and progressively put into place an effective legal aid system providing free legal assistance to those who cannot afford legal representation.

### Appendix III: Glossary

<b>GAM</b> ( <i>Gerakan Aceh Merdeka</i> )	- Free Aceh Movement
<b>Brimob</b> ( <i>Brigade Mobil</i> )	- Police Mobile Brigade
<b>Elsham</b> ( <i>Lembaga Studi dan Advokasi Hak Asasi Manusia</i> )	- The Institute for Human Rights Studies and Advocacy
<b>FKM</b> ( <i>Front Kedaulatan Maluku</i> )	- Maluku Sovereignty Front
<b>FPDRA</b> ( <i>Front Perlawanan Demokratik Rakyat Aceh</i> )	- People's Front for Democracy in Aceh
<b>GPK</b> ( <i>Gerakan Pemuda Kerakyatan</i> )	- Populist Youth Movement
<b>Kodim</b> ( <i>Komando Distrik Militer</i> )	- District military command
<b>Kontras</b> ( <i>Komisi untuk Orang Hilang dan Korban Tindak Kekerasan</i> )	- Commission for Involuntary Disappearances and Victims of Violence
<b>KUHP</b> ( <i>Kitab Undang-undang Hukum Pidana</i> )	- Indonesian Criminal Code
<b>Lapas</b> ( <i>Lembaga Pemasyarakatan</i> )	- Prison
<b>LMND</b> ( <i>Liga Mahasiswa Nasional untuk Demokrasi</i> )	- National Democratic Student's League
<b>LMR</b> ( <i>Liga Mahasiswa Revolusi</i> )	- Revolutionary Students League
<b>Orpad</b> ( <i>Organisasi Perempuan Demokrati</i> )	-
<b>Polda</b> ( <i>Kepolisian Daerah</i> )	- Regional police station
<b>Polres</b> ( <i>Kepolisian Resort</i> )	- District level police station
<b>Polsek</b> ( <i>Kepolisian Sektor</i> )	- Sub-district level police station
<b>Polri</b> ( <i>Kepolisian Republik Indonesia</i> )	- Police of the Republic of Indonesia
<b>PRD</b> ( <i>Partai Rakyat Demokratik</i> )	- People's Democratic Party
<b>RMS</b> ( <i>Republik Maluku Selatan</i> )	- Republic of South Maluku
<b>SIRA</b> ( <i>Sentral Informasi untuk Referendum di Aceh</i> )	- Aceh Referendum Information Centre
<b>SURA</b> ( <i>Suara Rakyat Aceh</i> )	- Voice of the Acehnese People

