

PRISON CONDITIONS IN INDONESIA

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An Asia Watch Report

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I. PREFACE

This report, by Elizabeth and James Vorenberg, is based on a visit to Indonesia from November 29 to December 13, 1989. James Vorenberg is the Roscoe Pound Professor of Law and former Dean of Harvard Law School. He was Executive Director of the President's Commission on Law Enforcement and Administration of Justice from 1965 to 1967. Elizabeth Vorenberg is a former president of the Massachusetts Civil Liberties Union. Together with Sidney Jones, Executive Director of Asia Watch, the Vorenbergs visited seven prisons; met with officials of the Directorate General of Corrections, lawyers, and criminal justice experts; and interviewed former prison inmates. In addition, they reviewed materials made available by Indonesian officials, earlier reports of Asia Watch, the International Commission of Jurists and Amnesty International.

The authors are grateful to Nicky de Bruyn and Jeannine Guthrie for assistance in preparing the manuscript. They also note that the report could not have been prepared without the cooperation of Indonesian officials who gave them access to the prisons and the willingness of former inmates to take the time and risks involved in meeting them.

II. INTRODUCTION

The rule of law is only fitfully respected in Indonesia, the world's fifth largest country. This fact is vital to understanding the conditions of Indonesian prisons. Many of the senior staff of the Directorate of Corrections, the unit of the Ministry of Justice responsible for prisons, are able and concerned people with a clear commitment to prison reform. But they are part of a broader legal system beyond their control in which political manipulation and corruption are common. That system affects who gets arrested and why; how suspects are treated; how they are tried; the length of their sentences; and what happens to them when they get out of prison.

By the time a person enters a prison run by the Directorate of Corrections, he or she will probably have been in police or military custody for several months and would likely have been physically abused or tortured, especially during interrogation. The police are part of the armed forces, and the Ministry of Justice has no control over what happens in police lock-ups.¹ (The delegation did not visit such lock-ups but extensive accounts of abuse and torture appear in the Indonesian press. See Appendix.) Shortly before trial, the suspect would have been transferred either to a separate detention center or to the detainee section of a prison, both of which come under Directorate of Corrections supervision. The trial itself would have been conducted by a panel of three judges who were neither independent, nor, with few exceptions, impartial. And the suspect's willingness or ability to pay off the police, the prosecutor or the judges might well have had far more impact on the outcome of the trial than the strength of the evidence or the skill of the defense lawyer.

¹ In theory, the *praperadilan* procedure outlined in the Criminal Procedure Code allows suspects to challenge illegal arrest and detention procedures, and the use of force or pressure to extract testimony is clearly illegal. But thus far, the police maintain that only *administrative* irregularities can be challenged in court (e.g., whether an arrest warrant was produced), rather than the substantive questions about reasons for arrest or treatment in detention.

Once in prison as a convicted criminal or political offender, an inmate is generally better off in terms of physical conditions than in police custody. The prisons by all reports are cleaner, less crowded, and more open, and the risk of torture is much reduced. But the prisons are staffed by poorly paid and poorly trained employees; beatings appear to be a common form of discipline; corruption is as endemic inside prison walls as outside; and accommodation, food, and medical care still fall well below the United Nations Standard Minimum Rules for the Treatment of Prisoners.

The focus of this report is primarily on the extent to which Indonesian prisons meet international standards and the standards set by the Directorate of Corrections itself, but it necessarily touches on the impact on prisons of the broader political system.

It takes as its starting point the Ministry of Justice's claim that the correctional system:

"is not to be a system of punishment and it is to ban or give no active place to any form of harsh deterrents or corporal punishment. Instead, the system is given the task to rescue and educate offenders for their successful reintegration into the community...[It] is not a system of punishment or retribution. It is a system that concentrates on treatment to fully assist offenders in the process of their reintegration into the community."²

If anything has been learned in recent years about corrections, it is the futility of imprisonment as the means -- or even the setting -- for rehabilitation. It may be fairly argued that a human rights project should not fault Indonesia's adoption of goals and methods of rehabilitation that are being pursued by most countries, particularly in the face of little evidence that there are other approaches that are more successful. But as analyzed in the body of this report, there are serious gaps between what the Indonesian corrections system purports to be doing and what it is doing in fact. Those gaps involve grievous violations of the rights of

² *Tuned to the Rhythms of Society: The Correctional System of Indonesia*, Directorate General of Corrections, Department of Justice (1980) pp.1,5.

inmates and, as to those gaps, the system can fairly be called to account. Some of these are simply the failure to provide decent conditions for prisoners; others are the failure to prevent grave abuses by employees of the system involving physical beating and corrupt practices damaging to the fundamental human rights of inmates; and some involve the use of the correctional system and the death penalty to punish political belief, opinions, and in some cases, political action in the distant past. In the broadest terms, this report seeks to explain what it means to be in official custody in Indonesia.

Political and Legal Background

Indonesia, ostensibly a democracy, is in fact an authoritarian state where real decision-making power rests with President Suharto and the Indonesian military. Presidential decrees and administrative regulations are the major source of law, and the Dewan Perwakilan Rakyat (DPR), the national parliament dominated -- through appointments and electoral procedures -- by the ruling party, GOLKAR (Golongan Karya, literally "functional groups"), serves more as a forum for discussion of national issues than as a legislature. The Supreme Court is headed by a former general, and judges at all levels of the court system are civil servants. Since President Suharto's "New Order" government came to power in 1966 in the wake of an attempted coup on October 1, 1965, the legal system has been controlled by the military-dominated executive branch of government.

The coup attempt was a major watershed in Indonesian history -- a national trauma from which the country still has not recovered. Details on who plotted the attempt and why are still obscure almost 25 years later, but it seems to have been aimed not at then-President Sukarno but at the conservative army generals whose power Sukarno was trying to balance against the growing Indonesian Communist Party (PKI), then the third largest Communist Party in the world. Six generals were killed on the night of the coup attempt, and the Indonesian army, led by Suharto, blamed the PKI for the plot and began an orgy of killing that led to the deaths between late 1965 and the end of 1966 of some 500,000 suspected party supporters. Over a million people were arrested and thrown into prison, the vast majority of them never tried.

Among the prisoners we interviewed for this report were men recently released who had been first imprisoned in the late 1960's when the congestion and

hygiene in the prisons were appalling and physical abuse of prisoners worse than anything reported now. But if conditions have improved, one lasting legacy of the late 1960's is the assumption by government officials that a major function of the penal system is to punish individuals for political belief or activity and that law is subordinate to political power.

This legacy affects criminal and political suspects alike. In the period 1983-85, over 4,000 suspected criminal gang members, some of whom had connections to political leaders, were hunted down by the military and shot in an effort to combat a perceived sharp rise in the urban crime rate. There were no charges and no trials; bodies were found by the side of roads or rivers, shot, with hands bound in plastic ribbon. President Suharto freely acknowledged military responsibility for the killings in his autobiography published in 1989. This executive decision to eliminate crime resulting in thousands of deaths was taken without any reference to the legal system whatsoever.

Most criminal suspects are charged under provisions of the antiquated Criminal Code (*Kitab Undang-Undang Hukum Pidana* or KUHP), based on the Dutch colonial code. Although the Criminal Code also contains numerous political offenses such as insulting public officials and inciting rebellion, most political offenders are charged under the separate Presidential Decree 11/1963, the so-called Anti-Subversion Law, which allows a maximum penalty of death for anyone found guilty of the vaguely worded offense of acting to distort or undermine the state ideology, *Pancasila*³, undermine government authority, or arouse feelings of hostility or unrest among the public at large. Those charged under the provisions of the Criminal Code are in theory protected by the safeguards outlined in the 1981 Criminal Procedure Code (*Kitab Undang-Undang Hukum Acara Pidana* or KUHAP) which sets limits on detention and guarantees access to lawyers. Those charged under the Anti-Subversion Law, including Muslim radicals, dissidents of a

³ Pancasila -- literally "five principles" -- was originally formulated by President Sukarno in 1945 and consisted of five principles: belief in one God; humanitarianism; national unity; democracy; and social justice. Under President Suharto, Pancasila has been expanded to become the major legitimating mechanism for the regime, with Pancasila Morality Education required in the schools and Pancasila Training Courses required for all adults in both public sector and private employment. Any criticism of government policies can be seen as an attempt to undermine or deviate from Pancasila.

generally liberal persuasion, and nationalists from Irian Jaya and East Timor, are guaranteed no such protection. Moreover, suspected subversives tend to be arrested and detained by the military rather than the police and may be subjected to particularly brutal treatment during interrogation.⁴

In July 1988, Minister of Justice Ismail Saleh speculated to reporters that the total number of persons convicted and imprisoned for subversion "probably reaches the thousands." In 1989 alone, Asia Watch documented over 100 subversion trials underway or concluded, many of which involved people arrested for non-violent activities.

The division between criminal and political suspects has been recently and ominously clouded by the Attorney General's efforts to broaden the application of the Anti-Subversion Law to include crimes such as corruption, smuggling, and acts of sabotage such as poisoning ricefields or distribution of fake pesticides. The wider the use of the Anti-Subversion Law, the less meaningful the guarantees set forth in the Criminal Procedure Code -- which are widely ignored in practice anyway -- and the more subject the legal system to manipulation by the military.⁵

The subordination of law to politics means that the best efforts of correction officials to improve the lot of prisoners may ultimately be in vain; or put another way, that genuine prison reform must await a change in the political system.

⁴ For discussions on the Criminal Procedure Code and the Anti-Subversion Law, see Asia Watch, *Human Rights in Indonesia and East Timor*, New York: March 1989, p.137 and Chapter IV; International Commission of Jurists, *Indonesia and the Rule of Law*, Geneva:1987; and Asia Watch, *Injustice, Persecution, Eviction*, March 1990, p. 5-7.

⁵ The criminal-political dichotomy may be further complicated by discussions over the last two years on the revision of the Criminal Code, as a debate has emerged within the drafting committee between those who want the Anti-Subversion Law incorporated into the New Code and those who want it kept separate in the hope that it can eventually be abolished.

III. THE SYSTEM

The Indonesian prison system under the Directorate of Corrections consists of 441 prisons (*lembaga pemasyarakatan* or LP) and detention centers (*rumah tahanan*)⁶, housing between 30,000 and 40,000 people, less than five percent of whom are women. The prisons are divided into three categories. The major difference among the three is size. Class I prisons have a capacity of more than 500 inmates; Class II, 250-500 inmates; and Class III, up to 250. All of the nine Class I prisons have maximum security areas, and prisoners with long sentences or death sentences are sent there.

Most Indonesian prisons were built by the Dutch in colonial days and the government acknowledges that "many blocks, barracks and cells in almost every prison, because of old age, are in such conditions as to be unfit and unsafe for quartering prisoners."⁷ Despite this, according to an academic at the University of Indonesia's Law Faculty, the government has not allotted enough money for necessary improvements such as buildings, supplies, and programs.

More surprising and disturbing, the legal foundations of the correctional system (*sistem pemasyarakatan*) are also relics of the colonial era. The Indonesian Criminal Code (*Kitab Undang-Undang Hukum Pidana* or KUHP) is still very much based on the Dutch "Wetboek van Strafrecht voor Nederlandsch Indie" of 1918; a committee of well-known lawyers, jurists and legal scholars has been working on a draft of a new criminal code for years.

Colonial Dutch prison regulations, "Gestichten-Reglement," enacted in 1917, are also still in force with minor changes. These regulations governing the administration of prisons contain provisions for disciplining prisoners such as

⁶ These figures do not include military prisons and detention centers, and we have no data on the inmates there.

⁷ *Tuned to the Rhythms of Society: The Correctional System of Indonesia*, (Jakarta: Directorate General of Corrections, Department of Justice, 1980), p.6.

"flogging twenty times with rattan if there is no punishment cell or if all cells are occupied."⁸ The government acknowledges the need to revise these regulations but has only done so on a piecemeal basis. Individual decrees and regulations are issued and circulated by the Director General of Corrections, but, as the director of the Tangerang Women's prison pointed out, these are not codified or collected in one place. Furthermore, there appears to be doubt about the legal authority of the regulations themselves. As a result, each prison director is left to create his or her own set of rules and regulations.

One major achievement in criminal justice reform in Indonesia was the enactment of the revised Criminal Procedure Code (*Kitab Undang-Undang Hukum Acara Pidana* or KUHAP) in 1981. KUHAP outlines a number of protections for arrested persons, including the right to a lawyer from the moment of arrest, time limits on pre-trial detention, and the right of families to be notified immediately of a suspect's arrest.⁹ It should be noted that since KUHAP does not apply to prisoners charged under the Anti-Subversion law, there is no limit on pre-trial detention for subversion suspects. In theory, as soon as someone is arrested, he comes under the authority of the police as the investigating arm of the legal system and is usually held in police custody; when his case is turned over to the prosecutor, he is moved to a separate "detention center", *rumah tahanan*, or to the cells for detainees within a regular prison. He stays there after the case is turned over to the district court (*pengadilan negeri*) for trial. Once he is sentenced, he is moved to the regular cells for sentenced prisoners or *narapidana*. All this is regulated by the Criminal Procedure Code. But as the following sections of this report will outline, not all of the Code's protections have been absorbed by the affected officials, in particular the police.

⁸ Article 69, paragraph d (2) of *Terdjemahan dari Gestichten-Reglement* (Reglemen Pendjara), *Staatsblad 1917 No.708 dengan perubahan-perubahannja*, (Jogjakarta: Kantor Besar Djawatan Kependjaraan Jogjakarta, 1950).

⁹ KUHAP is particularly specific about lengths of stay in detention at all stages of the pre-trial process. We observed elaborate data-keeping in the prisons which tracked the length of time detainees had been held, and we were assured that prosecutors and judges were reminded when time limits were about to expire. Nonetheless, it is possible for persons accused of serious crimes carrying sentences of over nine years to stay in detention for as many as 700 days.

IV. THE PHYSICAL ENVIRONMENT

The physical conditions described below sum up observations from visits to seven institutions. We went to three maximum security (Class I) prisons: L.P. Cipinang in Jakarta, L.P. Malang in the town of Malang, East Java, and L.P. Kalisosok, in Surabaya, East Java. We also visited two Class II prisons, L.P. Wirogunan in Yogyakarta, Central Java and L.P. Bantul, outside Yogyakarta. Finally we visited L.P. Tangerang, a women's prison outside Jakarta, and a juvenile prison, also in Tangerang. All seven institutions were on Java, the island where 100 million of Indonesia's 180 million people live, and we are aware that conditions elsewhere may be different. L.P. Pamekasan in Madura, off the east coast of Java, for example, was said to be particularly bad.

The material in this chapter also includes information from interviews with a score of former prisoners arranged for us by several human rights organizations. We did not interview inmates in the prisons we visited. After the first visit to L.P. Cipinang when we were refused a private interview with a political prisoner, we did not request further confidential interviews as we were advised there might be reprisals against prisoners who spoke with us alone.

Our delegation was expected at each prison, so prison officials had time to prepare for our visits. We almost always were shown what we explicitly asked to see, and we were able to talk with prisoners in groups when closely supervised by guards. But on an evening visit to Malang prison when all the prisoners were locked up, toward the end of the second week of visits, we were asked on one occasion not even to exchange pleasantries with prisoners "for your security." When we asked to talk with one of the prisoners working in a vocational training room in L.P. Wirogunan, the director was overheard saying to an officer, "Pick someone you trust."

It is hard to know the extent to which the prison sites had been cleaned up or prepared in other ways for the visits. The equatorial climate makes flowers easy to grow, and they were in abundance. In L.P. Cipinang in Jakarta, in a cell reserved for radical Muslim prisoners, one inmate had built an elaborate garden with a fountain.

Almost all the grounds and the cells appeared clean. But there was some evidence that if preparations had been made they were not always complete. One of us peered into a non-functioning well in the courtyard of L.P. Malang and found garbage. A peek into a smelly toilet area in a courtyard in L.P. Kalisosok revealed filth. Although we saw only three patients in the Cipinang infirmary, which has an official capacity of 200, we were told by ex-prisoners and a human rights organization that the infirmary was usually packed, with most prisoners suffering from *lumpuh* (literally "paralyzed" but used as a term for stiffness of the joints) caused by sleeping on concrete.

Most telling of all was the prisoner at L.P. Kalisosok who perhaps caught on to a charade and shouted at us when we peered in his cell: "Everyone's healthy, the water's fine, we are clean, there's enough food, the beds are good. This is the protocol for visitors - am I doing okay?"

During the two weeks of our mission we debated whether judging prison conditions by our own standards was acceptable -- if, after all, many prisoners came from villages where sleeping on floor mats, eating without cutlery, using floor holes as toilets, were all part of daily life. We concluded that such comparisons ignored major and decisive differences as one expatriate human rights worker argued; at least in a village, one can walk around and have some choices. Forced confinement combined with the spartan conditions make the village comparison untenable.

For this report we compared Indonesian prison conditions with the United Nations Standard Minimum Rules for the Treatment of Prisoners (hereafter referred to as Standard Minimum Rules) to which Indonesia has subscribed. In terms of accommodation, sanitary installations, personal hygiene, bedding, food, and medical services, the Indonesian prisons we visited fall below these standards, even though the Rules, which we quote, are minimal indeed.

Overcrowding

According to official figures on prison capacity, none of the prisons visited was overcrowded, contrasting sharply with the 1965-1968 period when hundreds of thousands of people became political detainees. Not all Indonesian prisons are under capacity, however, and attempts to remedy overcrowding by

transferring prisoners to a less crowded institution result in great hardship for transferred prisoners who find themselves miles away, in unfamiliar circumstances, on islands other than those where their families reside. In one of the largest prisons, L.P. Kalisosok, 30 percent of the prisoners are from outside Java.

One transfer of prisoners resulted in tragedy. In January 1988, eight prisoners being transferred by ship from an overcrowded prison in Ujung Pandang, Sulawesi, to a prison in Java, suffocated when they were held with fourteen others in a small room, approximately 4.5 X 1.5 X 1.5 meters with almost no ventilation.¹⁰

And in September 1989, according to Amnesty International, two prisoners died and fifteen were reported to be chronically ill because of unhealthy conditions and overcrowding in East Kalimantan.

Although officials may not acknowledge overcrowding as a problem, larger rooms containing as many as 20 men are overcrowded, especially those for detainees who remain locked up for longer periods of the day than most convicted prisoners. L.P. Malang was the only prison we visited after dark when all inmates were locked in their cells, and cells which by day, when some of the inmates were at work or free to walk around, would have appeared adequate, seemed with all inmates present to be tightly packed.

Cell Conditions

The Standard Minimum Rules state that:

... all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating, and ventilation. (Section 10)

In all places where prisoners are required to live or work,

¹⁰ Indonesia News Service No. 80, March 5, 1988, citing a report in the Surabaya daily newspaper *Jawa Pos* of February 18, 1988.

(a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be constructed that they can allow the entrance of fresh air, whether or not there is artificial ventilation;

(b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight. (Section 11)

Every prisoner shall, in accordance with local or national standards, be provided with a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness. (Section 19)

None of these rules was observed.

Four of the seven prisons we visited -- Kalisosok, Wirogunan, Tangerang Boys Prison, and Cipinang -- were built by the Dutch in the late 19th century and early in the 20th century. The model women's prison at Tangerang, was built in 1980 and L.P. Bantul opened in 1987. The newer prisons are far smaller but have never been filled to capacity.

The construction is similar: low, almost entirely one-story (Kalisosok had a few two-story buildings), concrete buildings divided into blocks with cell capacity ranging from one (isolation or punishment cells) to up to thirty. Large cells (for 25-30) were roughly 5 X 7 meters; single cells could be as small as 1.25 X 2 meters.

Prisons are generally divided into blocks for different groups of prisoners. In prisons where there is a substantial number of political prisoners, e.g. Cipinang and Kalisosok, they are housed in a separate block. The death row block is separate in Cipinang as is a block for radical Muslims. At one time, but no longer, Chinese prisoners were kept in a separate block in Kalisosok because, according to ex-prisoners, they paid for better accommodations. The three Communist Party prisoners in Kalisosok are kept in separate cells in the maximum security block. In LP Malang, the radical Muslim prisoners are kept in isolation. Detainees are always kept in separate blocks from convicted prisoners. Within the blocks, prisoners wander around freely for most of the day during which their cells are

unlocked.

One-person cells are used in several ways: for isolation and punishment, for separating members of ethnic groups, for quarantine of new prisoners including, at times detainees and, in some cases, for political prisoners. For example, three prisoners in L.P. Wirogunan, two convicted of subversion and one awaiting trial, are kept in isolation cells so that, according to a prison official, "they don't influence others."

The large cells have one concrete platform along the length of the cell on which all prisoners sleep. Prisoners are issued mats to sleep on (some are straw; some are plastic "to keep out dampness") which are lined up side by side across the platform. The Director of Wirogunan prison stated that all prisoners, according to regulation, were issued mats, sarongs to sleep in, and pillows. But there was no sign of anything except mats, most of which were not long enough for the entire body. In some cells, the detention cells in particular, prisoners slept on towels. The Kalisosok director was more realistic: "We are supposed to have supplies (pillows and sarongs) but we don't." Most prisoners who have extra comforts such as mattresses, pillows and sarongs, have either been supplied by their families or have had the cash to pay for them. One former Cipinang prisoner described sewing and stuffing a sarong with kapok which he took from the hospital to use for a mattress. He explained, "After a while you build up connections and can get things." Another former Cipinang inmate said prison staff sold mattresses to those who could afford them.

Ventilation and light varied from prison to prison. Single-person cells used for punishment and isolation rarely had windows, and locked doors with grates often had wooden inserts blocking eye-level views of prisoners. Some of the cells with 20 to 30 prisoners had one barred window, but most cells had windows just below the ceiling and above eye level.

In terms of ventilation, the problem for some Indonesian prisoners was not too little but too much, since many Indonesians don't like breezes (the word for "to catch a cold" is "masuk angin", literally, to have the wind enter). A former prisoner at Pamekasan told us that where ventilation slats on cell doors allowed the wind to enter, inmates tried to stop the breeze by stuffing pieces of cloth in the slats. This was forbidden, and prison staff came around and ripped up the cloth. If an inmate persisted in plugging up the slats, he was punished.

Most small cells have no electric lights at all. Some larger cells have only one light bulb and in the cells of L.P. Malang, the one light bulb burned day and night. Fluorescent lights outside the cells provided reading light for inmates lucky enough to have mats near the light.

Hygiene and Sanitation

The Standard Minimum Rules require adequate and clean sanitary installations (Section 12), and adequate bathing and shower installations (Section 13). They also require that prisons provide inmates with adequate toilet articles for personal hygiene (Section 15).

Sanitary conditions varied from prison to prison. In Cipinang, each block had its own set of outdoor bathing and toilet facilities. Some cell blocks have outside latrines with buckets or plastic bags inside the cells for use when prisoners are locked up. Others, particularly the larger cells, have one hole in the floor shared by as many as thirty inmates. One former prisoner, detained in Cipinang from October 1985 to July 1987 on a narcotics charge, told us that not all cells had a ready supply of water for pouring in the toilet hole after use, which meant that the toilet smell was particularly noticeable for those sleeping nearby. During the rainy season in particular, the toilet attracts mosquitoes. Where buckets are supplied for nighttime toilets, as in the Besi prison on the island of Nusakambangan, prisoners must take turns emptying them. One former prisoner from Besi told us that during his detention there, 1979-82, 13 men in the cell shared one bucket.

Almost all bathing facilities are outside, mostly large tubs supplied with water from wells. One man from Irian Jaya, recently released from Kalisosok, complained of lack of privacy for bathing, saying the prisoners made tents with their towels for privacy. He also complained about the dirty water: "People who bathe first get the best water."

Lack of soap is a major complaint. The only soap issued is laundry soap which is used for baths as well as clothes. In some prisons, inmates receive soap only every two weeks. Skin ailments are a frequent health problem, both because of the harshness of the soap and the lack of personal cleanliness when soap is scarce.

No other personal toilet articles are issued to men. Women receive sanitary napkins. Some prisoners use pieces of brick to clean their teeth since toothbrushes are not issued. Inmates must have their own towels for bathing; some of these, quite soiled, hung on lines in and out of cells in the prisons we visited.

Clothing

The Standard Minimum Rules state that every prisoner who is not allowed to wear his own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him in good health (Section 17).

In Indonesia, prisoners are issued one set of blue uniforms which they wash by hand in a bucket. Most prisoners who have a change of clothes have been supplied blue shirts and pants by their families, although regulations require the issue of two sets of uniforms a year.

Muslims are permitted to wear their own clothing when visiting the prison mosque. All Muslims must perform ablutions (*wuduh*) before prayer. Since many prisoners pray in their cells at the required hours, they sometimes attempt to take a can of water into their cells before being locked up in order to perform their ablutions. One former prisoner from Pamekasan reported punishments for prisoners if water was seen dribbling from the cells.

Food

Section 20 of the Standard Minimum Rules states that "every prisoner shall be provided ...with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served."

The quality and quantity of food in Indonesian prisons provoked more complaints among the former prisoners interviewed than any other prison condition, although medical care was a close second. The litany of complaints included the following:

- o The portions were too small.

- o Sometimes the food was spoiled.
- o Portions were unequally distributed, provoking fights.
- o Prison officials did not distribute all the food that was allocated.
- o The diet was unhealthy and made the prisoners feel weak.
- o Sometimes there were insects in the food.
- o Prison officials took food meant for prisoners for themselves and their families.
- o Arguments over food were a main cause of fighting among the prisoners.
- o Food provided by prisoners' families did not always get to the prisoners.

These complaints were common to all prisoners we interviewed. They were repeated over and over again by the former prisoners and others whom we interviewed. Andrew Toth, the United States Consular Agent in Bali whose job includes visiting arrested Americans, reported:

"Foreign prisoners are treated better than others. They are kept in separate cells, but the food is not adequate...The daily allotment for food from the central government is not spent."

Even the director of Kalisosok acknowledged that shortage of food is a problem and that the official daily allotment for food of 600 rupiahs (about 35 cents) per prisoner plus a 200 rupiah supplement for rice is not adequate: "We should have 1200 rupiahs daily to feed one person. We are supposed to be inspected every three years but there's been no inspection for six years. The government is going on prices from six years ago."

D., 47, received a 17-year sentence for subversion charges in 1978 and

with annual "remissions" for good behavior was released in June 1989. He served his sentence in Pamekasan prison on the island of Madura and said of the food:

"The allocation of food was really inhumane. If you had a short sentence, three months to a year, you could live with it. But you couldn't survive much longer. Rice was the only source of calories. For the first two years I got no breakfast at all. From 1981 to 1987, I got boiled cassava. From 1987 to 89, there was shredded coconut on the cassava. There was no rice at breakfast. For lunch, the rice was enough for old people or those who didn't eat very much to begin with. It was supplemented by water, salt, some kind of *kankung* [swamp cabbage]. There was meat twice a week, but the pieces of meat were only the size of a single finger joint. Prison officials siphoned off the rest. Sometimes they took meat away before it even reached the kitchen, because there were hundreds of prison officials who had to be fed as well as the prisoners. Sometimes the head of the prison took the meat away. Sometimes the inmates who worked in the kitchen could see the meat being sold -- and rich convicts could afford to pay for extra portions. If a prisoner complained about the size of the portion, he could be taken out and beaten. Between 1978 and 1983 there was less corruption because the administrator of the prison was so strict and prisoners could complain directly to the officials. After he left, in 1983, things got worse."

Because food is so important, working in the kitchen is considered by inmates a desirable job. Competition for kitchen jobs, especially as one of the *voormen* who distributes the food, is keen. It is quite clear that in some prisons, these jobs can be bought.

We interviewed U., 23, a self-described prison gang leader in prison for assault and released from Cipinang in 1989:

"Everything in Cipinang had its price. It costs Rp. 50,000 for a good job, like that of an administrative assistant. It cost Rp. 100,000 to become a voorman, especially in the kitchen.

"I didn't need to buy a job -- I was part of a gang which used violence to get what we wanted, mostly food and cigarettes. If we got food from the outside, we wouldn't get sick from the poor quantity and quality of prison food. We would gang up on a person to get what his family sent but we had to do it without the knowledge of the prison staff.

"In Cipinang, we got pig food. The vegetables were fit for pigs. Rice was siphoned off as was the meat we got twice a week. We got salty eggs once a week and *tempe* [fermented soybean].

"Some prisoners started buying decent rice from the outside. The staff would get you anything you wanted from the outside for a price, and some prisoners paid a fee of Rp. 25,000 a month to prison staff as a "tax" on their trading operations inside prison.

"Sometimes, if prisoners got visits from their families, they would be stopped by other prisoners and their food and cigarettes would be taken. Most of the time the prison staff didn't want to know about fights among the inmates because they were afraid of the prisoners themselves. In my block, there were about ten staff on duty at any time.

"I also had my slaves. I had people to wash my clothes, in exchange for food and cigarettes. I used to beat up people who were afraid to report me to the prison staff."

Some prisoners who receive food from outside attempt to prepare hot food in cells. One former prisoner from L.P. Bantul had tried to boil water in his cell to cook instant noodles; he was beaten when discovered.

Former prisoners from the maximum security prisons of Cipinang and Kalisosok observed that the best food goes to the political prisoners visited by the International Committee for the Red Cross (ICRC). S, who was imprisoned on drug charges in Cipinang, said that when the ICRC paid regular visits to political prisoners every three months, he could see that the latter got meat and larger

portions than ordinary criminals.

Health Care

Many of the former prisoners interviewed complained that medical care in prison was inadequate. The Standard Minimum Rules set forth clear guidelines on health care, requiring that at least one qualified medical officer with some knowledge of psychiatry should be available at every penal institution (Section 22). Also, according to the Rules:

Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings, and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitably trained officers.

Each prison we visited had an infirmary where prisoners who are ill can sleep in beds and be seen by a doctor or nurse. The larger prisons have full-time infirmary personnel and others have medical staff on call. The prisons we visited all had regular visits by dentists as well, and several had dental facilities.

Skin and lung diseases are acknowledged to be the prevalent illnesses. Skin diseases are attributed to lack of personal hygiene and to the harsh soap distributed to inmates. In L.P. Wirogunan, one prisoner was in an isolation cell with leprosy. Routine medical care seems to be provided. Although prison officials denied the prevalence of *lumpuh*, a joint inflammation from dampness and cold, most former inmates mentioned it.

The prison doctor at L.P. Wirogunan assured us that prisoners get the medical care they need and that no medical problems result from existing prison conditions. We spoke to him, however, with the prison director standing right by.

Women prisoners who are pregnant may deliver their babies in general hospitals, and we were told that doctors assigned to women's units are familiar with gynecological and other special health problems of women.

Care for serious illness is more problematic. Whereas we were assured that specialist medical care was available both in and outside the prison, most reports indicate that the prisoners or their families must pay for outside treatment and essential medication, and government officials must approve before a patient is sent out for treatment. If an inmate spends time in an outside hospital, this does not count toward completion of his sentence, and the number of days in hospital are added to the sentence.

Asia Watch's interviews with former prisoners confirmed that required medications simply were not available. M, a former Cipinang prisoner, stated that prison officials siphoned off medicine provided by humanitarian agencies. One such agency filled prescriptions for political prisoners who knew what and how much had been prescribed. M. guessed that about one fourth of what was required actually got to the prisoners.

Non-political prisoners have an even tougher time. A former prisoner in L.P. Wirogunan said "No matter what your problem is, they don't have drugs to treat it." Another former inmate confirmed this: "Just imagine. I get sick, I get malaria. What do they give me? Skin ointment."

Several cases of deaths resulting from deliberate withholding of medical care have been documented. We were told by a representative of a human rights organization that in L.P. Cipinang two years ago, eight people died in one month because there was no oxygen for those with tuberculosis or other respiratory diseases.

A new report by Asia Watch describes the death of Gustav Tanawani, a political prisoner.¹¹ He had been a member of the Free Papua Movement (*Organisasi Papua Merdeka* or OPM), an armed guerrilla organization trying to establish the independent state of West Papua in Irian Jaya, Indonesia's easternmost province. He died on January 8, 1989, apparently from tuberculosis, in a hospital in Madiun, East Java, where he had been taken from Madiun Prison. He was 41 years old.

Tanawani had been sentenced to a seven-year prison term in 1984 for

¹¹ Asia Watch, *Injustice, Persecution, Eviction: A Human Rights Update on Indonesia and East Timor*, March 1990.

trying to raise the West Papuan flag. He was sent first to a prison in Irian Jaya before being transferred to Kalisosok Prison in Surabaya in 1986. There he was regarded as a trouble-maker for informing prisoners of their rights, demanding that those rights be implemented, and sending letters of complaint to the head of the prison and the Director General of Corrections.

In 1987, he asked to be transferred to the prison in Malang, East Java. Partly because Kalisosok wanted to get rid of him, according to an Asia Watch source, his request was granted. In Malang, Tanawani reportedly caused problems for the prison staff, and fellow inmates said he was frequently beaten and put in an isolation cell, sometimes for months at a time. As a result, he was not in good health when in 1988 he was moved to Sidoarjo, another prison in East Java, where he became the only political prisoner¹². In March 1988, shortly after he arrived, he got into a fight with one of the other inmates and was transferred for the last time, this time to Madiun Prison where his health deteriorated further. Three times, he asked permission to be examined by an outside doctor, but prison officials would not let him go unless he paid them a sum of Rp.10,000 (about \$6.00). Finally, with the help of an organization in Jakarta, he got the money, went to the hospital, and was treated for water on the shoulder, a condition he probably got from sleeping on the damp concrete platform in the prison.

By January 7, 1989, Tanawani was back in the hospital but could not afford the medications prescribed. Two Protestant ministers visited him and bought him food and medicine at his request, but he died the next day. He was buried in Madiun before the family could arrive from Irian Jaya to claim his body. They were never informed of the exact cause of death, and if a post mortem was conducted, the family never got a report¹³.

¹² See *8 Januari 1989, Pembaharu Revolusi* by Francisco Wayne, BA. Wayne, a Protestant minister, was one of the last people to see Tanawani before he died.

¹³ *Ibid.* These facts are confirmed in Amnesty International, "Summary of Amnesty International's Concerns in Indonesia and East Timor," March 1990, ASA 21/05/90.

V. CATEGORIES OF PRISONERS

Certain categories of prisoners are accorded treatment different from the ordinary criminal offenders. Among these categories are detainees, political prisoners, women, juveniles and death row prisoners.

Detainees

Prison officers consistently separate detainees, persons awaiting trial, from convicted prisoners except for religious services, and at times, exercise periods. Detainees wear their own clothing and work only on a voluntary basis. Detainees have less time outside their cells, however; while convicted prisoners are out of their cells from 6 a.m. to 5 p.m. in many Class I prisons, detainees may only be let out three times a day for an hour or two each time. This practice is particularly hard on the detained prisoners since often their cells are smaller and more crowded than those of convicted prisoners.

Political Prisoners

The Class I prisons we visited (Cipinang, Malang and Kalisosok) all held political prisoners, with Cipinang having the most: 61 out of 1458 sentenced prisoners or about four percent. Kalisosok had a slightly lower percentage: 32 out of 856 prisoners or 3.7 percent; Malang held 14 prisoners convicted on subversion charges out of a total of 777, or about 1.8 percent.

The statistic board in the director's office in each prison divided these prisoners into EKKA (*ekstrim kanan* or far right, meaning the Muslim radicals) and EKKI (*ekstrim kiri* or far left, meaning the former supporters of the Indonesian Communist Party). In addition, some of the prisons held inmates convicted for involvement in independence or separatist movements. Cipinang, for example, held six prisoners from East Timor, convicted and sentenced to lengthy terms for support of the Revolutionary Front for an Independent East Timor (*Frente Revolucionaria de Timor Leste Independente*). Both Malang and Kalisosok housed

inmates from Irian Jaya, Indonesia's easternmost province, convicted of having advocated independence for the state of West Papua.

Some political prisoners fare better than common criminals. Prison officials in Cipinang acknowledged that the best cells were reserved for political prisoners, and in our visit to the block where Muslim radicals were held, we observed beds rather than concrete platforms; small gardens; an exercycle for one particularly well-known man; and books including the Quran and English language manuals. Cipinang's most famous political prisoner, General Hartono Rekso Dharsono, has his own bungalow on the prison grounds.

There are two reasons for the relatively good treatment of such prisoners. First and most important, the International Committee of the Red Cross (ICRC) has regular access to the prisoners arrested in connection with the 1965 coup attempt and those from Irian Jaya and East Timor. This kind of systematic monitoring is an essential safeguard against abuse, and we were told that those visited by the ICRC get more meat and better food in general. The ICRC does not have such access to the Muslim radicals, however, and it is widely believed that some of these prisoners, particularly those suspected or convicted of violent crimes, may receive worse treatment than common criminals. Second, the status and international connections of certain political prisoners can be an important protection against mistreatment or substandard conditions. The Muslim radical block in Cipinang Prison clearly benefitted from the presence of a former Cabinet minister.

Cipinang was the only prison where we were allowed to see the accommodations for political prisoners. In the others we were merely told that "subversives" were kept separate. In L.P. Malang, the EKKA prisoners were kept in isolation cells which we did not see.

It is difficult to estimate the proportion of political prisoners. Asia Watch is aware of some 400 prisoners convicted of subversion, but these are only the cases which have come to public attention through the press. In addition, people can be convicted of numerous political offenses under the Criminal Code such as insulting the President and "spreading hatred." If Kalisosok, Cipinang and Malang are assumed to have a representative proportion of political prisoners in the nine Class I prisons, that percentage would range from 1.8 to four percent of the prison population. In addition, there are numerous smaller prisons located in areas where a particular demonstration or alleged subversive activity has led to numerous

arrests, such as Jayapura and Merauke in Irian Jaya; Central Lampung district of Lampung province and Bima, Sumbawa; Banda Aceh on the northern tip of Sumatra and elsewhere.

Women

There were small women's blocks in the major prisons where conditions were similar to those shared by men. We visited the model women's prison at Tangerang, outside Jakarta, built in 1980 with a capacity of 250 but in recent years with fewer than 100 inmates.

Of the 96 women at Tangerang during our visit, 33 were there on drug charges, and 27 on murder, the two most common offenses. Although many of the inmates were from the Jakarta area, women with long sentences from other parts of the country were also likely to serve their terms there. The last remaining political prisoner in Tangerang from the 1965 era, Mrs. Sundari Abdurrachman, was released in August 1989. One woman from Irian Jaya, convicted on subversion charges for a demonstration in Jayapura in December 1988, Mrs. Teruko Wainggai, was sent to Tangerang in January 1990.

The physical layout in this prison is remarkably different -- small cottages with rooms containing beds and bedding. In contrast with the older prisons where meals are eaten on the floor, meals are served in a separate room where inmates sit at tables and eat from trays.

As is the case for women in other prisons, Tangerang inmates may keep their children up to the age of two with them.

Juveniles

Although official regulations prohibit mixing juveniles with adult prisoners, we observed boys as young as twelve detained in adult prisons. Generally this happens when there are no juvenile facilities near the place of arrest. The 12-year old in L.P. Malang was in a cell with many older detainees.

In the juvenile prison at Tangerang which Asia Watch visited there were

59 boys between 11 and 18 years old. Fourteen had been left at the prison as troublesome children by their parents. Although we were impressed with the efforts of the director of this prison to address the needs of the children in a creative and innovative way, he was hampered by very poor facilities, built in 1925 for adult prisoners. In some rooms there were 20 boys; others were in single cells where they were provided with buckets for toilet facilities when they were locked up at night. Prison policies were a curious mixture: enlightened use of facilities and activities outside the institution and a punishment policy that could be as long as eight days in isolation for being "dangerous to others."

Boys at Tangerang receive primary and secondary education both within and outside the institution, and also have outside opportunities for sports including swimming. Boys participate in the community in public sports competitions celebrating national and religious festivals and in a scouting program which mixes child inmates with outside scouts.

We observed planning for a handicrafts training program to be funded privately. "If we depended on what we got from the government," the director told us, "we couldn't do anything."

Seven female juveniles were held in a facility nearby which we did not visit.

Death row prisoners

Indonesian law retains the death penalty. In addition to political subversion, murder, narcotics dealing, hijacking and numerous other offenses are punishable by death. In recent months, both the Attorney General and the President have stated that people convicted of certain economic crimes - smuggling and gambling, for example - may now be tried under the Anti-Subversion Law and face a maximum penalty of death.

Twenty-seven prisoners have been executed since 1985; 20 had been accused of involvement in the 1965 coup attempt against President Sukarno. In October 1989, Amnesty International reported that 31 prisoners remain on death row - 11 sentenced in connection with the 1965 coup attempt, three Muslim

activists, and 17 convicted of non-political crimes.¹⁴ Since then, four men from the 1965 period who had been in prison for almost 25 years were executed on February 16, 1990.

The six remaining prisoners awaiting execution as a result of their alleged participation in the 1965 coup attempt are all in a special section of L.P. Cipinang. Many of them were members of the Indonesian Communist Party (*Partai Komunis Indonesia* or PKI). The cruelty of the system is illustrated by the situation of two frail old men, one seventy, the other sixty-five, whom the authors of this report met in L.P. Cipinang. Arrested in 1968 and sentenced to death in the early 1970's, they are subject to the constant psychological torture of not knowing when they will be executed. After the execution of four of their fellow inmates in February 1990, they were called by the internal security apparatus in early March and reportedly asked to give names of next of kin as well as to confirm that three of the six had not applied for a presidential pardon. Such steps are normally the prelude to execution, and worldwide appeals were issued on their behalf throughout March and early April 1990. As of May, international pressure appeared to have been one factor in the postponement of the executions, but to subject the six men first to more than 20 years of detention and to the belief that their executions were imminent is cruel and inhumane treatment, by any standard.

¹⁴ Amnesty International, "Indonesia - An Update on the Death Penalty Since June 1988," ACT 51/24/89 Corrected version, October 1989.

VI. PUNISHMENT

The Standard Minimum Rules have explicit guidelines on punishment:

Section 30 (2). No prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his defence. The competent authority shall conduct a thorough examination of the case.

Section 31. Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences.

The Director General of the prison system has formally abolished corporal punishment, handcuffs, and the practice of reducing meals to only rice as disciplinary measures, but in practice, these measures continue. As discussed below, physical abuse is a major method of punishment.

Cipinang has 40 concrete "isolation" cells although they are not really isolated, since there is a yard out front where other inmates can talk to occupants of the cells. The Director of Cipinang told us that one detainee was put in isolation to "soften him up for trial." Apparently this is standard practice for political detainees. One prisoner we saw in isolation in Cipinang was there as punishment for having tried to escape, in his words, "to prevent conflict between me and the prison staff."

A former prisoner held in Besi prison on Nusakambangan¹⁵, an island off the south coast of Java, described the punishment cell there as one meter square --

¹⁵ Nusakambangan is actually a complex of prisons. Originally there were nine prisons there; as of 1989 there were four. The worst, by all accounts, was Besi, literally "iron," because that is what its walls and roof were made of. One prisoner interviewed said this meant it was brutally cold at night and brutally hot in the daytime. When he was released in 1982, there were 300 inmates in Besi.

too small to lie down in. Prisoners could only wear shorts. There were no blankets and no water, and no meat was given to those in the cells. The man we interviewed, who had been detained at Besi during the period 1979-82, said that one prisoner had been kept in an isolation cell for several years because he attacked people in prison. The same man told us that prison officials used inmates against one another or hired one inmate to beat up another who may have insulted a prison employee.

Punishments reported from other prisons included shaving heads unevenly, being locked into a cell without an opportunity to bathe for 20 days, and being deprived of meat.¹⁶

A political prisoner detained at L.P. Wirogunan was punished by not being allowed to take part in Friday prayers or to receive newspapers (although we were told he was able to get a paper by paying a guard about ten times the street price). Another political detainee in the same prison, not yet tried or found guilty, was not permitted a radio although the prosecutor had allowed it.

A former prisoner at L.P. Pamekasan told us that newcomers were routinely put in isolation for some time before becoming part of the general population, and that this was the practice elsewhere also. The director of Kalisosok confirmed that all new prisoners are quarantined for two weeks for preliminary interviews and background investigation.

One former prisoner from L.P. Kalisosok in Surabaya had been imprisoned there in the late 1970's and early 1980's when it was widely acknowledged to be one of the worst prisons on Java. (Conditions have improved substantially under the current director, according to lawyers, officials of the Directorate of Corrections, and former prisoners themselves). He said that when he was there, anyone who broke the rules was warned three times and then put in a punishment cell for seven days; then for one month if they did not "reform;" then for three months. As a final punishment, they were sent to Pamekasan.

The new Kalisosok director considers the use of isolation cells to be superior to a former practice - denying a prisoner opportunity for remission, i.e.,

¹⁶ Interviews with former prisoners, December 1989

shortening of a sentence.

Prisoners are punished for fighting, for stealing, for taking food from the kitchens, for insubordination, for gambling, for preparing food in their cells, and for dozens of other minor infractions. The most serious offenses are escape attempts and contributing to riots.

VII. PRISON STAFF

The Standard Minimum Rules, noting that proper prison administration depends ultimately on the quality of its personnel, require that prison staff be adequately paid and trained, with security of tenure subject, among other things, to good conduct.

As in most prison systems, the Indonesian prisons are staffed principally by people on the lowest rung of the civil service ladder - poorly educated, with little or no training, and low salaries. The government runs a correctional training academy but its graduates, with a few exceptions, do not end up working in the prison system.¹⁷

In two prisons - Malang and Kalisosok - civil servants are supplemented by retired Army officers who, as it was explained to us, "help with the security program." Apparently, unlike the regular staff, they can use rifles and are employed at the guard posts.

We were told several times that no psychiatrist wants to work in the prisons and none was available on call. An exception was a volunteer psychologist who came twice a month to the Tangerang Women's Prison. A woman dentist asked by the French Embassy to visit the prison in Bali stopped going when she was accused of giving the prisoners drugs.

Prison officers and their families live in conditions not unlike those of the prisoners themselves - crowded accommodations and food shortages. They complain that they are not given the special rice allotments which form an important salary supplement for most civil servants.

It is not surprising that these conditions produce the widespread

¹⁷. One exception is Dr. S. Simandjuntak, director of LP Kalisosok who was the first graduate (1967) of the academy. His approach to prison administration, especially his efforts to establish an inmate-run governance system, impressed us.

corruption and brutality reported to Asia Watch and discussed elsewhere in this report.¹⁸

¹⁸ The International Commission of Jurists, reporting on its prison visits, wrote: "A second problem is the mentality and training of personnel. The high ideals to consider convicts as normal human beings, to be treated humanely, to be reeducated according to Pancasila and to be reintegrated, are not rooted in the ranks of prison officials, and especially not of the common jail warders...Warders have, like common policemen, a low level of education: elementary school, at most junior high school, and no specific job training. Just as many policemen, especially in the lower ranks, do not understand the basic ideas of KUHAP [code of criminal procedure] so jail warders have not yet understood the basic ideals of social reintegration. In practice written regulations and circular letters often remain a dead letter. In the real situation too much depends on the personalities and willingness of chiefs and directors." International Commission of Jurists, *Indonesia and the Rule of Law*, (London: Frances Pinter, 1987) p.196.

VII. ACTIVITIES AND WORK PROGRAMS

Work Programs

Prison officers were eager to show us their work programs. All the prisons visited had some sort of vocational program, which included manufacture of rattan furniture, wood and straw handicrafts, uniforms and shoes, and making electronic repairs. Women were taught "women's work" - cooking, flower culture and arrangement, sewing, knitting, and embroidery.

It is our impression that a very small percentage of inmates participate in these programs. A convict must have served a certain percentage of his sentence before participating in a manufacturing program and officers decide who will work in the kitchens, a desirable job.

Inmates producing shoes and rattan furniture, enterprises partially funded by private industry, are paid and the products appear excellent. The shoe factory at L.P. Wirogunan provides shoes for prison staff throughout the country. The pay scale, however, is very low. An inmate receives 2000 rupiahs (\$1.15) a day, 1000 of which he must give the government, 750 goes into a savings account, and 250 rupiahs are allowed to be used. One former prisoner told us he didn't get the savings when he left. Trainees are not paid. Even a government publication acknowledges as an advantage of prison vocational programs "the factor of cheap manpower."¹⁹

We were shown two tailor shops where inmates worked on uniforms for themselves and the officers. They are paid and, we were told, are permitted to keep 50 percent for themselves. It appears to be a good deal for all, since as one officer put it: "We can get our uniforms cheaper than outside."

Other prisoners take care of the grounds or sweep or, as in L.P. Bantul

¹⁹ Director General of Corrections, "Present Situation of Correctional Institution: The Indonesian Experience," (Jakarta: September 1987).

where there are no vocational programs at all, repair the motorbikes of prison officers.

But for most convicted prisoners (detainees do not work unless voluntarily), there is not much to do. Unless they are in special circumstances, their cells are open most of the day and there is an enormous amount of milling around within blocks. There are recreational facilities available in most prisons (ping pong, soccer, badminton, volleyball, television). In Kalisosok prison, we observed instruments for the traditional gong orchestra (*gamelan*) at one end of the meeting hall.

Work Release Programs

About fifteen years ago, according to the Institute of Criminology at the University of Indonesia in Jakarta, an experiment in work release was begun.²⁰ Those who participated were better educated and of a higher social standing than ordinary inmates, according to those interviewed. The wardens were criticized for discrimination, and many people outside the prison believed those who participated must have paid off the warden. According to Institute staff, who themselves are committed to criminal justice reform, the Indonesian public at large does not approve of prisoners' aid organizations, organizations to help ex-prisoners, or volunteer lawyers to help inmates with legal problems. Without public support, these programs initiated by the Institute failed.

Several prison administrators spoke of the need for "assimilation" programs, pre-release programs for inmates to reintegrate them gradually into the general population. "We would like to have ten a month in this kind of program," the director of L.P. Kalisosok told us, "but Jakarta says no."

On April 15, 1989 the Ministry of Justice issued new regulations restricting furloughs, conditional release, and work release programs.

Educational Programs

²⁰ Interviews with Institute staff, December 1989

To a limited extent all prisons visited provide some form of literacy training. Training in Pancasila , the state ideology, is required. Educational programs offer very little other than that directed toward illiterates. At Wirogunan prison shortly before our visit we were told five inmates passed an equivalency test and "graduated" from elementary school.

Religion

Religion is an important part of Indonesian life acknowledged by the prison authorities. In L.P. Kalisosok and Wirogunan, religious education is required. Most prison directors queried about what they would like to see improved in their institutions answered "more religious training."

Each prison has a large clean mosque and facilities for other religious practices. Although there were no Christian inmates at the time of our visit to L.P. Bantul, there are church facilities available. Prisoners take care of these facilities as part of their work assignments.

Access by outside clergy or groups constitutes an important non-governmental monitoring device. Religious organizations provide food supplements and medicine for prisoners who do not have access to families. Friday prayer provides one time when prisoners from different blocks can get together.

An Experiment in Self-Government

The new director of L.P. Kalisosok has organized a system of prisoner government which he compares to the neighborhood systems outside. Each cell chooses one or two representatives to represent the cell; these representatives in turn elect a mayor. Collectively, the group tries "to manage their own affairs and to function as a bridge between the officers and the inmates," according to an interview with the mayor.

Although we attended a meeting, Asia Watch had no confidential interviews with former prisoners who had participated in inmate self-government so that it is impossible to determine whether elected representatives receive special

privileges or abuse their positions.

IX. CONTACTS WITH OUTSIDERS

Lawyers

As mentioned earlier, the revised Criminal Procedure Code (KUHAP) was a major step in providing legal protection for criminal suspects - including the right to counsel from the time of arrest. In practice, however, many criminal suspects do not have lawyers prior to trial, sometimes because they do not know their legal rights, often because there is no lawyer available.²¹

One former prisoner told Asia Watch he had been offered a lawyer for his trial but refused. He told us: "If you bargain enough, there is no need for a lawyer." This prisoner, charged with assault, narcotics possession, and illegal possession of a dangerous weapon, said that after his brother paid the police, the prosecutor and the judge 800,000 rupiahs, the first two charges were dropped. The third charge stuck because the judge wanted more money which was not available. Several others interviewed explained the futility of having a lawyer, and that in their experience "what counts is giving money to the prosecutor."

Even having a lawyer does not assure that one is well represented. A local newspaper on December 11, 1989, reported that the defense counsel representing three men guilty of premeditated murder asked that his clients be sentenced to death even though the prosecutor had not requested it.²² Suspects charged with subversion fare the worst. They are almost always held in detention

²¹ Some provinces have no lawyers at all. Furthermore, KUHAP specifies that detainees are entitled to lawyers at government expense only if they are accused of crimes carrying a penalty of over five years. Although there is a shortage of lawyers, no new licenses to practice law have been issued in Yogyakarta for the last two years on order from the Ministry of Justice. For a complete discussion of lawyers and legal services, see *Human Rights in Indonesia and East Timor*, pp.42 ff.

²² *Jawa Pos*, Surabaya, December 11, 1989.

by the local military command where detainees' lawyers are simply refused access to their clients.

On August 5, 1989 several hundred students held a demonstration on the campus of the Bandung Institute of Technology to protest a visit by the Minister of Home Affairs. By September four students had been arrested and were held in detention. Lawyers from the Bandung branch of the Legal Aid Institute²³ said they were not allowed access to their clients as long as they were in military custody. The students were not turned over to civilian custody until October 5 when the cases were sent to the public prosecutor to prepare for trial. Under the Criminal Procedure Code, detention of suspected criminal offenders by the military rather than the police is illegal, but the lawyers were unwilling to press for a pre-trial hearing, fearing that to challenge the legality of their clients' detention might put the students at more risk.

In many cases, especially political prosecutions, defendants have been pressured to change counsel, in particular if they are being represented by the Legal Aid Institute (LBH). In other cases, judges have refused to accept defendants' choice of lawyers, saying they "did not fulfill the legal requirements for counsel." These actions violate KUHAP's guarantee that a defendant can be represented by counsel of his or her choosing, a right also protected by international law.²⁴

While in prison most convicted persons have no contact at all with their lawyers with the exception of the few, mostly political prisoners, exercising their right to appeal. But counsel for such prisoners complain they are often denied access.²⁵

²³ The Legal Aid Institute, Lembaga Bantuan Hukum, (LBH) with 13 branches and close to 40 affiliated offices throughout Indonesia, handles cases on behalf of indigent persons and has had the lead in providing representation to some of the most important political cases.

²⁴ *Human Rights in Indonesia and East Timor*, pp.145-6.

²⁵ A lawyer in the LBH Yogyakarta office told Asia Watch he is asked for money when he

Two young men in Yogyakarta, Central Java, convicted for selling banned books and participating in an independent study group,²⁶ are serving seven and eight year sentences respectively in L.P. Wirogunan where, in addition to being denied radios and newspapers in violation of the U.N. Standard Minimum Rules, their lawyers cannot visit and must make special arrangements with the district court to see them.

Family Visits

Unless inmates are being disciplined, all may receive weekly visits, officially for 15 minutes. Visiting rooms are crowded with prisoners sitting on opposite sides of the table from their visitors. Some prisons restrict the number of visitors to two; others such as the Tangerang women's prison have no limits. But in Tangerang a woman loses all visiting privileges if she is being disciplined, and visitors to Tangerang must tell their neighborhood organizations if they are visiting the prison.²⁷

The major prisons visited were located in the center of cities so that families from the area could readily visit. For prisoners transferred from other parts of Indonesia, there was real hardship, psychological as well as practical, since so many basic needs - food, medicine, bedding, clothing - are supplied by families. One former political prisoner from Irian Jaya told us: "Some families are afraid to visit because something might happen to them from the government."

goes to see his clients: "The prison guards don't know who I am. They don't indicate an amount; they just make the gesture for money [rubbing the thumb against the finger of the right hand]. These people are paid so poorly they depend on bribes to get a decent living."

²⁶ See Amnesty International "Subversion Trials in Yogyakarta," ASA 21/10/89, August 1989

²⁷ In Indonesia, villages or sub-divisions of towns are further divided into neighborhood units called *rukun tetangga* (RT) and *rukun warga* (RW). While not officially part of the government administration, these smaller units serve (among other things) an important security function, enabling local officials to know the comings and goings of individual families.

Asia Watch visited Bantul, a new detention center near Yogyakarta, completed in 1987 with a capacity of 150 but with only 51 men and three women inmates in 1989. Forty-one of these had been convicted and were serving short sentences. The facilities were very clean but the health clinic had not opened yet and there was no equipment in the skill training rooms. Despite its newness, this institution was the only one that had bars between inmates and visitors in the visiting room.

Much corruption centers around family visits and packages as described below.

Mail

Prisoners can receive mail but it is opened and censored first. Not all mail is received, however. One former prisoner told us: "We did not get letters that told us about bad situations at home. Those letters were burned."

Although the criminal procedure code states that families of detainees are to be informed of an arrest and the location for interrogation, many times families do not receive this information for days or even weeks. This is especially true if a detainee is held by the military police.

X. POST RELEASE DISABILITIES

It has been argued by observers that whether vocational training in prisons provides new skills or fills time is immaterial, since Indonesian society is prejudiced toward ex-convicts who, even with skills, almost never find decent jobs. Experience shows that former prisoners work in marginal economic activities.²⁸

For the hundreds of thousands of former political detainees (known in Indonesia as "ex-tapols") and the former political prisoners who have been convicted and served sentences, restraints are numerous and unfair. The government justifies these restraints as precautions against "the latent danger of communism." Ex-tapols are kept out of a broad range of professions -- including teaching, journalism and law, as well as from government and certain private sector positions.

Ex-tapols must obtain government permission to change residences. And most wrenching of all, those imprisoned must obtain permission to settle in a community after their release. One former PKI female prisoner who had completed her sentence was turned down by the neighborhood committee in her former village and forced to stay in prison another year until her family found a village that would accept her.²⁹

²⁸ Interviews with Institute of Criminology staff, December 1989.

²⁹ For a full description of restrictions on ex-tapols, see Asia Watch, *Human Rights in Indonesia and East Timor*, March 1989, and *Injustice, Persecution, Eviction*, March 1990.

XII. CORRUPTION

We came away from our examination of the Indonesian prison system with a strong and depressing view that corruption is pervasive. We are aware that in all countries, because of the inherent conditions under which they operate, prisons lend themselves to corruption. When many of the most important aspects of people's lives are in the absolute control of low-ranking, underpaid officials working largely out of public view, the temptation to offer and to extort special compensation is enormous.

But we believe there is more involved in corruption in Indonesian prisons. There seems to be a broad consensus that financial misconduct is a way of life in Indonesia starting with the President's family and close associates.

As reported by one observer recently,

The practice of using government position for private gain is widespread ... children and friends of other high government officials have also profited from their relationships.... In Indonesia there are no conflict-of-interest laws. And there is confusion about what constitutes corruption and what is culturally acceptable. ...Petty corruption is pervasive. High school students whose grades aren't good enough for them to graduate buy their diplomas, along with transcripts that will qualify them for entry into European and American universities. ...An American development worker who has spent more than a decade in Asia says that the corruption is more widespread and more deleterious in Indonesia than in any other country he has served, which includes Pakistan and the Philippines.³⁰

Against this background it would be strange if there was not a high degree

³⁰ Raymond Bonner, "The New Order," *New Yorker*, pp. 82,84 June 13, 1988.

of corruption in Indonesian prisons and our review suggests there is. Interviews with former prisoners, combined with such corroboration as observation can provide, indicate that bribes are given for the ordinary day-to-day decisions and actions by guards, such as who gets to work in desirable jobs like kitchen duty, how long visitors may stay, how much rice will be served, and who will have the desirable sleeping locations not too close to the latrine. In many instances prisoners need families to provide food and other necessities. Whether these will be delivered to them often depends on whether some cash is placed on top of the package. And special privileges such as use of a telephone, a visit to a prostitute outside of prison, drugs, special food, or visits home, are available to those who can pay enough.

The pervasiveness of this kind of corruption undermines the operation of the prisons in a fundamental way. Rather than having incentives to persuade the government to provide as much as possible for the inmates, the prison staff has a stake in shortages. Ironically, they profit from the inmates' deprivation. Items like soap, food and medical supplies, the deprivation of which often has cruel effects on those who cannot get them, become a source of income to staff members who can get paid for furnishing them or acting as a conduit from the inmates' families.

It has been reported that visitors to prisoners in Cipinang Prison in Jakarta have to pay up to six times:

- to get a visitor's pass
- to enter the walls
- to enter the hall
- to have the convict called
- to prolong the time of the visit
- to have visits outside normal days and hours³¹

In fairness, it should be acknowledged that some directors were resolved to combat corruption and, largely through discipline of staff, were able to have

³¹ *Indonesia and the Rule of Law*, International Commission of Jurists and Netherlands Institute of Human Rights (1987) p. 197.

some impact.

While it is beyond the scope of this report, it is important to note that corruption controls decision-making not only by prison staff who have a low-level of education, no special training, and are paid low wages. It also affects many of the decisions by prosecutors as to who will be charged with crime and what sentence will be recommended -- as exemplified by a signed letter we saw from a prosecutor to a witness in a subversion case demanding a payment of Rp.100,000 (\$58) and implicitly threatening that unless the payment was forthcoming, the man would be charged as well. In addition, we heard many reports of payments sought by or paid to judges to avoid conviction.

We were told by a criminal lawyer of specific cases in which judges and prosecutors had reduced sentences upon the payment of money. Some prosecutors, we were told, have a specific rate of Rp. 100,000 per month of recommended sentence to be reduced.

It tells a lot about the Indonesian prisons that, as one observer has noted, "a period in prison or in custody thus becomes very expensive. Sometimes it is cheaper for relatives to try to corrupt a court official and have a detainee set free, rather than to help him to survive in custody."³²

³² Ibid.

XII. BEATINGS AND TORTURE

Physical abuse is an integral part of the Indonesian prison system. The first ex-prisoner we interviewed told us:

"Anyone who comes in for the first time, no matter what his crime, is always beaten...I was ordered to do push-ups and crawl on the floor while the police beat me...if they come in the prison with two hands and two feet they hope to go out complete...I was beaten every day for two weeks - my insides were wrecked."

The reports are far too consistent to be fabricated, and if support were needed, there are the scars we saw on the bodies of ex-prisoners we interviewed. After two weeks of intensive exposure to the Indonesian prisons we came away with the strong sense that the use of beatings is the most prominent feature of the system -- even worse than corruption, although as discussed below, the threat of beatings helps the staff extort from inmates and their families.

It is hard for outsiders to understand how and why beating has become a commonplace part of the Indonesian system of justice, but it may help to consider the different settings and purposes for which it takes place.

In general, the worst reports of physical abuse relate to people held in detention by the police and the military, although there seems to be a generalized use of beatings inside many of the prisons. We thought it was significant that the Director of Wirogunan Prison told us that he will not accept any prisoners who have been beaten in police custody, unless they have been cleared by a doctor outside the prison first. He said he does not want someone to die on his hands and then have to face possible discipline by the Minister of Justice. The directors of Bantul and Kalisosok Prisons took similar positions.

Some examples chosen from our own interviews give a sense of how the use of physical abuse is seen by prisoners.

1. One ex-inmate from L.P. Cipinang was arrested in South Jakarta in 1989 for assaulting a marine and possessing narcotics. He was held in military custody for a

month after his arrest where he was burned with lighted cigarettes: the scars were still visible on his legs. He was then sent to regional police headquarters. A police sergeant beat him up every day for two weeks because he didn't confess and wouldn't implicate others. Eventually he signed a statement with false names to stop beatings and so as not to implicate friends. He went to Cipinang where he was sometimes beaten with rattan, sometimes a rubber hose. One day a guard was playing soccer badly, and a prisoner insulted him. The guard kicked him until he died. The ex-inmate we talked to thought the prison guard was sent to the police, because he never saw him again. Once the former inmate was punished for playing music -- he had to walk stooped down for two hours.

2. An ex-prisoner from Irian Jaya, released from L.P. Kalisosok in 1989, said prisoners were beaten on their backs with pieces of cable to punish them for fighting. He had been arrested in Jayapura, Irian Jaya, in 1982, and during the period he was held in police custody there, he was hit on the side of his head (he still has problems with hearing), forced to strip, and had ice water thrown on head, his head banged against the wall, and arms beaten with a pistol. In L.P. Abepura in Jayapura, rule infractions were punished by chaining hands and being made to kick rocks with one's feet.

3. A detainee from Madura was tortured with electric shocks in 1987 in the regional military headquarters (KOREM) in Malang, East Java, where he had been sent for interrogation; his interrogators were demanding a confession. One other witness, forced to watch, subsequently "confessed" rather than face the same treatment.

4. A prisoner from Central Java, detained in 1989, was kicked in the shins by the officer who interrogated him until his legs were bloody. He was forced to sign a statement at military headquarters that nothing had happened, and that he would not seek compensation.

While it is not possible to organize neatly the settings and purposes of physical abuse, it is helpful to try to break down the different circumstances to the extent available information permits.

Torture to Obtain Confessions

There are many places in the world today where torture is regularly used to get confessions, and Indonesia is one. We were struck by how often we read and heard reports of horrible and prolonged torture, even in circumstances where the crime involved was petty. For example, illegally soliciting potential passengers at a bus station led to torture of two men by eight officers resulting in parts of ears of both men being cut off, kicking and beating with pistol butts and breaking the leg of one of them. The offense was punishable only by a fine.

According to our interviews and newspaper reports, the kinds of torture used included cutting off parts of a finger, of an ear, of a penis; electric shocks; putting the legs of a desk on one's toes; forcing one to kneel on beans; and, in the case of women, threatened or actual rape.

The law enforcement apparatus relies heavily on confessions since officers have limited training and investigative tools to obtain evidence in other ways. Frustrated when they have been unable to elicit confessions and knowing the prisoners will have to be released, many officers use beatings and torture as their own form of punishment.

Asia Watch's 1989 report, *Human Rights in Indonesia and East Timor*, indicates that in the case of political prisoners, physical torture is combined with psychological torture to obtain admissions of guilt. It is worth noting that Article 117 of Indonesia's Criminal Procedure Code (KUHAP) states: "Information by a suspect and/or witness to an investigator shall be given without pressure from whomsoever and/or in any form whatsoever." The Code, however, does not explicitly prohibit the use of testimony in court extracted under duress.

Beatings in Detention

In addition to torture used to induce confessions, those held in detention awaiting trial or other disposition of their cases are likely, as a matter of course, to be beaten regularly while they are in custody. One ex-prisoner whom we interviewed described continuing physical abuse in a military prison which he characterized as "the worst" of the several prisons he had been in. But troubling evidence that beatings of pre-trial detainees also takes place in non-military prisons is the following case of AY reported in the *Yogya Post* of December 5, 1989. On the before this story appeared in the newspaper, the authors of this report visited

Wirogunan prison and were assured by the Director that beatings of prisoners never took place.

AY, 22, a suspect in the case of a rape of a domestic servant, who is now in detention in Wirogunan, is bruised all over his back and head after being whipped with a piece of cable by two prison officials. Met yesterday in front of the detention room of the Yogyakarta District Court after being investigated in connection with the rape case by a team of judges, AY said he was beaten by two officials last Friday, a day after he entered L.P. Wirogunan. Opening his shirt, AY, who lives on KH A Dahlan Street in Yogyakarta, showed the marks from the cable whipping on his back while at the same time showing the wounds he received from being hit with a brick on part of his head. As his mother and elder brother stood with him, AY, a stout young man, said that last Friday morning, he was summoned by two prison staff, "Ut" and "Hr." The two men began asking him about the case that had led to his detention at Wirogunan. Hearing the admission of AY, that he had raped a servant, the two prison officials became angry. One of them picked up a brick lying not far from the guard post and banged it against the head of AY. The two officials became angrier when AY started to cry and even tried to run away. A third official picked up a thick piece of cable and whipped AY until he was bruised. They got even angrier when AY who couldn't stand the pain, started mentioning the name of a highly-placed individual. Another official came along known as "Im." "Don't try to namedrop around here," the official snarled. AY said he had raised this issue of the prison officials taking justice into their own hands with the judges during his investigation. The head of Wirogunan prison, Muldjowijono, contacted yesterday by the Jakarta Post, was not around. But another prison official confirmed the experience of AY. According to the official, who requested anonymity, such things were not supposed to happen. "But if it does, and a prison official uses violence in that way, it is clearly because the detainee or prisoner himself misbehaved

and didn't want to be ordered around by the official."³³

Beating by Prisoners

Beatings of prisoners by other prisoners appear to be routine, partly to establish dominance by the older, more experienced prisoners. Some of this appears to be on behalf of the prison guards and presumably is part of what the guards get as part of the prison "market place" of exchanged favors. We were told that some of these beatings resulted in serious injury.

Beatings by Prison Guards

In many ways, the most distinctive and disturbing aspect of the Indonesian prison system is the apparently frequent beating of convicts in prison by guards. Complaints about the food (which are frequent and appear to be justified), fighting among prisoners, often over food, an unpleasant remark about a guard's clumsiness in a soccer game -- these and other such incidents lead to beatings. And many of the beatings reported were not minor, transitory punishments; they typically involve prolonged assault to the head or body with a piece of electric cable, or a piece of wood or a brick, or a stuffed bull's penis.

Most disturbing, some prisoners die from the effects of physical abuse, often combined with a lack of medical attention. A recent Amnesty International report documents many such deaths in 1989.³⁴

Included as Appendix B are newspaper accounts of serious physical abuse by police and military officers. We have no way of knowing the numbers of prison inmates who die or are maimed by a combination of physical abuse and neglect, but we believe the number is certainly substantial and greater than that reported publicly. It is easier for prison officials to hide the circumstances of death,

³³ *Yogya Post*, December 5, 1989

³⁴ "Summary of Amnesty International's Concerns in Indonesia and East Timor", March 1990, *op. cit.*

serious injury, or neglect behind prison walls than it is for the police or military to do so with respect to persons in their custody.

In reviewing what we have seen with respect to beatings and abuse as an integral part of the Indonesian correctional system, we recognize that the reasons undoubtedly have to do with aspects of the country's history and social setting including the Dutch colonial legacy and more recent history that go beyond the scope of our review. Violence is certainly an important part of the short history of the Republic of Indonesia, as witnessed by the hundreds of thousands killed in response to the 1965 attempted coup and the massive killings of suspected criminals in the anti-crime campaign of 1983-85.

XII. REMEDIES

There are no official grievance procedures for inmates in Indonesian prisons and very little evidence of informal lines of communication to permit inmates to complain.

In 1983 the government issued regulations to prison authorities authorizing discipline of employees who mistreat prisoners. The progression of sanctions begins with a warning and continues with postponement of a pay raise, postponement of a promotion, demotion, suspension, and finally dishonorable discharge. The director of L.P. Kalisosok told us he had used this regulation; the director of L.P. Wirogunan, where we had heard about reports of violence, said he had not and that there had never been any occasion when prison staff exceeded their authority. He denied there were any beatings by guards or fights between inmates.

According to Adi Andoyo Soetjipto, deputy chief justice of the Indonesian Supreme Court, each sentencing judge has the authority to see that a sentence is carried out by visiting a convicted person in prison. We found no evidence that judges routinely, if ever, visit prisons although, as suggested by Judge Andoyo, this would be an interesting approach to monitoring what goes on inside.

With respect to remedies available at the pre-trial level to deal with the corruption outlined earlier in this report, it appears that the Attorney General has begun to attack the problem, as described in the following news article which appeared while we were in Indonesia:

Two prosecutors in Bali whom a prisoner reported to Box 5000 [a special post box set up by the government so the public could report corruption cases] for having engaged in blackmail and fraud will be immediately disciplined in accordance with PP30 [the government regulation for disciplining civil servants].

"We have already carried out the investigation and there is

already a decision. It has been recommended that those involved be transferred," said the head of the provincial prosecutor's office in Bali, Martin Basiang, SH, who was queried in front of the Attorney General, Sukarton Marmosodjono, last Saturday.

The convict, Made Mas Sudjana, in a letter to Box 5000 at the beginning of October 1989, complained that a number of upholders of the law in the provincial prosecutor's office and the High Court in Bali had blackmailed and cheated him out of tens of millions of rupiahs.

The blackmail and fraud by the upholders of the law took place while Made Mas Sudjana was still on trial with the promise that he would be acquitted or given a probationary sentence. But it turned out that the district court in Bali handed down a sentence of one and a half years which was raised by the High Court to two years. The Attorney General stressed that on his part, he was taking every action to maintain order within the prosecutorial apparatus by punishing those who err and rewarding those who work well. The result is that the number of violations by prosecutors have become even smaller, falling 35% over the previous years. To the journalist, the Attorney General stressed that administrative sanctions imposed on prosecutors could not be considered light punishment, because at the very least, the sanctions would influence their allowances and promotions.³⁵

There is also evidence that extreme cases of brutality by the police towards arrested persons are being investigated and prosecuted at an apparently increasing rate (see Appendix B). These cases receive publicity when the families of detainees complain after visits to police stations and other places of detention.

Police and military personnel may be prosecuted in military courts.

³⁵ *Kompas*, December 12, 1989

Prison officials can also be prosecuted in civilian courts for violating regulations that prohibit torture. However, reports of serious abuses vastly outnumber reported prosecutions. And, according to the Legal Aid Institute, sentences of imprisonment against abusive police are not always carried out.

Despite the above remedies, there is not much reason to be optimistic about the situation of convicted persons. As mentioned before, pre-release programs have entirely disappeared on order of the central government, and the policy of remissions - shortened sentences for good behavior - was canceled in 1987 for prisoners under sentences of life imprisonment and death.

XIV. CONCLUSION

In some ways, the Indonesian prison system's failings are more remediable than the systems in many other countries. There appears to be adequate capacity in existing prisons for the number of people convicted, although some prisons are overcrowded. Our observations left us with the impression that major renovation, rather than massive new construction with resulting heavy costs, would meet the needs in most prisons.

What *is* needed will be difficult enough to provide. It is enlisting and training personnel who will cease the reliance on physical abuse and on corruption in dealing with those in their charge. It is providing supervision and adequate compensation to bring out the best -- not the worst -- in prison staff. As set out in the body of this report, there are strong indications that those prison directors who are determined to do so and who communicate this to their staffs are able to make a significant difference in the prison under their control.

And we believe the Director-General of the Corrections Department is committed to steps that will lead to reform. Indeed, his willingness, in response to our written request, to allow us to visit prisons is one indication of that commitment.

Of course, in a country where the military and the police play a dominant role, the difficulty of making such changes should not be underestimated.

APPENDIX A:

Elucidation on the Law of the Republic of Indonesia no.8/1981 on The Code of Criminal Procedure

I. GENERAL EXPLANATION

1. The regulation which serves as a basis for the implementation of the code of criminal procedure in the domain of public justice before the enforcement of this law is the "Reglemen Indonesia" which is renewed or which is known under the name of "Het Herziene Inlandsch Reglement" or H.I.R. (Staatsblad No. 44/1941) which based on article 6 section (1) of Act No. 1 Drt./ 1951, should as far as possible be used as a guide in cases involving civil criminal procedure by all courts and prosecution offices throughout the territory of the Republic of Indonesia, except for a few amendments and supplements. It was intended by way of Act No. 1 Drt./1951 to achieve a uniform code of criminal procedure, which previously consisted of a code of criminal procedure for the "landraad" and a code for criminal procedure for the "raad van justitie".

The presence of two kinds of codes of criminal procedure was a mere consequence of the continued maintenance of the practice during the Dutch East Indies period when

different justices were applied to the native groups of the population and to the European group, although the old "Reglemen Indonesia" (Staatsblad No. 16/1848) had been renewed with the renewed "Reglemen Indonesia" (R.I.B.), because the purpose of the renewal has not been to achieve a uniform code for criminal procedure, but rather to improve the code of criminal procedure for the "raad van justitie".

Although Act No. 1 Drt. of 1951 already decided that only one law on criminal procedure shall be in force for the whole of Indonesia, namely R.I.B., the provisions it contained turned out to be providing no guarantees and protection of the dignity and prestige of human beings as should properly be present in a law-abiding state. Especially with regard to legal assistance in an examination by an investigator or public prosecutor, no regulations were provided by R.I.B., which contained no provisions also on the right for compensation.

Therefore, for the sake of development in the field of law and in connection with what has been explained earlier, it was necessary to revoke "Het Herziene Inlandisch Reglement" (Staatsblas No. 44/1941) in its relation to and Act No. 1 Drt./1951 (State Gazette No. 59/1951, Supplementary State Gazette No. 81) and all the executory regulations and the provisions arranged in other law regulations, as they were not in line with the ideals of national law and to replace them by a new law on the code of criminal procedure with codification and unification characteristics

based on Pancasila and the 1945 Constitution.

2. The 1945 Constitution clearly explains that the Indonesian state is based on law (law-abiding state), not on mere power (power state).

This means that the Republic of Indonesia is a law-abiding state which is democratic on the basis of Pancasila and the 1945 Constitution, upholds basic human rights and guarantees equal status in law and administration for all of its citizens, and is obliged to uphold the law and administration without exception.

It is clear that a deep sensitivity to, observance and implementation of basic human rights as well as the rights and obligations as citizens is a must for every citizen, every state administrator, every state institution and public foundation whether in the centre or the regions and should also be manifested in and by the presence of this code of criminal procedure.

Furthermore, as pointed out in the Guidelines of State Policy (Decree of the People's Deliberative Assembly of the Republic of Indonesia No. IV/MPR/1978) the insight for the achievement of the goals of national development is provided by the Archipelagic Concept which legally speaking considers the entire Indonesian archipelago to be one legal unit in the sense that it has only one national law which is devoted to the national interest. For this purpose it is necessary that the law be developed and renewed through the improvement of legislation and the

constitution and intensification of law codification and unification efforts in certain fields by taking into account the growth of legal consciousness in the community towards modernization in line with the level of progress achieved in development in all fields.

Such a development in the field of criminal procedure law is to the effect that the community will be able to deeply sense its rights and obligations and that an attitude can be realized and further fostered among the law executors/enforcers which are commensurate with their respective functions and authorities towards the solid maintenance of law, justice and protection to guard the nobility of human dignity and prestige as well as legal order and certainty for the sake of the continued existence of the Republic of Indonesia as a law-abiding state in line with Pancasila and the 1945 Constitution.

3. Therefore, this law which regulates the national code of criminal procedure must be based on the philosophy/outlook of life of the nation and the foundation of the state and should properly reflect in the material provisions of its articles or sections protection for the basic human rights and the obligations of citizens as earlier explained as well as the principles which will be further elaborated upon. The principle of arranging protection for the nobility of the human dignity and prestige as laid down in the Law on the Basic Provisions of Judiciary Power, namely Act No. 14/1970 must be upheld in and with this law.

The principle among other things cover:

- a. Equal treatment for every one before the law without any discrimination.
- b. Arrests, detentions, searches and confiscations shall be carried out only on the basis of written warrants by officials who are authorized by law and only in cases and ways which are regulated by law.
- c. Anyone who is suspected, arrested, detained, prosecuted or brought before court, should be regarded as innocent until a court decision determining his guilt acquires a permanent legal force.
- d. A person who is detained, prosecuted or tried for no legal reasons or because of a mistake regarding the person or as to the law applied is entitled to compensation and rehabilitation from the level of investigation and law enforcing officials who deliberately or because of their negligence have caused the violation of the law principle, are liable to

prosecution, penalty and/or administrative discipline.

- e. A trial which must be carried out quickly, simply and at low cost in a free, honest and indiscriminate manner must be realized consistently at all levels of justice.
- f. Anyone who is involved in a case should be given an opportunity to get free legal assistance which is solely provided in the interest of his defence.
- g. A suspect since his arrest and/or detention be informed not only of what he is accused of and the legal basis for the accusation, but also of his right to contact and get assistance from a legal adviser.
- h. A court shall try a criminal case in the presence of the defendant.
- i. The trial session shall be open to the public except when regulated otherwise by law.
- j. Control of the

implementation of a court's verdict in a criminal case shall be carried out by the chairman of the court of first instance concerned.

4. On the earlier explained basis in its solid and integrated whole, a renewal has been effected in the law on criminal procedure which at the same time is intended as an endeavor to combine provisions on criminal procedure which at present are still be found [sic] in various laws into one law on the national code of criminal procedure in line with the aim of the codification and unification.

It is on the basis of this consideration that this law on the code of criminal procedure has been called "Kitab Undang-undang Hukum Acara Pidana", abbreviated KUHAP.

This Law Book does not only contain provisions on the procedure of a criminal process, but also mentions the rights and obligations of those involved in such a process. It also contains the code of criminal procedure for the Supreme Court now that the Law on the Supreme Court (Act. No. 1/1950) has been revoked by Act. 13/1965.

Appendix B: A Chronology of Press Reports on Torture

Although there are severe restrictions on press freedom in Indonesia, and editors from time to time are given specific instructions not to publish certain news items, some articles on abusive treatment of detainees by police and prison officials appear in local newspapers. Not all reports of ill-treatment are investigated, and press reports do not indicate the extent of official inquiries. However, if an incident appears in the press, there is a far greater chance that it will be investigated and that those responsible will be prosecuted than if no publicity is given to the case at all.

The following extracts of articles are based on a sampling of eight national and regional newspapers and periodicals monitored and translated by Amnesty International. We have arranged them in chronological order by date of the incident of torture or ill-treatment, rather than the date of publication of the report.

July 1986:

Zulkifli Lubis was arrested in Surabaya, East Java on July 25, 1986 on suspicion of having taken part in a looting incident in the village of Benjeng, Gresik. When Lubis refused to confess to the crime, a policeman punched him in the mouth. Further such assaults were carried out during interrogation. The worst occurred the next day on July 26, when one policeman put the witness's foot underneath a table leg and then sat on the table. The bone of Lubis's left foot and his third toe were broken, and his right foot was also injured. When he still refused to confess, he was taken to the scene of the looting and threatened with death; he then signed a confession. The two policemen involved in the torture were sentenced in January 1989 by a military court to three months and one month and 15 days respectively. (*Suara Pembaruan*, January 17, 1989).

July 1987:

Namsan Tarigan was arrested on July 22, 1987 in the village of Munthe, Tanah Karo, North Sumatra as a suspect in the theft of a cow and a red pepper. Two policemen went to Namsan's home and took him away on their motorcycle. About 300 meters away from his home, they stopped and tried to force the handcuffed man to confess that he was the thief. He refused, so the two policemen

forced him to squat and open his mouth while one of the two urinated into it. They then forced him to eat sand. When they reached the police station, the two sergeants again tried to force Namsan to confess. When he refused, one of the two, Sergeant Parulian Siagian, immediately drew his pistol and shot Namsan in the right thigh, causing permanent injury. Siagian was brought before the military court in Medan, North Sumatra where, in March 1989, the prosecutor demanded that he be sentenced to three months in prison. The final sentence is not known. (*Tempo*, March 11, 1989).

February 1988:

Muhamad Asyik, 21, was arrested with two others while committing a theft in Bojongloa, Bandung, West Java. Police Sergeant Rachmat Hidayat, who was also from the village of Bojongloa, beat Muhamad Asyik several times, saying he had brought shame on the village. Asyik became ill after several days in detention and was brought to the hospital where he died of internal head injuries. Sergeant Rachmat Hidayat was tried by Military Court II-09 in Bandung and acquitted on 11 February 1989. The judge said that Sergeant Rachmat's actions were not the beating of a detainee by the officer in charge but more in the nature of a father beating a son. (*Pikiran Rakyat*, February 11, 1989).

April 1988:

Bakri Budi Santoso, 17, was beaten to death in April 1988 in Yogyakarta, after being arrested by police on suspicion of having stolen a walkie-talkie. He was beaten repeatedly with wooden sticks and a heavy piece of electrical cable, and died of brain injuries.³⁶ Two policemen were convicted in June 1989 by the Yogyakarta Military Court of torturing Bakri to extract a confession and were sentenced to two years and three months, and two years and six months respectively. (*Jakarta Post*, June 16, 1989; *Suara Merdeka*, June 13, June 15, 1989; *Kedaulatan Rakyat*, June 13, 1989).

September 1988:

Arman, aged 25, accused of involvement in a case of theft of automobile spare parts, died after being detained for a week in Tanjung Priok Police Station

³⁶ See Asia Watch, *Human Rights In Indonesia and East Timor* , March 1989, and *Injustice, Persecution, Eviction*, March 1990.

(north Jakarta) after suspected torture by police during interrogation. Police gave the victim's family a sack of rice and Rp.100,000 (about U.S.\$58) as unofficial compensation (*Suara Pembaruan*, September 13, 1988).

October 1988:

Ali Murtado, 32, was tortured to death in Lebaksiu, Tegal, Central Java on October 24, 1988. He had apparently worked for a scrap iron company. An army officer named Munarto was arrested, tried, and sentenced to ten months by the Military Court II-10 in Semarang. The victim's wife claimed that Munarto had in fact killed her husband at the behest of a businessman who was worried that Ali Murtado knew about corrupt practices in the company. The businessman paid Munarto Rp.30,000 for the killing, according to the wife; he has not been prosecuted. (*Suara Merdeka*, August 11, 1989).

February 1989:

Rawi Muid, an official of the National Family Planning Coordination Body in Batanghari, Jambi (Sumatra) was detained in February by the Sakenan Police Station on suspicion of having forged a signature. He was brought to court shortly thereafter on charges of having assaulted, while in detention, Police Corporal Putu Alit, resulting in head injuries to the policeman. He denied the charges, saying it was he who had been assaulted by the corporal and not the other way around. He said he woke up in the Police Hospital in Jambi with a part of his penis cut off, his Achilles tendons cut and a wound on his neck. The public prosecutor told the court that Muid had suffered the injuries as a result of a suicide attempt. Corporal Alit did not appear in court as he was said to be in Lampung for treatment of a liver disorder. Muid was acquitted of the charges and said he would sue the police for compensation. (*Merdeka*, May 29, 1989).

April 1989:

Iwan Nirwana, aged 21, died on April 9, 1989 after being detained for 24 days in Pacet Police Station, Cianjur, West Java. He had been arrested in March on suspicion of having stolen a camera, some cigarettes and about \$20 from a camera shop. The death caused questions about his treatment in detention, as Iwan had never been seriously ill. The police chief of Pacet, Captain Nunung, brought the family a truckload of vegetables and Rp.150,000 (U.S.\$88), but the family initially refused. The police raised the offer to Rp.250,000 (U.S.\$147) and the family finally accepted. But then they were asked by the police to sign a written statement that they would not press charges against the police. The family refused and filed a

case in court with the assistance of the Bandung Legal Aid Institute. (*Tempo*, June 3, 1989).

May 1989:

Rustamat, 29, was arrested in Semen, Kediri, East Java in March 1989 for having stolen ten kilograms of tangerines from a neighbor. After 52 days in detention in the Semen police station, he died. Police said he had been suffering from shortness of breath and asthma, but his wife said her husband had never had asthma. Moreover, his wife and neighbors who washed the body said it was black and blue, the penis was swollen, and the hands and fingers wounded. Muntokah, Rustamat's wife, said her husband had often complained of being tortured, kicked and clubbed by a police corporal of Semen Police Station and a village security official whom he identified by name but asked her not to tell anyone. She said her husband seemed to get worse everyday and when she had visited him last, he could not stand up. She said she herself was sexually abused when she went to visit Rustamat, and that one of the officer had offered to get her husband a lighter sentence if she would have sexual intercourse with him. Muntokah was ordered by the village administration not to request an autopsy, but eventually she sought legal assistance from lecturers at Kediri University. As of September 1989, there had been no arrests in the case. (*Tempo*, September 30, 1989).

July 1989:

Ferry (also seen as Peri) Balfas, 26, was arrested for stealing Rp.500 (about 35 cents) from a woman's handbag in Cililitan bus terminal, Jakarta, on July 2, 1989. Already well-known as a pickpocket, he was taken to the Road Traffic and Transport office where he was beaten up by security forces. A man came into the office, took Peri's little finger and pulled it out of the socket, twisting it until it was broken and left hanging by the skin. Peri was then taken to Kramat Jati Police Station, East Jakarta, and then to a police hospital. He was then sent back to a cell in the police station, but the finger got worse, his arm got inflamed, and about a week later, the finger had to be amputated. When his father visited him three weeks after the arrest, he reported that his son looked weak and his body still bore the bruises from the beatings he received. The arresting officer denied any knowledge of the man who pulled out Peri's finger and said he had been "beaten by society." The local internal security apparatus, BAKORSTANAS, admitted that Peri had been punched and beaten with a belt and had his finger "cracked." (*Tempo*, July 22, 1989).

September 1989:

Didin Tajudin, 28, died in custody in the police station in Bojong Picung, Cianjur, West Java on September 17, 1989. He had been arrested for an unpaid debt to a business partner. Police said he had hanged himself with a black belt. Family members, who visited him one day before he died, said he had told them he could not endure the beatings any longer and said his body was covered with wounds and bruises. (*Merdeka*, September 26, 1989).

October 1989:

Mrs. Suhani, 28, the wife of a minicab driver and mother of two children, was arrested on October 11, 1989 in Pasar Minggu, South Jakarta on shoplifting charges. She was taken to the police station in Pasar Minggu where she was raped by three policemen. In the meantime, police went to her house in Pondok Labu, South Jakarta, and demanded Rp. 79,950 (about \$50) to settle the case. After the rape was reported to the Jakarta Military Police office, Suhani was pressured by numerous police officers to say that she had not been raped but freely consented to have sexual intercourse with the policemen involved. The three policemen accused were arrested in November and went on trial in January 1990. The woman's lawyer, from the Jakarta Legal Aid Institute, simultaneously brought a suit against the police chief of Pasar Minggu Police Station, seeking Rp. 1 billion in damages for his client. (*Jakarta Post*, October 31; November 8, 16; December 9, 15, 1989; January 3, 1990; *Tempo*, November 4, 1989; *Kompas*, November 10, 16; December 6, 12, 1989; January 15, 1990; *Suara Pembaruan*, November 16, 1989).

October 1989:

Mudin, 25, died from beatings suffered after he was handcuffed, apparently by *hansips* (civilian police assistants) on October 15, 1989 in North Jakarta. He had allegedly entered the surgery room of one Dr. Bakar in Pluit, Jakarta, and threatened to rob him. According to the police, his threats drew the attention of patients waiting outside, and they beat him until he was black and blue. He was rushed to the Police Hospital where he died several hours later. Police could not explain how he came to be handcuffed, if he was beaten by the public. (*Pelita*, October 16, 1989).

November 1989:

Adi Jawa, from Medan, North Sumatra, was arrested by detectives from the Greater Medan police and charged with robbing a Chinese rattan merchant with

having stolen Rp. 25 million (almost \$15,000) from a safe. The merchant, a man named A. Yong, was with the police at the time Adi was taken from his house at night to a nearby cacao plantation. When Adi said he had taken no money, the merchant, together with the police, ordered him to confess and when he did not, began beating him on the face. He was then handcuffed and tortured for about two hours with treatment that ranged from being kicked and punched to being burned with lighted cigarettes. It turned out later that Adi in fact had no connection with the gang which had carried out the robbery. (*Tempo*, December 2, 1989).

November 1989:

Nemin, 35, was serving a two-year sentence at Bulak Kapal Prison in Bekasi, Jakarta for having maltreated his mother-in-law. In November, he was sent to Bekasi General Hospital. Prison officials said he was suffering from a stomach disorder; Nemin managed to tell a hospital official, however, that he had been assaulted by fellow prisoners and beaten about the head. The official cause of death was concussion. (*Merdeka*, November 28, 1989).