

Impunity

The Look of Silence, a loud entry in the 2016 Oscar contest

By Betty Chandra, 17 – 01 - 2016, <http://www.mediacom.keio.ac.jp/wp/w...>

The Academy of Motion Picture Arts and Sciences has just announced the nominees for the 2016 Academy Awards and, as many expect, Joshua Oppenheimer's *The Look of Silence* is among the five films nominated in the Best Documentary Feature category. This is the second film by the Copenhagen-based American director to be nominated for Oscar; the first being *The Act of Killing* in 2014.

Both *The Look* and *The Act* revisit the anti-communist genocide in Indonesia that took place between 1965 and 1966, when between half a million to one million actual and perceived members of the Communist Party were slaughtered. The genocide was a turning point in Indonesia's history, ending the administration of the leftist-leaning populist President Soekarno, the nation's founding father and first president, and ushering in the Western-backed General Soeharto, who would hold the office of president for the next 31 years. In terms of Cold War geopolitics, the demise of the three million strong Communist Party of Indonesia, then the third largest in the world after the communist parties in China and the Soviet Union, was a major triumph for the Western Bloc.

The Look of Silence is a companion piece to *The Act of Killing*, but relates the genocide from an opposite angle. While *The Act* recounts the genocide from the point of view of the perpetrators, *The Look* trails a man whose brother had been accused of being a Communist and subsequently slaughtered back in 1966. *The Act* was widely acclaimed and won awards in a number of film festivals, but failed to snatch the biggest prize of all – the Oscar. Winning an Oscar would have

accorded it visibility beyond the film and the intellectual circles. For reasons that were entirely political, I had hoped *The Act* had won. The Soeharto government had practically whitewashed history and imposed silence on the Communists genocide. Recognition by Hollywood might go a long way toward breaking the silence even further in Indonesia.

Freedom of religion

Gafatar members returned home

The Jakarta Globe, 24-01-2016

Indonesia's Social Affairs Ministry on Friday transported some 1,300 former members of religious minority group Fajar Nusantara Movement, or Gafatar, from West Kalimantan to their homes in Java and Lampung on Friday. "They were brought home by six airplanes and one vessel," Social Affairs Minister Khofifah Indar Parawansa said on Saturday, as quoted by Tempo.co.

The former members, 663 of whom are children, will be temporarily housed at the Safe House and Trauma Center (RPTC) in Cipayung, East Jakarta, where capital officials will collect and record their personal data.

Should they have no money or no homes and family members to turn to, they will be sent to North Kalimantan and East Kalimantan as part of the government's transmigration program.

Gafatar is believed to be an offshoot of another group named Al-Qiyadah al-Islamiyah. Its leader, self-proclaimed prophet Ahmad Moshaddeq, was sentenced in 2008 to four years' imprisonment for blasphemy.

Suspicious that Moshaddeq may have formed a new group arose after a female doctor and her 6-month-old baby went missing from Yogyakarta on Dec. 30, only to be found almost two weeks later in West Kalimantan. Since the discovery, other missing person reports have been attributed to the group.

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Earlier this week, a mob ransacked and razed a village in Mempawah district, West Kalimantan, where more than 700 suspected Gafatar members lived. No casualties were reported as authorities were able to evacuate the villagers.

Kompas (24-01-2016) reports that the chair of Komnas HAM, Nurkholis, has stated that returning the Gafatar followers home is no solution for the problem, nor is the effort to transmigrate them to North and East Kalimantan.

Rights of homosexuals

LGBT not welcome at university: Minister

The Jakarta Post, 25-01-2016

Members of the lesbian, gay, bisexual and transgender (LGBT) community should be barred from university campuses, a minister has argued. "There are standards of values and morals to uphold. A university is a moral safeguard," Technology, Research and Higher Education Minister Muhammad Nasir said on Sunday as quoted by Antara news agency.

According to Nasir, the LGBT community corrupts the morals of the nation, while a university should be able to uphold moral values and the values of the ancestors of Indonesia.

He was commenting on an organization at the University of Indonesia (UI) named the Support Group and Resource Center on Sexuality Studies (SGRC), which offers counseling for LGBT students.

Nasir said he had contacted the rector of UI to clarify the situation and was informed that the SGRC group had no official permit to exist as an entity under the banner of UI.

Recently, pamphlets distributed by LGBT groups around the campus sparked outrage from some students, who accused the university of letting the seeds of LGBT grow unchecked.

The situation also invited criticism from the government, with legislator and Prosperous Justice Party (PKS) politician Nasir Djamil stating that the LGBT community was a serious threat to the nation.

"The LGBT community should not be allowed to grow or be given room to conduct its activities. Even more serious is those LGBT members who go into universities with scientific studies, or hold discussion groups," he said.

See for readers' comments: <http://www.thejakartapost.com/news/2016/01/25/lgbt-not-welcome-university-minister.html>, and for the activists' response: <http://www.thejakartapost.com/news/2016/01/25/minister-back-foot-over-anti-gay-remarks.html>

Papua

German Human Rights Commissioner visits Papua

International Coalition for Papua, January 2016

<http://humanrightspapua.org/news/157-german-human-rights-commissioner-christoph-strasser-visits-west-papua>

After two unsuccessful attempts to visit West Papua in 2008 and 2012, a human rights commissioner of the German Government received the Indonesian government's authorization to enter West Papua in September 2015. During his two day visit, Christoph Strässer met with government representatives and civil society actors.

It was the first time the Indonesian government allowed a human rights commissioner to enter West Papua, after previous visits of two UN special rapporteurs eight years ago had resulted in the submission of two serious reports about the human rights situation in West Papua to the UN Human Rights Council in Geneva. Christoph Strässer therefore stated that he regards the opportunity to visit West Papua as an important step by the Indonesian Government towards an opening of the region.

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Strässer began his visit to Papua with a meeting at the Papua Governor's office. In addition to the meetings with government officials, the German human rights commissioner also took time to discuss the human rights situation in West Papua with a representative of the Papuan regional office of the Indonesian National Human Rights Commission and civil society leaders, such as the main actor of the Papuan Peace Network (JDP), Rev. Neles Tebay, and the chairman of the Papuan association of independent journalists (AJI), Victor Mambor.

The meetings with civil society actors revealed the widespread frustration amongst indigenous Papuans about the central government's failure to consequently implement the special autonomy law. Other main points of criticism were the impacts of the presence of international companies, the violent response of security forces to peaceful protest, as well as the widespread impunity enjoyed by security force perpetrators in West Papua.

Strässer's main conclusion of the visit to West Papua was that the government had already passed the special autonomy law as a legal framework, which should be used by civil society to claim its rights, e.g. the implementation of a human rights court and truth and reconciliation commissions in West Papua. He also acknowledged the constant struggle of indigenous Papuans for a life in dignity on their island.

Indonesian Military Members Shoot Palm Oil Laborer in Keerom Regency

International Coalition for Papua, 14 January 2016

Antara News and several local newspapers have reported the killing of Marvel Doga, a 22 year old Papuan palm oil laborer, by a member of the Indonesian military unit Yonif 411/Raider. The incident occurred on 20 December 2015, around 22.00 East Indonesia Time, at the area of the Indonesian Palm Oil Company PT. Tandan Sawita Papua in Arso.

According to local news sources, Marvel Doga and other protesters went to one of the offices of the palm oil company and wanted to protest against missing payments of holiday allowances for upcoming Christmas. During the protest, demonstrators began to vandalize the office, so employees reported the incident to the nearby military post. Thereupon, a group of approximately ten military members approached the location.

Brigadier General Herman Asaribab of the Indonesian XVII Cenderawasih military unit stated in an interview with Antara News that his men opened fire because the protesters tried to attack his men. One of the shots hit Marvel Doga's thigh. Marvel died on the way to Kwaingga hospital of blood loss. The dead body was transferred to the Bhayangkara Police Hospital for further examination. Furthermore, Asaribab said that the identity of the perpetrator is unclear yet and still needs to be investigated.

Terror and counterterror

Possible spread of radical teachings from inside Nusakambangan

The Jakarta Post, 18-01-2016

Although a number of terrorists are currently serving sentences in prisons on Nusakambangan Island in Cilacap regency, Central Java, it is still possible for them to spread radical Islamic teachings to others due to freedom they have during visiting hours scheduled by the Nusakambangan prison island authority from Monday through Friday. Followers of the terrorist convicts incarcerated on Nusakambangan, such as Aman Abdurrahman and Abu Bakar Ba'asyir, reportedly have routinely received visitors as it is not prohibited by Nusakambangan officials. All convicts regardless of their crimes have an equal right to routine visits from family members, relatives and friends. "Yes, it's correct. Aman Abdurrahman is currently in Nusakambangan. He is in good shape and health.

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Like other convicts, he is allowed to receive visitors even though he is a terrorist,” Central Java Justice and Human Rights Agency spokesman Molyanto told thejakartapost.com on Monday.

The National Police suspect a strong connection between a terrorists attack near the Sarinah shopping center on Jl.MH Thamrin, Central Jakarta, on Thursday, and a terrorist group led by Bahrin Naim, who was known as one of Aman Abdurrahman’s followers.

Aman is currently incarcerated at Kembang Kuning prison on Nusakambangan with several other terrorist convicts. Meanwhile, Abu Bakar Ba’asyir and dozens of other terrorist convicts are incarcerated in Batu prison, Nusakambangan. In total, around 50 terrorist convicts are serving sentences in several prisons on Nusakambangan. Molyanto said he had coordinated with the Central Java Police and the Cilacap Police to tighten security measures in Kembang Kuning prison where Aman Abdurrahman was currently being held. “We have been informed that there is a connection between the Sarinah terrorist attack perpetrators and Aman Abdurrahman, therefore, we are stepping up security measures there, involving Indonesian Military and National Police personnel,” said Molyanto.

Security authorities have apparently long been aware of the possibility of terrorist convicts on Nusakambangan spreading radicalism. Abu Bakar Ba’asyir and Aman Abdurrahman declared their support for the Islamic State movement while in their cells. Indonesian Military data reveals that Abu Bakar Ba’asyir, who is serving a nine-year prison sentence for terrorism, is visited by around 900 people every year. Abu Bakar Ba’asyir’s followers wait for him to give a sermon in every visit.

At the end of 2014, the police discovered activities suspected of spreading IS teachings from inside Nusakambangan. A number of people, including Chep Hermawan, who claimed to be the IS Indonesia president, reportedly visited Abu Bakar Ba’asyir on Nusakambangan. The Cilacap Police detained several visitors

who were found with IS flags and attributes during their visits, but they were later released.

One year ago, the National Counterterrorism Agency (BNPT) invited a prominent Jordanian cleric, Syeikh Ali Hasan Al-Halabi, to meet with dozens of terrorist convicts in Nusakambangan, including Aman Abdurrahman. During the meeting, Aman reportedly stressed that he would hold onto his radical beliefs and refused to repent and ask God for forgiveness. It was reported that Aman was one of the terror convicts who openly and emphatically rejected Halabi’s preach

Death penalty

Open letter to Minister Luhut Panjaitan on the death penalty

18 January 2016

To Mr. Luhut Panjaitan, Coordinating Minister for Politics, Law and Security Affairs

Dear Minister,

Indonesia’s authorities must end executions and abolish the death penalty

We are writing to you on the issue of the application of the death penalty in Indonesia. It has been a year since your administration resumed executions in Indonesia on 18 January 2015, after a four year hiatus, despite strong protests from human rights organizations and the international community.

Our organizations are concerned despite your public announcement in November 2015 that Indonesia government would suspend any executions in near future¹ the Attorney General has recently announced² that further executions will be carried out in 2016. As

¹ BBC, “Indonesia announces temporary halt to executions”, 19 November 2015, available at <http://www.bbc.co.uk/news/world-asia-34867235>.

² Jakarta Post, “More drug convicts to be executed next year”, 23 December 2015, available at <http://www.thejakartapost.com/news/2015/12/23/more-drug-convicts-be-executed-next-year.html#sthash.roUDe3yX.dpuf>.

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there continues to be serious concerns about violations of fair trial and other human rights in the use of the death penalty in Indonesia we ask for your immediate intervention to address these issues. In particular, we urge you to ensure all death sentences are reviewed by an independent and impartial body, with a view to their commutation.

Research findings by the National Commission on Human Rights (Komisi Nasional Hak Asasi Manusia, Komnas HAM)³ and additional independent research carried out by Amnesty International,⁴ ICJR (Institute for Criminal Justice Reform)⁵, and other human rights organizations, point to systemic flaws in the administration of justice in Indonesia and violation of fair trial and other international safeguards that must be strictly observed in all death penalty cases⁶:

- Defendants in the cases under analysis did not have access to legal counsel from the time of arrest and at different stages of their trial and appeals; they were subjected to ill-treatment while in police custody to make them “confess” to their alleged crimes or sign police investigation reports.
- Prisoners were brought before a judge for the first time when their trials began, months after their arrest.
- In several cases involving foreign nationals, particularly those convicted of drug-related offences, the authorities failed to correctly identify or verify the identity of the prisoner and notify relevant country representations of the arrest. The authorities also failed to provide translation and interpretation to those prisoners who could not understand Bahasa, whether they were foreigners or Indonesian nationals.

³ Komnas HAM issued two reports in 2010 and 2011. The 2011 report was based on a research mission conducted between September and December 2011 into 17 prisons in 13 provinces (North Sumatra, West Sumatra, Riau, Jambi, South Sumatra, Banten, Jakarta, West Java, Central Java, East Java, West Kalimantan, Bali and East Nusa Tenggara), during which 56 death row prisoners were interviewed. The 2010 report was based on a monitoring mission to 10 prisons in five provinces and on interviews with 41 death row inmates between September and October 2010.

⁴ Amnesty International, “Flawed Justice-Unfair trials and death penalty in Indonesia” (ASA 21/2434/2015), October 2015, available at <https://www.amnesty.org/en/documents/asa21/2434/2015/en/>.

⁵ Institute for Criminal Justice Reform (ICJR), Overview on Death Penalty in Indonesia, 2015, available at: <http://icjr.or.id/data/wp-content/uploads/2015/06/Overview-on-Death-Penalty-in-Indonesia.pdf>.

⁶ Among other standards, the UN Safeguards guaranteeing protection of the rights of those facing the death penalty, Approved by Economic and Social Council resolution 1984/50 of 25 May 1984.

- The death penalty continued to be used extensively for drug-related offences, even though these offences do not meet the threshold of the “most serious crimes”, the only category of crimes for which the death penalty can be imposed under the International Covenant on Civil and Political Rights, to which Indonesia is a state party, pending its abolition.

In addition, despite the clear prohibition under international law concerning the use of the death penalty against persons who were below 18 years of age or have a mental or intellectual disability, credible claims put forward by prisoners in relation to their age and mental illness were not adequately investigated by the authorities and have resulted in the unlawful imposition of the death penalty and, in at least one case, execution. While Indonesian law requires that all births be registered, in practice many people do not undergo this process, making the determination of one’s age particularly challenging. This, coupled with a lack of legal assistance, increases the risk that persons who were below 18 when the crime was committed are exposed to the death penalty. Additionally, defendants and prisoners are not regularly and independently assessed, which can result in mental disabilities remaining undiagnosed and prisoners not being afforded the care and treatment they might need.

Research findings also show that in some cases prisoners did not receive legal assistance when appealing against their conviction or sentence, or did not even submit an appeal application because they were not informed by their lawyers of their right to do so. Furthermore, the execution of some death row prisoners went ahead even though the Indonesian courts had accepted to hear their appeals. The announcement by President Joko Widodo in December 2014 and February 2015 that he would not grant clemency to any individuals convicted of and sentenced to death for drug-related crimes and information relating to some clemency rejections cast doubts on the meaningful exercise of the President’s constitutional power to grant clemency and the country’s compliance with the ICCPR.

As of today, 140 countries are abolitionist in law or practice. Three more countries – Fiji, Madagascar and Suriname- became abolitionist for all crimes in 2015 alone and the Parliament of Mongolia adopted a new Criminal Code at the end of last year, removing the death penalty as possible form of punishment under the laws of the country. The resumption of executions in Indonesia have not only set the country against its

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international obligations, but also against the global trend towards abolition of the ultimate cruel, inhuman and degrading punishment.

Our organizations reiterate our calls on the government of Indonesia to establish a moratorium on executions as a first step towards abolition of the death penalty. Pending full abolition, we urge you to immediately establish an independent and impartial body, or mandate an existing one, to review all cases where people have been sentenced to death, with a view to commuting the death sentences or, in cases where the procedures were seriously flawed, offer a retrial that fully complies with international fair trial standards and which does not resort to the death penalty.

This letter is co-signed by the following organizations:

Amnesty International

Elsam (Institute for Policy Research and Advocacy)

HRWG (Human Rights Working Group)

ICJR (Institute for Criminal Justice Reform)

Imparsial (the Indonesian Human Rights Monitor)

KontraS (the Commission for the Disappeared and Victims of Violence)

LBH Masyarakat (Community Legal Aid Institute)

Migrant Care

PKNI (Indonesian Drug User Network)

YLBHI (Indonesia Legal Aid Foundation)

Death penalty still needed: Attorney General

The Jakarta Post, 21-01-2016

Indonesia's attorney general insists that death penalties must be maintained in the country's judicial system as a shock therapy against serious crime.

"I'm confident that the death penalty is a kind of therapy. It is an unpleasant action, but we must do it," said Attorney General HM Prasetyo in a working meeting with the House Commission III overseeing law and human rights, on Wednesday evening.

The statement came in response to a question raised by a Commission III member from the Democratic Party, Ruhut Sitompul, who asked about the spirit behind the death penalty in Indonesia.

In November 2015, the government suspended executions of death row convicts amid an economic slowdown. At that time, the government wanted to focus on improving the economy, which was expanding at a slow pace of 4.73 percent in the third quarter of 2015.

"The death penalty has no connection with the economy," Prasetyo said, adding that the reactions of foreign countries about the issue are excessive.

Foreign countries and human rights groups have slammed Indonesia for implementing capital punishment against convicts, as stipulated in the Criminal Code (KUHP). President Joko "Jokowi" Widodo had two groups of convicts, totaling 14 people, executed in January and April 2015.

Two of the convicts were Australian drug smugglers Andrew Chan and Myuran Sukumaran, who were executed in April 2015, causing bilateral tension and leading to Australia recalling its ambassador from Indonesia.

"We need a similar policy to fight drug crimes," Prasetyo said, adding that Commission III should issue a statement to put to death some convicts who already on death row. - See comments at: <http://www.thejakartapost.com/news/2016/01/21/death-penalty-still-needed-attorney-general.html#sthash.Uw5KOkah.dpuf>