

IN BRIEF: POLITICAL

One of the “red and whites” who suffered an effective demotion is Maj. Gen. Sriyanto, the Siliwangi military commander in charge of West Java and Banten regencies. He was shifted to the governor post at the Military Academy Magelang, in central Java.

Maj. Gen. Zamroni from the green camp has been promoted from Udayana Military commander responsible for Bali, West and East Nusa Tenggara to take over as Cendrawasih military commander and will oversee Papua and West Irian Jaya.

Other moves include shifting Maj. Gen. Rasyid Qurnuen Aquary, chief of the First Division of the Strategic Reserves Command (Kostrad), to head of the elite Kopassus. Rasyid’s job will be taken over by Brig. Gen. Noer Muis, chief of the staff of the Diponegoro military command overseeing Central Java and Yogyakarta.

Matters of life or death

The final fate of two groups of men convicted separately of religiously-inspired acts of mass violence has filled the Indonesian press in recent weeks. The three men accused of planting the Bali bomb in 2002 were due to be executed on August 22, while a second group of three Catholics convicted of inciting violence between Christian and Muslim groups in Poso, Sulawesi, in 2000 were originally slated to face the firing squad on August 12.

Both sets of executions have since been delayed, however. The Poso Three were less than one hour away from their execution when they were granted a reprieve until after the August 17 Independence Day celebrations. The reasons for the delay in this case remain unclear but many observers consider it to be the result of both domestic and international pressure, including a plea from the Vatican, particularly in view of the ongoing questions over the true extent of culpability of the three.

Meanwhile, the execution of the Bali bombers has been postponed as their lawyers file an application for judicial review, which is expected to argue that the anti-terror laws under which they were convicted were applied retroactively, thereby rendering the convictions legally unsafe. The prosecution originally used the anti-terror laws, as they allow the death penalty to be imposed and lower certain evidentiary restrictions.

As well as the sectarian politics that lie behind these decisions, an additional way to understand the delays can be found in the historical and cultural ambivalence within Indonesia to the use of the death penalty *per se*. Although capital punishment has been provided for in Indonesian law since independence, it has traditionally been used sparingly by Indonesia’s judges, with only around 80 executions taking place on Indonesian soil since 1945.

Such a figure is dwarfed by international comparisons with the four top users of the death penalty: China, Iran, Saudi Arabia and the USA, comprising 94 percent of all known executions. According to Amnesty International figures,

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in 2005 alone China accounted for anywhere from 1,770 to 8,000 executions, while Iran executed at least 94 people, Saudi Arabia at least 86, and the USA 60 people.

Historically the vast majority of death penalties in Indonesia have been imposed on those convicted of murder with intent or drug trafficking, although the death penalty is also provided for crimes such as treason, theft resulting in death, and producing category one narcotics. However, in recent years the types of crime punishable by death have been expanded to include terrorism and corruption in times of economic crisis.

That expansion has been accompanied by a higher rate of the death penalty's implementation. Official data shows that the five executions that took place in the 19 months from August 2004 to March 2006 is a higher figure than the four executions which took place in the previous nine years, from 1995 to 2004. Indeed there was a period of six years, from 1995 to 2001, where no executions took place at all.

This sudden increase has those campaigning against capital punishment in Indonesia very concerned. In addition to the usual protests that there is no evidence the death penalty actually reduces crime and it breaches the fundamental human right to life, the Indonesian context of a corrupt and politicised judiciary adds an extra urgency. With a legal system that is widely believed to generate scapegoats, especially in high-profile cases where suspicions of involvement from the top political or military echelons are rife, the finality of a death sentence is considered by some to be bordering on reckless.

While politicians consider support for the death penalty to be a vote-winner—all the main candidates in the 2004 presidential campaign voiced their support for it—there are indications that a middle way can be found to bridge the gap between those in favour and those against it.

According to an August 22 announcement by Muladi, the head of a team of experts employed by the government to provide input into the reform of the criminal code and the chief of the National Resilience Institute which trains top civil servants, there may be a third way. His suggestion is that the death sentence remains on the statutes, but its implementation must await 5 years to 10 years to give time for appeals and if during that time those awaiting execution are good prisoners who express remorse for their crimes, their death sentence may be downgraded to life imprisonment based on a further judicial decision.

If, however, the domestic and international political climate of our times sees capital punishment playing a bigger role in the Indonesian legal system than it has ever done before, then it is crucial that full confidence can be placed in judicial decisions without the suspicion that those convicted are at the bottom of a long chain of command or only tangentially involved in mass atrocities. It may be that the recent delays in the executions of both the Bali bombers and the Poso Three indicates that such a time has yet to come in Indonesia. □