

Indonesian court sentences four more young Australians to death

Rick Kelly**15 September 2006**

Indonesia's Supreme Court has sentenced four more members of the "Bali Nine" to death on charges of attempting to smuggle eight kilograms of heroin into Australia in April last year. The court rejected the young Australians' appeal for reduced prison sentences and instead imposed the death penalty, even though Indonesian prosecutors had only sought life sentences in the original trials. Matthew Norman, 19, Scott Rush, 20, Tan Duc Thanh Nguyen, 23, and Si Yi Chen, 21, now face death by firing squad.

The Supreme Court also confirmed the death sentences previously imposed on Andrew Chan, 22, and Myuran Sukumaran, 25. Drug "mules" Michael Czujaj, 21, and Martin Stephens, 30, were sentenced to life imprisonment, while Renae Lawrence, 28, declined to join the appeal, avoiding any increase in her existing 20-year jail sentence.

The decision to execute the six men is a travesty in all its aspects—legal, moral, and political. The convicted are mostly working class youth who now face the firing squad for a foolish and desperate act. Indonesia practices a particularly barbaric form of the death penalty. Executions are typically carried out in an isolated jungle or on a beach, where about a dozen elite paramilitary personnel shoot the prisoner in the chest as he is hooded, handcuffed, and chained to a pole. Death usually arrives in three to five minutes.

News of the Supreme Court's decision, which appeared to have been delivered last month, only emerged on September 6 after the *Age* newspaper discovered the verdicts by searching court records. Neither the condemned prisoners nor their families received formal notification from the Indonesian authorities. While families were shocked by the decision, the Howard government's response was one of typical callousness and cynicism. As in the case of Singapore's execution of young Australian drug trafficker Van Nguyen last December, the government's overriding concern with the "Bali Nine" has been to ensure that Australian corporate and strategic interests in Asia remain undisturbed.

Senior ministers quickly moved to head off popular outrage. "I think the main thing is to be calm about it and to be understanding," Foreign Minister Alexander Downer declared. "These people were caught red handed, the facts are not in dispute and that's not what the appeals have been about. So I'd

have to say we need to recognise and understand all of that, and simply make the point that we would hope that their death sentences would be changed to custodial sentences. We'll have to wait and see."

Downer stressed that Australia's relationship with the Indonesian government would remain unaffected by the case and emphasised the two countries' joint approach to the "war on drugs". "We actually urged the Indonesians to be tough on drug trafficking," he stated. "The last thing we want is heroin brought into Australia from Indonesia. Don't make any mistake about that. We are grateful to the Indonesians for being tough on drugs; it's just that we don't support capital punishment."

The government's declared opposition to capital punishment is entirely hypocritical. Howard, together with the Labor Party, has backed the execution of former Iraqi Prime Minister Saddam Hussein and the Indonesian perpetrators of the 2002 Bali bombing. Asian governments now see no reason to take seriously the government's formal objections to the execution of Australian citizens.

This is particularly the case with the Bali Nine, given that the Australian Federal Police (AFP) set up the condemned men. After an extensive surveillance operation, the AFP handed the Indonesian authorities a detailed file on the smuggling operation, and encouraged their Indonesian counterparts to arrest the suspects. Before Scott Rush departed from Sydney for Bali, his father warned the AFP that he suspected Scott may have become involved in a criminal operation. An AFP officer promised to contact Rush and prevent him from leaving Australia. This never happened, however, and the information was added to the dossier which was handed over to the Indonesians. For several months after the arrests, Australian police continued their collaboration with the Indonesian authorities and helped them build a case against the nine suspects.

The government has continued to defend the AFP and has refused to review guidelines for international police cooperation in cases that may involve the death penalty. "They acted appropriately," Minister for Customs and Justice Chris Ellison said on September 10, referring to the AFP. "We can't continue the war on drugs, the war on terrorism, the war on transnational crime without close cooperation with other law

enforcement, and we can't cherry-pick that relationship at all. So, it's business as usual."

The Bali Nine are nothing but pawns in the fraught Australia-Indonesia diplomatic relationship. Their fate has been manipulated by both Canberra and Jakarta for their own cynical ends. Australian authorities handed over the nine youth in order to curry favour with the administration of President Yudhoyono. One of the Howard government's regional priorities has been to repair the alliance between Australia and Indonesia, which was strained when Canberra moved to secure its domination of East Timor's oil and gas resources in 1999, when the territory broke away from Jakarta. The relationship is viewed as critical for the prosecution of the Australian ruling elite's broader interests in the Pacific region.

The Indonesian government has in turn used the case to promote its "war on drugs", which serves to divert attention from the country's mounting social crisis. There have also been suggestions that the latest court decision was bound up with Yudhoyono's desire to retaliate against the Howard government's failure to push through changes to Australian refugee law which would have immediately deported asylum seekers arriving by boat and denied them all legal rights. These legal changes were proposed to assuage Indonesian fears of Australian interference in West Papua after 42 refugees from the resource-rich province, including prominent separatists, were granted temporary refugee protection visas in March.

Both the Indonesian and Australian governments have demonised the Bali Nine as major drug traffickers and claimed their arrest was a significant victory in the "war on drugs". What the case really demonstrates, however, is the entirely fraudulent nature of this "war". In Australia and internationally, those who are caught and prosecuted on drugs charges are almost always young and desperate people, often drug addicts themselves, who are enticed by criminal syndicates to act as couriers and dealers for relatively small amounts of money. Meanwhile, the "big fish" of the drug world—who typically have close ties to senior political, military, or police figures—go unmolested.

In the case of the Bali Nine there are numerous unresolved questions. The Indonesian police, who mounted an intensive surveillance campaign in Bali of the nine suspects, claim that they failed to monitor the group's purchase of the eight kilograms of heroin. The money used to buy the drugs—believed to be about \$8 million—has never been found. The alleged go-between in the deal, Cherry Likit Banakorn, later left for Thailand, where she was briefly detained at Indonesia's request, but then released, supposedly because Indonesia could not produce the proper extradition paperwork. On April 27, ten days after the Bali Nine were arrested, Man Singh Gale, an international heroin "kingpin" who is believed to have supplied the heroin to the group through Banakorn, was shot dead by Indonesian police while in custody.

None of these questions has ever been addressed by the

Howard government or the Labor Party. Opposition leader Kim Beazley has backed the government and the AFP throughout the case. "The opposition supports the government in its efforts to secure clemency here," Beazley declared on September 10. "We don't want to make a political issue of this. This is a situation [in] which quite obviously some people's lives hang in the balance... We in the opposition are not in the business of making things hard for them [i.e., the government] on this. We are in the business of supporting them."

Contrary to the opposition leader's claim, the government has refused to campaign for clemency. Howard has seized on the fact that the condemned men can still lodge appeals against the Supreme Court's decision as an alibi for his refusal to lobby the Indonesian government. "For me to approach President Yudhoyono now could be construed by some people in the Indonesian legal system as an acknowledgement of total guilt and total culpability, and that's one of the reasons why I don't do it," Howard claimed. The prime minister did not attempt to square this position with the numerous declarations of Downer last week that the Bali Nine were "clearly guilty" and had been caught "red handed".

While death sentences imposed in Indonesia can be postponed for years as appeals are heard, Lex Lasry, lawyer for Andrew Chan and Myuran Sukumaran, has warned that the executions could take place much sooner. He appealed for government help. "The critical thing from our point of view is to ensure that the Australian government is supporting these now six [men] at every inch of the way and we'd also be anxious for the government to have a very strong and uniform policy on capital punishment," he said.

The Howard government will neither support the condemned members of the Bali Nine nor reconsider its duplicitous position on the death penalty. Lasry, having represented Van Nguyen in Singapore before his execution last year, has witnessed first hand what Canberra's real priorities are. As in Nguyen's case, the government will do nothing for the Bali Nine that could in any way threaten the financial or strategic interests of Australia's ruling elite.



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