

Protesting against the splitting up of West Papua, Jakarta, 2004 - see page 5 (DTE)



DTE

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Down to Earth International Campaign for Ecological Justice in Indonesia

This issue of DTE has a special focus on West Papua.

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Tanggung - ignoring the reality

In February 2004, DTE took a detailed look at BP's controversial gas project in Bintuni Bay, West Papua. One year on, we ask how far concerns over human rights, security and local people's rights have been addressed.

The Tangguh gas extraction and liquid natural gas (LNG) installation in the Bird's Head region of West Papua got the final go-ahead from BP on March 7th. As a result, the area will experience massive social, environmental and economic changes. Despite company commitments to transparency, community development and human rights, the concerns over the impact of these changes are mounting.

Community statement

Concerns over *adat* (customary) land rights have been voiced by the indigenous Papuan communities who hold rights to the land being used for the Tangguh development. An August 2004 statement by the Soway, Wayuri and Simuna indigenous communities called for a halt to project activities until problems have been addressed. The statement reminds Indonesia's oil and gas regulatory body (BPMigas) that 50 hectares of land taken for the Tangguh project remains the property of the Soway clan. The statement signatories say there is nothing on paper to say that there was a "voluntary" handover of land belonging to all three communities in 1999. They also state that the land acquisition process was not legally valid "because it did not reflect whatsoever the value we place on land as a source of livelihoods which has been handed down to us through the generations".

The statement continues:

"...So far, the presence of the Tangguh project has only caused conflict between communities, and the social disadvantages have outweighed any advantages. We ask

"BP claims to have human rights policies but they are constantly violating the rights of the local indigenous people."

(Bustar Maitar, Perdu, regional representative for JATAM, Indonesia's mining advocacy network, in Tapol press release, 8 December 2004).

that all activities on our customary lands be stopped as from the date of this statement until the problems have been fully addressed..." (see translation of full statement, page 6).

Civil society letter

On December 8th 2004, three hundred NGOs and individuals - including many Papuans - felt sufficiently worried about the impacts of the project that they wrote to BP's chief executive, Lord Browne, urging him not to give final approval for construction until concerns over human rights, transparency and Tangguh's wider political context had been addressed. The letter, which was also signed by Down to Earth, shows that fears over the project becoming a focus of human rights violations against local people, have not been allayed.

Wider context

Leading Papuan human rights advocate, John Rumbiak, has repeated calls for Tangguh to be considered in the wider political context. "BP

knows recent political developments have made West Papua a time bomb. But George Mitchell of TIAP [Tangguh Independent Advisory Panel - see page 3] and BP itself are ignoring the reality of the wider political context and not using their influence positively with the Jakarta government to improve the situation." (Tapol Press release 8 December 2004)

The wider context for Tangguh includes a serious human rights crisis in the central highlands, political confusion over West Papua's status as one, two, three or even five provinces (see p5); violent suppression of any peaceful opposition to Indonesian rule and a growth in anti-independence militias supported by the military. International funding for humanitarian programmes and Special

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Autonomy are reported to have been used for military operations, while there are plans to bring thousands more troops to the area over the next few years (see also p5). International attention has been drawn to an exposé of widespread official involvement in the rampant illegal logging and log smuggling trade in Papua (see p12).

The military special forces' (Kopassus) campaign of killing, wounding and destroying homes and crops in the highland Puncak Jaya area, which began last year, led to over 6,000 villagers taking refuge in the forests. Reports of many deaths from starvation and sickness have been filtering out of the region, where church humanitarian workers and journalists have been denied access. In March, UK-based human rights organisation Tapol received a handwritten list of fifty three people, aged from 15 to 89 years, who had died in the forest (see *Tapol Bulletin* 178:18 for a fuller account of the situation).

A December appeal by a Coalition of West Papuan church, human rights and students organisations and tribal councils reported how attacks on police officers had been orchestrated by Kopassus operatives who had infiltrated the OPM, Papua's pro-independence organisation.

"Increasing militarization, coupled with human rights abuses and unmet demands for independence, have turned Indonesia's easternmost province into a time bomb waiting to go off", warned the coalition.

The groups asked for international support to urge President Susilo Bambang Yudhoyono to halt the operation, allow proper investigation into the recent spate of killings, allow emergency relief to be provided to the refugees and their return to their villages without fear of reprisal. The appeal also called for Indonesia's human rights commission to be permitted to investigate the military's excesses and for concrete

policies, including a withdrawal of the massive troop presence in Papua and dismantling the militias (*Appeal*, 21/Dec/04, via email).

Security and human rights at Tangguh

One of the major concerns with the Tangguh project is whether its community-based security strategy, which uses locally recruited security guards, can effect a clean break with the way things usually work in Indonesia and West Papua. NGOs and others have repeatedly focused on the project's relationship with the security forces and in particular the military (TNI). In other resource extraction projects, such as the notorious Freeport/Rio Tinto copper and gold mine, also in West Papua, and ExxonMobil's gas installations in Aceh, the operating company typically makes payments and/or provides equipment, buildings, transport etc to security guards drawn from the military or police. Previously, the military insisted that it had a legal obligation to guard projects classed as "vital national assets" but, under recent reforms, this is no longer the case.

Such security arrangements have provided lucrative business opportunities for a military that relies on extra-budgetary financial revenues to cover an estimated 70% of its needs. The TNI is widely known to provoke unrest and violence in order to justify its presence in conflict zones such as Aceh and West Papua and create the need for tight security at foreign-owned projects. Evidence of this in the case of Freeport has emerged from investigations by the human rights group ELSHAM. These indicate that military involvement in the killing of three Freeport employees in 2002, may well be linked to the fact that the company had stopped making monthly payments (amounting to US\$5.6 million that year) into

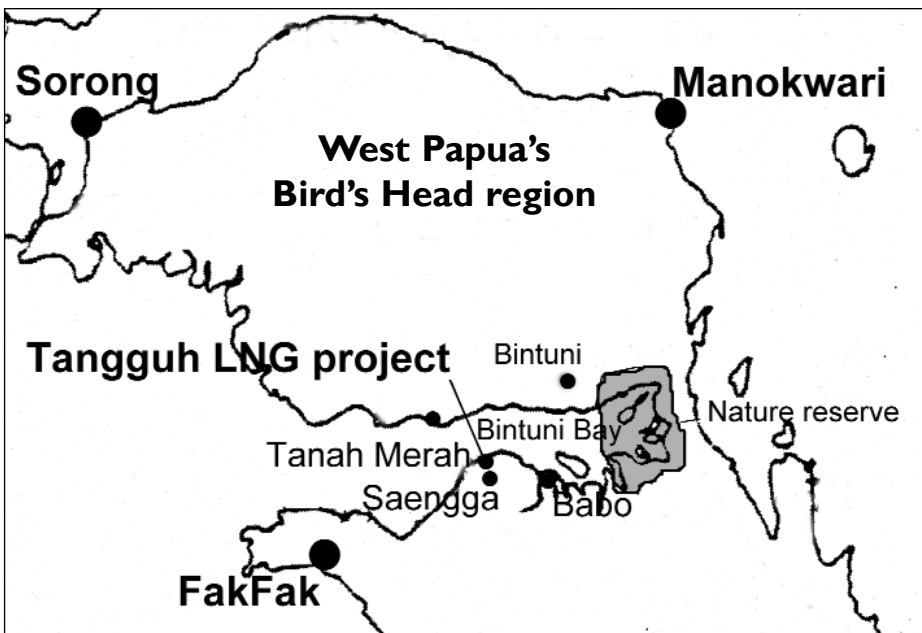
the personal account of the regional military commander, Maj. Gen. Mahidin Simbolon, before the attack. (<http://www.greenleft.org.au/>).

The conflicts also guarantee a strong military presence in resource-rich areas like West Papua and Aceh, where military-owned business empires can be nurtured - to the disadvantage of the local economy. (See for example TNI involvement in logging in West Papua, p12 and DTE 55:1).

The entrenched position of the military leaves very little room for new approaches like BP's community-based security strategy, which largely excludes the military from security arrangements and allows for TNI assistance only as a "last resort" at the coordinated request of BP security and the Papua police (see TIAP report 2005, p24). This point was put to BP earlier this year by Uwe Hummel, of the German West Papua Network, who said that the TNI had "no other way to go" than to create such an insecure situation that BP is obliged to call for its assistance at Tangguh.

The BP-appointed Tangguh Independent Advisory Panel (TIAP - see box next page) presents an optimistic view of the security situation. It notes that the military reform law passed at the end of former president Megawati's administration requires that the TNI divest itself of all its business activities within 5 years and excludes the guarding of vital national assets from TNI core functions. While casting doubt on whether this will happen in the allotted time, TIAP welcomes this as a positive development*.

TIAP panel chairman, US Senator George Mitchell, stated that BP's security strategy was now "official" and that it had been accepted both by the TNI and the police. However, the military have proven to be far more circumspect than the police in signing up to any formal agreement.



Police Agreement already broken?

In April last year, the police agreed to a Letter of Joint Decree concerning Field Guidelines for the Implementation of the Joint Security Measures within the Work Area of the Tangguh LNG Project. The Field Guidelines were eventually made public, following civil society pressure. They commit both BP

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* A BBC News Report (12/Apr/05) refers to an announcement which appears to bring forward the 5-year deadline. Military chief Gen Endriartono Sutarto said the military would be closing down all its business ventures within 2 years i.e. 2007.

However, earlier, TIAP panelist Rev. H Saud said the TNI would still be allowed to retain their interest in "small" companies.

security and the Papua police to upholding human rights principles and to solving problems without resorting to violence or intimidation. The Field Guidelines incorporate the standards of the Voluntary Principles on Security and Human Rights and the 1990 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*.

The Field Guidelines are supposed to exclude the police from guarding the project, unless they are called in at the request of BP security, when a "dangerous situation" arises. However, a 2005 report by the regional representative of Indonesia's mining advocacy network, JATAM, says that there are already two policemen at the Tangguh base camp - a fact which apparently already contravenes the agreement. This report also highlights plans to place police and *Babinsa* (non-commissioned village military officer) in Saengga village itself. A police post has already been completed, but is not yet operational. The plan is being initiated by BP, on the grounds that there is an increase in drunkenness in the village which is disrupting BP's activities. The plan is opposed by almost all villagers, who believe they can resolve village problems by themselves and don't need to invite outsiders to get involved in village affairs (police from the nearby town of Babo have already been called in several times). Alcohol was available in the village before the project started. However, its use has increased since, as more money has come into circulation. It is brought in from an oil palm transmigration site and on ships delivering goods to the Tangguh base camp. According to the report, the higher levels of drinking are triggered by dissatisfaction with the company's unfulfilled promises.

East Timor connection

Papua's police chief is now Brig. Gen. Dodi Sumantyan, who replaced Col. Timbul Silaen in October 2004. NGOs have criticised BP's negotiations with Silaen, who was in charge of police operations in East Timor in the run-up to the August 1999 referendum, when military-backed militias were permitted to terrorise the East Timorese. Campaigners believe that by signing the security agreement with Silaen, BP has already broken the

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* These instruments can be viewed at <http://www.state.gov/g/drl/rls/2931.htm> and (http://www.unhcr.ch/html/menu3/b/h_comp43.htm).

For the Field Guidelines agreement itself, see http://www.bp.com/liveassets/bp_internet/globalbp/STAGING/global_assets/downloads/T/Tangguh_Field_Guidelines_BP_Papaun_Police.pdf for English version and http://www.bp.com/liveassets/bp_internet/globalbp/STAGING/global_assets/downloads/T/Tangguh_Field_Guidelines_BP_Papaun_Police_Bahasa.pdf for Bahasa Indonesia version.

TIAP accused of playing down rights abuses, former BP vice-president joins the critics

The BP-appointed Tangguh watchdog, TIAP (the Tangguh Independent Advisory Panel) has been criticised for paying scant attention to ongoing human rights violations by the Indonesian security forces.

At a March 2005 London meeting with investment fund managers, NGOs and other concerned individuals, the team was also criticised for ignoring West Papua's biggest unresolved political problem: the fact that Papuans were denied the right to self-determination under the fraudulent 'Act of Free Choice' in 1969.

The TIAP team - US Senator George Mitchell, Rev. Herman Saud from West Papua, Sabam Siagan, a former Indonesian Ambassador and Lord Hannay, from Britain - presented the findings from their third visit to Tangguh, in December 2004. BP has given the team the task of investigating and reporting on the non-commercial aspects of Tangguh.

The TIAP report points to what it considers to be positive developments in military reform, while mentioning operations in the Central Highlands that have led to "allegations of excessive violence against civilians". It refers to the statement by president Susilo Bambang Yudhoyono, reported in the press, instructing the TNI that "the operation should be conducted wisely and carefully, and that the people should not suffer from excesses" (TIAP p11).

At the London meeting, Richard Samuelson, of the Free West Papua Campaign, criticised the failure of BP and TIAP to acknowledge the scale of atrocities suffered by Papuans in the Central Highlands. He unfurled a Papuan morning star flag to demonstrate political oppression in the territory. In December last year, two Papuans - now Amnesty International prisoners of conscience - were arrested for raising the flag in the Papuan capital, Jayapura. Filep Karma and Yusak Package were also beaten up and are now on trial for treason. Samuelson said that BP and TIAP were not being open and honest about the true context of the Tangguh project.

Former vice-president of BP Indonesia, John O'Reilly agreed with the Free West Papua campaigner, adding that BP would be guilty of 'the complicity of silence' if it stood by and did nothing about the wider human rights abuses.

O'Reilly, who left the company in 2003, was a signatory to the letter calling for a halt to the Tangguh project until concerns over security and human rights had been dealt with (see page 7). The letter was copied to TIAP prior to its visit, but the panel's report makes no reference to the

concerns raised. The letter contradicts TIAP's overall view that, despite "uncertainties, questions and tensions" among some of the affected people, "there is a substantial consensus that Tangguh will benefit the local communities and is good for Papua generally" (TIAP p2).

BP staff at the meeting appeared to be shaken that one of their former colleagues was speaking out so strongly against them. On top of that, TIAP member Reverend Saud - the team's only Papuan - responded by stating that the US, UK and Dutch governments do not respect the Papuans, but were only interested in Papua's gold, timber and oil. However, he added that he hoped for positive changes under the new president.

The TIAP report itself, while indeed failing to consider the wider political context in Papua, is critical of some aspects of the Tangguh project itself. The team displays some impatience with BP for failing to address problems pointed out in the first and/or second reports. These include: the need to address rising tension in villages on the north shore of Bintuni Bay, who are seeing most of the benefits being given to the south shore communities; the lack of communication about the project to people in the region; and the delay in revenues flowing into the region, until some years after project start-up and the possible negative impact of a sudden influx of cash thereafter. TIAP states again that finding a way to smooth the revenue flow is a priority. See Tangguh Update, page 8, for more on these points.

The 2005 report by JATAM's regional representative finds that TIAP fails to address the fundamental problems affecting the communities in the project area. These include land, the deaths of infants in a north shore village in 1996 (see DTE 50:2001) and environmental threats. It is also critical of TIAP's own lack of communication: its reports are never given to local communities. TIAP is considered the same as other BP teams who come and ask questions then go away again and the community doesn't know what happens as a result.

(Source: notes by Hugh Dowson, Independent Researcher, and Richard Samuelson, Free West Papua Campaign. The TIAP reports, and BP's responses to them, are on the BP website at: <http://www.bp.com/genericarticle.do?categoryId=201067&contentId=2019320>; JATAM report: *Brief Report Proyek Tangguh dan Isu Hak Asasi Manusia Teluk Bintuni, West Papua*, Bustar Maitar, 2005).

Voluntary Principles, even before the project has got off the ground. This is because the Voluntary Principles state that "individuals credibly implicated in human rights abuses should not provide security services for the Corporation." And there is no question that Timbul Silaen is such a person: he has been indicted on crimes against humanity charges by a UN-backed tribunal in East Timor.

His replacement served as Aceh's police chief in 2000 in a period of escalating violence, despite the so-called 'humanitarian pause' agreed between the Indonesian government and the Free Aceh Movement

A 2004 human rights and security review co-authored by Gare Smith (the US expert who carried out an initial human rights impact assessment of Tangguh in 2002) points to the fact that the Field Guidelines are the first case of the Indonesian government committing itself to abiding by the Voluntary Principles. It notes, however, that BP faces a number of "significant legal and reputational risks related to security and human rights issues". These include the fact that the police's agreement to implement the Voluntary Principles will be of limited value unless police personnel receive effective education and capacity-building to implement the principles. The report recommends that BP should work with the police and other potentially interested parties, such as the International Committee of the Red Cross (ICRC) and Indonesia's national human rights commission, Komnas-HAM, to ensure that such training is carried out. (*Summary Analysis of Human Rights and Security Review*, by Tony Ling, Security Consultant to BP/BTC, Gare Smith, Foley Hoag; see also DTE 57:5 on the

2002 Human Rights Impact Assessment).

TIAP points out that the establishment of West Irian Jaya province (see p5) has implications for Tangguh security, because there is likely to be a new regional police command in Manokwari which will take over from the Papua regional command in matters related to the BP project. The team says that BP must take the necessary steps to guarantee that any new police command adopts the Field Guidelines agreed with the Papua police. BP's response states that discussions of a new police command remain speculative and that, as informed by the police, the agreement is binding on the new command.

Who will pay?

The Guidelines provide for all costs, payments and provision of supplies to be open and transparent with either side permitted to disclose the information publicly. According to the TIAP report, if BP requests security assistance from the Papua police, costs may be recovered from Indonesia's state oil and gas regulatory body, BPMigas. "In no circumstances will BP provide or pay for any weapon, weaponry, ammunition or any funding that supports the procurement of these items". In other words, the police will still benefit from being called in to deal with a security disturbance; they just won't be paid directly by BP.

TNI support?

As for the military's commitment to the community-based security policy, TIAP reported a discussion with Papua's regional

commander [Major General Nurdin Zainal] as follows:

"While pointing out that Tangguh is a vital national Project [there was some doubt over the project's status previously], he described principles of integrated community based security as the new mechanism for security at projects like

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Environmental impact in the global context:

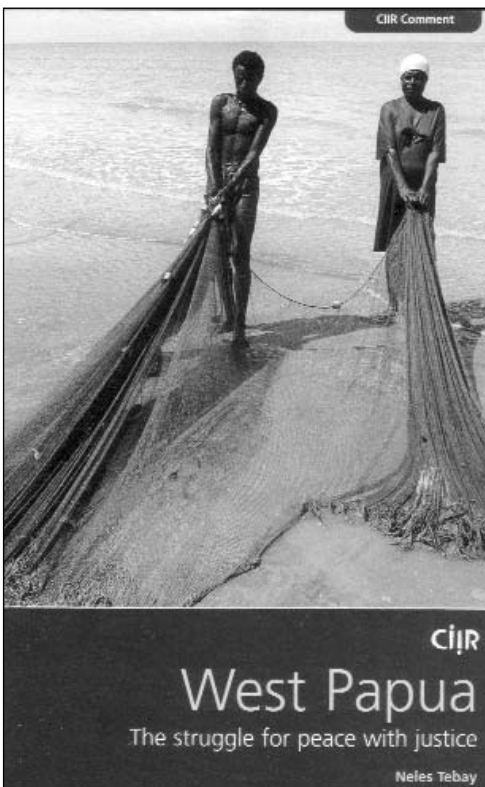
Against a background of global warming, rising sea-levels and unpredictable weather patterns, BP's continued exploitation of fossil fuels - including Tangguh's gas - is anything but environmentally and socially responsible corporate behaviour.

The company admitted an increase in its own production of greenhouse gases in 2004 to more than 85 million tonnes, up from 83.4m tonnes in 2003. This output is roughly twice that of Argentina. Use of BP's petroleum products by customers generated an additional 1.376 billion tonnes of greenhouse gases - around 5% of global greenhouse emissions. "BP also says it has increased its oil and gas extraction for the 12th consecutive year, how on earth is that compatible with its commitment to climate change?" said Friends of the Earth campaigner, Hannah Griffiths.

Health and safety, record profits

BP's international health and safety record leaves a lot to be desired too: the 11 deaths of employees and contractors in accidents included in a BP report for 2004 were more than doubled by the 15 workers killed in an explosion at the company's Texas City refinery in the US. A company report also showed a 50% rise in the amount of oil that BP spilled to 5.7m litres (Guardian 12/Apr/05).

Protesters occupied trees outside BP's London headquarters in April, in protest at the company's environmental and social record. The same day, the company announced its highest ever profits - \$5.5 billion for the first 3 months of 2005. The protest, by members of London Rising Tide, was against BP's impact on climate change, the company's reported connections with death squads in Colombia, its efforts to gain access to Iraqi oil reserves, and the 'environmental timebomb' of its Baku-Tbilisi-Ceyhan Caspian Sea pipeline (LRT press release, received April 26, 2005).



This new publication from CIIR (Catholic Institute for International Relations) by Papuan writer, Neles Tebay, gives an overview of West Papua's history, including the fraudulent 'Act of Free Choice' of 1969. It analyses Indonesian and international policies towards West Papua and outlines the main threats faced by Papuans today. It also gives an overview of peace-building initiatives and ends with a reminder to the international community of their responsibilities towards Papuans.

"It is morally unacceptable if the Netherlands, the US and other powerful states continue to sacrifice the very survival of the Papuans for the sake of their own political and economic interests."

Available from CIIR, £GBP2.00 contact ciir@ciir.org

CIIR is part of the Papua, Land of Peace initiative of the Faith-based Network on West Papua.

Tangguh. He made it clear that there would be no TNI forces stationed at or in proximity to Tangguh and that TNI involvement would occur only as a last resort if BP internal security and the Papua police requested assistance. In his view, there are no security problems in the Bintuni Bay area at this time but he expressed concern about possible future provocations to indigenous people

How much information? What has and hasn't BP disclosed?

BP prides itself on its transparency, but exactly how much information does the company really share with the public - in West Papua, Indonesia and internationally?

TIAP reports: BP posts these on its websites, in Indonesian and English versions - see <http://www.bp.com/genericarticle.do?categoryId=2011067&contentId=2019320>. However, key documents appended to the 2002 TIAP report are not available on the site. These include charts predicting revenue flows, showing that the lion's share of income from Tangguh will flow to Indonesia, not Papua.

Contracts: BP has not made public its production-sharing contracts for the three gas blocks, despite repeated requests from stakeholders. The company says it has not yet done so due to "business confidential provisions" and needs to explore with the Indonesian government what can be published. Contracts for BP projects in other countries have been made available.

Human Rights Impact Assessment (HRIA), 2002 and subsequent human rights and security reviews: only summaries of these have been made available, despite requests from NGOs for full publication.

BP's responses to TIAP and HRIA: these are published in full, but, since these sometimes allude to points in the unpublished original reports, questions remain as to their value.

AMDAL (Environmental Impact Assessments): these have been made available upon request to BP, but are not currently downloadable from the BP website.

Agreement with police: this was made available after NGOs pressed for its publication. Links to versions in English and Indonesia are posted on the Tangguh page of BP's website, www.bp.com

from in-migration during the period of construction or production." (TIAP, p25).

Undermining this assurance from the TNI regional commander is the fact that the military have been active in the area - for example in April last year, when TNI personnel killed four Papuans in Meryadi village, just 20km from Tangguh (see NGO letter, page 7). Moreover, a new district military command is likely to be set up soon in the town of Bintuni, following the establishment of the Bintuni Bay area as a new district (*kabupaten*) in 2003. There are currently ten district military commands (*Kodim*) in West Papua, the nearest to Tangguh being in the towns of Manokwari, FakFak, Nabire and Sorong.

Troop numbers in West Papua overall are due to increase substantially over the next few years. Plans announced in March include establishing a third division of the army's Strategic Reserve Command (KOSTRAD) in Sorong (see map). The new KOSTRAD division will mean an increase of 12,000-15,000 troops in the 2005-2009 period. According to one estimate, this means an almost 50% increase in current troop numbers in Papua to 50,000 men. The Indonesian NGO, Solidarity for Papua, has publicly protested against the planned increase in troop numbers, saying that this will work against civil society's 'Zone of Peace' initiative for Papua (*SNUP Press Statement, 29/Mar/05, WestPapuanews.com 22/Mar/05*).

The commander's concern about in-migration could also be read as a threat, given that the military are known to be supporting provocation in the form of militia groups, which recruit non-Papuan Muslims and inflame religious and ethnic tensions. Just six years ago, in East Timor, similar, military-funded militias were involved in the butchering of hundreds of East Timorese civilians following the referendum which led to the territory's independence from Indonesia.

* * * * *

Given the past record of the Indonesian military and police in Papua, it is not surprising that many Papuans and NGOs remain deeply sceptical about a community-based security strategy at Tangguh. How can the military be trusted to act with restraint in one part of

on BP's contract with the Indonesian government....

"BP derives its authority to act from an occupying power in the midst of an attempted genocide. How credible then, are its claims that its hands are clean?"

(George Monbiot, In bed with the killers, *Guardian* 3/May/05)

BP ranks low in transparency report

A 2005 report on revenue transparency places BP's Indonesia operations in a poor position. The report, by Save the Children UK, provides information on the performance of a range of companies in several countries, including Indonesia. BP, which has gas operations in Java as well as West Papua, ranks 11th out of 15 companies researched, falling below fellow oil companies Unocal, ExxonMobil and Premier.

The best performance in Indonesia is by Canadian company Talisman which, according to the report, "is clear evidence that disclosure of revenue payments is possible in Indonesia." This undermines BP's arguments that the publication of revenue sharing in its contracts is limited by business confidentiality provisions.

(Beyond the Rhetoric, Measuring revenue transparency: company performance in the oil and gas industries, Save the Children, 2005, is downloadable from <http://www.publishwhatyoupay.org/>)

Papua, when the same commander is presiding over the slaughter of civilians in another? TIAP (and BP) may well find that it is testing this strategy at the expense of people's lives.

Special autonomy and 'West Irian Jaya'

The uncertainty over the official status of Papua as one, two or three provinces, has been further muddled by the Indonesia's Constitutional Court. In October last year the court ruled that former president Megawati's Presidential Instruction, dividing Papua into three provinces was unconstitutional because it violated the decision-making mechanism included in Papua's Special Autonomy law. However, the court decided that, since the province of West Irian Jaya had already set up its administration and elected representatives to the national parliament, it should remain in existence. In 2003 the inauguration of a 'Central Irian Jaya' province had to be abandoned due to violent clashes which left several people dead.

The new situation, which is still contested by many Papuans, has several implications for Tangguh, since the project lies in the newly-created West Irian Jaya province. In 2003, before Susilo Bambang Yudhoyono gained the presidency, he assured the TIAP panel that Special Autonomy would be fully implemented in Papua. It remains to be seen whether he will keep his word. If Special

Indigenous communities speak out on Tangguh

Statement by the people of Soway, Wayuri & Simuna as the landowners of the site where the Tangguh natural gas project is being developed.

To the Indonesian Oil & Gas Management Body - BPMigas

We have reviewed the process and documents relating to the loss of traditional rights of the Simuna, Soway, Wayuri people in connection with the Tangguh natural gas project under development by Pertamina and BP, facilitated by the Manokwari local government in 1999. We, the Soway, Wasuri and Simuna, have carried out consultations within each clan and between the three clans and with our ancestors. As a result, we have reached agreement and issue the following statement.

We hope that all relevant parties will give this letter serious consideration and thank you for your attention.

Saengga, 30th August 2004

Signed,

Alfons, Amandus, Simon & David Simuna
Marcelino, Hengky, Andarias & Cosmas Soway
Yance, Yohannes, Yusur & Gerson Wayuri
Plus Hengky Soway, community head of Saengga II

Sent to Indonesian President, minister of mines & energy, provincial governors, district and local government officials, head of Pertamina, BP in London & Jakarta, Papuan, Indonesian & international NGOs and the press.

STATEMENT BY THE SIMUNA, SOWAY AND WAYURI CLANS

In view of developments related to the Tangguh natural gas project of the Indonesian Oil & Gas Management Body (BPMigas) which is managed by BP Indonesia on the customary lands of the Soway, Simuna and Wayuri people. We - the three clans who have ancestral rights over the land to be used for the Tangguh gas processing plant - state that:

1. The 50 hectares of land in Old Tanah Merah village which, according to the minutes of the 1999 meeting, was handed over voluntarily by the community remains the property of the Soway clan because there has been nothing on paper to date that states that the people of Soway handed over the land to Pertamina in 1999 for the development of the Tangguh gas project.
2. We are of the opinion that the process whereby the Soway, Wayuri and Simuna relinquished land to Pertamina in 1999 was not legally valid because it did not reflect whatsoever the value we place on land as a source of livelihoods which has been handed down to us through the generations. Also, when our land was transferred in 1999, we were not given completely clear information about the status of that land or its location. We were never given a chance to study the minutes taken by Pertamina before signing the document. For these reasons, we request a review of the status of this land.
3. The various activities carried out in our village(s) by BP Indonesia, such as the community development project, the plans to develop a new settlement and the proposed community fund plus various

other things, are part of BP Indonesia's social commitment as set out in the Environment Impact Assessment document. They are absolutely nothing to do with the issue of the status of the land that we are demanding.

4. We refuse to negotiate or discuss issues about our customary lands with BP Indonesia, as this company is only the contractor for the Tangguh natural gas project.

5. We will only discuss the status of our customary land that is to be used for the Tangguh project buildings with the Indonesian Oil & Gas Board (BP Migas) as project owners.

6. We note that, so far, the presence of the Tangguh project has only caused conflict between communities and that the social disadvantages have outweighed any advantages.

7. We ask that all project activities on our customary lands be stopped with effect from the date of this statement until the problems in this statement have been fully addressed.

8. No-one is allowed to negotiate with anyone at all on behalf of our three tribes without a mandate from us.

This is our statement that we hope will be acted on immediately. We will not give our approval under customary law for any activities carried out by the Tangguh project until the issues above have been settled. We will not take responsibility for anything that may happen if the Tangguh natural gas project is pushed ahead before this is done.

Signed Saengga, 30th Aug 2004 as above.

(Translated by DTE)♦

(continued from page 5)

Autonomy is fully implemented, the questions remain: will it be applied to West Irian Jaya as well as to Papua and will West Irian Jaya have its own Papuan People's Assembly (MRP)? The MRP is one of the key provisions for Papua under Special Autonomy. It is due to be elected late in 2005 and will be made up of one third *adat* (customary) leaders, one third religious figures and one third women. It will have limited powers, including the responsibility to consider and approve any proposed further division of West Papua*. The TIAP report notes a "clear intention" at presidential level to apply Special Autonomy "fully but separately" to West Irian Jaya, adding that new legislation will be needed and that any need for parliamentary approval will

create further uncertainty about the outcome (TIAP p10).

Another key concern is how the revenues from Tangguh will be shared out under a divided Papua. If West Irian Jaya, as a province, is now entitled to all the provincial revenue flows - and this is 70% under Special Autonomy - this will mean a massive influx of cash into a much smaller area than if the revenues were going to benefit the whole of Papua. TIAP warns that this could lead to tensions between different parts of West Papua - see also Tangguh Update, p8.

*See Watch! Indonesia 4/Mar/05 *Ungracious Reception of SBY's Kado Natal for Papua* for a detailed analysis of the MRP in the current situation - watchindonesia@snafu.de♦

Free West Papua Campaign launched in UK

A new West Papua freedom campaign was launched in Oxford in March, by Papuan tribal leader and political exile Benny Wenda, with support from local MPs Andrew Smith and Evan Harris, local MEP Caroline Lucas and the Bishop of Oxford, Richard Harries.

Email: media@freewestpapua.org

Homepage: <http://www.freewestpapua.org>♦

International concern: a letter to BP

The following letter, slightly abridged here, was addressed to Lord John Browne, CEO of BP, and is dated December 8th 2004.

As individuals and organisations in West Papua and internationally who are closely following the Tangguh LNG Project in West Papua, we are writing to express our mounting concerns and to call for your immediate intervention...

...Our concerns are centred on:

- inadequate progress on key human rights commitments
- a worrying lack of transparency
- a failure to acknowledge the disturbing realities of the wider West Papuan context

We believe that the company should not proceed to full project sanction until significant movement is forthcoming to address these issues. The credibility of the Tangguh Independent Advisory Panel (TIAP) as an effective instrument for 'assurance' is also at stake.

Tangguh Human Rights Issues

While we welcome BP's renewed commitment to its mandatory human rights obligations and note positively some of the proposed initiatives contained in the letter [of November 12th]*, the fact remains that these legal commitments were published two years ago as part of the Project's statutory social and environmental requirements. We emphasise, and BP well knows, that these obligations are entirely within the company's control, and are not dependent on the outcome of the current discussions with the Indonesian security forces. That so little has been achieved in this period is profoundly disturbing. We urge you to make this a critical priority: in particular, we call on the TIAP to become actively involved in ensuring BP's rigorous and rapid compliance with its commitments.

Lack of Transparency

The Tangguh project has frequently declared its intention to set new standards for operations in highly sensitive environments. Transparency and openness with stakeholders are fundamental to this objective. Yet, sadly, the reality is falling far short of expectations.

In the letter of November 12th, BP promises to provide a 'summary' of the provisions of the MoU with the Papuan police. But this MoU was signed in April, over seven months ago, and the company would have done nothing on communicating its contents until challenged by stakeholders. And why will only a summary be issued and not the full text? What is being hidden? We note that the BTC project has just published the entire texts of its security agreements with the government of Georgia. The imperative of openness is even greater in locations as West Papua where the abuses of human rights for

over 40 years by the Indonesian military have been systematic and endemic. [Note: the full text of the agreement was subsequently published - see www.bp.com]

We are also disappointed that only a "short summary" will be produced. Of the forthcoming report by Gare Smith on Tangguh's human rights performance. The company seems determined to maintain a secrecy that so eroded its credibility in 2003 with its refusal to publish the original Tangguh Human Rights Impact Assessment by Messrs. Smith and Freeman.

This is hardly the way to build trust.

BP and West Papuan Political Context

The letter of November 12th contends that major destabilising events as the arbitrary division of West Papua are matters for "governments and civil society". The notion that West Papuan civil society played any part in the diktat is preposterous; and the company does itself no justice by such an extraordinary formulation.

No stakeholder is suggesting that BP should not obey the law, but we do contend that it has a responsibility to make its views known. Key components of the Tangguh Integrated Social Programmes, including the Diversified Growth Strategy, Revenue Management and indeed the security framework, have been predicated on a unified West Papua. The establishment of the so-called West Irian Jaya Province, whose status is further confused by the recent Constitutional Court ruling, has a direct impact in the Project. BP feels no compunction about raising questions of tax, environmental and regulatory policies with the Indonesian Government. Why therefore does it choose to be supine on issues whose negative consequences for West Papuans also significantly heighten the many operating risks for the company and its shareholders?

Specifically, the division of West Papua will mean that Tangguh Revenues will now flow largely to West Irian Jaya and not to Papua Province as a whole, thus exacerbating the potential for horizontal conflict and economic inequity. However, there is currently a state of complete confusion as to the relative distribution of revenue between the two provinces, as the 2001 Special Autonomy Law, which was supposed to cover such matters, was passed assuming there would only be one province, Papua, and Special Autonomy has in any case yet to be implemented.

There is also the alarming possibility that new TNI and other security structures could be established that will reinforce political intimidation and longstanding military corruption and violence, (such as occurred in April this year [2004] a mere 20km along the Bay from the project base when the TNI

attacked Meryadi Village, Vorwata District, killing four Papuan civilians -- as reported in the Stakeholders' Update in May, and is also taking place at this very moment in the Puncak Jaya region of the central highlands).

These are matters that affect BP directly and in so doing they also have fundamental human rights implications for those communities whom the Tangguh Project most affects. In these circumstances, we assert that BP must carefully re-examine its legitimate sphere of influence in West Papua. It has a moral and commercial obligation to do so.

Conclusion

We are neither supporters nor opponents of the Tangguh Project. The local communities in Bintuni Bay and broader civil society in West Papua should be the ultimate arbiters though we doubt that this is possible. In a continuing climate of oppression, notwithstanding the dedication and commitment of Tangguh's field team of young West Papuans and others. But they and other stakeholders are entitled that corporate human rights commitments made will be commitments honoured in full and in a timely manner. At present, this is not happening to anything like an acceptable extent in the areas we have identified. We ask that BP and the TIAP give the highest priority to rectification.

Yours sincerely,

Carmel Budiardjo, Tapol, the Indonesia Human Rights Campaign, [on behalf of 300 signatories from West Papua and internationally].

In response, BP gave the assurance that the letter had contributed to BP's thoughts and discussions "as we progress the project to sanction". On BP's role in the wider political context, Group Vice President Gary Dirks wrote "we do not engage in political activity, not should we", and had no mandate to carry out political roles.

This clearly ignores the fact that BP's decision to develop a huge, long-term project in a disputed territory is immensely political, since this will bring substantial economic benefit to the Indonesian government (as well as huge profits to its own shareholders) and implicitly supports that government's long and brutal history of repression in West Papua.

*This letter reconfirms BP's commitment to the Voluntary Principles, including provisions on monitoring and reporting allegations of human rights violations and urging appropriate investigations and actions to the government. It mentions a forthcoming visit by human rights and security expert Gare Smith, to "help ensure we have the processes and procedures in place to meet our human

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Tangguh project Update 2005

Status of the project: the 'final investment decision' to proceed with Tangguh came on March 7th, after many delays. The construction phase of the US\$5 billion project is now expected to start in late 2005. Tangguh will be operational in 2008, with two full gas production units or 'trains' (*Reuters* 7/Mar/05, TIAP 2004).

One of the delays was due to a need to extend the gas field contracts. The project plans to exploit three production-sharing contract (PSC) blocks fields in Bintuni Bay - Muturi, Weriagar and Berau (see map). These PSCs were due to expire between 2017 and 2023 whereas the sales contracts expire later, between 2026 and 2028. In January this year, *Reuters* reported that Jakarta had agreed to extend the gas field contracts so that Tangguh could fulfil its long-term sales contracts (*Reuters* 13/Jan/05), but a later report by the *Jakarta Post* said the extension still needed presidential approval (*JP* 27/Jan/05). This same report also referred to 'tough negotiations' over several clauses in the Principles of Agreement between the Indonesian government and BP, including a financial risk guarantee in case of policy changes which prevent the plant from fulfilling supply commitments. A further problem related to regional autonomy and the potential for increased powers of the district heads (*JP* 27/Jan/05).

The final decision from BP to go ahead with the project was first expected in October last year, then by the year-end, delayed again until January 2005, and finally issued in March 2005.

The Environmental Impact Assessment (AMDAL) for the project was

approved in 2002. In October 2004, a ministry of environment team made its first visit to the site to monitor achievement of commitments made. According to BP's quarterly *Tangguh LNG Project Stakeholder Update* (Q4, 2004), the resulting report found that "Tangguh was making significant progress in areas meeting AMDAL social mandates", a point contested by NGOs who say that human rights commitments are not being followed up.

BP's CEO Lord Browne visited Tangguh in November 2004, going on to meet President Yudhoyono and "other members of the national leadership" (Q4, 2004).

Preparatory activities ("Early Works Phase A Programme") were due to be completed in January 2005. These include the construction of a base camp for the LNG Plant contractor, KJP, at the plant site. Construction work already completed includes a 1,300 metre airstrip at the nearby town of Babo, enabling commercial flights to the area, and new piers also at Babo. KJP is the consortium of KBR (US), JGC Corporation (Japan) and PT Pertamina Engineering (Indonesian-Japanese joint venture) which won the bid for engineering, procurement and construction for the Tangguh LNG complex, worth around \$1.4 billion.

KBR, formerly Kellogg Brown and Root, is the engineering arm of Halliburton, headed by US vice-president Dick Cheney from 1995 to 2000. As noted by *Asia Times*, Cheney is a key player in the Bush administration's successful push to resume funding for the US military training programme (IMET) with Indonesia. Congress had blocked funding for IMET over the killing

of two Americans in 2002, in which Indonesian military involvement is widely suspected. (The Bush administration announced in February this year that Indonesia had satisfied conditions for resuming IMET, see *Tapol Bulletin* 178:14 and *Asia Times* 4/Dec/04 for more on this issue). Halliburton is also the company awarded major contracts in post-invasion Iraq - see [eg www.corpwatch.org](http://www.corpwatch.org) and <http://www.warprofiteers.com> for more details.

An Italian engineering firm, Saipem, controlled by oil company ENI, won the contract to build Tangguh's offshore installations (*Reuters* 7/Mar/05).

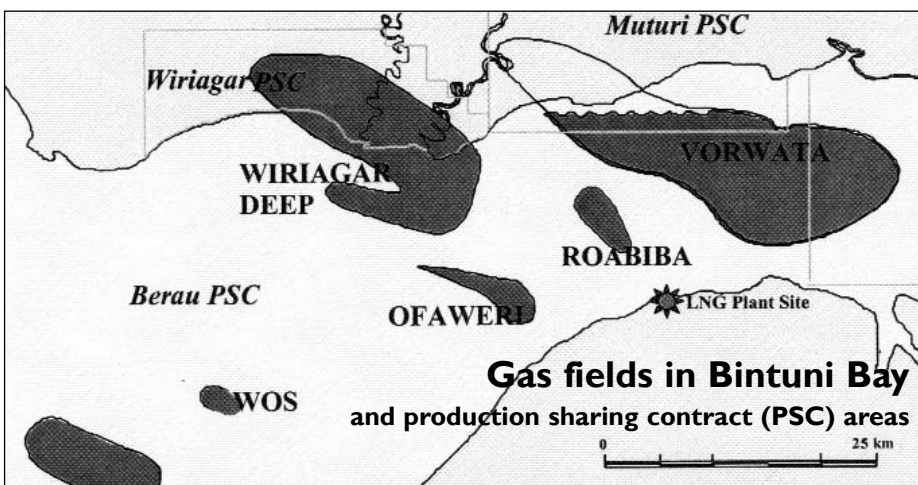
FPIC and adat rights: The principle of Free Prior and Informed Consent - whereby indigenous peoples have the right to make a decision to accept or reject a project on their land - was never applied at Tangguh. Instead, after the site location was identified, local communities were consulted on project benefits such as education, health and other development programmes.

While the company has offered replacement housing to the villagers who had to move to make way for the LNG site (Tanah Merah), this has been built on customary land belonging to other people and there remain tensions over long-term land ownership claims.

Part of the problem lies in the fact that the Indonesian government does not give adequate recognition to indigenous *adat* (customary) rights over lands and resources, so that the interests of big business are afforded a higher priority than local livelihoods.

The land for the LNG plant is classified by the Indonesian government as 'production forest'. According to BP, the land was relinquished to the government by communities in 1999, prior to BP's involvement in the project, and BP holds land use rights (HGU) which last 30-50 years. After that the land reverts to the government, which, according to BP, has promised to return it to the original *adat* owners (see *DTE* 57:7). Problems over land have been festering ever since the project began, because the original handover of land was involuntary and is disputed by the communities involved (see community statement page 6).

According to a 2005 report by the regional representative of mining advocacy network JATAM, BP reacted to the community's attempt to reclaim their land, by withholding payments to members of the Saengga village development committee. When the community demanded that BP resolve the conflict, the company replied that it is only a contractor to the government and does not have the capacity to take decisions related to these problems over land.



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rights commitments". The letter does not give any details of what these processes and procedures may be. (Letter from Emma Delaney to Tangguh Stakeholders, November 12, 2004). The NGO letter refers to this and

previous correspondence in which BP agrees that it must give practical effect to the legally-binding commitments to human rights protection in the 2002 Environmental and Social Impact Assessment. ♦

However, on another occasion, BP offered to give Rp1 billion (US\$100,000) in cash to the three land-owning clans, if this would be accepted as a final resolution to the matter. The communities refused the offer. (*Brief Report Proyek Tangguh dan Isu Hak Asasi Manusia Teluk Bintuni, West Papua, Bustar Maitar JATAM, regional representatives for West Papua, 2005*).

The Tangguh project has continued to ignore the customary rights of villagers on the north shore of Bintuni Bay who claim ownership of the gas. The LNG processing plant is to be built on the south shore of the bay, but parts of the gas fields lie under the northern shore (see map p8). TIAP notes that "villagers on the north shore are jealous of the development of Tanah Merah, Saengga and Onar, which exemplifies to them a dramatic imbalance in benefits from BP. This jealousy and the confusion among north shore villagers regarding the rationale for this imbalance is not unjustified." The TIAP report said that it saw little evidence of additional steps being taken by BP to diminish the tensions (TIAP, p130).

TIAP notes that the root of the tension lies in the north shore villagers' belief that, based on *adat* rights, they own the gas. "While this claim has no legal validity under Indonesian law, it must be considered by BP."

Resettlement: The Tangguh LNG plant construction involves the relocation of the village of Tanah Merah. Construction of a new village started in February 2003 and the move took place in mid-2004. Of 127 families in Tanah Merah, 101 chose to move to the new settlement near Saengga village (3 km away from the old site), while 26 families opted to move near to Onar village (12 km from the old village). The new sites were officially opened on July 17th 2004 (*Stakeholder Update Q3*).

TIAP judges the resettling of villagers from the site selected for the LNG

plant, when viewed in isolation, as a "resounding success". It reports that the living conditions of all Tanah Merah villagers have improved dramatically, with the building of new homes and facilities in Tanah Merah Baru and Onar. Renovations in Saengga village [the village which owns the land used for the new village] also represent major improvements, according to TIAP. The new homes include electricity, running water, cooking and toilet facilities, with every Tanah Merah family choosing the location of their new house.

TIAP raises the concern that the very success of the resettlement has exacerbated tensions elsewhere and is a "glaring illustration of unfairness to villagers in the north shore DAVs" [directly affected villages]. It also notes concerns expressed by a Jayapura NGO and some elected officials that the new homes are excessive and inappropriate.

It recommends that BP establish a separate fund for north shore communities and explore with local and provincial officials possibilities to support a housing assistance programme (TIAP, p22).

The 2004 human rights and security review summary warns that jealousy and resentment over housing and compensation, particularly among north shore villages, plus "frequent misunderstandings regarding hiring practices, benefits and other Project-related issues" could lead to serious security incidents.

TIAP also points out the danger that Tanah Merah villagers are becoming dependent on the benefits provided by BP for fuel for electricity generation and on food baskets, both of which are due to be phased out. "Villagers are concerned about the termination of these benefits". TIAP advises BP to abide by its scheduled phase-out to avoid over-dependency. It says BP should continue community programmes so that the new village can become self-sufficient. These include agricultural projects, access to fisheries, boat-building, training for post-harvest processing of marine produce, small business development and establishing a village management cooperative to take over the operation of village facilities and utilities (TIAP, p17).

In-migration and employment: TIAP mentions that the new homes and facilities in the resettlement villages are likely to attract in-migrants. It says that this has already begun in Onar village. Resettled villagers may be tempted to rent or sell their homes for cash. While migration and ownership must be left to the residents and their leaders, BP should carefully monitor developments "so as to be aware if any tensions arise." It points to a report by a separate Resettlement Panel which recommends an information campaign to discourage migration (p18).

BP responds by saying that it will be implementing an education and awareness campaign with the villages and local government officials this year to help alert community members to the potential impacts of inward migration.

The 2005 report by JATAM's regional representative mentions that the resettled villagers have themselves questioned how they will live once the food aid stops, since they don't have enough farm land to grow crops and they are not permitted to fish in the seas around the project. From discussions with villagers, it appeared likely that the new houses would not stay long in the hands of the families they were built for, but would be sold to outsiders. The report predicted that outsiders who were better equipped to take advantage of opportunities offered by the presence of the gas project would increasingly marginalise local people.

Around 150 people from outside the village (mostly from Sulawesi) had come to Saengga village to seek work with BP, when the report was researched. Many more have arrived since, as the construction phase nears, it says. These migrants secure work on the recommendation of the village head and village development committee and are therefore counted as local people by BP. These workers rent rooms in Saengga on an 'emergency' basis at around Rp500,000 per month. Migrant workers pay the village head from Rp50,000 to Rp1 million (US\$5-100) and give cigarettes to the development committee leader in return for the recommendations.

The report says that economic domination by outsiders is already happening around the project area and that BP's 'diversified growth strategy' has failed to prevent it. The company's efforts to encourage economic growth in Sorong, Manokwari and Fak-Fak thereby diverting migrant labour away from Tangguh, look unlikely to succeed.

TIAP reports that more than 500 Papuans have now been employed by BP and its contractors, ranging from members of the Community Affairs Field Teams (CAFT), the security force (named as Shields Security Guard Force) and support for the Babo base



Model resettlement house

(K.Wilson, 2002)

camp and the Project site. It advises BP to ensure that the company's commitment to providing employment to at least one member of every family from each of the directly affected villages is fulfilled by its contractors and subcontractors and that all Papuan employees are treated fairly (p19).

BP says that it is training 28 Papuans at the Bontang LNG facility in East Kalimantan, which will enable them to become field operators at the Tangguh LNG plant. Over 100 Papuans have been trained to join the project's Integrated Community Based Security force - a number that BP expects to double in the near future.

There will be an estimated 3,500-5,000 workers at Tangguh during the 3-year construction phase, reducing after that to a few hundred.

Community development: TIAP's 2004 report says that BP's community development fund for the nine directly affected villages - \$30,000 per year per village* - has provided tangible benefits in each village and has begun to provide social and economic development benefits for the Bintuni Bay area. Projects have so far included clean water reservoirs, health clinics, school furniture and books, a new jetty and renovation of religious facilities (p19).

Education, along with health and concerns about security, emerged as primary concerns of local people during BP's consultations with communities several years ago. Yet, as is evident from the latest TIAP report, there is much scope for concrete action. The report notes that there is "little visible benefit to education despite the fact that at every governmental level in Papua education was highlighted as a priority" (p20).

TIAP reports that in the new village of Tanah Merah, a new secondary school plus dormitory has been built but, at the time of the panel's visit, these remained empty and unused due to a lack of both teachers and students. TIAP put this down to a "failure to coordinate the construction and operation of the schools with officials in the Bintuni Regency" (p17). It suggests that BP consider funding scholarships for students in other directly affected villages as a means of spreading education benefits from Tangguh to all villages in the area (p18).

On the expenditure of community funds, TIAP emphasises the need for strict controls and transparent accounting, with both BP and villagers being entitled to full accounting.

* This programme lasts for 10 years (see BP response to TIAP 2005 report p5).

TIAP ignores women

Indonesia's mining advocacy network, JATAM, and others have pointed out that women will be hurt most by the transformation of their environment, since it is they who do the crab fishing - a main source of protein as well as providing an income - and depend most directly on the mangroves of Bintuni Bay.

Nowhere in the TIAP report or the recent human rights review summary are the different impacts of the project on men and women examined. There is no indication, for example, whether local employment will take gender balance into account, or to what extent prominent women are in decision-making bodies at village, district or provincial levels.

TIAP's own failure to address issues of gender justice is evident from its recommendation that BP should work with the authorities "to encourage governmental support for local fishermen in the form of more advanced fishing boats and equipment..." (p30).

Where does this leave the fisherwomen and their specific fishing activities?

Local livelihoods and environment: As in previous years, the 2005 TIAP report expressed concern over the potential disruption of local fishing activities in Bintuni Bay, once construction of the LNG plant begins. It quotes a report by researchers at the University of Papua at Manokwari (UNIPA) which finds that shrimp stocks may be declining as a result of overfishing by large non-Papuan trawlers (modern trawlers account for an estimated 95% of the shrimp catch), and erosion and sedimentation from forest concessions. TIAP recommends again that BP continue to work with the local authorities and the minister for fisheries to develop a fisheries management plan to prevent overfishing by large trawlers (p30).

TIAP states in its report that the environmental NGOs it met commended BP's work with USAID's Global Development Alliance and its support for the publication of an environmental atlas for the region. It notes, however, that the more direct environmental impacts resulting from the construction and production phases of the project will soon have to be dealt with. BP should monitor and control all effluent and other discharges both onshore and offshore, and share these with the appropriate authorities, says TIAP, to avoid the 'difficulties' being faced by the US

company, Newmont (see page 19), (TIAP p33).

The Bintuni Bay Nature Reserve, 80 km east of Tangguh, if successfully preserved with BP's support, will, according to TIAP, "provide a recognizable ecological accomplishment that will always be associated with the Tangguh Project."

TIAP advises BP to be prepared to communicate accurately in the event of any accident or other adverse incident (p34).

BP says it is working with the USAID-funded Coastal Resource Management Partnership (COREMAP) project, UNIPA, The Nature Conservancy, Bogor Agricultural University, forest ministry and government officials, plus "various conservation organisations and civil society groups" on a Bintuni Mangrove Management Plan to "develop this globally significant area while incorporating community needs" (p12).

Gas reserves: Tangguh holds 14.4 trillion cubic feet of proven and certified gas reserves, according to BP. Probable and possible reserves bring the total to 24-25 tcf.

Shareholdings and financing: Tangguh's shareholdings are as follows (as of May 2004): BP - 37.16%; MI Berau BV (held by Mitsubishi Corporation and INPEX Corporation) - 16.30%; CNOOC Ltd - 16.96%; Nippon Oil Exploration Berau - 12.23%; KG Companies (held by Japan National Oil Corporation, Kanematsu Corporation and Overseas Petroleum Corporation) - 10.0%; and LNG Japan Corporation (held by Nissho Iwai Corporation and Sumitomo Corporation) - 7.35% (<http://www.hydrocarbons-technology.com/projects/tangguh/>).

Recent estimates put the costs of the Tangguh project at US\$5 billion - 5.5 billion, of which BP and partners will cover \$2 billion - including funding for the early stages of construction. The other \$3 billion - 3.5 billion is expected to be in the form of loans. In October 2004, the *Jakarta Post* reported that the project partners were completing the loan agreement with foreign banks including the Japan Bank of International Cooperation (JBIC) (JP 30/Oct/04). Dutch Bank ABN AMRO might be hired to underwrite the loans from Japanese and Chinese banks, he said. A director of ABN AMRO in Asia confirmed the bank's interest (*Reuters* 26/Jan/05).

LNG sales: Tangguh is expected to produce between 7 million and 8 million tonnes of liquefied natural gas (LNG) per year in the first phase of production - enough to supply around 6% of current world demand. It now has 4 major sales agreements to supply a total of 7.6 million tonnes. The last of these was signed in October 2004 with US power company, Sempra Energy LNG Corp, for a 20-

year supply of LNG to markets in the US and Mexico. The agreement is for 3.7 million tonnes of gas per year from Tangguh for 15 years, beginning in 2007, to the planned Energia Costa Azul LNG re-gasification terminal in Baja California, Mexico. (Stakeholder Update Q4, Reuters 27/Jan/05).

The other companies are South Korea's K-Power Co; South Korea's steelmaker Posco and China's Fujian province. (Asia Times 4/Dec/04 and DTE 60).

Since some of the supply contracts start in 2005-2007, the Tangguh partners will have to source LNG shipments from other gas suppliers until Tangguh comes onstream.

Previously, a Philippines supply contract was under discussion. More recently, the possibility of sales to Chile has been mentioned by Indonesia's mining minister, Purnomo Yusgiantoro. According to this report, Jakarta has asked BP to build a third LNG production unit to boost meet growing demand for LNG (Asia Pulse/Antara 30/Nov/04).

Revenues for Papua: In its 2002 environmental impact study, BP predicted that revenue flows to Papua should increase after 2012 and, based on two gas production units (trains) under Special Autonomy, "could reach around \$100 US million per annum by 2016...potentially remaining at that level for many years". The delay in revenues flowing to Papua is due to Tangguh's financing arrangements which prioritise repayments to investors.

On income from Tangguh...

"...who is Papua? There is no legitimate government of the Papuan people through which it could be channelled. The "central, provincial and local governments" to which BP will be giving the money all answer to Jakarta..."

(George Monbiot, Guardian, 3/May/05)

The estimated share for the Indonesian government from production-sharing and tax revenues is US\$12 billion for the expected production from 18 tcf of gas reserves (ANDAL 5-175).

Indonesia will get the lion's share of these revenues. According to research for the Ethical Corporation in 2004, over the next 30 years, it is expected that the central government could earn more than US\$8.7 billion from Tangguh, while the Papuan government could receive US\$3.6 billion will go to Papua (draft report, 2004).

In its second report (2003), TIAP warned that the splitting up of Papua province could increase "political instability, inevitably affecting the Tangguh project." This year's report, drafted after the two-way split of Papua had been carried out, warns that since income from Freeport will, in the near future,

flow only to the remaining part of Papua province, West Irian Jaya may be left without many of the economic benefits of Special Autonomy until significant revenues from Tangguh start to flow into the province. This will not be for at least 10 years (ie 2015 - later than predicted in the AMDAL) (p13).

Once Tangguh revenues do start flowing in, however, West Irian Jaya will receive more funds than the total annual budget of pre-divided Papua. TIAP regards this revenue "spike" - a massive and sudden increase in funds - as something that must be avoided.

TIAP recommends (again) that a mechanism be found to bring forward the flow of revenues from Tangguh. The report mentions that the planning minister is particularly interested in this and that multinational lenders, such as the World Bank, could implement a revenue-smoothing mechanism. BP should play a 'catalytic', facilitating role, says TIAP, in explaining the financial impact of the imbalance to key government ministries and encouraging their focus on such a mechanism (p27). In 2003, the World Bank was reported to have expressed an interest in this idea - news which raised questions about its suitability to play such a role and the long term political impacts for West Papua (see DTE 57:7). ♦

Indonesian government attempt to block West Papua solidarity meeting

Representatives from Asian countries including Thailand, South Korea, Indonesia, East Timor, Burma, Sri Lanka and the Philippines joined others from the USA, Canada, Australia, New Zealand, the UK and Ireland for an international solidarity meeting on West Papua in April/May. One focus of the meeting, held in Manila in the Philippines, was violence perpetrated against women in West Papua.

Indonesian media reports stated that the Indonesian government had asked the Philippines government to stop the meeting, which, it claimed, went against the Treaty of Amity and Cooperation signed by members of ASEAN (Association of South East Asian Nations).

A statement issued by the meeting organisers congratulated the Philippines government for not bowing to Indonesian pressure. Mark Doris from West Papua Action, said "What does the Republic of Indonesia have to hide? If there is nothing to hide, we call on ..Indonesia to allow immediate and unfettered access to the international media and NGOs so that they can see for themselves the conditions under which West Papuans are living."

International journalists and NGOs are routinely refused access to West Papua.

(Source: West Papua Solidarity Meeting Clarification 3/May/05; Sinar Harapan 28/Apr/05)



Protest against the division of West Papua, Jakarta 2004 (DTE)

Targeting illegal logging in West Papua

An NGO report shows how West Papua's rich, extensive forests are being stripped to satisfy China's demand for timber. The Indonesia government, keen to demonstrate to the international community that it is taking illegal logging and timber smuggling seriously, responded by promising action against corrupt military, police and forestry personnel. At the same time, indigenous Papuans are concerned that the crackdown is harming their community forestry operations.

London-based Environmental Investigation Agency (EIA) and the Indonesian environmental group Telapak published a report in February saying that Papua has become the main illegal logging hotspot in Indonesia. As the forests of Sumatra, Sulawesi and Kalimantan are increasingly logged out, timber operations in West Papua are becoming more commercially attractive.

Entitled *The Last Frontier*, the report describes how some 300,000 cubic metres of merbau logs per month are smuggled from West Papua to wood processing factories in China. The NGO investigation traced this illegal trade through powerful international syndicates of brokers and fixers in Indonesia, Malaysia, Singapore and China - each with their specific role. It also revealed that the logging and timber smuggling operations are supported and managed by high-ranking Indonesian military (TNI) plus other government officials and law enforcers.

The pressure on Papua's forests has increased dramatically in recent years. The report identifies Sorong, Manokwari, Fak Fak, Nabire and Serui regencies as the main logging hotspots. The logs are shipped illegally to the



Chinese port of Zhangjiagang and then transported to factories south of Shanghai where they are made into wooden flooring. Over 500 flooring factories have been set up in the town of Nanxun in only 5 years. These factories process at least one merbau log into flooring every minute. Half of the hardwood flooring is for export.

It is outsiders, from Indonesia, Malaysia and China, not the people of West Papua who get most financial gain from the wholesale plundering of the forests. A small number of timber bosses and brokers living in Jakarta, Hong Kong and Singapore as well as western companies selling flooring from China are making huge profits from this destructive trade. Merbau (*Itsia* sp) is one of the most valuable tropical hardwood species in Southeast Asia but, according to EIA/Telapak: "Papuan communities receive just US\$0.46 for the timber needed to make one square metre of flooring. Manufactured and packaged, merbau flooring at Shanghai builder's merchants sells for only \$18 per square metre.... The same flooring on sale in the US or UK costs up to \$88."

EIA followed its report by exposing how a leading American distributor of hardwood flooring, Goodfellow Inc., is selling products made from logs illegally felled in West Papua. Goodfellow's president and CEO issued a public statement saying that the company was "committed to market products only where there is complete and documented legal chain of custody," and that its suppliers would soon be discussing this issue with Indonesian officials¹.

The Indonesian government's response

Forestry minister MS Kaban and environment minister Rachmat Witoelar were promising action within a week of publication of the EIA/Telapak report. President Susilo Bambang Yudhoyono called a special cabinet meeting on the issue at the end of February. He ordered National Police chief Da'i Bachtiar to lead a co-ordinated crackdown on illegal loggers. A 1,500 member team under the control of the national police was instructed to take action against anyone involved in 'illegal logging' in a two-month operation called "Hutan Lestari" (sustainable forests). The integrated team comprises officials from the police, military, Attorney General's office, Department of Forestry, immigration and customs. Forestry minister Kaban is quoted as saying that, "personnel of the eastern navy, the police in Papua, the Trikora Regional Military Command [based in Papua's provincial capital of Jayapura], local offices of the ministries of forestry and immigration in Papua, all have indications of being involved." Da'i also said that fraud squad detectives would investigate suspects' bank accounts to check for evidence of money laundering.

By late April, various claims for the success of Operation Hutan Lestari were already being made, but hard information was more difficult to come by. Officials had reportedly seized more than 340,000 cubic metres of logs, 19,000 cubic metres of cut timber, 5 boats and 22 barges. The task force has apparently summonsed 157 people; 35 have been detained and 14 case files have been handed over to the prosecutors. It is not clear whether these include any of the 32 financiers of illegal logging operations in Papua and other provinces reported to the forestry minister by EIA/Telapak. Many of those suspects are Malaysian. Tang Eng Kwee, the Malaysian president of PT Wapoga Mutiara Timber, which has 800,000ha of logging concessions in West Papua, was prevented from leaving Indonesia.

At least three of the accused are middle-ranking Papuan police officers. National Police chief Gen. Da'i Bachtiar said Comr. Martin Renau, the Papua police chief of special crimes division, would be investigated

STOP PRESS

The following information arrived as DTE was going to press:

Operation Hutan Lestari was 'ended' in mid-May after several delegations of Papuans complained to parliament. In fact the operation's legal action has not ended, and around 62 cases are still to be put to trial.

There will be an auction of the confiscated timber, but, to the chagrin of community groups, this may just be part of the chain of ongoing corruption that the operation never solved. All the powerful entrepreneurs are reported to have paid their way out of prosecution. Those in jail are indigenous Papuans who cannot pay.

An Indonesian law firm is prepared to handle the case in the Supreme Court to determine the legality of two apparently 'conflicting' laws that affect local rights.

1. Letter from Richard Goodfellow dated 18/Apr/05

in Jakarta in the hope that he would cooperate in efforts to unravel illegal logging syndicates. The only two people currently facing court cases are two local forestry officials: Marthen Kayoi, head of the Papuan forestry office, and Marthen Luther Rumadas, head of West Irian Jaya district forestry office. One military officer has also apparently been arrested, but not named.

Pronouncements not prosecutions

The Indonesian government has said time and again that it is getting tough on 'illegal logging'. Presidential statements are usually followed by well-publicised seizures of illegally harvested logs and the arrests of local people and minor officials involved in illegal logging operations. Indonesian forest campaigners say that these cases represent the tip of an iceberg and often only expose small-scale operators who were unable or unwilling to pay the military, police, customs or forestry officials sufficient bribes. Meanwhile, all the major players in smuggling networks remain untouched.

Soon after he became president, Susilo Bambang Yudhoyono declared "war on illegal logging". He made this speech on November 11th 2004 near Tanjung Puting National Park in Central Kalimantan - one of the many protected areas in Indonesia which have been ravaged by illegal logging. Despite this high profile speech and similar commitments at January's CGI meeting, it was late March before SBY issued a presidential decree to stop illegal logging (Inpres 4/2005). The current anti-illegal operation in West Papua was due to end in May, but the deadline has now been extended until June 7th. A spokesman for the Papua police force said this was because they were having problems handling the large volume of case files. In West Papua, several notorious figures in the illegal logging business have yet to be arrested, included one who is a member of the House of Representatives (DPR) and no-one in Jakarta has been touched by Operation Hutan Lestari.

Indonesia's forestry department sends out confusing messages, playing down the extent of deforestation and ignoring even its own evidence about the country's dwindling forests. The Forestry Department's website says that deforestation rates are 2.83 million ha/year over the last five years causing annual revenues losses to the government of Rp30 trillion (over US\$3bn)². Yet government officials have publicly admitted that Indonesia's forests are disappearing at 3.8 million ha/year³.

An examination of satellite information on West Papua in 2000, when 42 logging operations were still active, showed that 1,697,000ha of the 9,854,000ha concession areas was already badly damaged secondary forest. Nevertheless, the

department of forestry claims that deforestation there only averaged 118,000ha/year over the previous decade. Similarly, over two years ago, an official press release⁴ stated that timber was already flooding out of West Papua illegally to Malaysia, China and other countries at the rate of 600,000 cubic metres per month - twice that revealed in the EIA/Telapak report - at a cost to the government of Rp7.2 billion in lost revenues. Operations by an integrated team set up by the Papuan governor in April 2003 (SK Gubernur 50/03) proved ineffective, mainly because the various parties did not work together effectively and the budget soon ran out. Since then, logging in West Papua has intensified. Without detailed policy measures which are fully funded from the National Budget, there will be no coherent, long-term action.

The Indonesian office of US-based NGO Conservational International has set up a database on illegal logging and wildlife trade in Papua. Although it was officially launched in April this year, this project has been collecting data from forestry and conservation authorities in Papua for several years. CI's Papua programme director, Agustinus Wijayanto, stated that, to date, legal action had had very limited impact. In 2000-2002, there were 40 cases involving 44,532 cu m of timber and, in 2003-4, only 18 cases involving 68,718 cu m. The amounts of timber seized in 4 years are a mere fraction of the monthly flow of logs out of West Papua and there were only 9 successful prosecutions during this period. The need for reliable data is obvious from the conflicting reports quoted above.

The situation is not helped by tensions between Indonesia's police and the forestry department - each accusing each other of inaction. Forestry minister Kaban complained that he had submitted a list of suspects ranging from local businessmen to members of parliament to the police, but that no investigations had taken place. He pressed the police to take action by the end of January. "Detain them right now, don't just question them", he urged in vain. Meanwhile, the police were promoting the success of their own operations against people involved in illegal logging in East Kalimantan in late 2004.

Need for appropriate action

Illegal logging and log smuggling in West Papua must be viewed against the background of a long-term political dispute over the sovereignty of this territory. Although West Papua is nominally under civil administration, the military control pervades every aspect of life right down to the smallest village. In addition, Jakarta has tried to weaken the unity of the Papuan people by dividing the province into several separate administrative areas. The tension between Jakarta and the local

authorities in West Papua over the degree of autonomy they should have is reflected in measures to control illegal logging. The forestry minister and governor of Papua, J.P. Solosso, are locked in a dispute over who has the right to control logging in Papua's forests.

The two senior officials from the Papuan forestry offices who are facing trial as a result of Operation Hutan Lestari are accused of illegally issuing community logging permits (IPKMA). Jakarta claims this violates Indonesia's basic forestry law (No 41/99). The central government had already issued 54 licences for large-scale logging concessions covering 13 million hectares in West Papua by 2002. Solosso believes that Special Autonomy legislation (No 21/01) gives him the power to grant logging permits to local co-operatives. There are more than 300 so-called community logging co-operatives (KOPERMAS) in West Papua with IPKMA permits covering under 500,000ha. The Papuan governor also issued his own decree to defy the department of forestry's 2001 ban on log exports and provincial forestry officials refused to stick to limits on logging imposed by Jakarta in 2003.

Marthen Kayoi's lawyer argues that the issue is the validity of IPKMA documentation in Jakarta's eyes. If the Papuan forestry official is found guilty of illegal logging on these grounds, then the governor of Papua and all communities which hold IPKMA permits are also guilty. Since the minister of forestry has banked payments for the Papuan IPKMA licences, he is also technically culpable!

The problem is that although KOPERMAS were intended to help local communities to make a living from small-scale sustainable logging enterprises, the system has been widely exploited by powerful elites for their own interests. Typically, businessmen will use local forestry officials or the military to persuade indigenous communities to sign a 'co-operation agreement'. Local people are often promised a modest cash payment or a church, outboard motors or generators. Even if communities are reluctant to give up their rights, it is hard to refuse if the intermediary is a police or army officer. And if, as is often the case, the logging operations fell much more timber than was agreed, local people have no recourse. In this way, KOPERMAS cooperatives currently bring far more profit to the wood processing companies and managers running them than to the local economy.

Nevertheless, some indigenous communities insist that their operations are

2. DepHut Press release 21/Mar/05. Figures from 2003 (the most recent publicly available)

3. See for example a paper presented by the Head of the Forestry Planning Department in November 2003.

4. DepHut Press release 15/Jan/03.

International commitment

Concerted effort by the governments of consumer countries like China, USA and UK and producer countries like Indonesia is needed to stop destructive logging. Measures to stop smuggling syndicates and the international trade in illegal timber form a part of this. The UK, USA, Canada and other G8 countries are currently negotiating new measures to halt imports of illegally cut timber. On March 18th, G8 environment and development ministers met in Buxton, England and committed to action against the illegal timber trade. An agreement is expected to be signed by heads of state at a G8 meeting in Scotland in July.

legitimate and that Jakarta's ban on IPKMAs is causing unemployment and hardship. The Papua Indigenous Community Federation issued a statement in March under the heading "Adat communities scapegoated for illegal logging - lack of political will?" The statement⁵, signed by Zadrak Wambu of Papua's Adat Council, cites numerous clauses of Special Autonomy legislation which recognise *adat* community rights over natural resources. It argues that, instead of revoking IPKMAs and prosecuting local officials for issuing them, the authorities should be investigating how these logging permits have been abused by business interests and local elites. The statement concludes by proposing that licensing and management criteria for IPKMA should be strengthened to guarantee community welfare in the long term. At the time DTE went to press, there had been no official response. Forestry minister Kaban is quoted as saying that: "IPKMA permits are only fronts for private businessmen to exploit our forests...These IPKMA permits are illegal."

While the forestry department continues to focus on banning IPKMAs, it is ignoring two other, potentially greater problems. Firstly, the activities of 40 or so logging companies who continue to operate in West Papua under large-scale logging licences. These cover about thirty times as much forest as community logging permits. Due to the vast areas involved, the remoteness of the concessions and understaffed local forestry offices, these timber companies behave much as they please with little or no supervision. Secondly, some indigenous communities have become dependent on small-scale logging operations for their livelihoods. Young men who have received little education have few other prospects for employment. The Department of Forestry and Papuan authorities need to sort out the contradictions between national forestry legislation and special autonomy, if necessary through the Constitutional Court.

It is also important that the two parties negotiate a new model for sustainable community logging, in consultation with indigenous communities in West Papua. Recognising indigenous institutions and securing community rights over land and resources must be part of this. Indonesian forestry policy, exemplified through official speeches by government officials and the preamble to forestry regulations stress that tackling conflict over natural resources and increasing community welfare are primary goals of Indonesia's forestry policy. It is time to put this policy into practice in West Papua.

The Chinese connection

China's voracious demand for raw materials is a growing threat to Indonesia's forests. China is rapidly becoming one of the world's major consumers of forest products. It consumes nearly 280 million cubic metres of timber a year, but can produce only half this amount legally from natural forests and plantations. A joint study⁶ showed that China's imports of forest products rose from US\$6.4 billion to \$11.2 billion between 1997 and 2002. Imports are estimated to have reached nearly US\$13 billion in 2003.

China imposed stringent measures to protect its own forests after massive flooding in the 1990s was attributed to deforestation. Logging was banned in many regions and large areas were designated nature reserves. At the same time, the authorities closed down many thousands of small pulp mills and factories which used agricultural residues. In their place, large-scale modern pulp and paper plants are being set up, which rely heavily on cheap Indonesian raw materials. The burgeoning economy, including wealthier Chinese who want bigger houses and more books and newspapers, further increases demand for forestry products. The Chinese prefer to import raw materials and process them at home as this generates added value and more local employment. The combined effect is a boom in imports of timber and paper pulp, while plywood imports slump.

Indonesia is a major supplier of timber to China, both directly and indirectly via Malaysia and Vietnam. Russia is also an important source. Much of this trade is illegal. A comparison of import and export figures in Malaysia and China indicates that more than half the logs registered by Chinese customs as Malaysian actually came from Indonesia. The EIA/Telapak report states that around 2.3 million cubic metres of Indonesian timber

were smuggled onto the Chinese market last year. Indonesian government estimates are even higher at around 9 million cubic metres valued at Rp 18 trillion (US\$1.86 billion).

The trade in logs between Indonesia and China violates the laws of both countries. Indonesia banned the export of raw timber in 2003. Also, China and Indonesia signed a Memorandum of Understanding on illegal logging in December 2002 designed to halt the purchase of illegal timber. In practice this has had little effect. China has failed to respond to the Government of Indonesia's requests to implement the agreement. A senior official of China's State Forestry Administration vowed last month to take action against importers and manufacturers receiving smuggled logs, following the EIA/Telapak report. Nevertheless, China and Indonesia failed to reach agreement on action against the trade in illegal timber at a ministerial meeting in April. Indonesian forestry minister Kaban blamed the Chinese as they "did not care where the commodities come from". He claimed that all Chinese imports are considered legal under existing trade regulations. Kaban's optimism that negotiations will eventually succeed may be misplaced. As Indonesia wants to encourage trade and investment with China in other sectors of the economy, it is unlikely to put much pressure on the Chinese to implement effective controls against illegal timber imports.

(Sources: *Jakarta Post* 18/Feb/05, 19/Feb/05, 3/Mar/05, 5/Mar/05, 12/Mar/05, 15/Mar/05, 30/Mar/05, 21/Apr/05, 26/Apr/05, 29/Apr/05, 30/Apr/05; *Asia Times* 28/Feb/05; Dept of Forestry press release 21/Mar/05; Dephut.go.id/informasi/infprop; www.conservation.or.id; EIA Press Release 17/Feb/05, 18/Apr/05; CI article in *Cendrawasih Post* 29/Apr/04; *Tempo* 6/Feb/05; *AsiaViews* 15/Apr/05; *BBC News Online* 12/Apr/05.)♦



The Last Frontier, Environment Investigation Agency & Telapak, Feb 2005 and a video on illegal logging in Papua are available from www.eia-international.org and www.telapak.org

5. The DPMA statement (9/Mar/05) is available in English and Bahasa Indonesia on DTE's website at <http://dte.gn.apc.org/camp.htm>

6. *Meeting China's Demand for Forest Products*, Xiufang Sun, Eugenia Katsigris & Andy White, Forest Trends, the Chinese Center for Agricultural Policy & CIFOR, 2004.

*indigenous peoples***AMAN in West Papua**

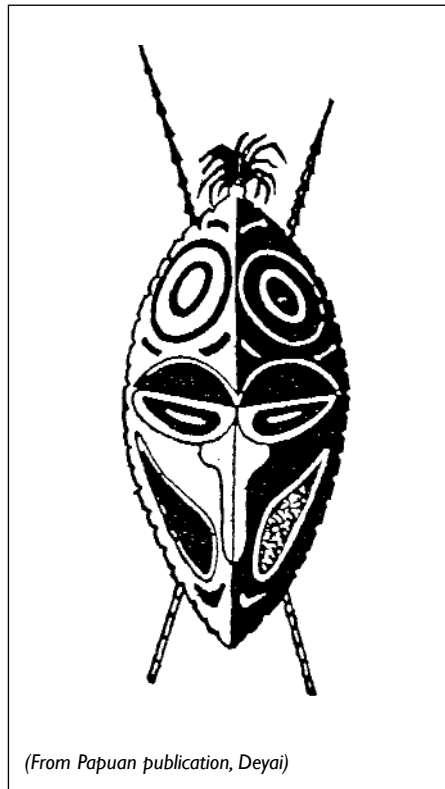
Notes from a discussion between DTE and Alex Sanggenafa, focal point for the Alliance of Indigenous Peoples of the Archipelago (AMAN) for Yapen Waropen, Papua.

AMAN and indigenous peoples: challenges in the Papuan context

Papuans' mistrust of the Indonesian government remains as deep as ever; they still tend to ask what hidden agenda lies behind any government efforts to win their hearts and minds. This attitude can be understood as an expression of cautiousness, or more exactly, the prolonged trauma of oppression. Papuan people who identify themselves as indigenous or *masyarakat adat*, are treated in a discriminatory way under the government's development process. This excludes Papuans from participating (in common with almost all indigenous peoples in Indonesia), despite the fact that participation in development is a human right - and the Indonesian government knows this. Development in Papua really means exploiting natural resources. Resource exploitation on *adat* (customary) lands is done without the agreement of the local indigenous community and without even consulting them. What happens instead is forcible takeover, intimidation and the destruction of Papuan values and ways of life.

In the Papuan context, the development of AMAN as an indigenous peoples organisation has faced difficulties due to negative experiences with the Indonesian government. Mistrust of AMAN, which is viewed by some Papuans as part of the government apparatus, still persists.¹ We have seen that the indigenous movement as a whole has had its successes and setbacks. Organisations expected to play a leading role in motivating others often suffer from internal problems which cause financial problems and social tensions. This kind of experience has also resulted in some resistance to attempts to consolidate indigenous groups in some parts of Papua. Efforts to organise continue despite these problems and despite the fact that funding and communication remain the biggest obstacles in Papua. The initiative to consolidate² Papuan indigenous organisations is being done from the bottom up (starting at community level) as this is believed to be the most realistic way, despite the long time needed. This approach is also being taken to avoid the clash of priorities that may arise if it were done at a higher level, such as district or

provincial. At the moment, Alex is pioneering consolidation in his area by setting up the Waropen Area Indigenous Council.



(From Papuan publication, Deyai)

Developing indigenous organisations under Special Autonomy

Current attempts to develop indigenous organisations in Papua are taking place in a climate of both opportunity and threat. This is especially so in relation to the Special Autonomy Law³. Opportunity, if special autonomy is immediately, fully and genuinely implemented; but threat if it is not implemented wholeheartedly by central government. What is evident at the moment is the government's lack of commitment, so that the Law is tending to become a threat to the development and strengthening of Papuan indigenous peoples organisations. Since the Special Autonomy Law was passed, the government has divided Papua into two provinces - Papua and West Irian Jaya - rather

than fulfilling the Law's mandate to establish implementing regulations for autonomy. Furthermore, information about Special Autonomy was never properly disseminated to the Papuan people. Local government's attempts to implement it have been rejected as invalid. A more realistic alternative is to make use of the minister for internal affair's decree on local indigenous councils.

In the Third *Adat* Council Session in Manokwari, in January-February 2005, a deadline was set (August 2005) for the proper implementation of special autonomy with clearer supporting regulations to implement it. If this call does not get a good response from central government, special autonomy and the Government Regulation on the Establishing the Papuan Consultative Council (MRP) will be rejected and returned to Jakarta.

Setting up the Papuan Indigenous Peoples Alliance (AMA Papua) is an opportunity to develop existing indigenous institutions - the *Adat* Council, the *Adat* Consultative Institute and the *Presidium*⁴ - at least as partners, by developing and strengthening capacity as well as the network. Clarifying the relationship between these groups and explaining how each organisation strengthens its constituent community groups and encourages them to become autonomous organisations, has already raised awareness of network development.

There are currently AMAN members in 9 districts in Papua (and West Irian Jaya). This shows the great potential for AMAN to become a large indigenous peoples organisation, but there has not yet been enough consolidation. Issues surrounding Special Autonomy and the establishment of the Papuan People's Council can be used as an arena for consolidating and strengthening the indigenous position, especially as regards control over natural resources management and land rights. This will only happen if the Papuan Regional Government (provincial and district levels) are serious about developing people's capacity, have confidence in people and give them scope to participate in the processes of implementing special autonomy and development in Papua.

The Yapen Waropen case provides a lesson in how development can be sidelined under the guise of promoting development

through creating new administrative districts. Previously three areas (Biak, Yapen and Waropen) were grouped in one district - Biak, then split into two (Biak and Yapen Waropen districts) and finally became three districts (Biak, Yapen and Waropen). This would have been beneficial if carried out in the spirit of decentralisation, but this split was really aimed at strengthening central control over the area. This can be seen from the logical consequences of the move: more district military commands (Kodim), one for each new district. Security and politics have been more prominent considerations here than development and empowerment.

The development of human resources is very poor in Papua. Indigenous demands for community participation and the guarantee and protection of indigenous rights to land and natural resources are seen as threats to economic and political stability. Alex strongly stated that Papuan people are undergoing a process of genocide in all aspects (economic, political and social). An example of discrimination is the handling and response to the earthquake disaster in Nabire (Alex compared it to the handling of the earthquake-tsunami disaster in Aceh) and also the central government's attitude to building dialogue with the Free Aceh Movement (GAM), which is so different to the treatment of Papua, where the armed and repressive approach alone is used to counter separatism.



Aliansi Masyarakat Adat Nusantara

The illegal logging issue

The operation to counter illegal logging in Papua is well-intentioned, but is not based on an adequate understanding of the socio-cultural and political-economic context in Papua or of special autonomy. An illegal logging operation based solely on the state forestry law effectively negates Papuan Special Autonomy. The result is that community logging licences (IPKMA) are regarded as the cause of illegal logging, whereas it is really the lack of control/supervision by the regional forestry office, which issues the permits, and the implementing regulations for licences that are at fault. These fail to involve and empower Papuan communities who, as the owners of the forests, should be the key parties. IPKMA should be developing the capacity of

indigenous Papuans to manage forests commercially, but this has never been done. Instead IPKMA are exploited for short-term gain which promotes forest destruction. Operation Hutan Lestari II in Papua has brought suffering to Papuans because the people arrested are, for the most part, (indigenous) Papuans working in the field. People's access to the forests has also been limited by the police. Shots have been fired between police and military personnel supporting illegal logging entrepreneurs - incidents which are seriously disrupting people's lives. Operation Anti Illegal Logging is frequently a means of intimidating people, labelling people who are considered non-cooperative as members of the Free Papua Movement (OPM).

It is unjust if forests are closed off and indigenous Papuans are denied access to them, simply due to the mismanagement of IPKMA and conflicting legislation issued by central government. The government is prioritising the exploitation of Papua's natural resources under the guise of development.

The military

The military's significant role and high level of control over many aspects of life in Papua is an open secret. The consequences for Papuans include low participation in political, economic and social development due to the authorities' distrust of the people. Usually, any kind of meeting of Papuans is supervised by the military; intelligence officers are posted in all centres of community activity including markets, and the military controls the work of the local government administrations. So it is easy to imagine the military's power in Papua, quite apart from security business with multinational companies, illegal and legal logging and many other activities.

The OPM or separatist label is often used to pressure people - there have been cases of arrest, beatings/torture and abduction without clear evidence or legal basis. This disregard for the law is reflected in the division of Papua at district and provincial level, despite the Special Autonomy Law.

Also linked to the independence movement issue is historical transparency. There have been systematic attempts to conceal and even distort the history of Papua's inclusion into Indonesia. History must be set straight, for everyone's benefit, predominantly by those who played leading roles in the so-called Act of Free Choice in 1969.

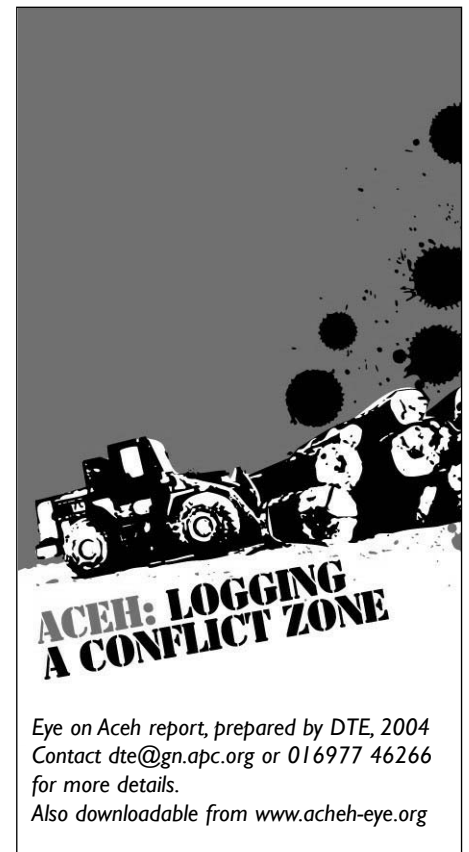
Militarism, military oppression and the many human rights violations in Papua, together with the half-hearted implementation of special autonomy, are providing more fertile ground for the independence movement in Papua. People are even starting to discuss their desire for a referendum and how to submit this to the

MPR [People's Consultative Assembly - Indonesia's highest legislative body].

For Alex, the key to holistic development in Papua is proper implementation of special autonomy, including a serious commitment to building the capacity of its human resources and strengthening the people's participation in development.

DTE notes:

- 1 AMAN is an independent indigenous peoples' organisation, which, far from being a part of the government apparatus, usually finds itself in direct opposition to government policies and development strategies.
- 2 For more on AMAN's consolidation programme see *Gaung AMAN* (AMAN's newsletter) August 2003 at <http://www.aman.or.id/ina/publikasi.htm#p pr>
- 3 Papua's Special Autonomy Law (No 21/2001) was passed by President Megawati Soekarnoputri in 2001.
- 4 Indigenous Papuan organisations with varying objectives and functions. The Presidium is the most overtly pro-independence from Indonesia and has been targeted by the Indonesian government as a result. In 2001 its leader, Theys Eluay, was murdered by special forces (Kopassus) military personnel.♦



Eye on Aceh report, prepared by DTE, 2004
Contact dte@gn.apc.org or 016977 46266
for more details.

Also downloadable from www.acheh-eye.org

Military base for Wasur National Park

Wasur National Park, in southern Papua, managed by conservation organisation WWF, will host a new military battalion as part of a large build up of military forces in West Papua.

The 413,510 hectare park, in the southern district of Merauke, is close to the border with Papua New Guinea and forms part of a larger trans-boundary conservation area across the Fly River. It was established in 1990 by the Forestry Department on the customary lands of indigenous communities including the Kanum, Marind, Marori-Mangoi, Yei and Kuper.

Wildlife in the park includes deer (*Cervus timorensis*), seven species of kangaroo, plus 115 species of birds including cockatoos and parrots. Lake Rawa Biru, which lies inside the park, is home to around 32 species of fish and 23 species of waterbirds. The lake also provides water for the local population in and around Merauke of around 200,000 people.

The increase in troop numbers for West Papua was announced in March this year (see p5) but plans to establish the headquarters of Battalion 0775 in Wasur park started months ago. According to a report in the Indonesian daily, *Kompas* (4/Aug/04), members of the Kanum community have already agreed to hand over 20ha of land for the base; the nature and amount of compensation agreed was not reported. However, a neighbouring community disagrees with the development, saying that the impacts will reach beyond the 20 hectares.

The base will include an office, store, accommodation for army employees, officers and soldiers, a football pitch, firing range and domestic waste disposal site. *Kompas* reports that NGOs have expressed concern about the development, with WWF being most consistently opposed because it is responsible for managing the area, along with the park authorities.

Indigenous communities' livelihoods are based on sustainably-managed hunting, trade in game and sago cultivation, but these resources are already under threat from outsiders who illegally shoot game and steal timber. Indigenous Papuans are in the minority in the area. In previous decades, Merauke was a major resettlement destination for Javanese migrants under the government's ill-famed transmigration programme and the resettlers have been joined by other ethnic groups from outside Papua since then. Another threat to the area comes from sand dredging, which makes it easier for saltwater to enter the lake, according to the head of Papua's Natural Resources Conservation Agency, Benny Saroy.

A military base, housing hundreds of troops can only add to these pressures. Illegal hunting in the park is already known to involve military and police personnel. Non-indigenous hunters use weapons and

ammunition that are reported to be sold illegally, and are sometimes obtained from the police.

Given the military's history of business empire-building, it is not unreasonable to ask what economic incentive there could be to attract the TNI to the Merauke region.

Indonesia says it needs the new sub-regional military command (KOREM) in order to safeguard the border with PNG. But, as pointed out by journalist Greg Poulgrain, the only cross-border incursions in recent years have been by Indonesian troops into PNG territory. Writing in *March*, Poulgrain points to possible economic motivations, describing how, in the Oksibil region to the north of Merauke, 10,000 non-Papuans are mining alluvial gold which is flown out by helicopter to Jayapura, then sent to Jakarta. The article also mentions February reports of a major oil and gas deposit in the southern reaches of the PNG border area.

(Source: *Kompas* 4/Aug/04, WestPapuanews.com/news.com.au 22/Mar/05, *Jakarta Post* 19/Apr/05)♦

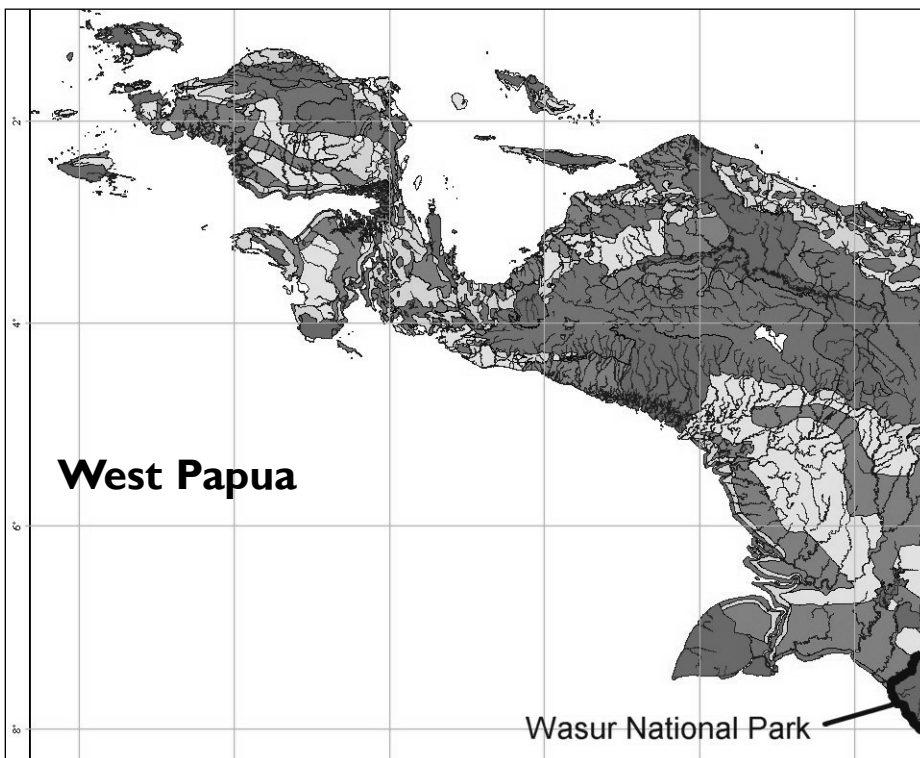
Military involvement in the spread of HIV/AIDS

Religious leaders have protested against the number of sex workers with HIV/AIDS who have infected Papuans in Mappi district, adjacent to Merauke in southern Papua.

The supply of prostitutes from outside Papua, and alcohol, backed by security personnel, is part of the lucrative international trade in *gaharu* (eaglewood). According to a report in the *Jakarta Post*, the sex workers are offered to tribal chiefs in order to secure their support for the business.

Around 500 people staged a demonstration at the provincial assembly in Jayapura in November 2004, calling for a stop to the practices, which, they said, the government has ignored.

HIV/AIDS is spreading faster in West Papua than in Indonesia, with over 15,000 people reportedly affected. (*Jakarta Post* 18/Nov/04)♦



mining / forests

Legal challenge to mining in protected forests

In an attempt to save forests and livelihoods, environmentalists have sought a judicial review of the government's 2004 decision to permit mining in protected areas.

The NGOs and individuals challenging the government on its pro-industry mining policy are focussing on the negative environmental, social and economic impacts. The July 2004 law allowing open-pit mining in lands classified by the government as 'protection forests' prioritises international mining investors over local communities' health, natural resources and livelihoods. Thirteen companies have been permitted to resume mining operations in protected areas.

The 92 petitioners have called on the expertise of two academics and a former minister to back up their arguments. On the first day of the case, April 5th 2005, Indonesia's Constitutional Court heard from former plantations and forestry minister, Muslimin Nasution. He explained how the government had enacted the 1999 forestry law, which bans open-pit mining in protected forests, after it became aware of the devastating effects. According to Muslimin, this law had been thoroughly discussed with the mining and environment ministries. The mining ministry, prompted by the concerns of mining investors, later pushed for the law to be revised.

Haryadi Kartodihardjo from the Bogor Institute of Agriculture, another expert witness, agreed that forests and the various services they provide are irreplaceable once destroyed. He also argued that mining such areas did not, as argued by the government, bring financial and development support for local governments. One of the 13 approved companies, PT Karimun Granit, he said, had brought losses of Rp4.3billion (US\$452,631) per year (see also below).

Another academic, Eko Teguh Paripurno warned of impacts in terms of disasters such as floods, landslides, drought and dam sedimentation. He said forest destruction caused by mining also caused social disasters, due to the loss of assets which should belong to local communities.

Haryadi also pointed to the indirect impacts of mining in protected forests, which put yet more pressure on Indonesia's rapidly declining forests. Deforestation rates in Indonesia are the world's highest, estimated at 3.8 million hectares per year. These indirect impacts include better access to forests for illegal loggers, thanks to roads built for mining vehicles.



Anti-mining protest in Central Sulawesi

'Unprotecting' the forests

The judicial review is the latest in a long battle by civil society groups to stop mining in protected forests. A major blow to the campaign came in July last year when Indonesia's national parliament passed Law No 19/2004. This confirmed that mining companies whose contracts were signed before the 1999 forestry law could resume operations in protected forest areas. Forestry Law 41/1999, while criticised on many accounts, did at least attempt to limit destruction to certain forests by prohibiting open-pit mining in such areas. This had the effect of outlawing the activities of around 150 mining companies operating across the Indonesian archipelago. It affected the concessions of companies at the exploration stage, as well as some operations which had already started commercial mining, such as US/British-owned Freeport/Rio Tinto in West Papua, Canada's Inco in Sulawesi and Australian-owned Newcrest on Halmahera Island, Maluku.

The 1999 ban caused uproar in the international mining fraternity, which promptly started pressuring Jakarta to make legal changes in its favour. After a prolonged

period of deliberations and despite widespread support for a strong national campaign to prevent mining in protected areas, President Megawati gave way to business and foreign government pressure. She issued emergency legislation in March 2004 (*Perpu 1/2004*) and, later, a decree permitting 13 of the affected companies to resume operations. It was this emergency legislation that was then confirmed by the national parliament last July (see *DTE 61:6* for more background).

NGOs are demanding that the law be revoked, because both it and the *Perpu* were illegal. There have also been allegations of bribery in parliament where the amendment to the Forestry Act was passed by a narrow margin (just 29 votes, according to media reports). Afterwards, a group of parliamentarians revealed that they had been offered payments of Rp50 million to Rp150 million (US\$5,000 - 15,000) to endorse the pro-mining legislation. Two parliamentary factions were reported to have unexpectedly changed their position from anti to pro-mining on the morning of the vote.

What impact?

The thirteen companies permitted to resume activities in protected forests are: Freeport Indonesia; Karimun Granit; Inco; Indominco Mandiri; Aneka Tambang (Buli-Mahit); Natarang Mining; Nusa Halmahera Minerals; Pelsart Tambang Kencana; Interex Sacra Raya; Weda Bay Nickel; Gag Nickel; Sorikmas Mining and Aneka Tambang (Bh Bulu Sultra).

Recent reports indicate that some of these projects are taking an unacceptable toll on local communities, the environment and local economies. They include:

- ♦ **PT Karimun Granit**, which operates in the Gunung Karimun protected forest, Riau Islands province, Sumatra. Kartodihardjo, the witness in the judicial review, said continuing to mine the protected forest would bring annual environmental losses of around Rp8.5 billion (US\$900,000), based on a calculation of impacts including water pollution and increased illegal logging. The local government received an income of Rp4.14 billion to Rp5.58 billion from the company in 2001-2003, meaning the overall deficit would be between Rp2.9 bn and Rp4.4 bn (\$300,000 - 460,000). According

to the mining advocacy network, JATAM, PT Karimun Granit has been mining granite on Karimun island for around 32 years, and has an extended contract which runs until 2013. The protected forest contains high levels of biodiversity and protects water courses. In 2002, a study by the Bandung Institute of Technology calculated that mining the protected forest would result in a loss of 74,790 cubic metres of water per year, not including water used by the mining operation itself.

♦ **Sorikmas Mining**, which holds a concession covering 66,200 hectares in the Mandailing Natal district of North Sumatra. The concession is in the 108,000ha Batang Gadis National Park, established in April last year in an area formerly classified as protection and production forests. The company is 75% owned by Australian company Oropa Ltd, who took over Aberfoyle Pungkut Investments Pte Ltd from Pacmin and Western Metals Copper Ltd. Aberfoyle's Indonesian partner in Sorikmas is the government-owned PT Aneka Tambang. The local government and people of Mandailing Natal reject mining in the park, which guarantees supplies of drinking and irrigation water for rice-fields and plantation crops owned by the communities. The park is also home to endangered species such as the Sumatran tiger. According to former district government head Amru Daulay, illegal logging has become more prevalent in the park due to Sorikmas's mining activities. Gold exploration by the company has also scarred the area, leaving 400 large pits close to villages, according to Amru. He questioned why the central government allowed PT Sorikmas to operate in the park when the company had no licence from the forestry ministry.

♦ **PT Weda Bay Nickel**, which is planning to open a nickel mining operation in the Aketajawe Nature Reserve and Lalobata protected forest on Halmahera island, North Maluku. The two areas were declared a national park in November last year and cover a total of 167,300 hectares of hill and lowland rainforest. According to the conservation organisation, Birdlife International, the new park is of exceptional biodiversity importance and is essential for at least 23 bird species found only in North Maluku. Weda Bay's CEO John Lynch boasted that the Canadian company played "a leading role" in the "cooperation" between the Indonesian government and mining industry, which led to the decision to allow mining in such areas. The future impacts of mining on the indigenous Tobelo Dalam community and the new national park have not been highlighted by the company. According to Birdlife, the Tobelo

Dalam's livelihoods are already under threat from logging and forest clearance for settlements and plantations.

♦ **PT Nusa Halmahera Minerals**, operated by Australian gold mining company, Newcrest on Halmahera Island, North Maluku. Local people's protests against the mine ended in violence in January 2004 when Brimob special forces police shot dead one protester and beat up several others (see *DTE* 60:1). In July last year, shortly after the green light was given to mining in protected forests, a mass protest in North Halmahera district was coordinated by village leaders, students and NGOs to reject Megawati's pro-mining decree and to demand that Newcrest leave North Maluku. Communities say the company must rehabilitate and restore the environment and the local economy which has been suffering since mining operations began. They also demanded an end to intimidation and violence by security forces and unfair treatment at the hands of the government, plus the fulfilment of all promises, including compensation and community development funds. The mass protest followed an earlier action in May, involving hundreds of local people and their supporters, who reoccupied the Toguraci protected forest, reclaiming their customary lands from Newcrest.

(Source: *Jakarta Post* 21/Apr/05, 14/Apr/05; <http://www.ropa.com.au/current.html>; <http://www.madina.go.id/CONTENT/TNBG/TNBG.html>; JATAM Press Release 2/Mar/04; *Republika* 19/Apr/05; *ENS* 12/Nov/04; *Miningindo.com* 28/Ju/04; *Mineweb.com* 17/Jul/04, *Kerebok*, April 2004)♦



"Stop mining in protected areas",
Indonesian Mining Advocacy Network - JATAM

Indonesia's legal action against Newmont

Indonesia's environment ministry announced in March that it was taking legal action, demanding millions of dollars in compensation, against US-based mining multinational Newmont. The company is accused of polluting coastal waters near its Ratatotok goldmine in North Sulawesi.

In November last year, a government-sponsored study linked the company's mining operations to ill-health in the local community and declining fish stocks in Buyat Bay. Villagers have complained of skin disease, lumps, breathing difficulties and dizziness, which may be symptoms of arsenic poisoning, the study found. A five-month old baby died in July adding to a toll of more than thirty people whose deaths have been linked to pollution from the mine. Newmont Minahasa Raya dumps mine waste in Buyat Bay, but claims that there is no link to declining fisheries or health problems (see *DTE* 63:10 for background).

Five company executives, three Indonesians, one American and one Australian, are also facing criminal charges related to pollution, and could face up to 15 years in jail. Indonesia is coming under pressure from Australia, which has warned that the legal action could undermine foreign investment.

Meanwhile, a former Indonesian environment minister has joined NGOs in calling for a ban on Submarine Tailings Disposal - the waste method used by Newmont both in North Sulawesi and at its much bigger copper and gold mine on Sumbawa Island, in Nusa Tenggara Barat province. Sonny Keraf said it was much easier to control on-land tailings disposal, "because we can directly see the effect", whereas tailings could be spread underwater by strong currents, polluting the water.

(For more background on STD see *DTE* 50:13, <http://dte.gn.apc.org/cstd1.htm>, and www.jatam.org).

(Source: *AP* 27/Mar/05; *Jakarta Post* received 20/Dec/04)

Rio Tinto closes Kelian mine - history of human rights abuses

UK-based mining company Rio Tinto closed the Kelian gold mine in East Kalimantan in February this year after 13 years of operation.

The mine was developed on land owned by indigenous Dayak communities who were given no choice but to move. Its history has been punctuated by protests over evictions, violence and intimidation by security personnel against people who protested, and violence against women as well as environmental pollution.

According to a *Jakarta Post* report, Rio Tinto's mine closure programme includes converting its 6,670-hectare area into a protected forest plus community development programmes through its Anum Lio Foundation (YAL). US\$11 million has been set aside for the forest and \$2.4 million for the YAL programmes.

The community programmes includes training programmes for employees, including farming, fisheries and technical skills. The company will also continue community development programmes conducted through YAL, including a food security programme to boost rice production and a tuberculosis eradication programme in West Kutai district.

Deputy director for external relations, Anang Rizkani Noor, said the company would fill the mine's two 133-hectare pits and 455-ha tailings dam with water, turning them into lakes. The processing plant site will be converted into a wetland to filter the lakes' water and discharge through a natural bioremediation process. He said the company would continue to monitor the water's pollution levels until 2013.

These plans have been criticised by community representatives and by NGOs as inadequate for the long term health and security of local people. A question prepared by DTE for Rio Tinto's annual general meeting in London two years ago remains relevant. It offered the criticism that the artificial lakes

and swamp will contain untreated sludges containing cyanides, heavy metals and other toxic substances.

"These could contaminate water supplies and enter the food chain. The euphemistically named 'wet cover' and 'wetlands' methods are still experimental. Their long-term safety has not been proven scientifically. Ground and surface water from these areas eventually drains into local rivers used by thousands of local people. Dams can fail or flood, again releasing polluted water into local rivers. The existing acid rock drainage problem will not be solved solely by covering other waste heaps with soil."

(<http://www.minesandcommunities.org/Company/rioagm2003.htm>)

The local community organisation LKMTL has repeatedly asked Rio Tinto and KEM to take responsibility for the long-term environmental security and protection of the community's health and livelihoods. Their demands include guarantees, independent environmental monitoring and free hospital facilities. LKMTL withdrew from KEM's Mine Closure Committee and Working Groups in 2003, because it felt the committee was only a token gesture and did not take community concerns and solutions seriously. Its representatives were forced to return by PT KEM's management who threatened to withhold payments promised to the community organisation.

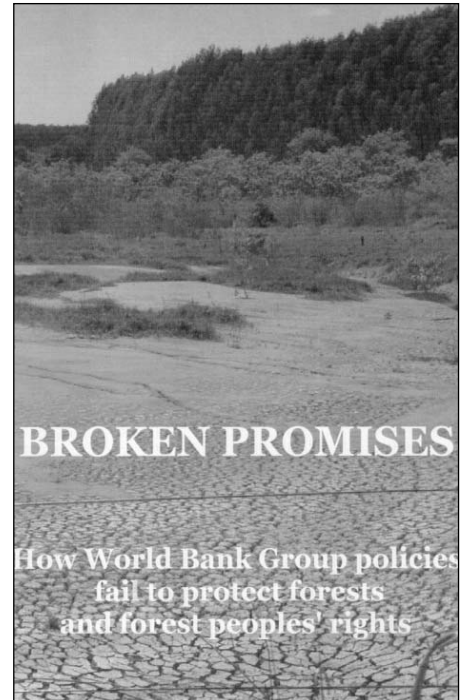
Rio Tinto says it has resolved problems relating to environmental destruction and human rights abuses, and has paid compensation of up to Rp49 billion (\$5.4 million) as of 2004 for all claims. PT KEM had previously agreed to pay Rp60 billion during protracted negotiations with the community.

The closure of the Kelian mine does not mean that Rio Tinto will leave Kalimantan. Anang said the company was registering permits for copper and gold surveys in Central and West Kalimantan and for nickel in Central and Southeast Sulawesi.

Rio Tinto also earns 40% of the profits from expanded production at the huge

Grasberg gold and copper mine in West Papua - a project which also has a deplorable environmental and human rights record.

(*Jakarta Post* 31/Jan/05. See also DTE 57:3 for more background on Rio Tinto and Kelian).♦



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