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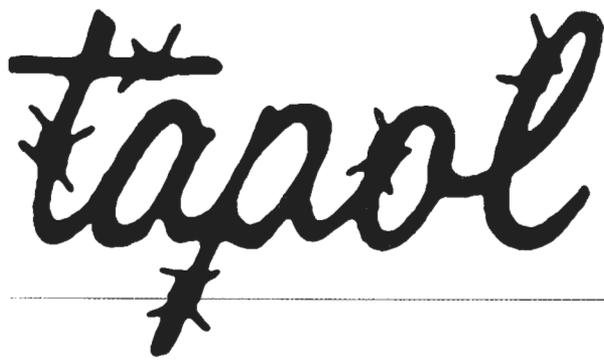
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Papuans confront Freeport

During the past few months, the giant US mining corporation, Freeport-McMoran Copper & Gold Inc, has been the target of protest and opposition on a scale not seen before. Actions have occurred in several parts of West Papua as well as in Jakarta and other cities. Some groups are calling for the company to stop its operations while others are pressing for a re-negotiation of the Contract of Work originally agreed with the Indonesian government in 1967. There are no signs as yet that either of these demands will be met.

On the basis of the initial contract signed in 1967 (re-negotiated in 1991), Freeport has been exploiting West Papua's copper and gold reserves, which rank among the largest in the world, for nearly 40 years.

The people of West Papua have never been involved in any of the agreements with the company and have hardly benefited from its operations. On the contrary, they have been forced to surrender ancestral lands, and have suffered human rights abuses from the military in charge of security. Tailings spewed daily from the mine have caused immense environmental damage to Freeport's concession area of 230 square kilometres (90 square miles).

The British mining giant, Rio Tinto, was formerly a shareholder in Freeport McMoran. It retains a joint venture interest, which in 2005 generated US\$ 232 million of earnings for the company (see box on page 3).

The latest eruption of West Papuan anger with the company has been spurred by two recent events. Firstly, the publication on 27 December of a front page article in the *New York Times* called *The Cost of Gold – The Hidden Payroll: Below a Mountain of Wealth, a River of Waste*. This drew attention to the huge profits made by the company and to the massive sums paid to the military for security protection. [See *TAPOL Bulletin*, No 181, December 2005]

Secondly, the forcible expulsion from the mining area in February of local people prospecting for gold in the waste left behind by the company. The ensuing clashes with the police forced the company to suspend operations for three days.

These incidents have helped draw attention to the contrast between, on the one hand, a hugely profitable company last year paying over \$1 billion to the Indonesian government (see box on page 3) and lining

the pockets of its shareholders and, on the other hand, a desperately poor population who have had no say in the unbridled exploitation of what they rightfully see as their own natural resources.

Last year, while the World Bank revealed 38 per cent of Papuans were living in poverty, Freeport McMoran paid its two top executives a fortune. The company's chairman, 'Jim-Bob' Moffett, and its president and chief executive Richard Adkerson together cashed in stock options of more than \$130 million in the previous six months, according to the US Securities and Exchange Commission. This came on top of compensation packages of \$77.3 million in 2005. Adkerson "defended their 2005 compensation packages as a reflection of 'an unusual year' during which the company's copper and gold production increased sharply. It was, he said, 'just a matter of personal financial prudence'". [*The Financial Times*, 11 April 2006]

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Abepura fatalities

Papuan anger over Freeport erupted first in Timika, the town near Tembagapura where the mining operations are based, and then, a few days later, in Jayapura, the capital of West Papua.

In Timika, on 14 March, angry crowds attacked the hotel where Freeport officials were staying and damaged the building though there were no casualties. Among those staying at the Hotel Sheraton were members of the Papuan People's Assembly (MRP), who were hoping to visit the mine as part of an investigation but were compelled by circumstances to abandon their mission.

Two days later, in Abepura, about 20 kilometres from Jayapura, clashes between Papuans and the security forces outside Cenderawasih University had fatal consequences. After members of Brimob, the notorious riot-control brigade of the Indonesian Police Force, had failed to persuade students to remove a roadblock, they resorted to force. Stone-throwing students responded by cornering several members of Brimob. In the clashes which ensued, three policemen were killed. A fourth man, from the Indonesian air force, who happened to be in the campus complex, also died. The death toll later rose to five as a wounded police officer died in hospital. The air force officer was reportedly from air force intelligence.

An unknown number of civilians were also injured, including children. A Papuan student, Dany Hisage, died as a result of grievous injuries inflicted on him in police custody.

Arbitrary reprisals

Following the killing of the Brimob officers, the police launched 'sweeping operations' (house-to-house searches and patrols searching the streets) in and around Jayapura during which a number of student dormitories were badly damaged. Vehicles were stopped and searched and Papuan passengers were dragged out, kicked and beaten. Students from the Central Highlands appeared to be targeted in revenge attacks reminiscent of those that took place in Abepura in December 2000 when three students were killed and dozens more were tortured in police custody [See 'Abepura killers escape justice' *TAPOL Bulletin*, no. 180, p. 16].

A total of 57 people, mostly students, were arrested. Hundreds of others fled to the surrounding hills to find sanctuary. By the end of March around 200 students were thought to be still in hiding without food or access to medical care.

Two journalists' organisations, the ICTJ (Association of Television Journalists) and AJI (Alliance of Independence Journalists) issued a joint statement complaining that several of their members had been mal-treated by the security forces while they were covering the events as they unfolded, and demanded an apology and compensation from the police for equipment destroyed and for medical costs.

Financial markets worried

The troubles surrounding Freeport have attracted much comment around the world. According to the leading financial news agency, *Dow Jones*, 'business circles are expressing concern over the effects of the mine's future on the tight metals market as it churns out a massive 9,000 ounces of gold and 1,000 tons of copper a day'. [Dow Jones, 17 March 2006] As for the government in Jakarta, the same report quotes President Susilo Bambang



Anti Freeport demonstration in Timika

Yudhoyono as describing the demands for the company's operations to close down as being 'unrealistic', adding that his government would study the company's community programmes 'to see if the funds could be distributed more evenly'. One of the President's reasons for refusing to close down the company was the 'harmful effect' it would have on the national economy.

The President's reaction was predictable bearing in mind that the company is Indonesia's largest taxpayer. Faced with the escalating crisis, he ordered a team of top-level officials to visit West Papua. They included Admiral Djoko Suyanto, the commander-in-chief of the Armed Forces, General Sutanto, the national chief of police, Syamsir Siregar, head of the state intelligence agency, BIN and Air Marshal Widodo, A.S., Minister Co-ordinator for Political and Security Affairs.

Although Jakarta initially insisted that additional police would not be sent because those on the spot were deemed to be sufficient, within a week came an announcement that 600 additional Brimob troops would be sent to West Papua. The Brimob troops already in Jayapura had been withdrawn to barracks.

Ban on foreign media still in place

Five weeks before the protests against Freeport took place, Indonesia's Defence Minister, Juwono Sudarsono, the first non-military man to occupy the post since the 1950s, defended restrictions on foreign media access to West Papua. He was quoted as saying that the presence of the foreign media, NGOs and churches 'might create conflict there by encouraging Papuans to campaign on issues of human rights. We feel that our unity and cohesion are being threatened by the presence of foreign intrusion'. [Reuters, 6 February 2006]

A report in the Australian daily *The Age*, suggested that a visit by one of its journalists to Jayapura was the first time a foreign journalist had been able to gain access for nearly two years.

The fact that the statement about media access to West Papua was made not by the information and communications minister but by the defence minister only reinforces the suspicion that the decision to keep out prying foreign journalists is one taken by the military. With the foreign media and other foreigners kept largely at bay,



Demonstration outside Freeport offices in Jakarta

the defence minister can hardly blame foreign intrusion for the protests against Freeport.

UN genocide expert kept out

The special adviser to the UN Secretary-General on the prevention of genocide, Juan Mendez, has said that West Papua is an area of concern in which the indigenous population is in danger of extinction [*Voice of America*, 27 January 2006]. He expressed frustration that the Indonesian government is preventing human rights observers from monitoring the 'worrying' situation amid reports of abuses there. He said that the UN was willing to step in and mediate a solution to the long-running tensions.

'It's very worrying and there's evidence about violence that has continued there since 1963. It's important that we look closely at the conflict now and make sure it's not getting out of hand. We certainly have it under our inquiry but it's hard to assess the situation on the ground to know what's going on in West Papua,' he said.

Chris Ballard of the Australian National University in Canberra, who is recognised as one of Australia's foremost experts on West Papua is also being kept out. He said that he has not been able to visit West Papua since 2001. [*Sydney Morning Herald*, 1 March, 2006]

TAPOL raises problem with President Yudhoyono

In a letter to the Indonesian President sent on the day after the tragic events in Abepura, TAPOL called for the removal of arbitrary restrictions on access to West Papua for all journalists, whether Indonesian or foreign, for the immediate establishment of an independent commission to investigate the causes of the events in mid-March, for the commission to report within one month, for its findings to be made public, and for all those now under arrest to be allowed access to a lawyer and either charged or released.

Fourteen to be charged

Following the bloody incident in Abepura, 14 people are being held by the police as suspects. They include: Selpius Bobii who chairs the West Papua Referendum Front, Moses Totoba, a teacher, Ferry Pakage, a parking attendant, and Musa Asol, a security officer. The other suspects are all students: Benius Baker, Alex Wayangkaw,

Freeport and Rio Tinto at a glance

Freeport signed its first Contract of Work with Indonesia in 1967. This was before the so-called Act of Free Choice in August 1969, which led to West Papua's incorporation into Indonesia. The contract was to explore and exploit the area of Mount Ertsberg. It was Indonesia's first contract with a foreign company after General Suharto seized power.

In December 1991, after the discovery of more copper and gold reserves at Mount Grasberg, the company signed a new Contract of Work massively increasing its exploration area. The new Contract of Work was for a period of 30 years with two possible 10-year extensions.

The Grasberg mine is operated by a local subsidiary known as PT Freeport Indonesia., which is owned 90.64% by Freeport McMoran and 9.36% by the Indonesian government.

Its concession covers an area of 230 square kilometres or 90 square miles.

Between 1992 and 2003, the company paid over US\$2.3 billion in taxes and royalties to Jakarta. In 2005, the amount paid to the government rose to US\$1.2 billion [*Freeport McMoran Annual reports 2003*, p. 12 and 2005, p. 17].

Sales totalled 1.46 billion pounds of copper and a record 2.8 million ounces of gold in 2005, compared with sales of 1.0 billion pounds of copper and 1.4 million ounces of gold in 2004 [*Freeport McMoran Annual report 2005*, p. 3].

Until 2004, Rio Tinto owned a 13.1 shareholding in Freeport-McMoran. Its shares were sold in March of that year for US\$ 882 million.

Rio Tinto retained a 40 per cent joint venture interest in reserves mined as a consequence of expansions and developments at the Grasberg mine since 1998.

In 2005, Rio Tinto's share of the 40 per cent joint venture amounted to 109,600 tonnes of copper and 670,000 oz. of gold.

Rio Tinto's earnings from the joint venture in 2005 increased by US\$ 200 million to US\$ 232.

See also TAPOL Occasional Reports No 16, 'Freeport and the Tribal People' published in 1991.

Thomas Okayo, Elkana Lokobal, Elias Tanaka, Matius Patrius Alangior and Obaya Papua. They are facing a number of charges, including murder and subversion. An unknown number of others wanted by the police are still in hiding.

Lawyers were initially appointed by the state without regard to the wishes of the detainees but now arrangements have been made for a local NGO to assist. There is concern that those detained will be forced to sign a confession including a statement that they have not been tortured. There have been reports of torture against two of the detainees.

Asylum-seekers given Australian protection

On 13 January this year, a group of forty-three West Papuans set out from their homeland in a traditional dug-out canoe to make the hazardous journey to Australia to seek asylum. Two months later 42 members of the group were granted permission to remain in Australia on temporary protection visas. Meanwhile, on the other side of the world, a Papuan was being feted for having won last year's John Humphrey Freedom Award.

The asylum-seeking group included 36 adults and seven children. Their boat was adorned with a banner bearing the message: 'Save West Papua people soul from genocide and terrorist from military government of Indonesia. Also we West Papuan need Freedom Peace Justice in our Home Land'

It is a wonder that their flimsy craft was able to survive the perilous waters. They departed from a point on the south coast of West Papua, near Merauke, and travelled about 250 kms across the Torres Strait. They arrived five days later at Weipa, halfway down the west side of Cape York peninsula. Several of those on board have been involved in pro-independence actions for a number of years.

Leading the group was Herman Wanggai who has been in the forefront of the pro-independence struggle in West Papua for almost ten years. He was arrested in 2002 for taking part in a flag-raising ceremony and spent two years in prison. His uncle, Thomas Wanggai, also actively involved in the Papuan struggle, died in an Indonesian prison in 1996. He too had been arrested for flag-raising.

As soon as the asylum bid became public, the Indonesian government insisted that the Papuans had nothing to fear if they returned home. It warned the authorities in Canberra that the granting of asylum would have a damaging impact on relations between the two countries. But as one Australian commentator pointed out, the asylum bid was a huge embarrassment for the Indonesian government.

After reaching Cape York, the most northerly point of Australia, on 18 January the refugees were taken to the remote Christmas Island, to be interviewed by immigration officials. A government spokesperson said that the Indonesian President 'had been told that they would be dealt with in accordance with Australia's domestic laws and its international obligations'.

An immigration source was quoted as saying: 'Some of what has come out of the interviews has been absolutely heart-wrenching' [*The Age*, 29 January 2006]. The testimony included accounts of vicious beatings while being held in prison and attacks on villages and livestock in retaliation for people agitating for independence.

On 23 March, it was announced that 42 members of the group had been granted temporary protection visas, which will allow them to remain in Australia for three



West Papuan asylum seekers on Christmas Island

years. The application from the 43rd member of the group is still under consideration.

The successful applicants were re-located to Melbourne to live in the local community.

The case of the asylum seekers and the consequent diplomatic rift with Indonesia has become a major political issue in Australia. It has generated welcome media attention to the human rights situation in West Papua. Regrettably, however, the Indonesian government has seen fit to devote more time to remonstrating with Australia than it has to addressing the problems highlighted by the refugees.

At the beginning of April, reports emerged of more Papuans attempting to flee to Australia with the unconfirmed arrival on an uninhabited island of a family of six. Meanwhile, both countries are taking steps to deter future refugees. The Indonesian navy is stepping up its surveillance of the area and in Jakarta, Papuans are finding it difficult, if not impossible, to obtain visas to visit Australia. President Yudhoyono visited Merauke on 4 April in an apparent attempt to reassure local people that they have no reason to leave home.

Young Papuan killed in Waghete

While the asylum bid was underway, a young Papuan named Mozes Douw was shot dead by Kostrad troops on 20 January in an incident near the town of Waghete in the Central Highlands. This incident shows how a minor problem involving Papuans can end tragically when soldiers in the locality intervene.

Two days before Mozes Douw was killed, a group of Papuans had been asked to help shift a heavily-laden truck which had become bogged down in mud in a village 10 kms from Waghete. The men were advised to ask for a Collection Permission Letter so they could get paid for the work. After they had been given the document, two members of Kostrad standing nearby suddenly grabbed the letter, tore it up and threw it away. When the Papuans objected, a scuffle ensued and Petrus Pekey was shot and wounded. He was rushed to hospital in Enarotali for treatment.

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Partition is unacceptable to Papuans

Despite strong opposition from the majority of Papuans, the central government has gone ahead with the election of a governor in West Irian Jaya, a new province created without legal sanction. The views of the Papuan Peoples Assembly have been ignored, the unity of Papua has been threatened, and special autonomy has become virtually defunct.

On 11 March this year, despite widespread opposition in Papua to the existence of West Irian Jaya, the government went ahead with the election of a governor of the new province. The creation of the province is in clear violation of the Special Autonomy law, introduced in 2001, according to which any move towards partition should have the agreement of the *Majelis Rakyat Papua* (MRP), the Papuan People's Assembly. Moreover, as the result of manoeuvres by the government, the very existence of the MRP has been thrown into doubt.

The creation of the new province came about through the reactivation of Law No 45 of 1999. This mandated the division of Papua into three provinces: Irian Jaya, Central Irian Jaya and West Irian Jaya. Whereas the creation of Central Irian Jaya was abandoned after fatal clashes broke out in Timika in August 2003, the establishment of West Irian Jaya was announced in November 2003. Asked for an opinion, Indonesia's Constitutional Court said that while partition was unlawful, it could not challenge the *de facto* existence of the new province.

Although the province was still in legal limbo, the Minister of the Interior, former army general Muh. Ma'aruf, announced at very short notice that an election for governor would take place on 11 March, despite his earlier assurance to the MRP and the Papuan parliament, the DPRP, that this would not happen until its legal status had been reconciled with Special Autonomy.

With Manokwari as its capital, a provincial parliament was elected in April 2004 while a caretaker governor started to develop its physical and political infrastructure. Clearly those with an interest in carving off part of West Papua were in a hurry and were making sure their efforts would not be thwarted.

West Irian Jaya has a high number of migrants from Indonesia, bordering on half the population. It is estimated that within a year or two, Papuans will be in the minority. This explains why there was a relatively high turnout when the gubernatorial election took place on 11 March. The province incorporates a significant share of Papua's natural resources, including the natural gas reserves now being exploited by BP at Bintuni Bay. Indonesian businessmen, including Vice-President Jusuf Kalla, are also eyeing the province for investments to cater for the ever expanding population there.

MRP's views ignored

The establishment of the MRP was an integral part of the Special Autonomy law which specifies that the body must be consulted on issues of the governance of West Papua. The MRP has 42 members, all of whom are Papuans. The membership is divided equally between representatives of the churches, women and tribal groups.

The central government set up the MRP with much delay and hesitation. And it soon became clear that many politicians in Jakarta feared that this body might fuel Papuan aspirations for independence.

What most politicians failed to understand was that Papuan willingness to accept special autonomy was a compromise which some were prepared to make in the interests of reducing tensions in West Papua. Those accepting special autonomy were in effect shelving their long-held demand for independence. Far from acknowledging this move, by proceeding with the partition of West Papua, the central government risked alienating those whose support it had gained.

The fraudulent Act of Free Choice

Most Papuans have never lost sight of the fraudulent way in which their homeland was incorporated into the Indonesian Republic, by means of the so-called Act of Free Choice in 1969. Under strong pressure from the military, 1,022 handpicked persons voted unanimously in favour of integration. They had no other choice. This occurred when General Suharto was in power and the military exerted a dominant role in affairs of state. [See *TAPOL Bulletin*, No 181, December 2005 for a devastating exposure of the Act of Free Choice as a sham by the Dutch historian, Professor Pieter Drooglever.]

Although Special Autonomy represented a major concession by the Papuans, politicians in Jakarta soon began to suspect that this governing structure would undermine Indonesia's territorial integrity and lead ultimately to Papua's secession.

The attitude of the Indonesian President did not help matters. While campaigning for election as president in 2004, Susilo Bambang Yudhoyono committed himself to implementing Special Autonomy. This accounts for the big support his candidacy enjoyed in West Papua. But he subsequently threw his political weight behind the existence of the West Irian Jaya province, declaring in a speech in August 2005 that its legal basis was Law No 32, 2004, the Indonesian law on regional autonomy.

Disenchantment with Special Autonomy

It was not long before disenchantment with special autonomy set in among Papuans. Anger ran so deep that in February last year, the *Dewan Adat Papua*, the Papuan Tribal Council, announced that if implementation did not proceed satisfactorily within six months, they would 'hand back' the Special Autonomy Law. This is what happened in Jayapura on 12 August 2005 at a large demonstration in front of the provincial legislative assembly.

Secretary of the Council, Leonard Imbiri, said, before the demonstration took place, that it was not aimed at pushing for independence, but was a protest at the failure of the government to improve the conditions of the Papuan people since the law was enacted.

In Jakarta, Papuans demonstrated in front of the state palace and demanded that the government investigate alleged irregularities overseen by the then governor, J.P.Salossa. (Salossa died of a heart attack earlier this year.) According to Alof S.T. Rumayoni, director of the Bangun Nusa Irian Foundation, the provincial government has been allocated funds totalling Rp1.7 trillion (US\$174 million) for development in Papua since 2001, but has built nothing. Another member of the Foundation, Abdul Warwey, said he had strong evidence of irregularities by the governor. 'The evidence includes bank accounts of some Papuan officials which, he said, 'were suspicious because the amounts of the money in these accounts was staggering.' [The Jakarta Post, 11 August, 2005]

Criticism of how Special Autonomy had worked since its introduction in 2001 was the focus of speeches by Revd Sofyan Yoman, President of the Alliance of Baptist Churches in West Papua, during his visit to the UK in July last year.

In May, shortly before his visit to the UK, he described the law on special autonomy as a cover for policies which perpetuate the sufferings of his people. He told his audiences that he was convinced that money allocated for special autonomy had been used to fund military operations.

Powers of the MRP

By virtue of the Special Autonomy Law and an accompanying Government Regulation 54, the MRP has wide-ranging powers, including: checking that candidates for governor and deputy governor are eligible as indigenous Papuans; granting approval for provincial regulations implementing special autonomy provisions; granting approval for contracts between Jakarta or the provincial government and third parties for work affecting indigenous rights; and 'any planned pemekaran setting up new provinces in Papua'.

Certainly the most impressive action undertaken by the MRP was to conduct a popular consultation in the area of

West Irian Jaya province. From 19 January to 3 February this year, the MRP held meetings with indigenous women's groups, customary leaders, youth groups, religious leaders and district government throughout the province. While acknowledging that there was some support among Papuans for the existence of the province, its three-volume report on the consultation demonstrates widespread opposition to the creation of the province. The overwhelming majority of the groups rejected pemekaran on the grounds that it was not carried out in accordance with the Special Autonomy Law.

These convincing conclusions led to a counter-move by the West Irian Jaya government rejecting the consultations and accusing the MRP of over-stepping its mandate. Against a growing coalition between opponents of the consultation and the central government, the MRP has striven to contain the harmful effects of partition which has in effect become a fait accompli. In a letter to the central government on 14 February, the Chairman of the MRP, Agus Alue Alua presented a series of recommendations. These included holding a comprehensive dialogue with the MRP acting on behalf of the Papuan people, ensuring that any partition would safeguard Papua's cultural and economic unity, and establishing a mechanism to oversee and coordinate the governance of Papua as a single economic and cultural unit, all of which should be codified in a legal instrument. [See Papua: The Danger of Shutting Down Dialogue, published by the International Crisis Group on 23 March 2006.]

The clearly expressed wishes of the Papuan people have been ignored by Jakarta. This is a situation that is bound to intensify opposition among Papuans against Indonesia.

An Australian academic renowned for his knowledge of Papuan affairs, Richard Chauvel, was quoted in March this year as saying: 'The core problem for Indonesia in Papua is governance. How do you rule a place by means other than military ones with a population that basically doesn't want to be part of Indonesia?' [The Age, 26 March 2006] The recent events surrounding the creation of West Irian Jaya province can only deepen Papua's sense of alienation from Jakarta.

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Back at the scene of the incident, the Kostrad troops went on firing their weapons at passers-by. Among those who were hit was Mozes Douw who was on his way to school. He sustained severe injuries in his left shoulder and spine and died later in hospital. A third man, Yunike Kotouki, was also injured.

The troops who were responsible for this tragedy have been identified in a chronology of the incident written by ELSHAM as being from KOSTRAD Timsus YONIF 753 ARVITA (Arga Vira Tama) Nabire.

Papuan lawyer receives international award

In July last year, a Papuan human rights lawyer, Yan Christian Warinussy, was given the 2005 John Humphrey Freedom Award 'for his dedication to human rights in the face of extreme adversity, intimidation and threats to his personal safety'.

Named after a Canadian law professor, who prepared the first draft of the Universal Declaration of Human Rights, the award includes a US\$25,000 grant as well as a

tour of Canadian cities aimed at raising public awareness of the recipient's work on behalf of human rights.

Speaking at a meeting in Victoria, Canada in November 2005, Wayne MacKay, a member of the John Humphrey Freedom Award international jury, said that Mr Warinussy has distinguished himself by his frontline role as a defence lawyer to those in West Papua's remote regions who would otherwise have no legal representation. In the past year, he has served as an independent human rights adviser on the resettlement of West Papuans affected by the British Petroleum natural gas facility in Bintuni Bay.

He began working as a lawyer and human rights advocate in 1989 after finishing law school. In 1994 he co-founded The Institute for Research, Analysis and Development of Legal Aid (LP3PH), the first and, to this day, the only legal aid organisation in Manokwari. It works mainly with local communities to defend them against military persecution and human rights violations.

Source: Tok Blong Pasifik, Volume 4, Issue 1, Winter 2006.

Timika ambush suspects await trial

Eight people are awaiting trial in Jakarta on charges of involvement in an ambush which led to the deaths of two US teachers and one Indonesian teacher in August 2002. The men were arrested in Timika as the result of an entrapment involving the FBI.

The city of Timika is close to the copper-and-gold mine run by Freeport-McMoran and it is where many of the foreign and domestic personnel employed by the mine are accommodated. The three men who were killed during the ambush on 31 August 2002 were all teachers: two Americans, Rickey Lynn Spier, aged 44, of Littleton, Colorado, and 71-year-old Leon Edwin Burgon, of Sun River, Oregon, and an Indonesian, Bambang Riswanto.

The three men were employed at an international school for children of those working at the mine. Twelve other people were injured, including children. Rickey Spier's wife, Patsy, was among the injured and has since tirelessly campaigned for justice for the victims. It is thanks to her persistent efforts that international attention had been so heavily focused on the case.

Shortly after the ambush, the Indonesian police as well as the human rights organisation, ELSHAM, conducted investigations which concluded that the military had been involved in the killings. There were suspicions at the time that the Indonesian military was warning Freeport that their security operations in Timika might not continue without a hike in payment for protection. However, the police were subsequently forced to retract their findings, while ELSHAM faced threats and even a lawsuit if they insisted on pursuing the matter.

As Indonesia's leading English-language newspaper, The Jakarta Post, recently wrote: 'There has never been a satisfactory answer to certain questions raised by human rights organisations in Papua. Why were security personnel in a normally tightly guarded area near the world's biggest copper and gold mine absent during the attack, which lasted at least 30 minutes? Why did some of the survivors remember the shooters wearing military uniforms?' [*The Jakarta Post*, 18 January 2006]

Given the impunity which members of the Indonesian armed forces have enjoyed for so many years, such questions are entirely reasonable.

US authorities get involved

Following the controversy surrounding the ambush, the case lay dormant for some time. Indonesia's failure to produce results was one of the factors that delayed the restoration of military relations between Washington and Jakarta that were severed in 1999 following the Indonesian army's murderous rampage in East Timor.

In 2004, a Papuan named Antonius Wamang, was indicted by a US grand jury on two counts of murder and eight counts of attempted murder in connection with the ambush. At the time, Wamang was still at large and there was no sign that he would be apprehended.

As pressure grew in the US for the restoration of military ties with Indonesia, the FBI became involved in securing the detention of possible suspects. On 11 January this year, during what can only be described as an entrapment, twelve persons were arrested.

The detentions occurred when twelve men were enticed into visiting Hotel Amole 2 in Timika. FBI agents were present at the time but have since claimed that they were not involved in the arrests. No one doubts that they played a critical role in securing the detentions.

Indeed, the national police spokesman Brigadier General Anton Bachrul Alam, admitted that FBI agents had assisted in securing the arrests by providing information on the whereabouts of the men. FBI involvement had been crucial, he said, because of their more sophisticated technology in criminal investigations, but he said that they would not take part in interrogating the men.

A case of entrapment

The arrests were condemned by Paula Makabori of the Papuan NGO, ELSHAM. She said the FBI agent in Timika had told the men that they would be taken to the US but after they had gathered at the hotel, they were taken to a vehicle which drove them to the local police headquarters. From there, they were flown to Jayapura and then to Jakarta.

The twelve arrested men were: Antonius Wamang, Revd Ishak Onawame, Hardi Sugomol, Agustinus Anggaibak, Viktus Wamang, Markus Kalabetme, Yohanes Kasamol, Germanus Magal, Diminikus Mom, Zairus Kiwak, Esau Onowame and Velli Dekme. Four were later released and the other eight are under interrogation in preparation for trial, either as suspects or witnesses.

Hailing the arrests, the commander of the Trikora military command in Jayapura was quick to insist that they proved 'the TNI was not involved in the shootings'.

Defence lawyer takes issue with FBI

The Indonesian human rights organisation, PBHI, is acting for the men now detained in Jakarta. One of the PBHI lawyers, Johnson Panjaitan complained that two FBI agents had secretly interrogated one of his clients. They went to the detention room shortly after he had left, and interrogated Agustinus Anggaibak. According to Johnson, Agustinus was interrogated by the agent for four hours. 'I wonder how they got involved. They weren't respecting our legal procedures,' he said. [*The Jakarta Post*, 20 January 2006]

Peace process still on track

Since the signing of the Peace Treaty on 15 August 2005, events have moved fast in Aceh. Both sides have diligently complied with the agreement as a result of which acts of violence have declined to a few isolated incidents. But a number of crucial issues are still on the agenda. They include the creation of a new and democratic Aceh, the reintegration of former GAM combatants and intensifying the post-tsunami reconstruction of the territory.

The Memorandum of Understanding (MoU), signed in Helsinki has created a new framework for the governance of Aceh. Although it was agreed that the law on governance in Aceh was to have entered into force by 31 March 2006, a delay of a few months was not unexpected. In April, the draft law was still under discussion in the DPR, Indonesia's national parliament.

After adoption of the draft law, local elections will be held but they will also be later than intended because of the ongoing discussions in parliament. It now appears likely that elections for governor and district chiefs will take place in August.

The long-winded RUUPA process

The MoU established the principles for the law on governance. The vast majority of people in Aceh have participated in drafting the law, known as RUUPA (Rancangan Undang-Undang Pemerintahan Aceh).

As early as September 2005, just one month after the signing of the MoU, Acehnese were showing their preparedness to build and rebuild a new and democratic post-conflict society. A consultative process was set up with the help of three universities. Public hearings were held throughout the territory. They also involved Acehnese communities in places like Jakarta and Medan. The drafting process for the RUUPA was a shining example of participatory democracy. Members of the public from all levels of society were eager to be involved in discussing the new political landscape in Aceh.

Meanwhile in Jakarta, the Ministry of the Interior held public hearings. After considering several draft bills, a final proposal was sent to Jakarta for submission to parliament. The draft contained a number of inconsistencies, reflecting the plurality of political views among the Acehnese.

While plural democracy in Aceh proceeded well, the subsequent process in Jakarta was far from smooth. Interior Minister Muhammad Ma'aruf, a retired army general, convened a working group involving several ministries to review all the articles in the RUUPA and to examine whether any of the articles would contradict national laws. In mid January Minister Ma'aruf sent his final, watered down version to the state secretary, who is charged with approving the final version.

On 27 January 2006, after being reviewed by the President, the RUUPA was submitted to parliament. Final



Indonesian Human Rights Minister Hamid Awaluddin(left) and GAM representative Malik Mahmud(right) at peace treaty signing with former Finnish President Martti Ahtisaari

adoption is likely to take several months, the delay being exacerbated by the parliamentary recess.

Protests in Aceh

Acehnese civil society has shown a determination to take an active part in the RUUPA process, from beginning to end, right up to its final acceptance. At one point, the decision to scrap several crucial articles led to intense lobbying by Acehnese at all levels, including Acehnese members of the DPR in Jakarta. In the end, they were disappointed because the final version was much weaker than the original version submitted from Aceh.

The guiding principles of the law on Aceh governance laid down in the MoU are crystal clear and grant Aceh a special place in the Indonesian archipelago. The MoU avoids using the term autonomy, because the special autonomy previously introduced in Aceh was nothing more than an empty shell. Instead, the term self-government was used, but this was scrapped by the Interior Ministry much to the chagrin of the many Acehnese involved in the initial drafting process. Since GAM had declared its decision to end the armed struggle and shelve its demand for independence, the appropriate response should at the very least have led to far-reaching arrangements enabling the Acehnese to run their own affairs.

In early April, many thousands of Acehnese from all the major cities took to the streets to demand that the RUUPA conform fully with the guidelines of the MoU. A month earlier, several public meetings attended by hundreds of people had given a clear warning to Jakarta that the aspirations of the Acehnese as expressed in the original draft, should be honoured by parliament. If the final draft bill fails to accommodate the wishes of the people, the demand for independence could re-emerge, triggering another rebellion. During the meetings it was recalled that a previous peace treaty between Jakarta and Acehnese rebels concluded in the fifties was betrayed,

resulting in the province being exploited while nothing was done to alleviate the poverty of the population.

COHA and the MoU

Several years ago, an earlier peace process led to an agreement called COHA (Cessation of Hostilities Agreement). This document was concluded in December 2002 in Geneva with an agreement to end military actions, to establish peace zones and bring about an all-inclusive dialogue involving the Acehnese. This meant that Acehnese civil society, as stakeholder, was involved in the peace talks. But the Helsinki talks didn't go that far, limiting the talks to the two warring parties while making provision for civil society to play an important role. The 2006 MoU included a special section under the heading 'political participation' with eight articles guaranteeing the involvement of the Acehnese in the arrangements of a future Aceh government.



Students demonstrating outside the grand mosque in Banda Aceh

Another striking difference between COHA and the MoU was the degree of political will. During the COHA period, GAM retained its option of independence while the TNI, the Indonesian armed forces, continued to see GAM as an enemy needing to be eliminated. The conditions in January 2005 were quite different. GAM agreed to drop its demand for independence and the political leadership in Jakarta agreed to accommodate most of GAM's wishes. Parts of Aceh had been heavily struck by the tsunami and the issue had been internationalised, all of which accelerated the peace process. However, in May 2003 the COHA peace process was terminated by Jakarta under the presidency of Megawati and a vicious war raged until the tsunami disaster struck.

While COHA tried to make arrangements for a post-conflict Aceh during the process of negotiations, the Helsinki talks regarded the process of rebuilding Aceh as a political process which should take place in the wake of the peace treaty. It is now up to the Acehnese, supported by AMM, the Aceh Monitoring Mission (established by the EU and ASEAN), and the BRR, the body responsible for the rehabilitation and reconstruction of Aceh and the island of Nias to implement this comprehensive process.

Instead of being a place of desperation, deprived of any space for democracy, Aceh has suddenly become arguably the only place in the Indonesian republic where political participation can blossom, where local political parties and aspirations have become possible and where decentralisation has real meaning.

However, it will not be an easy process. As a result of 30 years of conflict, the Acehnese have not developed any experience of democratic processes. Democratic experiments need to start from scratch; and at present the signs are hopeful. One local political party has already been established and others are expected to follow. It is also likely that when the local elections are held, an attractive range of candidates will contest the positions of governor, mayors and district chiefs. People in other parts of Indonesia are watching Aceh with bewilderment and

astonishment because so much has changed in this former place of conflict.

Basically a successful peace process

These days, peace processes around the world more often than not take many twists and turns. However, the peace process in Aceh has so far held remarkably well. The striking display of political will from both sides - the Jakarta government and the GAM leadership - provided a healthy basis for the rapid advance from war to peace in Aceh.

The complex phase of demilitarisation involving the withdrawal of troops and the return of combatants to their villages took only a few months and was completed by the end of 2005. In many other conflicts around the world, such a process, constituting as it does the most complicated part of a peace process, has usually taken years. War weariness and the destruction caused by the tsunami accelerated the process from the side of GAM while the new political leadership in Jakarta became increasingly aware that a military solution for Aceh was bound to fail. After two years of military operations, which created suffering and hardship for the population, the newly elected president, Susilo Bambang Yudhoyono and his vice-president, Yusuf Kalla decided to go ahead with a political solution, resulting in the Helsinki talks of January 2005.

Issues still to be resolved

Whilst there is cause for optimism that so much has been achieved in such a short time, it is also true that some aspects have proceeded slowly. The success of post-tsunami reconstruction depends very much on the success of the peace process. But many handicaps remain. Although the amount of money raised around the world exceeded all expectations, reconstruction has proceeded far too slowly. BBR, the body responsible for rebuilding and reconstruction, recently announced that a mere 9.4 per cent of the targeted houses (1,500 out of 16,000

houses) had been rebuilt on Nias. Rebuilding in Aceh is also far below target. One of the major handicaps is the scarcity of building material, bricks and timber. As a result, fifteen months after the tsunami, many survivors are still living in barracks or tents, feeling frustrated by the delays.

The fate of political prisoners

One major success of the peace process was the general amnesty granted to the majority of GAM prisoners. Almost 2,000 prisoners being held in various prisons all over Aceh were immediately released and allowed to go home. A follow-up arrangement to reintegrate the former prisoners has started and in some villages they have already embarked on a new life.

But for 62 prisoners being held outside Aceh, mostly in the notorious prison of Tanjung Gusta in North Sumatra, the amnesty arrangement has yet to be applied. Several ex-GAM combatants have approached AMM, the body mandated to monitor implementation of the MoU, to press for the early release of these 62 prisoners. One of the problems complicating their release is that they were tried and convicted for alleged criminal acts and not because of their political beliefs.

Reintegration of GAM

The MoU agreement included an arrangement for the demobilisation of 3,000 GAM combatants. The Indonesian government made arrangements to reintegrate this number of ex-combatants and provide them with monthly allowances and other facilities such as land or the offer of job opportunities.

During the first phases of decommissioning, when the guerrillas came down from their hiding places and handed in their weapons, it became clear that there were far more than 3,000 ex-combatants because the guerrilla force was much larger than thought, so a new round of negotiations was needed to handle this problem. Experiences in other places of conflict have taught that reintegration is a long and winding process, often bedevilled by failure than success.

A big part of the problem was the nature of TNA, the armed wing of GAM. It was a very decentralised force and its commander-in-chief, Muzakir Manaf, was only in command of the regional TNA commanders without having any direct control over the decentralised units. Many TNA guerrillas were part-time combatants who often returned home to their villages to start working again as peasants. Wise leadership from local GAM leaders will be needed to resolve this delicate issue.

KTP Merah Putih scrapped

Another difficult legacy that needs to be resolved is the special ID (KTP) card which is only valid for Acehnese, introduced after Aceh was placed under martial law in May 2003. While other Indonesian citizens carry ordinary IDs, the Acehnese were issued with special red-and-white IDs. In several districts, the local authorities are now issuing normal ID cards with queues formed by those eager to get their hands on them. Having to carry special IDs is seen as a form of discrimination.

Human rights issues

Kontras Aceh, being one of the main human rights organisations in Aceh, was suddenly inundated with many new problems. Although day-to-day human rights violations have declined sharply, the organisation is now

busily dealing with many 'old' problems. There have been many complaints from the victims of past violations. While arrangements have been made for GAM members to receive compensation and other facilities, others who were not combatants but who were victimised, mostly by members of the security forces, have not been given similar treatment and are demanding justice.

There are also legal aspects needing to be implemented. The MoU includes three articles on human rights, one of which provides for the establishment of a human rights court in Aceh and another provides for a truth and reconciliation commission. At the moment, it is not known whether these will be provided for within the framework of the RUUPA or on the basis of another law.

Sharia law takes its toll on women's rights

Aceh has borne the full force of the recent imposition of *sharia* law which has been introduced recently in several parts of Indonesia.

According to a recent visitor to Aceh, *sharia* is a serious underlying current. No one is systematically monitoring it and no one wants to speak out against it for fear of provoking condemnation from religious circles. There is now a *sharia* department (*dinas sharia*) and *sharia* police and court which have been installed under the governor's office. Implementation has been directed primarily against women. They are now being picked up and jailed for appearing in public without their heads covered with a *jilbab*, and prisons are now full of women who are accused of violating the law. Local sources say that the women were arrested by the *sharia* police, working in parallel with the regular police, though they do not have powers of arrest.

As it is being currently interpreted in Aceh, *sharia* law requires women to keep their whole body covered with the exception of their palms and face while for men, it means covering the lower body from the belly to the knees.

A low-cut top or signs of the navel are now being treated as a crime. Couples holding hands or seen in close embrace are also breaking the law. This is happening at a time when Acehnese are taking advantage of the more peaceful atmosphere since the agreement between the government and GAM, with jazz concerts, parties and lively discussions taking place everywhere.

An observer who was in Aceh in mid April described how she saw a happy crowd of boys playing soccer, which came to an abrupt end when the morality police appeared. When on a visit to an orphanage, she was shocked when only boys appeared at dinner time, while the girls stayed in their rooms. 'We will have our dinner after the boys,' one of the girls told her later. 'We are not supposed to be together in one room with the boys.'

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Civil supremacy and reform of the military

One of the most important features of the post-Suharto era is the long and difficult process of reforming the military (TNI). Ever since the birth of the Indonesian Republic, the military have played a dominant role in political life. TNI spokesman Major-General Kohirin Suganda recently acknowledged that returning the military to its proper function will take time. But reform of other institutions, particularly the judiciary and the legislature, is also essential. The process has begun but there is still a long way to go.

The appointment of Air Force chief, Marshall Djoko Suyanto as TNI commander-in-chief in January was a big step forward. This important political decision by President Susilo Bambang Yudhoyono (SBY) paved the way for other developments. Never before has an air force officer held this position and the appointment was controversial as at least three key army generals had been named as candidates.

Even more important, the former army chief-of-staff General Ryamizard Ryacudu, a notorious hardliner, had already been assigned to the position by the President's predecessor Megawati Sukarnoputri, but as soon as he took over as head of state, SBY shelved the designated appointment. SBY's agenda was to safeguard the Aceh peace process while Ryacudu was in charge of military operations there. The demilitarisation of Aceh was crucial and that meant withdrawing troops and ending the hostilities. SBY could not have had a hardliner in such a key position.

Demise of the political role of TNI?

It could be argued that the demise of Ryacudu also indicates an important thrust within the military top brass in another direction. For decades, top military men have been political decision-makers, not least among them General Suharto himself. The downfall of Suharto in 1998 meant the end of the *Dwifungsi* doctrine, which justified the military's role in politics. Despite that, top-ranking generals like General Wiranto and Ryacudu continued to play a major role in politics.

The emergence of pro-reform generals and the battle they fought with the status quo at army headquarters in the name of *reformasi* was again a typical political battle. But the person who emerged as number one was a rather colourless officer, General Endriartono Sutarto. His appointment was an excellent choice as he turned out to be a cautious reformer.

In 2004 the military lost their seats in parliament, another step forward in driving the military out of politics. All signs show that General Endriartono and his successor Marshall Djoko Suyanto represent a new generation in the TNI who accept civil supremacy and are willing to proceed along the path of improving professionalism within the TNI.

Political generals like Wiranto, Try Sutrisno and others are now retired and their role in society is relatively limited. The present batch of military commanders, notably the commanders in major cities like Jakarta, Bandung, Yogyakarta and Surabaya, rarely appear in the press and hardly play a role in the daily life of the community. The dominant security role is now in the hands of police chiefs, who have to deal with such burning issues as crime, terrorism, corruption and other serious problems in any big city. In the Suharto days, the military commander of Jakarta was bound to get a top-level post and was almost daily in the headlines. The present commander, Major-General Agustadi, keeps a low profile and many people in Jakarta don't even know his name. This would have been unthinkable a few years ago. The gradual disappearance of younger officers with political ambitions is a hopeful sign that Indonesia is heading in the right direction. But military reform is far from over and structural reforms still have a long way to go.

SBY and the class of '73

The President displayed his political skills by manoeuvring some of his most trusted people at the top of the hierarchy. A few months before the appointment of Djoko Suyanto, Police General Sutanto was appointed National Police Chief. SBY, Suyanto and Sutanto were classmates during their academy years and they all graduated in 1973. By appointing two trusted classmates, SBY has at least secured loyalty and stability at the top of the police force and in the TNI for the next two or three years.

Looking back at the President's own military career, there were early signs that he was not merely pursuing a military career but looking also for different possibilities. While climbing the military ladder, he obtained his masters degree in 1991 and a PhD in agricultural economics in 2004. By then, he had already occupied several cabinet posts during the presidencies of Gus Dur and Megawati.

In 1996, when the crisis in East Timor turned into a heated international issue, SBY adopted a different position by accepting a political settlement for East Timor, challenging the official line and the views of his superior, General Wiranto who was commander-in-chief at the time.

Between 1997 and 2001 SBY was known as a reformist TNI officer, together with other officers like Agus Wirahadikusumah, Romulo Simbolon, Saurip Kadi and Agus Widjoyo. For a brief period this small group of officers were catapulted by Gus Dur into senior positions but the ploy failed because the majority of TNI officers were solidly against this reformist group. Agus Wirahadikusumah died mysteriously and the others were basically sidestepped. By then, SBY had already secured a high position in the civilian hierarchy and had transformed himself into a national political and civilian leader.

Politik Panglima and Panglima Politik

Roughly translated these terms mean 'politics of the military commander' and 'the commander of politics'. This



Left to right: President SBY, Navy Chief Slamet Soebijanto, former TNI commander Endriartono Sutarto, TNI commander Djoko Santoso, Army Chief Djoko Suyanto

slogan emerged during the Suharto years. He ruled the country as military commander and at the same time commanded politics. In a certain way SBY has the same credentials but political conditions have changed since the demise of Suharto. Suharto created a totalitarian state where there was no division between the executive, judiciary and legislature.

SBY became head of state through direct elections and won convincingly. But he inherited a different Indonesia where, on paper, independent institutions do exist. In this transitional period, it will take quite some time before the independence of the judiciary and the legislature becomes a fact of life. In the meantime both institutions frequently reflect the old politics of the Suharto days and portray decay, corruption and collusion.

SBY is known as a cautious man and he will proceed very slowly. Many retired generals still function in key positions all over the place, as civil servants, as members of local parliaments, as provincial governors and so on. Some hold key positions like retired Lt General Sudi Silalahi who functions as SBY's cabinet secretary or retired Lt General Syafrie Syamsuddin who is secretary-general at the Defence Department. Whether intentionally or not, these people are keeping the *Dwifungsi* alive.

A new group of conservative nationalists is emerging as an unofficial opposition outside parliament. The group includes civilians like Akbar Tandjung, formerly chair of GOLKAR, and former president, Megawati, as well as former army heavyweights like retired General Try Sutrisno and retired General Wiranto. They are using every opportunity to criticise the government with nationalistic arguments such as allowing foreign corporations to squander the country's wealth.

Reform under Habibie and Gus Dur

The fall of the dictatorship in May 1998 became the signal for reformers to demand a complete overhaul of the

TNI and an end to impunity. It is worthwhile to scrutinise what has happened with TNI reform since May 1998.

Since the fall of Suharto many parameters have changed in Indonesia, not least the fact that in the last eight years there have been four presidents, several terrorist attacks have hit important urban areas, there have been two general elections, a law on autonomy has been adopted and implemented and the TNI has lost much of its political power.

Habibie and Abdurrahman Wahid (Gus Dur), the two first presidents after reformasi, tried very hard to reform the military but without much success. Megawati didn't even try and her presidency can be seen as wasted years as far as military reform is concerned.

The Habibie administration tried to end impunity by taking some hardline generals to court. But as nothing had yet been done to reform the judiciary, all the officers were acquitted. Habibie's presidency lasted for only one year, which was far too short, and the structure of the TNI was left untouched.

Gus Dur tried to reform the military but in hindsight all analysts conclude that he lacked the necessary statesmanship skills to implement this. Less than two years later, he was removed from office through a humiliating impeachment. Gus Dur was ousted by two forces: the army who carried out a parade in front of the palace in an act of defiance and the next day, the MPR, the People's Congress, full of members who were retired generals or politicians from the Suharto era.

Despite their many flaws, Habibie and Gus Dur achieved a few important things. POLRI, the Police Force, was removed from the TNI, making it clear that law and order was a police task and that the TNI should be transformed into a proper professional defence force.

Gus Dur tried to get rid of the hardliners and actually removed the powerhouse General Wiranto, arguably the most influential officer from 1997 to 2001. He also tried to dispense with General Ryamizard Ryacudu, the new

army chief-of-staff, but failed and paid the price. It became clear to political analysts that reform within TNI was sluggish and consisted of much more than simply replacing officers.

While the top brass of the TNI is now moving towards a more professional attitude, by becoming a defence force, it lacks all the basics to achieve this.

Toothless and ruthless

It is often argued that brutality by TNI soldiers in places like East Timor in the past, West Papua now and Aceh until very recently is the result of a lack of professionalism and the basics of military training. This is not a problem unique to Indonesia; in many other countries, the military in combat behaves ruthlessly towards the local population. In the past fifty years, wars have increasingly victimised the civilian population. One explanation is that the military is not capable of pacifying a region and starts behaving in a brutal way as a result of a lack of confidence, to such an extent that resistance from the local population is bound to intensify.

If one assesses the TNI's performance on the battlefield, in particular in East Timor and Aceh, it can be concluded that it has performed woefully and was never capable of containing any security threats. The reason is lack of proper training and suitable equipment and the lack of an appropriate mindset.

The basics of the TNI are indeed fundamentally flawed. Juwono Sudarsono, the defence minister, has admitted that the 380,000 TNI troops have 'no deterrent capability'. Only 65 of the navy's 121 ships and half of the air force's 114 aircraft are operational, while most of the army's 100-odd battalions are below-strength, under-equipped and under-trained. (Financial Times, 18 February 2006)

In the first weeks of the tsunami disaster, the poor quality of TNI units again became apparent when professional military units from neighbouring countries such as Singapore and Malaysia came to help the victims. Well equipped, using the most advanced helicopters and heavy material, teamed by skilled medical staff, the neighbouring armies were very useful while TNI assistance was limited to basic tasks such as handing out food, removing corpses and so on.

Armed forces budget

Arguably one of the major stumbling blocks in the way of structural reform of the TNI is the notorious 30-70 figure: the armed forces gets only 30 per cent of the money it needs from the state while it must find the remaining 70 per cent itself. Since Juwono Sudarsono became defence minister, the TNI budget has increased by 7.5 per cent as compared with 2005 but the 30-70 figure still holds.

For the 2006 budget, Rp 23.6 trillion (US\$ 2.6 billion) has been allocated but the actual needs have gone up to Rp 56.9 trillion (US 6.2 billion).

In every sense, the TNI is mini-sized. For a large country with the world's fourth largest population, Indonesia only has 279,000 troops, divided between the army (around 220,000), the air force (24,000) and the navy (35,000). It is relatively speaking, much smaller than the armed forces in neighbouring countries. Wages are also very low; a low-ranking soldier earns Rp700,000 (US\$77) a month which needs to be topped up with food and operational bonuses in order to survive. It is far from easy for Defence Minister Juwono Sudarsono to fill the

huge gap in the budget and much time and energy has therefore been devoted to reorganising and revitalising military businesses.

Military businesses

Having its own source of income has been a tradition within the TNI since it was formed in 1945. As military commander of Central Java in the fifties, Suharto was notorious for his involvement in all kinds of illegal business schemes including barter (smuggling of goods) to and from Singapore. Each division or regional command owned companies, cooperatives and foundations. They were all supposed to improve the welfare of the soldiers but more often than not, the top layer of officers became rich while ordinary soldiers lived in woeful conditions in shabbily-built barracks.

Over the years, in particular after 1965, military businesses mushroomed. Some of the most juicy state companies, like the state oil company Pertamina, fell into the hands of the military and billion of dollars were siphoned off. The nouveaux riche of Jakarta in the seventies were mostly army officers functioning as CEOs in state companies. Mismanagement and rampant corruption soon became the norm of these companies.

Military business reached its peak in the eighties when the economy of Indonesia (and Southeast Asia) was booming. Special relations were built with businessmen who were often Chinese, in mutually beneficial, highly lucrative deals. But the fairy tale didn't last long. The monetary crisis in 1997 hit the Indonesian economy very hard, resulting in the bankruptcy of many military businesses.

Already in the early eighties, the TNI tried to re-organise the many companies it owned. A Chinese businessman, Sofyan Wanandi was asked to carry out a big overhaul. Companies which were badly run and had huge losses were closed while the profit-making ones were revitalised and in many cases merged. A trust company was set up, PT Truba, to put all the companies under one roof. For a while things went well, but the monetary crisis in 1997 delivered an almost fatal blow to military businesses. Former chief of staff General Ryacudu, recently frankly admitted that military businesses could only mark up an annual profit of Rp30 billion (US\$ 3.3 million).

Defence Minister Juwono Sudarsono has now decided to bring all the military businesses under his department which will be regulated by law. Of the 219 companies that are listed as military companies, only about ten are reasonably profitable. The TNI top brass has agreed in principle that the Defence Department will supervise the companies but still expect to continue receiving a hefty sum. There is still major disagreement about the future of several foundations (actually profit-making corporations). Most of these foundations emerged in the Suharto period and became mega-size corporations.

TNI supremo, Marshall Djoko Suyanto, argues that some of the key foundations are being run for the benefit and welfare of the soldiers. If these are taken away, the TNI will lose the extra income that is so desperately needed.

In reality, things are much more complex. Investments and shareholders are very much intertwined. The military foundations often have considerable assets and shares in a variety of private businesses. Recently Yayasan Kartika Eka Pakci, one the major military foundations, sold its shares

(11 per cent) in Bank Artha Graha and reaped Rp121 billion (US\$ 13.5 million). Assets may have been invested in land, real estate, banking or other enterprises. It will take years before all the military assets can be properly accounted for.

Another difficulty is the wealth of certain officers. While the salary of Indonesian generals is around US\$300 a month, their life style shows that some of them are millionaires, much of their wealth being in foreign currency. Corruption, additional incomes and so on have been rampant in the last three decades. It will be a hard for the several anti-corruption institutions to track this down, but some cases are obvious. The Bank Artha Graha mentioned above, which is run by a notorious Chinese tycoon Tommy Winata, is often referred to as the bank of the generals. It is a public secret that high-ranking officers put their money in this bank in return for which Bank Artha Graha enjoys extra protection.

The bottom line is that since the birth of the TNI, military business practices have been accepted as normal and have even been legalised. A great deal of effort and time will be needed to control this, assuming that the end result is achievable.

Illegal business activities

Next to murky military businesses there is a much larger sector of illegal and extra-curricular activity of the military. Official figures say that the state loses some US\$ 22 billion a year through smuggling, illegal logging, piracy and other crimes. Most of these lucrative businesses are based in the outer islands. Analysts claim that military involvement has increased enormously, in particular in the wake of the 1997 monetary crisis. While the political and economic activities of the TNI have decreased significantly in Jakarta, their activities in the regions have steadily increased. The regional autonomy law provides more money and political power in the districts, which means that the territorial structure of the army can be very beneficial for legal and illegal business activities.

Illegal logging is an extremely serious threat to the environment and it is a public secret that timber barons from Malaysia together with local tycoons have been involved in cutting down forests in remote places in Kalimantan and other islands. All this cannot occur without the knowledge and collusion of the local authorities, including the military. Other illegal activities show the same pattern: piracy and smuggling are rampant because of the involvement of the military and police authorities.

Another lucrative activity falls under the broad category of moonlighting. This can be something quite innocent like taking a job as the driver or bodyguard of a rich businessman or something far less savoury like making threats or beating up business competitors. Lower down the scale, moonlighters are used as hit men to eliminate rivals.

Protecting big companies like the copper and gold mine Freeport is being coordinated by the military command in West Papua. The US-based company pays millions of dollars annually to the military commander as well as to ordinary soldiers [see separate article].

Binter and Binyah

Ever since the reform of the armed forces started, one of the main demands of civil society has been to abolish the territorial structure of the army. The army structure

reaches right down to village level as a shadow structure of the civil administration. In the first two decades of Suharto's New Order, the army territorial structure was the dominant structure. That explains why the TNI has so far refused to abandon the territorial structure as it has become a lucrative money-making machine.

At the top of the TNI structure, the special commander for territorial affairs (*Aster, Asisten Territorial*, Assistant for Territorial Affairs) has been abolished, but the territorial structure at the bottom is alive and kicking.

Nowadays the structure is better known by such abbreviations as *binyah* (*bina wilayah*, regional guidance) and *binter* (*bina territorial*, territorial guidance). The term *bina* or guidance smacks strongly of the former New Order structure of the military ruling the civilians.

Soon after the *Dwifungsi* doctrine was abolished in 1998, it was replaced by a set of new paradigms by which territorial commanders retain their territorial role for improving social conditions and can be used to try to end domestic ethnic and religious divides. Broadly interpreted, the territorial structure allows the military to continue its role in politics and 'guidance' can often mean guidance over the village head, sub-district chief or district chief.

At the village level, the TNI territorial structure is represented by a *babinsa* (village NCO officer) at the sub-district, a *Koramil* (sub-district military command) and at the district level, a *Kodim* (district military command) structure. In the more remote, conflict-prone places like West Papua, the military structures remain dominant.

Pancasila and the guardian of the state

Military watchers argue that in the end, it is the ideological interpretation of the average TNI officer about their military duties that ultimately determines whether reform of the TNI has been successful. TNI officers, in particular army officers, are more often than not convinced of the uniqueness of their role as military. In particular military stalwarts who experienced the period between 1945 till 1949 are convinced of their predominant role in the struggle for independence.

The two most prominent military men, General Abdul Harris Nasution and General Suharto, differ on many things but not on the uniqueness of the TNI. As they see it, the TNI cannot be compared with other armies in the developed world, and for that reason TNI has its own doctrines, strategies and tactics.

In the Nasution days, pre-1965, distrust towards civilian politicians was prominent and this distrust continues to this very day. In the Suharto days, especially in the 1980s, the *Pancasila* teaching of Sukarno was promoted from a loose kind of guidance into a strict ideology whereby unity and common thinking became prevalent. The TNI became the guardian of that principle. Whenever state unity was under threat, the TNI was obliged to step in on the assumption that it could not rely on the policies of a civilian government.

The present batch of officers have accepted in principle the new paradigm of civilian supremacy. At the same time they were groomed in the spirit and ideology of the New Order. Some pessimistic military watchers state that we will have to wait at least another decade for a new generation of officers to graduate from the military academy who are not polluted by old totalitarian views.

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West woos SBY

A procession of Western political heavyweights – US Secretary of State, Condoleezza Rice, British Prime Minister, Tony Blair, and Dutch Prime Minister, Jan Peter Balkenende - has made its way to Jakarta in recent weeks to strengthen ties with the world's largest Muslim country now regarded as a stalwart in the war on terrorism. To the dismay of campaigners, military relations have been high on the agenda of the bilateral discussions while human rights concerns have been virtually ignored.

Rice's rhetoric

First in the queue to the Merdeka Palace of President Susilo Bambang Yudhoyono (SBY) was Secretary Rice on 14 March. The talks between the two focused on global and regional issues, including the war on terror, maritime security, and building democracy.

In a statement issued ahead of Secretary Rice's visit, the East Timor and Indonesia Action Network (ETAN) urged the US to promote genuine justice, peace and human rights.

It pointed out that 'A forward-looking policy toward Indonesia would make clear that democracy requires more than fair elections'. And added that 'Secretary Rice should change her stance on Indonesia's security forces to make genuine accountability and real reform prerequisites for military assistance.'

The rights group accused the US administration of 'hollow rhetoric' in adopting a so-called 'carefully calibrated' approach toward aiding the Indonesian military while proposing a greater than six-fold increase in military aid to Indonesia for 2007.

'Secretary Rice abandoned the best available leverage to press for genuine reform...by recklessly waiving restrictions on US military assistance to Indonesia late last year,' said the group [see TAPOL Bulletin No. 181, p. 21]. It urged that benchmarks be established and met before the US provides any foreign military financing and lethal equipment.

Following a meeting with Foreign Minister Hasan Wirajuda, Secretary Rice confirmed that the 'military-to-military relationship is again an important element of relations between the United States and Indonesia' and referred to their excellent cooperation on counter-terrorism'

Secretary Rice made no mention of the problems of West Papua, but in a statement about Burma redolent with irony and double standards she said:

'Great democracies like Indonesia and like the United States cannot turn a blind eye to those who still live under oppression, and I know that Indonesia, through the President and through the efforts of the Minister as well, have been trying to convince the Burmese...that it is time to join the international community and to respect human rights.'

Blair's mission

Hot on Secretary Rice's heels was Prime Minister Blair on 30 March with a similar agenda to counter terrorism, increase military co-operation and improve relations between the West and Islam.

Blair's attempt to promote an inter-faith dialogue by announcing the establishment of an Indonesian-UK Islamic Advisory Group was, however, overshadowed, by calls by several of those meeting him for Britain to withdraw its troops from Iraq.

In a joint statement, Blair – the first British Prime Minister to visit Indonesia for over 20 years - and SBY welcomed an Indonesia-UK Memorandum of Understanding on police cooperation and the launch of 'a new modern defence and security relationship to address contemporary challenges, from co-operation on counter-terrorism and maritime security to UK support for Indonesia's security sector reform process'.

The meaning of this new 'defence and security relationship' is not yet clear since Britain and Indonesia already enjoy unrestricted military ties. Britain has been one of Indonesia's largest arms suppliers for many years and in 2005 licensed over £12.5 million of arms exports, ranging from gun silencers to combat aircraft parts.

In statement, TAPOL said that the main beneficiaries of the two countries' plan to strengthen military and anti-terror ties will be the Indonesian security forces, which are still the main perpetrators of terror in the country. 'The political endorsement of their role will serve as a disincentive for urgently-needed reform,' it added [press release, 31 March 2006]

TAPOL argued in its statement that the military is the main stumbling block in the way of Indonesia's transition to genuine democracy despite the democratic advances made since the downfall of Suharto and the achievement of peace in Aceh. It remains a powerful institution largely unaccountable to the civilian authorities and over-reliant on legal and illegal business activities for the bulk of its income. It refuses to abandon its territorial command structure, which is regarded as a lucrative money-making machine particularly in resource-rich areas such as Papua.

Blair made a routine statement in support of Indonesia's territorial integrity and expressed the UK's 'support for dialogue to settle internal differences on Papua.' However, an attempt to question him about West Papua was rebuffed with the response that Britain is committed to supporting the democratic process in Indonesia. A letter from TAPOL urging the Prime Minister to address human rights concerns in West Papua in his meeting with SBY apparently did not have the desired result (see <http://tapol.gn.apc.org/news/files/let060326.htm>).

Dutch PM supports Papua's integration

Predictably, the tune did not change with the visit of Dutch Prime Minister, Jan Peter Balkenende on 7 April. The leader of the former colonial power reaffirmed his government's commitment to Indonesia's territorial integrity despite his country's policy of separating West Papua at the time of Indonesia's independence in 1949.

Like the previous visitors, Balkenende met with Islamic leaders and called for increased interfaith dialogue.

The truth is told

'From the stories of our sisters and brothers we learn that victory is not a simple matter of heroes and villains; that history is more than the listing of major events or the biographies of those who are called leaders. The experiences of "ordinary people", both the many who died and those who survived, tell us where we have come from and help us understand who we are today. From their stories we see more clearly both the extremes of human dignity and of human degradation that were manifested in our country during these 25 years. We must learn from both sides of this human story. We must acknowledge our potential for both extremes, and strive always to bring the best of our humanity into our lives and relationships—our families, our communities and our nation—each day as we build a new future' [CAVR Report, Introduction]

One of the objectives of East Timor's Commission for Reception, Truth and Reconciliation (known by its Portuguese acronym, CAVR) was 'to demonstrate the immense damage done to individuals and communities when power is used with impunity'.

The Commission's 2500-page report, publicly available since January, leaves no room for doubt on that score. It is a devastating indictment of the Government of Indonesia and the Indonesian security forces up to the highest level.

Widespread and systematic violations

Throughout the period of the illegal military occupation of East Timor, the Indonesian security forces committed 'massive, widespread and systematic human rights violations against the civilian population,' says the report.

The litany of crimes included unlawful killings, enforced disappearances, forced displacements, arbitrary detentions, torture and ill-treatment, crimes of sexual violence, sexual slavery and violations of the rights of the child.

These amounted to war crimes and crimes against humanity. Violations of international humanitarian law or the laws of war included breaches of the Geneva Conventions on the protection of civilians, the use of napalm and other incendiary devices on civilian targets, and the destruction of property and food sources.

Although the vast majority of violations were perpetrated by the Indonesian security forces, serious violations were also committed by East Timor's two main political associations Fretilin (the left-wing Revolutionary Front for an Independent East Timor) and UDT (the centre-right Timorese Democratic Union) during political conflicts in 1974-76 and as a result of internal conflicts within the Fretilin resistance in 1975-77.

A brief civil war involving UDT and Fretilin in 1975 claimed up to 3,000 lives. However, Indonesia's increasingly overt interference in the territory's affairs was



A home destroyed by militia violence following the August 1999 independence referendum.

UN/UNHCR Photo# 20311C

found by the Commission to be a major contributor to the deterioration of the volatile situation which then existed.

The Commission estimates that the minimum number of conflict-related deaths was 102,800. That includes an estimated 18,600 total killings by all sides and an estimated 84,200 deaths due to hunger and illness, although the latter figure could be as high as 183,000.

Tens of thousands of Timorese were arbitrarily detained and thousands were subjected to torture, ill-treatment and serious sexual violations.

A defining feature of the conflict was the displacement suffered by almost every East Timorese person. This resulted in deprivation of various kinds, including hunger, disease and the loss of adequate shelter.

Many Timorese suffered from a terrible famine in the late 1970s and early 1980s as a consequence of the Indonesian strategy of separating the civilian population from the armed resistance and holding tens of thousands of surrendered civilians in detention camps and resettlement villages. Displacement rendered those affected vulnerable to numerous other human rights violations.

A range of economic and social rights were also comprehensively violated both as a by-product of military operations and a consequence of the unchecked pursuit of commercial interests by military and civilian officials. Education was used as a propaganda tool rather than to meet basic learning needs.

Promoting reconciliation

One of the Commission's key functions was to promote reconciliation in East Timor itself. Its main reconciliation initiative at the grassroots level was the Community Reconciliation Process (CRP). This voluntary mechanism combined practices of traditional justice, arbitration, mediation and aspects of both criminal and civil law.

Before a hearing could be conducted the Office of the General Prosecutor (OGP) was required to consider and retain those cases involving possible serious criminal offences. A total of 1,371 perpetrators successfully completed a CRP and the process appears to have made a real contribution to community reconciliation and to ending the suffering of many victims.

However, it is very much unfinished business. A substantial body of cases has not been processed in any way and the (OGP) has not taken any further action on the cases it retained. The limitations of East Timor's Serious Crimes Unit (SCU), its restriction to crimes committed in 1999, and the failure of the Indonesian judicial process to provide any semblance of justice mean that the vast majority of human rights violations have yet to be dealt with in any fashion.

'The fact that many perpetrators have voluntarily participated in the painful and often humiliating experience of a CRP hearing, while those guilty of more serious crimes seem unlikely ever to be held to account, has produced a situation of unequal accountability and a perceived justice deficit,' says the Commission.

Confronting impunity

The Commission notes that the international community witnessed and demonstrated its horror at the crimes committed during 1999 before and after the UN-administered Popular Consultation, but says that those crimes were far outweighed by those committed during the previous 24 years of occupation. Regrettably, the international community has paid little attention to the issue of justice for the whole of the preceding period.

That has resulted in the entrenchment of impunity, says the Commission: 'Those who planned, ordered, committed and are responsible for the most serious human rights violations have not been brought to account, and in many cases have seen their military and civil careers flourish as a result of their activities.' Furthermore, Indonesia has never shown a genuine will to bring the perpetrators to book.

The Commission recommends that the Government of Indonesia table the report in the Indonesian Parliament, and in order to foster a spirit of reconciliation, apologise to the victims for the violations committed during the occupation.

While acknowledging that the issue of justice for the conflict and occupation period is difficult and complex, the Commission insists that the international community must ultimately take responsibility.

It recommends the renewal of the mandates of the SCU and Special Panels in East Timor and says the SCU should investigate a number of exemplary cases. It provides a list of institutions of the armed forces and persons in positions of command responsibility, which it says should be the subject of focused investigation and prosecution by the Indonesian authorities. It calls for Indonesia to transfer those already indicted to the renewed Panels.

In the event that these measures fail to deliver a sufficient measure of justice and Indonesia persists in the obstruction of justice, the United Nations should be prepared to institute an international tribunal, says the Commission.

The Commission also highlights the importance of reparations for the most vulnerable victims of human rights violations. It recommends the implementation of a reparations programme with Indonesia bearing the greatest proportion of the costs. Other countries – especially the members of the UN Security Council – and business corporations who support the illegal occupation and thus indirectly allowed violations to take place, are obliged to contribute, it says.

CAVR on TAPOL

Tapol was established in June 1973 and carried regular reports on Timor-Leste from 1974. After BCIET became defunct, Tapol helped keep the issue alive in Britain... Tapol campaigned primarily through the publication of its newsletter, whose regularity, longevity and professionalism was the envy of other activists, and whose distinctive contribution was its reportage based on Indonesian sources. Tapol and its newsletter owed much to the initiative and dedication of Carmel Budiardjo, herself a former political prisoner in Indonesia, and Liem Soei Liong, an Indonesian living in exile in the Netherlands. They reached a wide international network through the newsletter and speaking tours abroad, including later to the UN. They also built a solid support network in Britain comprising a cross section of distinguished patrons, including dignitaries like Lord Avebury who was a persuasive advocate for Timor-Leste in many elite circles throughout Timor-Leste's struggle

CAVR report Part 7, para 444.

Self-determination, the international dimension, and the UK

The right to self-determination was fundamental to East Timor's fate as a small and vulnerable nation, says the Commission. Recognition by the UN that East Timor was a non-self-governing territory with the right to self-determination 'gave the issue an international legal basis which became the principal asset of the people...in their unequal struggle for independence'.

Despite that, western countries' approach to the problem was determined largely by strategic and economic interests in relation to Indonesia. They paid only obeisance to moral and legal principles.

The Commission concludes that whereas the UK government acknowledged the right of the people of East Timor to self-determination, it chose to stay silent on the issue. It did not intervene to halt the 1975 invasion although it knew of Indonesia's intentions. Instead it took the view that 'it is in Britain's interests that Indonesia should absorb the territory as soon as and as unobtrusively as possible: and that if it comes to the crunch and there is a row in the United Nations, we should keep our heads down and avoid siding against the Indonesian government'.

The UK failed to promote the right to self-determination or provide assistance to the Timorese struggle until 1998. On the contrary, it actively supported Indonesia's campaign by advising Indonesian officials on the management of the issue and on 'how to handle reports of atrocities'.

'Britain's decision to keep "our heads down" was largely dictated by the importance it attached to its long-standing commercial interests in Indonesia', says the Commission. During the occupation, the UK increased aid, trade and military co-operation with Indonesia.

The Commission notes that the UK was a major supplier of arms to Indonesia during the occupation and that senior Indonesian military officials were given training in British military establishments. It cites credible reports

that British equipment was used in East Timor, but makes the important point that:

'Whether or not British-made military equipment was used in specific violations in Timor-Leste, the provision of military assistance helped Indonesia upgrade its military capability and freed up the potential for the Indonesian armed forces to use other equipment in Timor-Leste. More importantly, the provision of military aid to Indonesia by a major Western power and member of the Security Council was a signal of substantial political support to the aggressor in the conflict, and outraged and bewildered East Timorese who knew of Britain's professed support for self-determination.'

Recommendations to the UK

The Commission makes a number of important recommendations to the UK government:

- The UK, as a state that had a military co-operation programme with the Indonesian government, apologises to the people of East Timor for failing to adequately uphold internationally agreed fundamental rights and freedoms.
- The UK, as a state that gave military backing to Indonesia and a permanent member of the Security Council duty bound to uphold the highest principles of world order and peace and to protect the weak and vulnerable, assists the government of East Timor in providing reparations to victims of human rights violations suffered during the Indonesian occupation.
- Business corporations which profited from the sale of weapons to Indonesia during the occupation contribute to the reparations programme.
- The UK, along with all UN member states, refuses a visa to any Indonesian military officer named in the report for either violations or command responsibility for troops accused of violations and takes other measures such as the freezing of bank accounts until that individual's innocence has been independently and credibly established.
- The UK, along with all other states, regulates military sales and cooperation with Indonesia more effectively and makes such support totally conditional on progress towards full democratisation, the subordination of the military to the rule of law and civilian government, and strict adherence with international human rights, including respect for the right of self-determination.
- The UK undertakes a joint initiative with the governments of Australia and New Zealand to establish the truth about the deaths of the six foreign journalists in East Timor in 1975 so that the facts and accountability are finally established.

The UK government has not yet responded to the Commission's findings and recommendations despite being urged to do so by TAPOL and others.

Resistance and international solidarity

The most important factor in achieving self-determination, says the Commission, was the diplomacy of the East Timorese resistance. Despite overwhelming odds and extraordinary challenges, it was ultimately successful because 'it focused on internationally agreed principles, eschewed ideology and violence, was open to the contribution of all East Timorese, and made maximum use of the international system, media and civil society networks.'

'As a human rights and moral (rather than ideological) issue, the question of Timor-Leste gained international legitimacy and support at the expense of Indonesia whose case rested on force and had no basis in international law or morality.'

In their endeavours, the resistance and the East Timorese people were accompanied in 'every step of their long journey to freedom' by international civil society whose efforts are commonly ignored by official sources. The Commission recounts the role of civil society and pays special tribute to Indonesian civil society, whose involvement in the struggle demanded 'exceptional courage', it says.

No sign of justice

There is little sign that the major powers and international bodies which stayed silent during the occupation have learned their lessons and are anxious to make amends.

Furthermore, the East Timorese leadership has regrettably succumbed to the demands of *realpolitik*. It has decided to prioritise good relations with Indonesia over the pursuit of justice instead of finding ways of accommodating the two objectives. Indonesia has cynically taken advantage of the unequal relationship that exists between the two countries.

East Timor's President Gusmao voiced strong criticism of the report when presenting it to parliament on 28 November. The report has still not been formally published although it has been available online since the end of January. It has been presented to interested governments and donors and some international and local NGOs. A six-month community dissemination programme in East Timor has been promised.

The report was presented by President Gusmao to the UN Secretary-General Kofi Annan on 20 January. However, it has not yet been referred to the Security Council, which retains the overall responsibility for justice.

A report by the Secretary-General on justice and reconciliation - requested by the Security Council last September following the publication UN Commission of Experts report on accountability for 1999 crimes - is also still awaited [See TAPOL Bulletin, No. 181 p. 16 and No. 179, p. 11].

TAPOL and a number of East Timorese, Indonesian and international NGOs have written to the Secretary-General urging him to disseminate the CAVR report to the wider UN community and to ensure that it is taken into account by the Security Council in its deliberations.

The Indonesian government has publicly ignored the findings of the report. At a meeting in Bali on 17 February with East Timor's President Gusmao, President Yudhoyono dismissed the report as a domestic matter for East Timor [see separate article, 'Obrigado!'].

Earlier, Indonesia pointedly postponed a planned meeting in Jakarta because of publicity surrounding the East Timorese leader's presentation of the report to the UN Secretary-General.

At the Bali meeting, the two leaders reiterated their support for the much maligned Commission of Truth and Friendship. The body was set up last year purportedly as a bilateral truth-seeking mechanism to review the crimes of 1999. It lacks popular support in East Timor and has been widely criticised for contradicting international standards on the denial of impunity for serious crimes.

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'Obrigado!'

Two heads of state recently agreed to forget a terrible past so as to be able to consolidate their friendship. Susilo Bambang Yudhoyono and Xanana Gusmao met in Bali to discuss a report recently submitted to the UN Secretary General about Indonesia.

Jakarta politicians and nationalists were furious about this while President SBY politely turned down a visit to Jakarta by Xanana. They thought Xanana was planning to forward a complaint against Indonesia to the UN. Fadli Zon, a close buddy of General Prabowo, complained: 'Timor depended on Indonesia for everything but they have no sense of gratitude,' he said. This reminds me of the time when the TimTim referendum was held in September 1999. Just imagine how amazed I was to hear someone on a Jakarta television programme say, following the announcement of the pro-independence results: 'TimTim does not know how to say, thank you.'

Is it not a fact that during the days of Indonesia's struggle for independence in the 1940s, the Dutch political elite also accused the Indonesians of being ungrateful? And last year, detik.com said that the Acehnese don't know the meaning of 'thank you', that the expression does not exist in the Acehnese language.

But hold on! In Aceh, 'thank you' is used to give praise to God which is why both sides, those being thankful and those being thanked, use the expression 'Alhamdulillah'. Both sides give thanks to God which means that there is no equivalent phrase in Acehnese. In former days, the Dutch also thought that Indonesians should be grateful. When Dutch men and women were released from Japanese prisons in the 1940s, they were shocked to discover that an independence struggle was underway and called the natives 'ungrateful'.

Today the same thing is happening in Indonesia with regard to TimTim. Timor Leste which for such a long time was torn apart by colonial paternalism, should have been grateful to Portugal and the Church. 'Obrigado' (thank you) was the way they saw it. So now, centuries later, the people of Timor Leste are being reprimanded for not being grateful or in other words not seeing colonialism as a blessing. And moreover - no less important - the lack of an expression for 'thank you' does not mean that a nation does not have the capacity to feel grateful. To regard other nations as immoral is an abuse, a form of racism.

Neo-colonial oppression

These examples show how those in power and the reality of neo-colonial oppression can distort people's perceptions of other people, as with the Indonesian press in the case of Timor Leste. It seems that neo-colonial sentiment has entered our mindset, the very way we think. The complexities of a former colonised nation have been replaced by the complexities of a former coloniser.

So, what has happened? Timor Leste, especially President Xanana and Foreign Minister Jose Ramos Horta, had no intention of cornering Indonesia by filing a complaint to the UN. It was the UN and the Timor Leste Parliament which instructed the Timor reconciliation commission to conduct a major investigation into the

human rights abuses perpetrated by Indonesians and East Timorese from 1974 to 1999. The commission, known as CAVR, has now completed its report after interviewing eight thousand people; their investigations went on for three years.

For Indonesia it was a matter for regret, while President Xanana was angry because the CAVR report recommended that the Timor Leste government should call for an international tribunal and demand compensation for Timorese human rights victims. Whatever he may have felt, Xanana was required by law to present the report to the UN Secretary General.

We know very well that the Timorese people as well as their government, including President Xanana and Foreign Minister Ramos Horta, in their hearts of hearts, certainly want justice for the victims of one of the worst human rights disasters ever to have happened in Asia. But we also know that the Dili government realises that in today's world, justice is for those who win wars. All international tribunals since Nuremberg, Tokyo and Rwanda, and the former Yugoslavia took place thanks to strong pressure from, and the agreement of, the super powers which had won these wars.

The TimTim dispute was settled at the negotiating table with no victors, but the majors powers who sit on the UN Security Council had no interest in there being a tribunal for Timor Leste. During the entire period of the Timor Leste conflict, from 1974 till 1999, *real politik* meant that Indonesia was more important than Timor Leste. If Timor Leste had called for a tribunal, it would have been strongly resisted by Indonesia.

Burying the past

Timor Leste's position is quite understandable, yet even so, Jakarta politicians were infuriated, that when the two leaders met, they agreed to bury the past. The generals who were responsible for the 180,000 victims have escaped justice. The generals and war criminals of Serbia were less fortunate because their country is located in Europe and their civil war took place on the fringes of Europe. The Indonesian generals who escaped justice can consider themselves lucky because their country does not impinge on the interests of the superpowers. As the beneficiaries of impunity, Indonesian politicians and soldiers should say 'Obrigado' to Timor Leste...

Indonesia should understand the position it is now in, and should respect the dignity and sacrifices of a neighbouring country by acknowledging the facts contained in the CAVR report. As CAVR was set up by the UN, Indonesia and Timor Leste should call on the international community, and specifically on the UN, to set up an international tribunal or a hybrid tribunal as in Cambodia to deal with those responsible for human rights crimes in Timor Leste. It is up to the UN to make a move. Civil society in Europe, Indonesia and Timor Leste must now act.

To my readers, let me say: 'Obrigado!'

This article was written by Aboeprijadi Santoso of Radio Netherlands

Workers' rights under renewed threat?

Indonesian workers have benefited from significant improvements in their working conditions and ability to organise since the end of the repressive Suharto regime, but recent anti-union actions have served as a reminder that serious violations of labour rights still occur. British commercial interests represented by Unilever and Group 4 Securicor (G4S) have come under particular scrutiny. On a more positive note, the government has delayed introducing a controversial new labour law which threatened to reduce employees' benefits for the sake of industrial competitiveness.

Musim Mas union leaders jailed

In a case which has led to a high-profile campaign by the international food-workers union, IUF [see endnote], six union leaders at the giant PT Musim Mas oil palm plantation and processing plant at Pelalawan, Riau province, Sumatra were jailed for up to two years earlier this year. The six men had been in custody since their arrest following a strike and demonstration at the company in September 2005. The IUF believes the men were selectively targeted for prosecution because of their union activities.

According to the IUF, the conviction of the union leaders was the culmination of a series of violations of workers' rights by PT Musim Mas. The company refused to recognise the legally-registered union, Kahutindo, - which was formed in October 2004 and represents 1,183 workers out of a total workforce of roughly 2,000 - or negotiate with Kahutindo on the implementation of minimum working standards required under Indonesian law.

Following the arrest of the union officers, the company sacked the 701 permanently-employed union members who took part in the strike and refused to renew the contracts of an additional 300 unionised contract workers. In December, it forcibly evicted the 701 dismissed workers and their families from their plantation housing and expelled their children from school.

The strike and demonstration in September were organised in response to the dismissal of Kahutindo chairperson, Robin Kimbi and the company's failure to implement minimum labour standards endorsed by the local Parliament and Department of Manpower. During the demonstration, a gate to the Musim Mas refinery was pushed over and two persons received minor injuries. Despite the fact that 1,000 workers were involved in the action, just the six union leaders were arrested and prosecuted.

The IUF alleges that the company orchestrated the arrest and prosecution of the key union officers in order to destroy the union.

The men were charged with collective violence against property or persons under Article 170 of the Indonesian



Musim Mas union leaders, Akhen Pane, Robin Kimbi, Masry Sebayang

criminal code. The IUF points out that at no point in his submissions did the prosecutor allege that the actions of the union leaders and their actions alone led to the incident with the refinery gate. Despite that, Robin Kimbi and Kahutindo regional secretary, Masry Sebayang, were convicted and sentenced to two years imprisonment. Union leaders Suyahman, Safrudin, Akhen Pane and Sruhas Towo were each sentenced to 14 months imprisonment. The six men, who are appealing against their convictions, are being investigated by Amnesty International as possible prisoners of conscience.

Following its visit to Indonesia in 1999, the UN Working Group on Arbitrary Detentions noted that the provisions of the criminal code on crimes against public order, which include Article 170, are 'drafted in such general and vague terms that they can be used arbitrarily to restrict the freedoms of opinion, expression, association and assembly' and can be used 'to target the press, peaceful political opposition activities and trade unions...' [WGAD report, p. 7].

The men could have been charged with property damage under Article 406, which is not a public order offence and carries a lesser sentence. The decision to deal with a private industrial dispute under public order penal provisions is evidence, says the IUF, of the political nature of the charges.

The IUF also points out that the speed of the prosecutions stands in stark contrast to the authorities' refusal to investigate the union's report of injuries sustained by two workers only the day before the gate incident when a company truck driven by its chief of security drove into the mass of demonstrators. Furthermore the court failed to compel a director of Musim Mas to attend the trials and give evidence which could have assisted the six accused.

A motion tabled in the UK parliament in January calling for the prisoners to be released and for the sacked workers to be reinstated has been signed by 47 MPs

[Early Day Motion 1520: Indonesian Palm Oil Workers].

Unilever urged to respond

Musim Mas operates the world's largest palm oil refinery and through its Malaysian marketing office, Musim Mastika, supplies the European processed food, personal care and soaps/detergent industries with a significant proportion of the palm oil products which are essential to a wide range of manufacturing processes.

The Anglo-Dutch multinational, Unilever, is the world's third largest food company with products ranging from Hellmann's mayonnaise and Flora margarine to Magnum ice creams, Persil washing powder and Dove and Sunsilk personal products. Many of these products contain palm oil or palm oil derived chemicals.

The Unilever European Works Council (UEWC), which represents 52,000 employees, has said in a letter to Unilever CEO Patrick Cescau dated 15 March, that it believes Unilever is using Musim Mas products and, therefore, sanctioning the company's 'abhorrent practices'. It calls the use of tainted Musim Mas ingredients 'unacceptable' and urges the company to convey its concern to Musim Mas.

The UEWC letter concludes: 'If it is Unilever's position that the company does not use Musim Mas products in any way, it is incumbent upon Unilever to publicly clarify its palm oil sourcing and open the process to independent scrutiny. Unilever employees, consumers, and all those concerned with human rights and responsible business practices can accept no less.'

The UEWC also points out that Unilever is closely associated with Musim Mas through the Roundtable on Sustainable Palm Oil (RSPO), which brings together palm oil producers, users, retailers and NGOs. Musim Mas is a member of RSPO and Unilever's Sustainable Agriculture Manager, Jan Kees Vis, is its Executive President.

Prominent UK companies, such as the Body Shop and Cadbury-Schweppes, are also on the RSPO Executive Board and have supported Musim Mas. In a letter to the IUF, the Body Shop said: 'PT Musim Mas... may or may not be currently be complying with the full set of [the RSPO's Principles and Criteria for Sustainable Palm Oil], but if we were to exclude companies from participating due to current practices we would be going against our policy of constructive engagement...'. Oxfam GB, another RSPO Board Member, has not yet made its position clear.

More information is available at www.iuf.org/den3255 and via links from the IUF home page.

Military intervenes in G4S dispute

Meanwhile, disturbing reports have emerged of military intervention in a dispute involving the security company, Group 4 Securicor.

In an apparent attempt to intimidate the Securicor Indonesia Union and drive down labour standards, the company has dismissed over 200 of 259 striking



Musim Mas prisoners in conference with lawyers

employees and embarked on campaign of harassment against union leaders. It has also failed to comply with the decisions of an industrial tribunal and the Indonesian High Court.

The dispute arose following the merger of Securicor and Group 4 in 2004 when the company's Indonesian arm, PT Securicor Indonesia, refused to negotiate with union representatives over terms and conditions for employees in the new enterprise.

After three unsuccessful attempts at negotiations, the union organised a lawful strike in protest at the company's behaviour. The company's response was to sack over 200 employees and, with the assistance of the police, attempt to intimidate union members into ending their strike. Union leaders have complained of death threats and coercive phone calls to family members.

And in a move with worrying echoes of Suharto-era repressive practices, last July the company called in military personnel to prevent union officials from entering its Jakarta office over a two-week period. Scuffles ensued, but there were no reports of injuries. Retired naval officers who manage the offices have also made threats to union demonstrators.

Also last July, ten union officials were ordered to appear at the South Jakarta police office for interrogation. Three of the men, Union President, Fitriajansjah Toisutta, and members, Tri Muryanto, and Edi Putra, were named as suspects for the crime of committing 'unpleasant acts' against the company. The trial of Fitriajansjah Toisutta began in December but has since been adjourned.

Mr Toisutta claims that the criminal charge was used to pressure him into signing an agreement not to block the company's loading dock when protesting. The company has repeatedly used threats of civil and criminal actions to intimidate workers and strikers. In one letter to all employees, the company said it was videotaping demonstrations and accused the union of blackmail.

Despite a recommendation by the local Office of Manpower and a ruling by Indonesia's National Dispute Resolution Committee (P4P) that the sacked workers should be reinstated and an unsuccessful appeal by the company to the High Court for State Administrative Affairs, the company has refused to meet its legal

obligations. Its appeal to the Supreme Court is pending, but in the meantime the sacked employees remain out of work.

The company has also refused to pay the striking workers' wages as required by Indonesian law despite a ruling by the Central Jakarta State Court that it should do so.

The dispute is now the subject of an international campaign initiated by the Securicor Indonesia union and the Association of Indonesian Trade Unions (ASPEK). It is supported by the US-based Service Employees International Union (SEIU). TAPOL met with officials of these organisations on their way to Geneva in March to submit a complaint to the International Labour Organisation (ILO).

The complaint, which will be considered by the ILO's Committee on Freedom of Association, alleges breaches by Indonesia of ILO Conventions 87 (Freedom of Association and Protection of the Right to Organise) and 98 (Right to Organise and Collective Bargaining).

The union officials also delivered a petition to the General Secretary of the Labour Party, which uses G4S for its conferences and other public events.

For more information see www.focusongroup4securicor.com

Poverty wages

G4S workers have also complained that the company is not paying length-of-service increments to the minimum wage. In 2005, the minimum wage for Jakarta was Rp 711,500 (approx. US\$ 80) per month. Employees with more than one year's service are entitled to an increment, but that is not being paid in many cases.

The minimum wage is in itself a pittance and hardly adequate for basic survival. Low-paid Indonesian workers are particularly vulnerable to exploitation and TAPOL believes British companies such as Group 4 Securicor, which derive substantial profits from their operations in Indonesia, should be ashamed of paying wages, which reinforce the poverty of their employees.

Government backs down over new Labour law

In a contrasting sign that the democratic changes in Indonesia have brought some benefit to the labour movement, the government was forced by a wave of public protests at the beginning of April to put off the revision of a labour law aimed at boosting the country's investment climate.

Thousands of workers demonstrated on the streets of Jakarta and cities across Java against the proposed changes to a 2003 law, which affords a degree of protection to workers' rights.

The changes would have resulted in a 50 per cent reduction in severance pay and allowed companies to hire workers for up to five years without a contract. It would also have imposed stricter conditions for negotiations on the minimum wage.

The government and business community took the view that the 2003 law was too generous to workers and more flexibility was required to improve Indonesia's economic performance and make it more attractive to foreign investors.

On 8 April, President Yudhoyono, in response to the public outcry, announced that the revised law would not be submitted to Parliament as scheduled. It would first be

considered by a tripartite forum of employers' associations, workers' groups and government officials.

Undoubtedly, the protests and negotiations over the law would not have been allowed to happen under the Suharto regime when workers were ruthlessly oppressed, but it remains to be seen what form the law will eventually take and whether a genuine accommodation between the government, employers and workers will be achieved.

Note:

IUF - International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations

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Civilian supremacy

In theory this may be simple, but realisation is more complex. The two key elements of civilian supremacy are democratic control over the military and military professionalism.

Again, in theory, post-Suharto Indonesia fulfils all the criteria of a democracy, with an elected government and legislature. But in this transitional stage of a young democracy, military thinking is still persistent, in particular in parliament and within the civil service.

Most political parties, including the major ones like Golkar and PDI-P have many retired officers on their boards and also in parliament. The old style of politics, the patron-client system remains the dominant structure within the parties. In the civil service, many high-ranking posts are still occupied by military, and the same is true at provincial level.

Civilian politicians often lack the confidence to defy the old prevailing structures. The military structure was and arguably still is the best organised institutional and political force. More often than not, if candidates are being nominated for governor or district chief, the military candidate will be selected and elected, not least because he previously served as military commander while civilian candidates are seen as inexperienced.

As we have already seen, achieving military professionalism is a long and winding road. It was not all that long ago that a civilian was appointed as minister of defence and efforts to place the TNI headquarters fully under his department are still in the making. The long and the short of it is that TNI reform will take time but having a government with a strong political will can hasten this process.

The experience of the Megawati years is clear; they were wasted years. The present team - SBY and Yusuf Kalla - have started very well with the withdrawal (without any significant problems) of the TNI from Aceh. The government should be encouraged to continue along this line, including by overseeing the demilitarisation of West Papua.

Anti-porn bill stirs controversy

A bill which, if passed, would impose heavy penalties on women for the way they dress or on couples for kissing in public has provoked anger and opposition in a country that has always prided itself on its attachment to the principles of pluralism and secularism. It is also seen as being an affront to the cultural values and traditions of people in Bali and Papua.

The bill currently under discussion in the Indonesian Parliament (DPR) is being promoted primarily by Muslim parties. It is regarded by many, especially cultural workers, as an attack on personal freedoms, in particular the right to freedom of expression. It has met with strong opposition from the artistic community and the media and has stirred strong emotions particularly in Bali.

The Anti-Pornography and Pornographic Acts Bill was first mooted in 1999 but has lain dormant until recently when hardliners began to fear what they see as the harmful effects of globalisation.

The first paragraph of the explanation attached to the bill states; 'as religious believers, Indonesians are convinced that God forbids anti-social behaviour, such as indecency and immorality in our sex lives, for instance sexual harassment, adultery, sexual deviation, etc.' [The Jakarta Post, 21 March 2006]

According to the editor-in-chief of Indonesia's leading weekly, Tempo, Bambang Harymurti: 'Pornography is a red herring. They are not really concerned about pornography. They want to control the society so that it behaves in a certain way. If you read the draft, it allows everyone to enforce this law. I am more concerned with the threat of violence,' he said. Another vocal critic of the bill, Leo Batubara, deputy head of the Indonesian Newspapers Association, said the hardliners were trying to turn Indonesia, where most Muslims pride themselves as moderates, into Taliban Afghanistan. [The Jakarta Post, 9 March 2006]

A member of the Indonesian Ulemas Council, Ma'ruf Amin, criticised people who were trying to block the bill and described them as 'the liberal-minded who seek unlimited freedom'. [The Jakarta Post, 7 March 2006]

In addition to forbidding pornography the definition of which is described by its critics as 'vague', the bill would impose prison terms of up to ten years and fines of up to Rp 2 billion (US\$217,503) for kissing in public, for the exposure of a woman's 'sensual' body parts and the display of 'erotic' works of art.

Responding to the many warnings that the bill could imperil the rights of women, already under pressure from the introduction of sharia regulations on dress and public conduct in some parts of the country, the State Minister for Women's Empowerment, Meutia Hatta Swasono, sought to take the sting out of the bill by saying it would focus on limiting the distribution of 'obscene' materials instead of criminalizing personal conduct, particularly of women. Yet such limitations would surely have an impact on the media and publications.



Demonstration against the anti-porn bill held in Jakarta on International Women's Day. The sign reads 'My body belongs to me'

Balinese erupt in anger

The law is most strongly opposed in Bali for a number of reasons. In the first place, some aspects of Balinese women's dress could come under scrutiny as being in breach of the law. The law could also impinge on the behaviour of tourists who wear skimpy clothing on the beaches. It comes at a time when the economy in Bali has been severely hit by a catastrophic fall in the number of tourists, the very lifeblood of the island, as a result of the 2002 and 2005 terrorist atrocities.

Speaking at a meeting in Den Pasar on 15 March, the governor of Bali, Dewa Made Beratha, told a crowded hearing and plenary session of the provincial legislative assembly that the law 'might put Balinese cultural heritage and sacred religious objects in danger of legal prosecution'. One of the most influential community figures in Bali, Satria Naradha, chastised some supporters of the bill who were spreading the idea that Bali might want to secede from Indonesia if the law is adopted.

A much-respected Balinese scholar, Ketut Sumarta, said: 'Previously many of us viewed the bill as a threat to our interests, either to our tourist industry or cultural freedom. Nowadays, the majority of us see the bill as a grave threat to the interests of our nation.' The chair of *Komponen Rakyat Bali*, I Gusti Ngurah Harta, said that while the unitary state reflected the founding fathers' utmost respect for the nation's socio-cultural landscape,

'the bill reflects and promotes the moral and cultural values of only one group of religious beliefs'.

A team of parliamentarians from Jakarta, on a visit to Bali to assess public opinion of the bill, were told in no uncertain terms that it was quite unacceptable. They were met at the airport by dozens of people including local punk groups and reggae bands and later by a rally of one thousand people. Protestors came from all walks of life, community activists, academic and ordinary citizens. One of the country's foremost dancers, Rina, took to the stage later in the day as songs promoting freedom of expression were sung. Among the performers were four female dancers, including a bare-breasted older woman. [*The Jakarta Post*, 10 March, 2006]

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President Yudhoyono is himself listed in the CAVR report as the commander of Battalion 744 in East Timor between 1986-88, although that is not a period when significant violations by that battalion were reported.

Militia leader's sentence re-doubled

In a minor welcome development, the Indonesian Supreme Court confirmed the one remaining conviction for crimes against humanity in East Timor, that of militia leader, Eurico Guterres.

Guterres was initially convicted and sentenced to ten years imprisonment by Jakarta's ad hoc human rights court but had his sentence halved on appeal. On 13 March, the Supreme Court reinstated the original sentence, the minimum allowed under Indonesian law for crimes against humanity.

At the same time however, the Supreme Court upheld the appeal court's decision to overturn the conviction of Brig-Gen Noer Muis, a former military commander in East Timor.

The situation remains that, apart from Guterres, all the other 17 defendants tried by the ad hoc court, including all the Indonesian security forces personnel, have been either acquitted or had their convictions quashed on appeal.

CAVR background

The CAVR was set up as an independent body by the UN Transitional Administration in East Timor (UNTAET) in 2001 and began work in 2002.

Its purpose was to inquire into human rights violations committed on all sides between 25 April 1974 (when the overthrow of the fascist Caetano regime in Portugal set in train the events which led to Indonesia's invasion and occupation of East Timor) and 25 October 1999 (when UNTAET was established to administer the territory) and promote reconciliation between victims and perpetrators.

The Commission's mandate provided it with three main functions: to seek the truth regarding human rights violations and establish a truth-telling mechanism for victims and perpetrators to describe, acknowledge and record past abuses; to facilitate community reconciliation in relation to lesser crimes and mediate between victims and perpetrators; and to make recommendations for further action on reconciliation and the promotion of human rights.

The Commission took nearly 8,000 statements from victims and witnesses and completed its work in October last year.

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Among some religious circles, the tsunami disaster is seen as a punishment from God. Hence their determination to ensure that sharia law is fully implemented.

Sharia law is gradually being introduced elsewhere in Indonesia as well. Seven cities and regencies -- Cianjur, Garut, and Tasikmalaya in West Java; Tangerang in Banten; and Enrekang, Maros, and Bulukumba in South Sulawesi -- through the authority given to them by regional autonomy, already have bylaws on how women should dress and act.