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## Munir murder: Back to square one

**Hopes that progress might be made towards solving the murder of Indonesia's leading human rights advocate have been dashed with the decision by the Supreme Court to exonerate Pollycarpus on charges of involvement in the murder and to acknowledge only the charge of falsification of documents. This verdict can only reinforce disrespect for the judicial process in Indonesia. No one is now facing charges for this high-profile murder.**

The verdict of the country's highest court reversed verdicts by the two lower courts to charge Pollycarpus Budihari Priyanto with involvement in the murder and sentence him to fourteen years. The Supreme Court decided on a two-to-one vote that there was no evidence to implicate Pollycarpus in the murder. Artidjo Alkostar, the dissenting judge, said he agreed with the prosecutor's demand for a life sentence, insisting that the fact that Pollycarpus had frequent contacts with Munir before the murder implied causality.

Pollycarpus was arrested in March last year. Now that he only faces charges of falsification of documents for which he was sentenced to two years, he can expect to be released in March 2007, if not sooner.

Following the Supreme Court ruling, the Attorney General's Office declared that this has foreclosed any further judicial processes with regard to the killing of Munir. But the legal authorities have shown a profound disregard for the outrage that followed the disclosure that Munir had been murdered, and seem to believe that they will be able to stifle further attention being devoted to a crime that killed such a high-profile figure in Indonesia's human rights community.

### Dismay at the Court's ruling

The first to condemn the Supreme Court ruling was Suciwati, the widow of Munir who has waged a persistent campaign at home and abroad to seek a solution to the crime. 'The acquittal of Pollycarpus is proof that the government is half-hearted. Had it given full support, I believe the murderer, the executioner and the mastermind would have been punished by now,' she told a press conference in Jakarta. [The Jakarta Post, 6 October 2006]. Shortly before the announcement of the Supreme Court verdict, she had announced a lawsuit against Garuda, the national airline, for being negligent with regard to the safety of its passengers. Mufti, a lawyer from KONTRAS, the Commission for the Disappeared and the Victims of

Violence, said the airline along with nine of its employees were being sued for \$1.4 million for negligence.

Lawyers and human rights activists have responded to the Supreme Court ruling by saying that they have no intention of letting the matter rest. Johnson Panjaitan, the executive director of the PBHI, the Indonesian Legal Aid and Human Rights Association, said that the Supreme Court verdict was the result of a deliberate government policy to avoid resolving the Munir case. [The Jakarta Post, 6 October 2006] In other words, the verdict was politically motivated. The human rights lawyer, Todung Mulya Lubis, used the opportunity to criticise the police

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for failing to follow up on missing links between Pollycarpus and former senior officials of the State Intelligence Agency, BIN. He could not accept the claim by the police that it was difficult to investigate the murder because the crime scene was abroad. Since it happened on board a Garuda plane, there should have been no problem at all, he said.

The Speaker of the Indonesian parliament, Agung Laksono, accused the police of failing to collect evidence against Pollycarpus. 'The police must stop covering up the case and scrutinise all people believed to be implicated in this murder,' he said.

## President's resolve in doubt

There has been growing frustration with the attitude of President Susilo Bambang Yudhoyono who on many occasions has declared his determination that the case should be resolved. However, he has failed to make public the report of the Fact-Finding Team which he himself appointed. The team's report was handed over to the President in June last year after a six-month investigation. His reluctance to make the report publicly available suggests that it contains highly sensitive information about the masterminds of the murder which President Yudhoyono would prefer not to reveal.

The vice-chairman of the fact-finding team Asmara Nababan, questioned Yudhoyono's resolve in failing to publicise the report. 'What he has to do is to ... meet what is stipulated in his own presidential decree on the forming of the fact-finding team,' he said.

The team examined Pollycarpus' cell phone and traced several dialled numbers he had been in contact with, one of which was the confidential line of Major-General Muchdi Purwoprayono, and had made no fewer than 26 calls to this number before and after the death of Munir. Muchdi was a deputy director of the intelligence agency, BIN, but he refused to respond to a request to appear before the fact-finding team. The previous head of BIN, (retired) Lieutenant General Hendropriyono, also refused to appear.

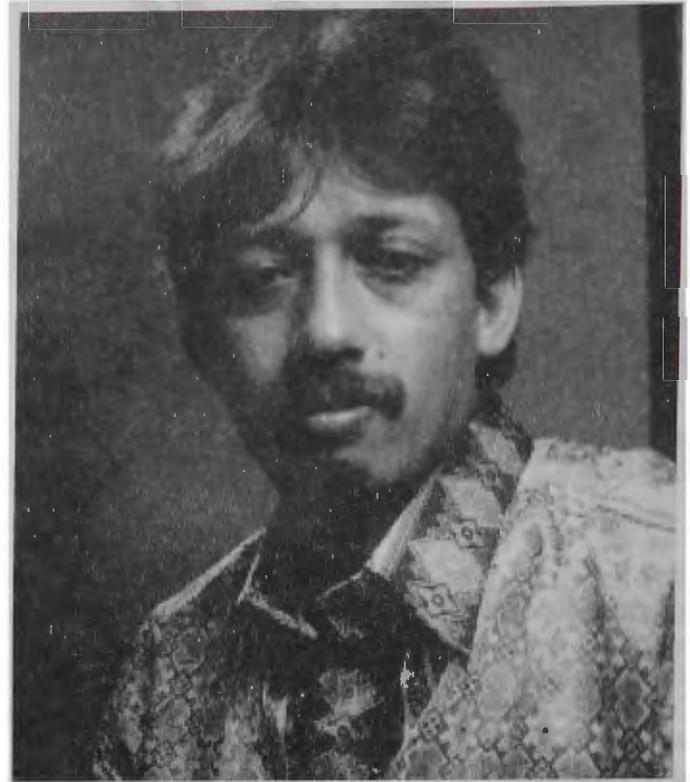
It was while Munir was on board a Garuda plane travelling from Jakarta to Amsterdam that a lethal dose of arsenic was administered. He died two hours before the plane reached its destination. [See *TAPOL Bulletin*, No. 179, July 2005 for a full report.]

## The role of Pollycarpus

In the aftermath of the murder, there were many reports in the Indonesian media about the role that Pollycarpus, a Garuda pilot off-duty at the time, played in the events leading up to the murder. He was in touch by phone with Munir's home, inquiring about Munir's travel plans. After Munir boarded Garuda Flight 974, he tricked Munir into accepting a business class seat. This suggests that he knew of the plan to serve him a drink laced with arsenic and made sure he was in the right part of the aircraft for the plan to succeed.

It was also revealed that Pollycarpus was in touch with top-ranking officials of BIN, the agency which is suspected of planning the murder. The lower court verdict had drawn the conclusion that Pollycarpus was part of the conspiracy.

The off-duty pilot also went to considerable lengths to obtain a special 'aviation security' assignment to travel on Flight 974. Armed with this special assignment, Pollycarpus travelled on the first lap of the flight, from



Jakarta to Singapore. The charge of falsifying documents, for which he still stands accused, relates to his efforts to obtain this assignment. If this charge still stands, his role in the conspiracy must surely have been proven, even if no one is accusing him of actually administering the drink that ended Munir's life.

When Pollycarpus was sentenced and committed to prison in March 2005, it was anticipated that he might be persuaded to reveal details of the conspiracy of which he was part. By exonerating him, the Supreme Court, whether wittingly or unwittingly, has made sure that this will not happen.

The stalemate in solving the Munir murder case reflects the inability or unwillingness of key institutions and figures at the top of the present administration to reveal the role of top-ranking intelligence officers to eliminate Munir who devoted so much of his professional life to revealing the military's role in numerous crimes, both during the Suharto regime and since. The Indonesian police appear to be unwilling to pursue this case for fear of coming into conflict with the military, while the President lacks the resolve to take action that might jeopardise his own relations with the military.

The culture of impunity against which Munir campaigned so hard is still alive and well in Indonesia.

## European Commission concerned

The President of the European Commission, Jose Manuel Barroso, has expressed concern about the murder. On 10 September, at a meeting of ASEM in Helsinki, he asked President Yudhoyono about the case.

On the following day, the President was quoted as saying: 'The legal process concerning Munir's murder has never stopped and let me tell you that it is still ongoing.' He also said that his administration stands behind its initial commitment to an impartial and professional legal process to resolve the Munir case, while acknowledging that this would require 'strong commitment, intelligence and hard work among the law enforcers from the police, attorneys and judges'. He added that Indonesia's police chief, General Sutanto, has promised to keep probing the Munir case. [*The Jakarta Post*, 13 September 2006]

# Fierce protests against executions

**The execution of three death-row prisoners in Poso, Central Sulawesi, on 21 September prompted widespread protests and a wave of violence. Despite the protests, both domestic and international, President Susilo Bambang Yudhoyono ignored the pleas for amnesty or clemency.**

The execution of the three prisoners, Fabianus Tibo, 60, Marinus Riwu, 48, and Dominggus Silva, 42, often known as the Poso 3, took place by firing squad in the provincial capital, Palu. The three were sentenced to death in 2001 after being found guilty of organising Christian mobs in a series of attacks that killed an estimated 200 people in May and June 2000. The conflict in Poso rose to its height between 1999 and 2001 killing more than 1,000 people from both sides: Muslim and Christian.

In anticipation of the expected protests, the government tightened security in the region and sent 4,000 extra policemen and military personnel to Palu. But a few hours after the executions, protests flared up in a number of places and a wave of violence broke out. In Maumere, on the island of Flores where one of the executed persons, Dominggus da Silva, was born, hundreds of protesters vandalised government buildings, including the local district court and parliament building.

In Atambua roads were blockaded and government buildings were attacked. In Palu more than a thousand people packed the St Maria Church to attend a Requiem Mass. In the neighbouring towns of Tentena and Lage hundreds of people went on the rampage, torched cars and attacked police posts.

In early October the government had to deploy hundreds of additional police after a string of explosions rocked Central Sulawesi. On 30 September, three home-made bombs were set off in public places and next to a church. A grenade was thrown into a crowd from a motorbike, but it turned out to be defective.

The execution of the Poso3 has triggered a new wave of religious violence started by the disappearance of two men. The car owned by the two men was found in a ravine close to a Christian area.

## An unfair trial

Human rights groups in Indonesia have always claimed that the trial of the Poso 3 was unfair. While it is clear that the three defendants were involved in the conflict and took part in the bloodshed, they were not the masterminds.

The prosecution based their case on one testimony by a young Muslim man named Anton. This key witness gave a detailed account of how the three defendants trained other Christians to fight but didn't give any clear evidence that they were involved in the killing spree. Two of the defendants Tibo and Dominggus appear to have



**Protestors against the executions in Jakarta**

been more than rank and file combatants but their trial was very inconclusive as to whether they functioned as leaders.

Tibo made an important statement that the authorities should arrest 16 persons (a complete list of those named was included), mostly ex military and retired civil servants. He assured the court that by arresting these 16 persons, all the masterminds of the Poso conflict would be revealed.

The case against Marinus, was even weaker. He was hardly mentioned during the trial and it seems that his only mistake was to train Christian militia in the use of bows and arrows.

At the same time as the Poso violence, religious and ethnic bloodshed occurred in different parts of Indonesia, notably in Kalimantan and Maluku. In both places none of the perpetrators have been put on trial. In Poso many were tried, but most cases ended in jail sentences of around five years for both the Muslim and Christian defendants. The Poso 3 were the first to receive death sentences.

## Political motives

Some human rights campaigners have argued that the Poso 3 executions were a way of showing respect to the victims of violence in Poso and their families. In fact, the opposite is the case. The polarised situation in Poso is exploding again into violence. Indonesia is the largest Muslim country in the world but in the Poso region the population is almost equally divided between Muslims and Christians.

Other analysts have noted that the execution of the Poso 3 Christians may have made the imminent executions of the three Muslim Bali nightclub bombers more politically acceptable. The Indonesian government

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# Papua's window of opportunity for peace

**In March 2006, the US think-tank, the Council on Foreign Relations (CFR), published a special report, 'Peace in Papua: Widening a Window of Opportunity'. It suggested that in 2006 and 2007, the Indonesian government and the international community have an opportunity to begin to achieve a comprehensive solution that is acceptable to all sides in the conflict. Many Papuans would no doubt disagree with some of its analysis and recommendations, but the report provides a useful starting point for discussions on the way forward. Unfortunately, events unfolding in Abepura as the report went to press [see separate article] and the response by the security forces have increased tensions and may have made peace that much more difficult.**

The election of Susilo Bambang Yudhoyono as President of Indonesia in September 2004 led to expectations that renewed efforts would be made to resolve the decades-long West Papua conflict. The President stated that Papua would be one of his top priorities and affirmed his commitment to dialogue. Those expectations were increased by the achievement of peace in the troubled province of Aceh. However, developments in West Papua in 2006 have not been encouraging.

Dissatisfaction with the central government has intensified because of its insistence on establishing a new province of West Irian Jaya and its failure to properly implement special autonomy. A build-up of troops, continuing human rights violations and the persistent underdevelopment of indigenous Papuans in the face of a steady influx of migrants from Java and other parts of Indonesia have added to the sense of an ongoing crisis. The publication of a report on the 1969 'Act of Free Choice' by the Institute of Dutch History in November 2005 and the granting by Australia of temporary protection visas to 42 West Papuan asylum seekers in March 2006 have increased Indonesia's sensitivity about so called West Papuan separatism.

The availability of special autonomy funds has so far not led to any notable benefits for the Papuan people who are among the poorest in Indonesia despite the territory's immense wealth of natural resources. In November 2005, a World Bank report concluded that West Papua has the highest level of poverty in all of Indonesia. Weak local government institutions and corruption are factors which have contributed to the central government's failure to improve the health, education and well-being of indigenous Papuans.

#### **As the CFR report concludes:**

'If significant steps towards peace in Papua are not taken over the next two years, the 2009 presidential and

legislative elections will be looming, making it much less likely for politicians to have the stomach for bold policy initiatives. The Indonesian government and Papuans, with the support of the international community, should act now to push open the rapidly closing window of opportunity for peace.'

#### **The need for wide-ranging dialogue**

The CFR's recommendations to the Indonesian government for achieving a solution to the conflict include:

- Engaging with legitimate representatives of Papuan society in a wide-ranging dialogue regarding various issues, including truth, justice and reconciliation;
- security arrangements; and division of the province;
- Fully implementing special autonomy for the region;
- Improving local governance and increasing transparency so that special autonomy funds improve the well-being of ordinary Papuans; and
- Reforming security arrangements so that human rights abuses cease.

Despite the existence of a window of opportunity, the CFR warns that there are four reasons why the Indonesian government may feel less urgency to address this conflict.

## **for most Papuans, Indonesian rule is the problem and not the answer**

Firstly, West Papua lacks the catalyst for a settlement similar to that provided by the human and physical destruction caused by the tsunami in Aceh.

Secondly, West Papua lacks an insurgent force and capacity for violence that GAM had in Aceh.

Thirdly, West Papua and Papuans have held a less central place in Indonesian national discourse than have Aceh and the Acehnese. Papuans are regarded by the Malay majority in Indonesia as culturally inferior and are less likely to be treated as equals at the negotiating table.

Fourthly, the history of UN involvement in West Papua's integration into Indonesia in the 1960s makes the Indonesian government much more nervous about a possible role for a third party in any negotiations regarding West Papua.

#### **Independence off the table?**

This last point raises the difficult question as to whether independence should be on the agenda in any negotiations. The CFR prefaces its remarks on this by citing a controversial survey that shows 'there remains a significant reservoir of identity with the Indonesian nation-state among Papua residents'. In September 2005, 56.6 per cent of Papua residents are said to have stated that they felt more Indonesian than Papuan; 82.3 per cent stated they felt proud or very proud to be Indonesian. It suggests that the results are too high to be based strictly on the opinion of non-Papuans'.

A more recent survey of opinion in six districts of West Papua, conducted by the Jakarta-based solidarity organisation, SNUP, revealed that 52 per cent of respondents identified themselves as Papuans, 30 per cent as members of their tribal group and only 14 per cent as Indonesians [see separate article in this Bulletin].

Perhaps the only conclusion that can be drawn from surveys such as these is that their results must be treated with caution. Certainly the CFR acknowledges significant undercurrents of support for independence in Papuan society. That notwithstanding, it suggests that meaningful and productive negotiations must be based – at least implicitly – on the premise that independence is off the table and that Indonesian national unity must be respected. Acknowledging that local representatives to the dialogue could lose significant public legitimacy if they were to offer an explicit rejection of independence at the outset of any talks, it proposes, as a compromise, leaving independence off the table for now.

### **Merdeka or kemerdekaan?**

The CFR goes on to suggest that Papuans should be encouraged to develop a political discourse that distinguishes between merdeka (social freedom and emancipation) and kemerdekaan (political independence). Its recommendations are, it says, based on the assumption that the former is possible in the absence of the latter.

That must be a dubious assumption given that it is the very fact of Indonesian rule that has prevented freedom and emancipation for the Papuans. In other words, for most Papuans, Indonesian rule is unquestionably the problem and not the answer.

The question of the identity of the Papuan representatives at any negotiations is another difficult one. The CFR suggests that the government's partner for dialogue should be a joint sitting of the Papuan People's Representative Council (DPRP) and the Papuan People's Assembly (MRP). It says that informal representative organisations, such as the Papuan Presidium Council and the Papuan Customary Council should be invited as observers to monitor the proceedings, but makes no mention of the Free Papua Movement, OPM, or other groups supporting independence. It is difficult to see how meaningful progress can be made without the involvement of such groups.

Certainly what does need to happen is for the Papuans to be given more political and democratic space so that key issues such as these can be openly discussed and mediated as a prelude to dialogue.

Other policy recommendations to the Indonesian government include an acknowledgement of – if not an outright apology for – past human rights abuses, including

the manipulated nature of the 1969 'Act of Free Choice' and the opening up of West Papua to the scrutiny of the international community.

On the question of security, the CFR notes that: 'Although allegations of genocide are perhaps exaggerated, the Indonesian military...has been especially brutal in Irian Jaya [sic], resulting in the deaths and

## **Human rights abuses have gone largely unpunished, with little significant improvement under the new democratic regime**

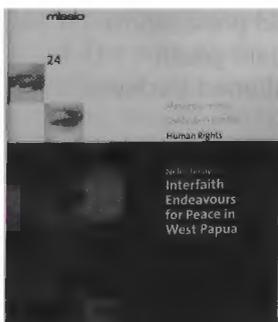
disappearances of thousands of Papuans since 1969. Human rights abuses have gone largely unpunished, with little significant improvement in this regard under the new democratic regime. It expresses concern about the reported augmentation of troops in Papua in recent months and calls for the government to withdraw 'a significant portion of the intelligence agents and nonorganic military forces (both uniformed and plainclothed) currently stationed in Papua.

### **Role of the international community**

The international community is encouraged by the CFR to support Indonesian conflict resolution efforts through quiet but firm diplomacy and technical and financial assistance. At the same time, human rights organisations should, it says, continue their public campaigns to investigate and expose human rights abuses.

The CFR suggests the formation of an ambassador-level international working group on Papua. This would serve as a mechanism for the coordination of diplomatic efforts. Jakarta-based diplomats do not travel to Papua often enough, it says. They should demonstrate their commitment to the region by visiting it regularly to observe conditions firsthand and learn about the views of Papuans. The Partnership for Governance Reform, a UNDP-affiliated national body, should open a representative office in Jayapura to work with the international working group on coordinating international assistance to governance reforms.

Foreign governments should make progress towards peace in West Papua a measure of the extent to which reengagement with or increased assistance to the Indonesian military is appropriate. The private sector can assist reform efforts by adhering to the Voluntary Principles on Security and Human Rights and the Extractive Industries Transparency Initiative (EITI). 'BP's efforts in this regard for the Tangguh Bay (sic) liquefied natural gas project are admirable, but require further strengthening for the construction and operational phases,' it says.



### **Interfaith Endeavours for Peace in West Papua**

Written by Neles Tebay, on behalf of the leaders of the four main faith groups in West Papua, this is an excellent overview of the problems facing the Papuan people and describes the initiatives taken by the religious communities to try and secure a future peace.

This report was published by Missio- Human Rights Office and is available at [http://www.missio-aachen.de/Images/MR24%20West%20Papua%20english\\_tcm14-40964.pdf](http://www.missio-aachen.de/Images/MR24%20West%20Papua%20english_tcm14-40964.pdf). Tapol also has copies of this report please contact the office if you want one, a donation of £1 to cover postage costs would be appreciated.

# Papuans negative about Special Autonomy

**A survey of perceptions among West Papuans of their current circumstances, five years after the Special Autonomy Law (OTSUS) was introduced, produces a bleak record of how Papuans feel on a variety of issues. The survey was undertaken by the solidarity organisation, SNUP, in cooperation with Kemitraan or Partnership on Governance Reform in Indonesia. It was funded by the European Union.**

The Executive Summary states that OTSUS which was introduced in 2001 has been largely ineffective and there are many doubts among Papuans about whether it would result in any improvements in living conditions in Papua. The survey followed a series of gatherings held in six districts: Jayapura, Biak, Sorong, Merauke, Timika and Manokwari, and involved face-to-face interviews with 323 respondents (190 men and 132 women) chosen at random in the six districts.

The following account summarises the results of the survey on the most important issues:

## **Identity and culture**

Asked whether they felt proud of their Papuan identity, 96 per cent said yes, while a mere 3 per cent said no. Asked whether they regarded Papuan culture as an integral part of Indonesian culture, 42 per cent said yes while 52 per cent said no. Asked whether they identified themselves as Papuans, as members of their tribal group or as Indonesians, 52 per cent identified themselves as Papuans, 30 per cent as members of their tribal group while only 14 per cent identified themselves as Indonesians. This reflects little success on the part of the Indonesian authorities in their efforts to encourage Papuans to identify themselves as Indonesians.

## **No confidence in OTSUS**

As for their views on whether OTSUS would result in any improvements in their living conditions, 60 per cent expressed no confidence while only 35 per cent gave a positive answer. Asked whether they felt that the provisions of the OTSUS law were being well implemented, no less than 76 per cent said no, with only 17 per cent giving a positive response. A total of 62 per cent felt that the local government structure was either totally incapable or hardly capable of implementing the OTSUS law.

Questioned about what needed to be done to implement the provisions of OTSUS, 47 per cent said that the government apparatus needed to be reformed, 12 per cent said that civil society needed to be involved while 33 per cent felt the need for the economy to be developed.

Views on the level of corruption were very negative indeed. No less than 73 per cent were of the opinion that corruption was very widespread, while 19 per cent held the view either that there was no corruption or that it

hardly existed. Asked whether they were satisfied with the way they were being treated by the local government, 30 per cent said they were very dissatisfied while 33 per cent said that they were not very satisfied. Only 13 per cent expressed full or partial satisfaction.

As for the social issues on which they felt the local government was failing to deliver, 28 per cent mentioned job opportunities, 13 per cent mentioned the opportunity to set up businesses and 13 per cent mentioned housing, 12 per cent mentioned health, and 14 per cent mentioned education.

## **Negative views on opportunities**

Asked about the chances of Papuans being involved in economic activities, the views expressed were particularly negative.

In response to a question about openings for Papuan enterprises, a massive 65 per cent answered in the negative while only 26 per cent were positive. As for efforts by local government to involve Papuans in economic developments in their region, 58 per cent responded in the negative, while only 32 per cent were positive. There was a massive 63 per cent who felt that local government did little if anything to inform people about their plans of work.

Opinions about law enforcement were even worse. 78 per cent said that efforts at law enforcement did not conformed with people's sense of justice. With regard to development planning, 58 per cent felt that the general public were not being involved by local government, while 32 per cent were more positive. 53 per cent felt that local government was not paying any attention to people's interests.

Attitudes towards political parties were also very negative. Under Indonesian law, political parties are required to have a nationwide basis, which means that local political parties are not permitted so there is no such thing as a Papuan political party. Asked whether political parties in their district paid attention to people's concerns, 67 per cent said not at all while only 22 per cent said that they did. There was a 48 per cent negative answer to the question whether social organisations paid any attention to local interests. Asked whether social organisations were checking on the work of local government, 45 per cent said no while 38 per cent said yes.

Asked what kind of social organisations they felt effectively represented their interests, 34 per cent said religious organisations, 22 per cent said traditional or cultural organisations, 11 per cent said professional organisations and the same number said youth organisations, while 10 per cent mentioned business organisations.

Opinion was evenly divided on whether the security forces created a sense of security, with 43 per cent saying that they did while 46 per cent said they did not. As for the sense of personal freedom, 45 per cent said that they felt very or rather free, while 52 per cent felt not free at all or not very free.

# Freeport contract in the spotlight

**Central to the wave of protests that have been occurring in Papua in the past year is the anger felt about the US mining giant, Freeport-McMoran, which has for decades been extracting gold and copper and making huge profits while the Papuan people have enjoyed virtually no benefit and continue to live in poverty. Tribal people in the vicinity have lost their land and their rivers have been seriously polluted by tailings from the mine.**

The initial contract with Freeport was signed between the company and the Indonesian government in 1967, two years before the so-called Act of Free Choice, which led to West Papua's incorporation into the Indonesian Republic (the contract was re-negotiated in 1991). This casts doubt on the legitimacy of the contract. The British mining company, Rio Tinto, was formerly a shareholder in Freeport-McMoran and retains a substantial joint venture interest in the mining operations [see 'Freeport and Rio Tinto at a glance', TAPOL Bulletin, No 182, p. 3].

One of Papua's foremost activists, Yosepha Alomang, was quoted recently as saying that 'all the complexities of the Papuan problem can only be resolved if talks are held between the Indonesian government, the US government, the company and representatives of the Papuan people meeting together on an equal footing to resolve the problems relating to the activities of Freeport'.

Yosepha Alomang, known affectionately as Mama Yosepha, has been at the forefront of the struggle against the multinational company, which has been exploiting the natural resources of Papua ever since it started to operate in her homeland. She is director of YAMAHAK, (Anti-Violence Foundation for Human Rights) and has won two prestigious human rights awards: The Indonesian Yap Thiam Hien Award in December 1999, and the Goldman Environment Award in San Fransisco in April 2001.

Mama Yosepha recently explained that in 1974, she, along with others in the area, signed an agreement with Freeport. 'I and the others who signed as owners of the land, the water, the mountains and valleys did not understand what we had agreed to then so since then, we have been protesting.' [See Suara Perempuan Papua, No 4, Year III, 3 September 2006]

Her organisation, YAMAHAK together with ELSHAM Papua (Institute for the Study and Advocacy of Human Rights), recently issued a Joint Recommendation, which we reproduce below slightly abridged:

1. The Amungme and Kamoro people as well as other tribes in the area, the Dani, Nduga, Moni, Ekari and Lani, should renegotiate the Contract of Work with PTFI (Freeport-McMoran) because it is not beneficial to the owners of the land.

2. Talks on the renegotiation of a new Contract of Work must involve the seven local tribes as owners of the ancestral lands who are the direct victims.

3. The company must pay compensation for the damage caused by the disposal of tailings into sources for food and other basic needs. The tailings have polluted the rivers which are our source of livelihood and made them much shallower.

4. The company should reclaim the rivers used for tailing disposal, which has destroyed the supply of foodstuffs, in particular for the Kamoro people. The company must do this because it will not remain in the area forever while the Kamoro people live in these swamps and alongside the polluted rivers and will remain there for generations.

5. The company should find alternatives for traditional (gold) panners, such as providing training that would eventually enable them to be employed by the company.

6. The incidents that have occurred in the concession area are the fault of certain individuals in the company management. To ensure that the company can operate without disturbances from the local people, these individuals should be dismissed by the company. This should include personnel in the security department who are inclined to adopt a militaristic approach, as well as personnel responsible for recruitment where corruption is rife.

7. The company should not employ former members of the military in the defence and security departments because they tend to adopt a military approach. It should also disband the security structure and the intelligence gathering department which are both militaristic.

8. The company should not recruit anyone from outside Papua as this has in the past led to feelings of antipathy towards Papuans.

9. The company should build good relations with people living in the vicinity with the help of local NGOs, so as to avoid charges of separatism being made against the Papuans.

## **Avalanche of attention**

Two researchers who have for years followed the operations of Freeport, Abigail Abrash Walton and David Meek, have drawn attention to increased international pressure on the company in the past few months. In what they describe as 'an avalanche of attention', they report that Indonesia's Ministry of the Environment, the Indonesian Parliament and US Justice Department and US Securities and Exchange Commission have launched investigations into the company's operations. Major shareholders, such as New York City and the Norwegian Government pensions funds, have taken action in response to Freeport's governance and environmental practices.

They say that the legal and economic consequences that the company currently faces are arguably more severe than in the mid-1990s. The mining project continues to pose unreasonable environmental, health and safety hazards with respect to the rivers that are being impacted by the tailings, the surrounding terrestrial ecosystem, and the local inhabitants. They mention in particular the lengthy, front-page investigative article in *The New York Times* on 27 December 2005, which cited company documents on money being allocated to military and police officers. [See TAPOL Bulletin No. 181, December 2005.]

The US Justice Department is investigating whether Freeport's business practices violate the US Foreign Corrupt Practices Act. This followed a complaint made by US Senator Joseph Biden, the ranking Democrat on the Senate Foreign Relations Committee who said: 'Large payments by Freeport officials directly to individual Indonesian army officers are highly irregular. It is time for the Justice Department and the Congress to thoroughly investigate Freeport's business practice in Indonesia.'

In June, the Norwegian Government announced its decision to exclude Freeport stock from its US\$230 billion pension fund, based on a judgement that Freeport's dumping of toxic mine waste into local river systems has caused 'extensive, long-term and irreversible' damage' with 'considerable consequences for the indigenous peoples residing in the area'.

The New York City Employees' Retirement System has filed shareholder resolutions annually for the past three years calling on Freeport management to report to shareholders about the company's relations with the Indonesian military.

In May this year, the Indonesian Parliament announced that within two months, it would begin renegotiating Freeport's 1991 Contract of Work, to consider whether the company should be paying higher taxes to the government. The amount paid in 2005 was US\$ 1.2 billion, but Vice-President Jusuf Kalla said at the time that Indonesia 'should have received three times what the company actually paid'.

It would be more to the point for the authorities in Jakarta to recognise that, in addition to the revenue returned to Papua under special autonomy, attention should be paid to the company providing a much higher share of its phenomenal profits directly to the people of Papua than the meagre one per cent of gross takings which the company currently makes available for local development projects in the vicinity of the mine.

### Investigating Freeport mining practices

At the beginning of 2006, Indonesia's Environment Ministry announced that it would undertake an investigation into Freeport mining practices. The 24 experts involved in this investigation confirmed that the Ajkwa River Estuary used by Freeport to dispose of thousands of tons of mining waste a day has been severely damaged, that the company has been violating Indonesia's Water Quality Regulations, and that the company has been asked to provide an alternative method for waste transport. Environment Minister Rachmat Witoelar said that Indonesian law banned the riverine disposal of waste in 1990 and that the corporation had no special legal dispensation to avoid this prohibition. Earlier this year, in March, Witoelar said he expected Freeport to receive the worst environmental rating



### Comparing the annual salary of Freeport executives and the average Papuan

possible, and warned that it should clean up its practices or face court action. He said that '500 other companies like Freeport follow the rules.' [See article by Abigail Abrash Walton and David Meek in *Tok Blong Pasifik*, Summer 2006]

### Where will this all lead?

While it is welcome to see the government in Jakarta adopting a tough line towards Freeport, one has to ask how is it possible that the company has been able to get away with such unethical practices for decades. It would have been virtually impossible to expect the Suharto government to adopt a tough line, but things have changed since then. Is this just a move to assuage Papuans who have been calling either for the company to be closed down or for serious talks to be held to renegotiate the Contract of Work.

As Abrash and Meek point out in their article, Freeport is responding to these tough intentions with 'quiet diplomacy' with some critics, while attempting to divide and conquer others.

### Local peoples' needs the priority

When fifteen Papuan councillors who were members of the Special Committee for Freeport said they would be going to the company's headquarters in New Orleans to highlight concerns in Papua about their practices, Mama Yosepha urged them not to go abroad to lobby or negotiate with the company bosses. 'I stress to everybody that dialogue should be held in Papua and involve locals who are suffering from the company's operations. Or else, the likelihood of the company's operations being shut down will only become greater.' [See Abrash and Meek's article.]

Clearly, the need at present, with pressure building up on the company to renegotiate the Contract of Work, is for solidarity organisations to support local people in their efforts to ensure that any future arrangement with Freeport takes full account of the needs of those living in the vicinity of the mine, who have felt the direct impact of the damage inflicted by more than three decades of Freeport operations.

# Trials and ill-treatment after 16 March clash

**Following the serious incident on 16 March 2006 when violence outside Cenderawasih university campus involving students and the security forces led to the deaths of four police officers and an air force officer, 23 Papuans have been arrested. 21 of them have been convicted of alleged involvement in the violence and given heavy sentences. There have been disturbing reports of ill-treatment of the prisoners, members of the defendants' legal team have been intimidated and received death threats.**

On 16 March, students from Cendrawasih University in Abepura organised a demonstration calling for the closure of the Freeport copper-and gold mine, an issue that has been the focus of many protests in West Papua in the past few months.

As reported in our last Bulletin, the clash that led to the five deaths occurred when members of Brimob, the crack police force with a reputation for brutality, ordered the students to remove a road block which they had just set up. While demonstrating students were pelting the officers with stones and bottles, officers in anti-riot gear pressed the crowd back. Facing a barrage of missiles, the police withdrew, whereupon intelligence agents came to their assistance by opening fire. During this confrontation, three police officers and an air force officer were killed. A fifth police officer received fatal injuries and died in hospital six days later. [See Sekilas Informasi – Januari - Maret 2006, issued by the Peace and Justice Secretariat of the Jayapura Diocese, June 2006]

## Heavy sentences for 21 Papuans

The 23 Papuans, not all of whom were students, were tried in two groups. The trial of the first group of 16 ended with convictions for all the defendants and sentences ranging from five to 15 years. Amnesty International believes that the trials were unfair because of intimidation and ill-treatment of the accused in custody, resulting in forced confessions, and the breach of other fair-trial safeguards.

Neither of the two who received the heaviest sentence of fifteen years, Luis Gedi and Ferdinand Luis Pakage, were students. According to a document received from the Advocacy Team for the 16 March Clash Case at the end of August, Luis Gedi is described as being employed in the private sector while Ferdinand Luis Pakage is a parking attendant. Two of the accused, Selvius Bobii and Nelson Ipan Cornelius Rumbiak, the former a student and the latter a high school pupil, were sentenced to six years. The remaining twelve were all given five-year sentences. Eight are students: Penius Wakerkwa, Othen Dapyal, Thomas Ukago, Elyas Tamaka, Patrisius Aronggear, Mon Jefri Obaja Pawika, Bisiur Mising/Bensiur Mirin and Alex C. Wayangkau. One, named Elkana Lokobal, is a high

school pupil, while Mathius Michael Dimara is a newspaper vendor.

On 14 September, two of the other seven, Muhammad Kaitam and Sedrik Jimau, were found guilty and each given five-year sentences. As soon as the verdict was announced, a member of the defence team, David Sitorus, denounced the decision. 'None of the witnesses who testified saw the accused throwing anything at the security forces,' he said, angrily. 'As this court is nothing but a charade, we will use all legal means to get justice.' He told the court they would take the same attitude with regard to the others awaiting verdicts.

## Hearings boycotted

The proceedings were delayed because the seven accused had decided to boycott the hearings. A hearing scheduled for 5 September was abandoned when the defendants refused to appear for the third time. The boycott action, which was supported by their team of lawyers, was taken because of the ill-treatment sustained by one of the defendants in the earlier trial, Nelson Rumbiak, who was summoned as a witness in the trial of the seven. One of

**this court is nothing but a charade, we will use all legal means to get justice**

the defendants' lawyers, Aloysius Renwarin, said the defendants would not appear in court until their demands had been met, namely a public apology from the Papua police chief and the head of the Jayapura Prosecutor's Office, and an official letter guaranteeing their safety.

Before the 5 September hearing was abandoned, the judge said that if they continued to refuse to attend, force may be used to bring them to the court room. One of the prosecutors suggested that the trial could proceed without the defendants being present. 'We will hear witnesses' testimony and then proceed to the sentencing recommendation,' he said. (According to trial procedures in Indonesia, after the prosecution has presented the charges and witnesses and defendants have been heard, the prosecution makes a further statement in which it demands an appropriate sentence.)

## Witnesses beaten by police

Some members of the police force who were in charge of security surrounding the court hearings of the seven defendants are reported to have struck one of the witnesses, Nelson Rumbiak (already sentenced to six years in the earlier trial) outside the Abepura Prison where all the defendants and convicted men were being held. The Advocacy Team stated that as the witnesses and three of the defendants arrived back at the prison, dozens of policemen were waiting there and struck Nelson Rumbiak on the head with rattan sticks. When he fell to the ground, several of the officers kicked him in the ribs with their heavy boots. This assault caused serious injuries and swellings in several parts of his body. Other police officers chased the defendants into the prison and even

threatened to beat up prison officials who were trying to prevent the policemen from entering the prison. As soon as the defence lawyers and the parents of the defendants arrived at the prison, two vehicles that had brought the police to the prison, disappeared.

The victim of this assault was taken to Abepura Hospital for treatment. Even in the hospital, police intelligence agents intervened to prevent the medical team from examining the victim. Such was the chaos in the hospital that the parents of the victim and the hospital staff decided that his safety would be best secured if he was returned to the prison.

### **Ill-treatment during interrogations**

When Nelson Rumbiak and others were called as prosecution witnesses at the trial of the seven, they told the court that they rejected the contents of the interrogation reports (BAP), which they had been forced to sign. They mentioned the names of the police officers who had exerted pressure on them to sign. One of them, Ferdinand Pakage, who was sentenced to 15 years in the earlier trial of the 17, told the court that he had been shot in the foot by a police officer.

On hearing this complaint, a member of the prosecution team said that police officers would be summoned to the next court hearing, but the officers who subsequently appeared were not the men whose names had been mentioned by Nelson Rumbiak and the others.

## **police officers even threatened to beat up prison officials**

When the men's lawyers protested and asked that the officers who had been named should appear, the presiding judge refused, without saying why.

A joint statement complaining about these serious violations was issued by the Advocacy Team, the Catholic Peace and Justice Secretariat, the GKI (Protestant Church), ELSHAM and the Jakarta-based legal aid institute, PBHI. It strongly condemned the behaviour of the police and demanded that those already sentenced and those currently being tried should be guaranteed full protection and that the officers responsible for the ill-treatment should be called to account.

### **Lawyers reported to the police**

As if these violations were not enough to undermine any chance of the Papuans getting a fair trial, the chief prosecutor, Novianto SH reported the seven lawyers defending the accused to the chief of police in Jayapura. The attorney alleged that the defence lawyers had violated two articles of the Indonesian Criminal Code when they stated that the clashes that occurred on 16 March had been initiated with police involvement and that, therefore, the men facing charges were themselves victims of violence.

A statement issued on 5 September by Amnesty International complained that the seven lawyers had been intimidated and had received death threats. Three of the lawyers, Johnson Panjaitan, Ecoline Situmorang and David Sitorus are from the PBHI (Indonesian Legal Aid and Human Rights Association), two, Aloysius Renwarin and Adolf Stef Waramory are from ELSHAM (the Institute for Human Rights Studies and Advocacy in Papua) and two,



**Brimob troops on guard outside Abepura prison**

Frederika Korain and Yustina Haluk are from the Peace and Justice Secretariat of the Catholic Diocese in Jayapura. According to Amnesty International, they have been followed and have received threatening messages (SMS) on their mobile phones. Three received messages describing them as 'provocateurs'. The home of Aloysius Renwarin was pelted with stones.

### **Papuans on trial for 2002 Timika incident**

The second major trial currently underway in Papua relates to the killing of two Americans and an Indonesian in August 2002. Seven Papuans are now standing trial on charges of murdering the two Americans and an Indonesian in Timika, a town largely inhabited by management and employees of the Freeport mine. They face charges of premeditated murder and weapons possession, which carry the death penalty.

The three victims of the killings, Ricky Lynn Spier (44) and Edwin Leon Burger (71) both US citizens, and FX Bambang Riwanto, an Indonesian, worked as teachers for children of families at the company. The widow of Ricky Spier, Patsy Spier, who was wounded in the incident, has been campaigning relentlessly ever since for the killers to be brought to justice.

Shortly after the incident, an investigation conducted by the human rights organisation, ELSHAM, and the local police came to the conclusion that the military had been involved in the killings.

### **Boycotts by the defendants**

The trial has been dogged from the outset by protests and boycotts by the accused. First and foremost, they have strongly condemned the role of the FBI which was instrumental along with the Indonesian police in luring them from their homes in Timika. In January this year, twelve Papuans were invited to a hotel in the town and told that they would be taken to the US to face charges. But once they turned up with their bags packed, they were turned over to the police and flown to Jayapura, and from there flown to Jakarta where they have been awaiting trial ever since.

The trial is being held in Jakarta despite demands from the accused that they should be tried in Timika, the

**continued opposite**

# Solidarity meeting in Vancouver

**The sixth International Solidarity Meeting for West Papua took place in September 2006 in Vancouver. It was convened by the Pacific People's Partnership and WestPan, Canada's solidarity organisation for West Papua.**

The Papuan people were well represented by four Papuans: a representative of ELSHAM-Papua, a pastor from the GKI (Protestant church) in Papua, the lawyer Jan Christian Warinussy and Jacob Rumbiak of the West Papuan National Authority based in Australia. The Indonesian organisation, SNUP (Solidaritas Nasional untuk Papua) was also present. There were many Canadians and Americans present, including representatives of First Nations from various parts of British Columbia. Two delegates attended from Europe (the UK and Ireland) and one came from New Zealand.

Held at a delightful location near Lake Cowichan on Vancouver Island, the three-day meeting agreed that the primary aim of ISM-WP was to support the Papuan people's right to self-determination, to call for the demilitarisation of West Papua and to advocate human rights, including economic, social and cultural rights, for the Papuan people.

On self-determination, it was agreed that efforts were needed to increase the number of diplomats, government officials and parliamentarians visiting West Papua and lobbying in support of a UN review of the fraudulent 'Act of Free Choice' in 1969 and to get West Papua onto the agenda of the UN Special Commission on De-colonisation. The self-determination issue should also be popularised inside Indonesia. First and foremost, the key message was to make West Papua a Land of Peace through peaceful dialogue between the Papuan people and the Indonesian authorities.

On demilitarisation, the meeting drew attention to an increase in non-organic troops from Indonesia and called for their withdrawal. Organic troops should also be reduced, working towards a complete demilitarisation.

On the issue of economic, social and cultural rights, there should be intensive lobbying regarding the operations of the major multinational corporations, Freeport-McMoran, BP and Asian logging companies. A decision was also taken to campaign for a boycott of the 2008 Olympics in Beijing because the organisers had

secured a contract for the purchase of timber from West Papua worth \$1 billion. It pledged to support West Papuan civil society by demanding personal security for human rights defenders, in particular Papuan lawyers, and promoting education to increase the number of Papuan professionals.

A special decision was taken with regard to Papuan women who are the victims of widespread discrimination, and bear the burden not only of caring for the household and the children but also of seeking a livelihood through trade, in most cases on the fringes of markets largely controlled by migrants from Indonesia. Although HIV/AIDS is more widely prevalent in West Papua than anywhere else in Indonesia, medical facilities are far from adequate, particularly in the more remote parts of West Papua.

## Free access to West Papua

With regard to transmigration and spontaneous migration from Indonesia, it was agreed to strive to counteract the negative consequences of past and present influxes, and

## the aim was to support self-determination, call for demilitarisation, and advocate for human rights

to identify and develop a strategy to end discriminatory preferences enjoyed by migrants.

Above all, there should be unfettered access to West Papua for foreign journalists, NGOs, academics and others wishing to monitor conditions in the territory.

A special session was devoted to an account from SNUP about the rivalry between the president and vice-president seeking to gain political and business advantages in West Papua in advance of the 2009 general elections.

The organisers of the meeting introduced a new method of discussion called Open Space, allowing participants to move freely between groups discussing a variety of issues. The organisers had also prepared a structured framework of the many issues that needed to be discussed, while sharing responsibility for each of the issues. During the course of the Open Space discussions, the framework underwent amendment, thus providing an agreed programme for activities by groups in the different countries during the coming year.

It was agreed that the next meeting should be held in September 2007, probably somewhere in Europe.

## continued from page 10

location of the crime. All but one of the accused have denied involvement in the killings. Antonius Wamang, who is being tried separately, was heard in court on video admitting that he fired shots during the ambush.

The other Papuans on trial are: Ishak Onawame, Agustinus Anggaibak (23), Yulianus Deikme (26), Esau Onawame (23), Hardi Sugumol (34), and Yairus Kiwak (52). Although Wamang has admitted that he is a member of the OPM, the defence lawyers insist that the other men on trial are just 'ordinary people'.

The defendants, backed by their defence team, have repeatedly refused to attend hearings because of the location. They also staged a walk-out after protesting at the appearance of two FBI agents as witnesses. One of the defence lawyers, Johnson Panjaitan from the PBHI reminded the panel of judges that, according to Article 60 of the Criminal Code, persons summoned to testify should be eye witnesses of the crime which does not apply to the FBI agents who were responsible for the men's arrest. However, the judge overruled their objection. [Source: *The Jakarta Post*, July 19 and September 13 2006, and AFP. 29 August.]

# One year of peace in Aceh

**On 15 August 2006, the Acehnese people celebrated one year of a solid and peaceful period since the signing of the Memorandum of Understanding (MoU) between the Government of Indonesia and the Free Aceh Movement, GAM, in Helsinki. The results of the peace process have been quite stunning. The three-decades conflict has essentially stopped, the GAM combatants have given up their weapons, the non-organic Indonesian troops have left Aceh and negotiations to implement the peace agreement have proceeded smoothly under the mediation of AMM, the Aceh Monitoring Mission.**

A host of festivities were organised in Aceh's main cities on 15 August. A day earlier, tens of thousands of Acehnese poured into the capital Banda Aceh to express their joy at the ending of hostilities, but also to voice their concerns about the contents of the new Law on the Governance of Aceh (LOGA). The law has become a watered-down version of the MoU adopted a year earlier.

The crowd carried banners saying: "We cherish Peace but will not be deceived anymore" and wore head scarves saying: "Save MoU". The long and winding procedure of adopting the LOGA [see *TAPOL Bulletin* no 183, July 2006] created the watered-down version. It strongly weakened the authority of the local Acehnese government and also put human rights very low on the agenda.

The key players in the peace process - including President Susilo Bambang Yudhoyono and Vice President Yusuf Kalla, the GAM leader Malik Mahmud, the former Finnish President Matti Ahtisaari, but also people who worked diligently behind the scenes like Juha Christensen, a Finnish businessman and Dr., Farid Hussain and Hamid Awaluddin - were awarded medals by the Indonesian Republic for their achievements. Already it can be concluded that this is a unique peace process compared to many other such processes around the world.

## Revision of LOGA

It is clear that large sections of Acehnese civil society are not satisfied with the final version of LOGA adopted by the national parliament in Jakarta. Tens of thousands of Acehnese from 16 districts came to express their

## GAM has always maintained its secular tradition

dissatisfaction by travelling to Banda Aceh using all kinds of transport. In the crowd one could hear all about the LOGA's shortcomings and flaws. Some complained that the amnesties for the 30 or so remaining GAM prisoners have not been dealt with. Others objected to the adoption and implementation of Syariah Law, which was not included in the MoU. This contentious issue entered the spotlight when Malik Mahmud, number one in GAM, made a statement denouncing the introduction of Syariah

Law in Aceh. GAM has always maintained its secular tradition and religious demands were never part of its political agenda. Some analysts were afraid that dissatisfaction among the Acehnese might cause the conflict to flare up again but GAM leaders have issued reassurances that despite the setbacks the future political struggle in Aceh will be fought within peaceful parameters.

## Reintegration and reconstruction

Reintegration and reconstruction of Aceh remain two burning issues, which will also determine the success of the peace process in the years to come. The main body for reconstruction and rehabilitation (BRR) is facing a Herculean task of rebuilding a region destroyed by the Tsunami but also by a conflict that lasted three decades. Dr Kuntoro, the head of BRR, is responsible for the

## foreign investment far exceeds that in any other region

almost-impossible task of coordinating the hundreds of different projects implemented by a wide variety of international organisations. International agencies and countries have so far provided US\$4.6 billion for the reconstruction. Kuntoro's agency is confident that all the basic infrastructures will be in place by 2009 including the more than 120,000 new houses to be built for the victims.

Kuntoro, a skilful technocrat has had to face many problems inside BRR often associated with Indonesia's domestic problems, such as corruption and security. The huge scale of foreign investment in Aceh far exceeds that in any other region and as a result it has become the target of corruption and irregularities. Security problems also still play a role. Despite the ending of the conflict the security forces - police and military - have not yet adjusted themselves to the post-conflict atmosphere. The Acehnese have a long reputation for entrepreneurial skills and the new peaceful conditions have created new opportunities. However, often new economic opportunities face hostility from the local police and military, suspicious of newcomers in the districts.

The new body handling the reintegration of the ex GAM combatants is facing an enormous task dealing with compensation. This body called BRA (Aceh Reconciliation Body) has to provide capital to former combatants if they organise themselves in economic collectives while also subsidising each person individually. According to the MoU, some 3000 persons are entitled to a subsidy but

this has been expanded to a subsidy for 2000 former political prisoners, non-military GAM members (about 6200 people), and GAM personnel that surrendered before the signing of the MoU (2000 people). Another category of victims (10,000 people), plus those who formerly were part of pro-Jakarta militia units (6500) needs also to be accommodated in the near future. Everybody in Aceh realises how important this process of reintegration is and that it forms the basis for a

sustainable peace. The allocation of money will face bureaucratic and budgetary constraints and will remain a continuing issue in 2007 and beyond.

### **Pilkada, the local elections**

The local elections, to be held on 11 December, will be the flagship of the political freedoms achieved in Aceh since LOGA was adopted. They provide the possibility of independent candidates, unprecedented in the last forty years of Indonesian elections. So far 11 couples are

## **local elections will be the flagship of the political freedoms achieved in Aceh**

standing for the positions of governor/vice-governor while many local independent candidates will also stand for the elections for mayor and district chief.

In 2004 the local elections in Aceh gave a result slightly different from many other regions in Indonesia, as the different Muslim parties all reached a larger electorate. Golkar, the largest party in Indonesia and theoretically secular also became the largest party in Aceh with 15.6 per cent of the votes. The main Muslim party federation PPP became the second largest with 14.5 percent of the votes. Other Muslim connected parties like PAN, PBB, PKS, PBR and PKB acquired 13.4; 5.4; 8.3; 7.8 and 3.5 percent. PDI-P, the nationalist party under former president Megawati fared woefully with only 4.0 per cent of the votes.

It is to be expected that a fierce battle will erupt for the seats of the governor/vice-governor. The position of governor is currently vacant because the former incumbent was jailed for corruption. Golkar will field Malik Raden-Sayed Fuad Zakaria. Despite being fielded by the strongest party, the couple will probably not stand a chance of being elected to the highest post in Aceh.

An interesting coalition will be Humam Hamid – Hasbi Abdullah as candidates from PPP. Humam Hamid comes from one of the elite families in Aceh and has significant backing in Jakarta while Hasbi Abdullah, a former university lecturer, is known as a GAM stalwart and spent many years in jail in the 1980s. This couple are seen as one of the favourites as PPP enjoys large popularity and Hasbi Abdullah can function as vote-getter for people from Pidie and sections of the older GAM supporters.

Another interesting couple are Azwar Abubakar – Nasir Djamil fielded by two parties PAN and PKS. Both parties together achieved more than 20 per cent of the electorate

in 2004 but Azwar Abubakar is a well-known public figure because he became the caretaker governor when the previous governor was jailed. Nasir Djamil will attract many young voters as PKS has become the largest party in the capital Banda Aceh and achieved wide successes in the different campuses.

A former military commander of Aceh, Major-General Djali Yusuf (ret.), is also standing. He will likely enjoy the votes of sections of the non-Acehnese but will stand meagre chance as many Acehnese still hold deep resentments against the military.

### **GAM candidacy**

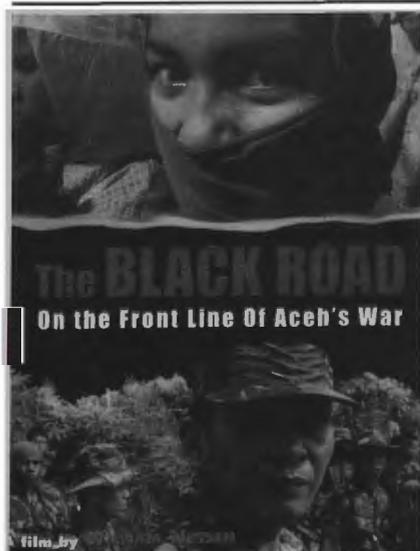
In the last Majelis GAM (GAM legislature) meeting it was decided that GAM would not field an official candidate but would wait till the elections of 2009. The transformation of GAM into a political movement has just begun and lack of time became the major factor in the decision not to field an official candidate. At the same time it was clear at the meeting that the local elections are politically crucial, not least because reconstruction and reintegration are the most prominent issues on the agenda. The couple Nasruddin – Muhammad Nazar received most of the votes during the meeting but ultimately Nasruddin, a second echelon GAM leader with strong rank and file support withdrew his candidacy.

In the course of the following weeks Irwandi Yusuf, the GAM representative in AMM, decided to stand as an independent candidate. He will be joined by Muh. Nazar as the candidate for vice-governor.

Irwandi Yusuf is arguably the most colourful candidate. His CV includes fighting in the bush against the Indonesian military, achieving a university degree in the US, and being an underground GAM leader in Jakarta. He was arrested and imprisoned, escaped from jail during Tsunami and joined the peace negotiations in Helsinki.

Muhammad Nazar also has an interesting background. In the hectic post-Suharto period, Nazar became the leader of SIRA, the umbrella organisation that campaigned strongly on a referendum for Aceh. He ended up in jail several times and was released after the signing of the MoU in August 2005.

All signs indicate that this independent couple will enjoy the support of the GAM rank and file and likely also sections of Acehnese civil society. The *pilkada* elections in Aceh look to be an exciting political contest and might prove to be a precedent for the rest of Indonesia.



## **The Black Road**

**A film by William Nessen**

**“A stunning piece of work and a wonderful tribute to a brave, spirited and woefully uncelebrated people”**

**Andrew Marshall, Time Magazine**

**For details contact: [wanessen@yahoo.com](mailto:wanessen@yahoo.com)**

# UN's commitment to justice found wanting

**A long-awaited report by the UN Secretary-General, Kofi Annan, ensures continued attention to the need for justice for serious crimes committed in Timor-Leste, but its half-hearted proposals are unlikely to provide a durable solution to the problem. A new UN Mission - the United Nations Integrated Mission in Timor-Leste (UNMIT) - will resume the investigative functions of the former Serious Crimes Unit, but prosecutions and trials will be the responsibility of Timor-Leste's nascent legal system. Crimes committed before 1999 are not even considered. However, steps are now finally being taken to disseminate the report of the Commission for Reception, Truth and Reconciliation (CAVR).**

In a statement issued on 8 August, TAPOL and the US-based East Timor and Indonesia Action Network (ETAN) welcomed the publication of the Secretary-General's report to the Security Council (S/2006/580 – see note 1), but expressed concern that it offers only modest proposals to address the lack of accountability for human rights crimes committed in Timor-Leste.

The report's recommendations are almost entirely dependent on the judicial systems and political will of Indonesia and Timor-Leste. This 'continues a strategy that has manifestly been shown to fail...and demonstrates a reluctance on the part of the UN to discharge its special responsibility for justice for Timor-Leste,' said TAPOL and ETAN.

'Indonesia has ignored repeated calls to cooperate with international efforts to achieve justice. The government of Timor-Leste, wary of its dominant neighbour, remains reluctant to demand that the Indonesian organizers and perpetrators of crimes against humanity be held accountable,' said John Miller on behalf of the two organisations.

Earlier, on 21 July, three coalitions of NGOs concerned with transitional justice in Timor-Leste, had written to the Secretary-General and expressed concern that 'severe shortcomings of the local and international justice processes have helped to create a culture of impunity in which a range of actors believe they can, in effect, get away with murder and other crimes,' The NGOs called for a reconstitution of the Serious Crimes process. The letter was signed by the Timor-Leste National Alliance for an International Tribunal; the Australian Coalition for Transitional Justice in East Timor; and the International Federation for East Timor, which includes TAPOL.

The UN's reluctance to involve itself in future trials and prosecutions could fatally undermine the process of justice for serious crimes given the immaturity of the Timor-Leste legal system. The problems of the 'hybrid' Timor-Leste-

based serious crimes process were recently highlighted in a report by the US East-West Center, 'Indifference and Accountability: The United Nations and the Politics of International Justice in East Timor (see note 2). The report claims that 'the process was so deeply flawed from the beginning that...the egregious problems remained until the very end. These problems are serious enough to at least call into question whether important aspects of the process as a whole met international standards.'

Ironically, in a separate report to the Security Council on the new UN mission for Timor-Leste, the Secretary-General draws attention to the problems and challenges facing the justice system, including poor leadership and management and 'a serious lack of public confidence' in the system'.

It is difficult to see how these problems can be overcome when the UN's commitment to the process is less than wholehearted.

## Investigations to be resumed

The Secretary-General's report on justice, published on 26 July, recommends the revival of international support for investigations and indictments of serious crimes committed in 1999, when Timor-Leste voted for

**over 300 of those indicted are in Indonesia, out of the reach of Timor-Leste's courts**

independence, but specifically rules out the resumption of the prosecutorial component of the UN-established Serious Crimes Unit. It notes that a substantial number of crimes committed in 1999 have yet to be investigated or prosecuted and over 300 of those already indicted are in Indonesia, out of the reach of Timor-Leste's courts.

The Secretary-General calls for the Security Council to endorse the findings of a UN Commission of Experts (CoE), which reported in June 2005 [see *TAPOL Bulletin* No 179, p. 11]. However, he fails to address most of the CoE's recommendations and those of the CAVR, including its proposal that a UN-backed serious crimes process investigate exemplary pre-1999 cases.

In its report, the CoE strongly criticised the proceedings of Jakarta's ad hoc human rights court and expressed reservations about a Commission of Truth and Friendship (CTF) established by the governments of Indonesia and Timor-Leste in August 2005 [see *TAPOL Bulletins* No 178, p.17 & 179, p. 11]. The CoE advised the Security Council to establish an international tribunal if Indonesia failed within a limited period to secure accountability for serious crimes.

In his report, the Secretary-General advises the Security Council to welcome the controversial CTF despite its shortcomings. This includes its ability to recommend amnesties and not prosecutions.

Human rights organisations in Jakarta have called for the CTF to be disbanded. At a press conference, they said that an extension of the Commission's mandate for another year 'further tarnishes Indonesia's commitment to

upholding human rights'. They accused the CTF of lacking accountability and transparency. Those represented at the press conference were Kontras (the Commission for Missing Persons and Victims of Violence), HRWG (the Human Rights Working Group), Elsam (the Institute for Public Research and Advocacy), Demos (the Indonesian Center for Democracy and Human Rights), and PBHI (the Indonesian Legal Aid and Human Rights Association).

### Security Council resolution

In its resolution of 25 August 2006 creating the new UN mission for Timor-Leste, UNMIT (SC/8817 –see note 3), the Security Council undertook to assist with implementing the recommendations in the Secretary-General's report. That would include providing 'a team of experienced investigative personnel, to resume investigative functions of the former Serious Crimes Unit, with a view to completing investigations into outstanding cases of serious human rights violations committed in the country in 1999'.

Regrettably, the Security Council merely took note of the findings of the CoE, but in stronger language welcomed efforts so far by Indonesia and Timor-Leste to pursue truth and friendship through the CTF.

The Council also welcomed the Secretary-General's proposal to create a programme of international assistance for Timor-Leste consisting of a community restoration programme and a justice programme funded by voluntary contributions to a UN solidarity fund for Timor-Leste.

### CAVR dissemination

The Secretary-General pays tribute to the work of the CAVR and says that its report 'constitutes an important milestone in the search for justice, truth and reconciliation in Timor-Leste. He adds that the report 'serves not only as a record of past human rights violations but also as a powerful testimony to the Timorese people's resilience in

the face of adversity'. He encourages the Timorese Government to 'make every effort to ensure follow-up action on the report, consistent with the needs and expectations of the Timorese people'.

At his swearing-in as Prime Minister of Timor-Leste on 10 July 2006, Dr José Ramos-Horta declared that 'The CAVR Report is an encyclopedia of our history, both rich in teachings and suffering. We must utilise its great

## a powerful testimony to the Timorese people's resilience in the face of adversity

teachings to better understand today's crisis and to help prevent future crises'.

Parliament is now being called upon to consider the report and dissemination teams have been active in 8 of Timor-Leste's 13 districts distributing the report to a range of government, civil society, church and other recipients down to the sub-district level and holding public meetings.

In the UK, initiatives are being taken in parliament to persuade the Government to respond to the report. So far it has refused to do so. The UN Security Council is also being urged to consider the report as soon as possible.

### Notes:

1. The Secretary-General's report is available at [http://www.unotil.org/UNMISSETwebsite.nsf/p9999/\\$FILE/JRRPT.pdf](http://www.unotil.org/UNMISSETwebsite.nsf/p9999/$FILE/JRRPT.pdf)
2. 'Indifference and Accountability' is available at [http://www.eastwestcenter.org/res-rp-publicationdetails.asp?pub\\_ID=2005](http://www.eastwestcenter.org/res-rp-publicationdetails.asp?pub_ID=2005)
3. The Security Council resolution is available at <http://www.un.org/News/Press/docs//2006/sc8817.doc.htm>.

# New Film: Passabe

## What is the price of peace?

The remote village of Passabe lies on the precarious border between East and West Timor. It is a battle scarred community with a horrific past. In the run up to the vote for independence in 1999, Passabe was a base for hundreds of pro-Indonesia militiamen – East Timorese who participated in a rampage of violence that climaxed in a bloody massacre.

As Families continue to grieve, questions remain unanswered. Who took part in the killings? Who is to blame?

Five Years on, one man decides to publicly own up to his role in the massacre. Its an explosive move that not only exposes him to possible prosecution, but also persecution from his own people. Accusations fly, a pact of silence is broken and a community's soul is laid bare.

Shot over the course of a year, this film documents a quest for redemption and forgiveness. It is an intimate look into the lives of ordinary folk struggling to rebuild



their lives after an armed conflict, and an exploration into the very universal themes of justice and reconciliation. The film has been shown at a number of international film festivals and is due to be broadcast later this year in France and Germany on ARTE. For further details see the filmmakers website at [www.passabe.com](http://www.passabe.com)

# Criminal Code draft unsatisfactory

**The draft of a new Criminal Code to replace the current Code inherited from Dutch colonial days has been criticised for its retention of the death penalty, its failure to uphold basic human rights and for criminalizing Marxist ideology.**

The draft which has been in the making for more than two decades was submitted to the Minister for Justice and Human Rights, Hamid Awaluddin, by Muladi who chairs the drafting team. Muladi served for a long period of time as Justice Minister during the Suharto era.

The Indonesian Legal Aid Institute Foundation (YLBHI) criticised glaring omissions on democracy and human rights principles. Speaking for the Foundation, M. Patra Zen raised five contentious issues, the retention of the death penalty, defamation, public disorder, state secrets, and the prohibition of Marxism and Communism. 'The application of the death sentence is against human rights and should be removed from the bill,' he said.

In the past few weeks, there has been widespread condemnation of the decision of the Indonesian government to proceed with the execution of three Christian men who were convicted of involvement in clashes in 2000 and 2001 in Poso, Central Sulawesi [see separate article]. On 30 August, TAPOL wrote to President Susilo Bambang Yudhoyono condemning the retention of the death sentence in Indonesia and calling for the executions to be halted. 'There is no justification for any State authority to take human lives under any circumstances whatsoever,' it said, and described the death penalty as 'a state-sponsored atrocity'.

## **Defamation article criticised**

The YLBHI was also very critical of draft Article 308 on the question of defamation. This states that 'anybody who publishes obscure, excessive and incomplete news that could prompt public disorder could be sentenced to one year in prison.' Patra said that words such as 'excessive' and 'public disorder' were open to wide-ranging interpretations and should be made more specific or dropped from the bill. Such an article has been used in the past to jail journalists for reports deemed to 'endanger ... social order'. Patra also questioned an article that threatens up to five years imprisonment for 'defaming the president or vice-president'. This could mean that anyone criticising either of these top officials might face criminal charges.

As chair of the drafting committee, Muladi insisted that the new Criminal Code should include articles criminalizing the creation of communist organisations and the 'espousal of similarly leftist ideas'. He alleged that Indonesia had had 'traumatic experiences with communism'. [The Jakarta Post, 27 July and 11 August 2006.]

Muladi was presumably referring to allegations that the murders of six high-ranking army officials in Jakarta on 1 October 1965 were carried out at the behest of the PKI (Indonesian Communist Party), an allegation which has never been proved and for which hundreds of thousands of people were slaughtered or held in detention without trial for up to fourteen years.[See also following article]

## **Fair trial rights not protected: Amnesty International**

Amnesty International has criticised the draft for falling short of international law and standards, especially as regards guarantees of a fair trial. It lacks safeguards which ensure that individuals are not unjustly punished, arbitrarily detained or subject to torture or ill-treatment. In a statement issued on 7 September, Amnesty said that the draft lacks any provision to ensure that anyone taken into custody is promptly brought before a judge to determine the legality of the arrest and detention. Nor does it

## **glaring omissions on democracy and human rights principles**

provide for persons under arrest to be informed in simple language of their rights, including the right to access to a lawyer who should be present at all stages of investigation.

With regard to the practice of torture, the draft is silent on the possible use in court of information obtained by means of torture. As the draft now stands, it would be left to the discretion of the judge as to whether or not evidence allegedly obtained by means of torture is admitted and if admitted, what weight is given to it. Moreover, the judge would not have the authority to order an investigation by an impartial authority into such allegations. Amnesty draws attention to infringements that have come to light in a series of trials in Jayapura, in connection with events there on 16 March this year [see separate item].

## **TNI trials 'not anytime soon'**

While the government has agreed that military personnel should be tried in civilian courts for misdemeanors under the Criminal Code, Defence Minister Juwono Sudarsono has said this could not happen for at least two or three years. He alleged that this was because of 'the complexity of the issue'. The reality, he said, is that the legal infrastructure is not ready for its implementation.

While promising that the government would not continue past practices with soldiers eluding harsh punishment through being sentenced in closed military courts, the minister said a transitional law might be needed to handle this matter.

Several members of parliament have accused the government of procrastinating on the issue. The House

has been in talks with the government on amending a 1997 law on military tribunals, to enable members of the military to be brought before civilian courts for offences under the Criminal Code.

'Amendment of this law has been proposed by legislators from the previous term but there is not significant progress. The government seems to be buying

## **lacks safeguards which ensure individuals are not unjustly punished or subject to torture**

time with its approach,' said Andreas Parrera of the PDI-P. He said that the amendment should be completed before the end of the term of the present parliament. 'The discussion of the bill will go back to square one if it's given to future law-makers' [*The Jakarta Post*, 7 September].

### **1997-98 abductions cases still unresolved**

A further indication of the difficulty of dealing with previous military abuses is the failure to interrogate a number of top-ranking military officers in connection with the disappearance of fourteen pro-democracy activists in 1997-1998. Komnas-HAM, the National Human Rights

Commission has twice summoned the officers, along with two civilians, but they have refused to appear.

They include the former chief of military general affairs Lt.Gen Djamari Chaniago, former army spokesman Brig.Gen Afiffudin Thaib, and Colonel Abdul Salam of the special forces, Kopassus, all retired. Another nine are also members of the special forces who were part of the so-called *Mawar Team*. Eleven others have been convicted and dismissed from the army.

Other retired military officers also refused to respond to summonses, arguing that the case was now closed with the eleven convictions. But a member of Komnas HAM, Ruswati Suryasaputra, insisted that the case was far from over because fourteen of the 20 abducted persons were still missing.

She said that the soldiers were being summoned not to prosecute them but to get information. 'The relatives [of the missing persons] need to know their whereabouts, or if they are dead they want to know where they are buried.' She said that if they continue to refuse to show up, the court should use force to make them appear [*The Jakarta Post*, 8 August 2006].

# **Communism still banned**

## **A ban on two academic books on Indonesian Communism and the revision of school history books demonstrate the grave threat to freedom of expression posed by the continued ban on Marxism and Communism in the new draft Criminal Code [see previous article].**

The Attorney General's Office and Customs and Excise have prevented entry into Indonesia of two academic studies, 'Indonesian Communism Under Sukarno: Ideology and Politics' by the late Australian historian, Rex Mortimer, originally published in 1974, and 'The Rise of Indonesian Communism' by Ruth McVey, written with fellow Indonesianist, Benedict Anderson, in later 1965.

The publisher, Equinox, said it had published a limited number of the books to test the local market. All attempts for the books to be released for entry had failed

A spokesman for the Attorney-General said it was 'hardly surprising' that these books were being withheld, alleging: 'Judging from their titles, these books could be categorised as materials that could disrupt the country's ideological foundations and provoke the rise of a communist movement' [*The Jakarta Post*, 28 July 2006].

### **History revised – again!**

In a further disturbing development, it was revealed in September that school history books have been revised to conform with the public's alleged hostility to the Indonesian Communist Party, the PKI.

In passages that could well have been lifted from George Orwell's celebrated critique of totalitarianism, '1984', *The Jakarta Post* reported that 'The Education

Ministry has rewritten school history books once again...'. The purpose of the exercise was to restore the PKI as the sole culprit of the aborted 1965 coup and the bloodletting that followed, in which tens of thousands of people died. In the previous 2004 education curriculum, the PKI was mentioned as only one of several perpetrators of the violence.

An 'historian' involved in the revision explained: 'When we arranged the 2006 history curriculum, we found that making the PKI the main perpetrator was the most acceptable truth for Indonesians'. The team of revisers had held a series of public discussions and

## **The Education Ministry has rewritten school history books once again...**

workshops 'to find the most "appropriate" version of history'.

The Attorney General's office is investigating two persons involved in the 2004 version of the curriculum for allegedly causing 'restlessness among the public'.

National Institute of Sciences historian, Asvi Warman Adam, said the 2006 revision was not a scientific process and was biased against the PKI. It was an 'old and emotional' New Order version of history that blamed the PKI for the tragedy.

The questioning of the two officials was 'part of an effort to terrorize academics who were only searching for the truth behind the violence,' he said [*The Jakarta Post*, 21 September 2006].

# Toxic mudflow causes havoc in East Java

**A highly toxic mudflow that has been spreading unchecked in East Java since May is the latest in a series of disasters that has dogged Indonesia since the tsunami struck Aceh in December 2004. But unlike the tsunami and the earthquake that killed almost six thousand people in Central Java a few days before the mudflow started, this environmental disaster is basically manmade and blame is being laid at the door of a company part-owned by a senior member of the government.**



The mudflow which has inundated land in and around the East Java capital city of Sidoarjo, spreading subsequently to the neighbouring district of Mojokerto, began gushing on 29 May and today, nearly five months on, there are no signs of an end to the disaster. In the early stages, one geologist, Andang Bachtiar, former chair of the Indonesian Geologists' Association, said that there was little chance that it could be stopped as it exhibited what he called the 'mud volcanoes' phenomenon. According to geologist Soffian Hadi from the National Development University: 'Mud volcanoes can't be stopped. If Lapindo can stop it, it will be a blessing from God.'

It has inundated hundreds of hectares around a natural gas exploration site owned by Lapindo Brantas Inc, a company part-owned by the family of Aburizal Bakri, the coordinating minister for the economy and social welfare.

The mud is toxic, foul-smelling and gives off fumes that have made people ill and caused respiratory problems. It has smothered agricultural crops, rice fields and sugar cane plantations, submerged four villages, displaced around 10,000 people and has covered 160 hectares of land in five-metre deep mud, disrupting communications by road. The toll road connecting Surabaya, Indonesia's second largest city, to its southern suburbs has been intermittently shut.

Lapindo is a unit of PT Energi Mega Persada, partly owned by the Bakrie Group.

## **NGOs threaten legal action**

In September, two NGOs, the Indonesian Forum for the Environment, WALHI, and the Indonesian Legal Aid Foundation, YLBHI threatened to sue the government if it failed to take concrete action to handle the disaster properly and compensate the victims. A study by Greenomics Indonesia estimated in August that, it had caused Rp 33 trillion (US\$3.6 billion) in losses to the local people and their environment.

Lapindo's management has been blamed for allegedly failing to install protective casing at the required depth during the drilling process.

A seminar held in Jakarta on 12 September came to the conclusion that, from a corporate governance

**The mud is toxic, foul-smelling and gives off fumes that have made people ill and caused respiratory problems**

perspective, Lapindo and its management have ignored people's right to a healthy environment, housing and education for more than three months without serious endeavours to control the disaster, which has displaced thousands of villagers. Abdul Hakim Garuda Nusantara, who heads Indonesia's National Human Rights Commission, said there were strong grounds to charge Lapindo under the laws on human rights, consumer protection and the environment, apart from the Criminal Code. Noting that 'Human rights have even been adopted in the environmental and consumer protection laws,' he suggested that the management and the company should be prosecuted.

Rafendy Djamin, coordinator of the Human Rights Working group, said: 'The company not only has the corporate social responsibility to protect the human rights of local people but also was not prepared for an incident like this.'

**continued on page 24**

# Government abandons controversial labour law

**Indonesian workers achieved an important victory when it became clear in September that the government had decided to shelve plans to revise a 2003 labour law that protects workers' rights. The climb-down came in response to massive protests in May against the new legislation [see TAPOL Bulletin No 183, p. 14]. The ability of workers to influence policy in this way is a clear sign that democratic changes in Indonesia since 1998 have benefited the labour movement. The struggle against economic injustice and exploitation goes on however.**

The revised labour legislation was intended to provide a more business-friendly economic environment to attract increased foreign investment to Indonesia. The new law would have made it easier for employers to hire and fire workers by reducing severance payments and allowing companies to employ workers for up to five years without a contract.

The introduction of the new law was originally postponed at the beginning of April because of a wave of public protests [see *TAPOL Bulletin* No 182, p. 22]. It was then agreed that further consideration would be given to the law by a panel of academics so that the interests of employers, workers and the government could be addressed.

In an interview with *The Financial Times* in September, vice-president, Jusuf Kalla, confirmed that the proposed

## Indonesian workers still face a long, hard struggle against poverty and economic hardship

reforms would not be pressed through parliament. He said that the government would try and find other ways of responding to business concerns. Rather disturbingly, he also blamed democratic reforms for preventing improvements to people's welfare:

'Democracy – as evidenced by the May labour protests – had come too early because of enduring low levels of education and income,' he said, 'and had gone "too far".'

'Democracy is a system. It's not our objective. Our objective is how to [ensure] people's welfare,' he said. 'To know the success of a system you have to know the result. We have not achieved the result. But we are a democracy, maybe a too-open democracy.' ['Indonesia drops plan for labour reform', *The Financial Times*, 13 September 2006].

### Anti-poverty protests by workers

Despite their success in blocking the employment law reforms, Indonesian workers still face a long, hard struggle

against poverty and economic hardship. A number of recent protests illustrate the kinds of problems they face.

At the end of July, 2000 workers from the PT Sinar Angkasa company demonstrated in front of the East Java provincial governor's office in Surabaya demanding a wage increase to bring them up to the minimum wage of 685,500 rupiah (US\$75) per month. One of the PT Sinar Angkasa employees, Slamet Riyanto, said that since January the workers had only been receiving Rp568,500 per month. A similar number of workers had demonstrated the week before at the Surabaya provincial parliament but the company has continued to refuse to increase their wages.

Hundreds of workers from the PT Nainteks company in Bandung demonstrated in front of the offices of the West Java governor on July 25. They were demanding

**the number of people living in poverty rose from 16% in February 2005 to 18.7% in July 2005**

severance payments that the company had promised to pay six months earlier.

Some 200 street traders from the Tengah Market in Bandar Lampung, in south Sumatra demonstrated at the mayor's office on July 25. The protesters were opposing plans to evict them from their place of trading. Dozens of street traders who had been evicted from the Simpang Fountain area in the city of Padang city, in West Sumatra, have camped outside the West Sumatra provincial parliament.

Members of the Poor People's Union (SRM)

demonstrated at the Medan city hall in northern Sumatra on July 25. The protesters were condemning the eviction of street traders. Violent clashes nearly broke out when the demonstrators were blocked by

Medan civil service police as they entered the grounds of the hall. The traders also blockaded the Medan city hall and the street in front of it on August 3.

Dozens of fishers from the city of Ternate in the province of North Maluku demonstrated at the offices of the fisheries agency and the provincial governor on July 25. They were demanding that the government act firmly against foreign ships that are illegally taking fish from the North Maluku waters.

Some 600 part-time workers from the PT Wong Coco beverage export company in the Natar area of South Lampung went on strike on August 2 for four days. They demonstrated in front of the company's offices demanding to be employed as full-time workers.

That same week, dozens of residents from the Duren Jaya area of the Bekasi regency of West Java province, whose homes were demolished to make way for the Ganda Agung underpass project, demonstrated at the

**continued on page 24**

# Dan Lev, scholar, passes away

**One of the foremost scholars on Indonesian law and politics, Dan Lev, died in July this year, after a long and painful illness. He was 72. Shortly before his death he announced that he would be donating all his documents and library on Indonesia to a study and research centre in Jakarta.**

Professor (Emeritus) Daniel S. Lev died in Seattle, Washington State, where he had worked for more than three decades at the University of Washington. He was widely acclaimed during his lifetime for his extensive knowledge of Indonesian law and politics, and was much beloved by the many Indonesian students who studied under him.

For an example of his scholarly approach often peppered with a healthy dose of humour, we turn to a talk he delivered last October for the East Asia Legal Studies Program, 'Success and (Mainly) Failure in Foreign Assisted Legal Reform: The Indonesia Experience'. He spoke about his early work in Indonesia with the Ford Foundation in the late 1960s and went on to discuss a

**much beloved by the many Indonesian students who studied under him**

number of legal reform efforts that have been attempted in Indonesia, with questionable success, over the intervening four decades. The issues he touched on ranged from the entrenched and widespread nature of corruption in the Indonesian judiciary to the plausibility of Indonesian judicial and political reform.

Despite the temptation, amid numerous failed reform efforts, to lapse into a state of despair, he urged his audience not to dismiss the Indonesian situation as hopeless. He posited that many of the failed reform programs were flawed in that they only addressed certain aspects of the problems in the judiciary instead of taking a more expansive view. He spoke of the need for improvements in legal education and for programs to improve the ranks of prosecutors and the police force. He envisioned changes that would be accomplished over time by determined citizens and domestic NGOs, in conjunction with informed foreign assistance.

In the late 1950s, Dan Lev spent several years in Indonesia studying the political transition from a pluralistic political situation to Guided Democracy from 1957–59. This is a period that few scholars have devoted attention to, but it is of tremendous importance in understanding the dynamics of Indonesian politics. This led to the publication of his ground-breaking study, 'The Transition to Guided Democracy: Indonesian Politics 1957–1959'. The book is regarded as a classic on Indonesian politics.

## Close bond with his students

On receiving the news of his death, many of his former students spoke of Dan Lev's deep and abiding love for Indonesia.

Todung Mulya Lubis, who for years headed the Legal Aid Institute (LBH) in Jakarta, described Lev as someone



who laid the basis for the foundation of the LBH. Lubis spoke of him as being 'more Indonesian than many Indonesians'. He had a far deeper emotional tie with Indonesia than most other Indonesianists.

'He was like a father to those of us who went to the USA to study,' said Lubis.

Another of his students, Nursyahbani Katjasungkana, said that because of his enthusiasm she had decided to immerse herself in politics and become a member of the Indonesian parliament. 'He was a great champion of gender equality in politics,' she said.

## Unfinished work

Just one month before his death, in June, according to his wife, Arlene, he was trying hard to complete a book on Yap Thiam Hien, a foremost legal expert and activist for human rights during the 1960s. Nine hundred pages were written but he was still planning to write another two chapters.

Dan Lev was born in Youngstown, Ohio on 23 October 1933 and completed his MA and doctorate at Cornell University. He later took up a teaching post at the University of California, Berkeley. His next move was to the University of Washington in Seattle where he remained until his retirement in 1999.

Throughout his life, he always expressed great admiration for young Indonesians, in whom he placed great hopes. This is why he decided shortly before his death to donate a major part of his library to the Jakarta based Centre for the Study of Policy and Law (PSHK), the place where young law students carry out research into the question of reform of law and politics.

He died at home, refusing to go to hospital, in the company and care of his wife and their two daughters.

[Sources: Press Release by *East Asian Legal Studies*, late 2005, and *Kompas*, 17 August 2006]

# Willem Zonggonau

**One of West Papua's leading nationalists, Willem (Wim) Zonggonau, has died in Australia at the age of 64. He will always be remembered for his thwarted attempt, with his colleague Clemens Runawery, to warn the UN in 1969 about the fraudulent nature of the Act of Free Choice, which led to West Papua's incorporation into Indonesia.**

Wim Zonggonau and Clemens Runawery's treatment by the Australian authorities in 1969 is a stark reminder of the West's shameful complicity in Indonesia's takeover of West Papua in the 1960s.

Dismayed at the part played by the UN in the 1969 Act of Free Choice, Zonggonau and Runawery tried to travel to New York to warn member states that the West Papuan people were not being allowed to express their views about the future of their homeland and to present a series of petitions calling for West Papuan independence. However, while transiting through neighbouring Papua New Guinea (then under Australian control) they were taken off their plane, arrested, detained and despatched to offshore Manus Island by Australian officials, apparently at the request of the Indonesian government.

Indonesia had taken steps to ensure that West Papuans outside the territory would not create problems for Jakarta in New York. In particular they had appealed to Australia not to allow Zonggonau and Runawery to travel to New York. Gordon Jockel, Australian Ambassador in Jakarta, reported to Canberra on 24 June:

'immediate concern of Indonesia is that early arrival of these 2 West Irianese at the UN could stimulate defiance and seriously upset the management of conduct of Act of Free Choice within West Irian...Malik [Indonesian foreign minister] said he hoped that we'd keep the 2 refugees on Manus island over next few weeks as a satisfactory way of dealing with the problem.'

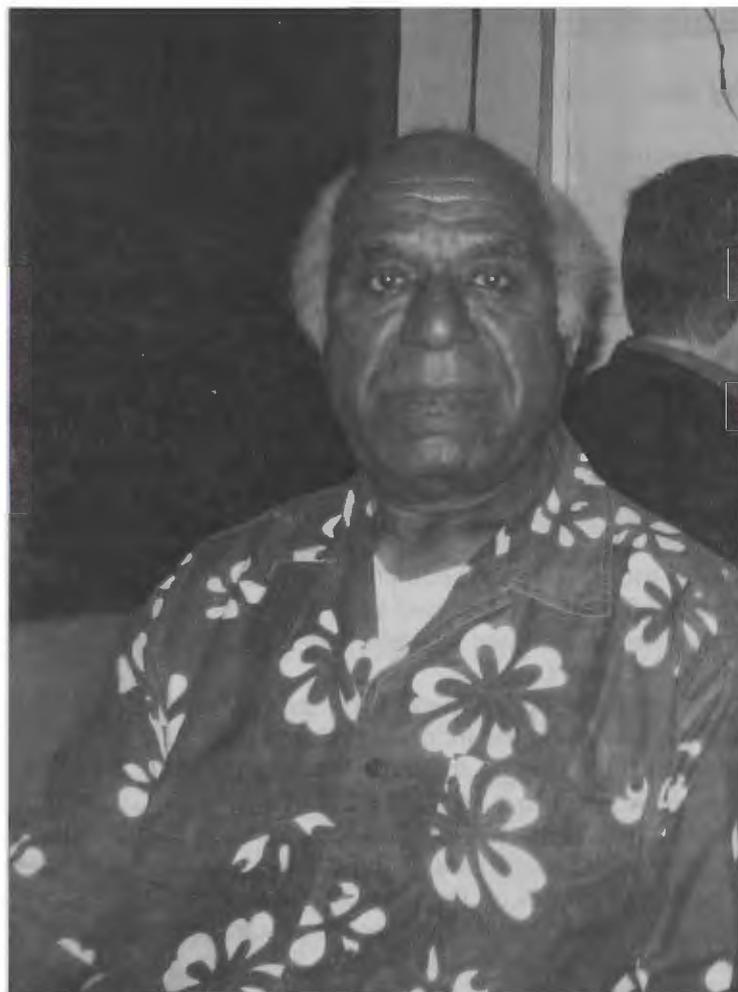
Canberra obliged and orders were sent to the authorities on Manus to arrest the two men if they attempted to leave. As a consequence the Papuans and their petition never got to New York.<sup>[1]</sup>

Wim Zonggonau remained in exile in Papua New Guinea ever since. When he died from a heart attack he was in Australia with Clemens Runawery on a speaking tour to highlight concerns about a new security treaty between Australia and Indonesia as well as speaking about the situation in West Papua in general.

"Wim you have gone but our vision and mission will be accomplished. I am confident that there is a glimmer of hope at the end of the tunnel," said his friend of 40 years.<sup>[2]</sup>

The Australian Senate unanimously passed the following condolence motion on 12 October:

The Senate notes the recent death of West Papuan politician Willem Zonggonou[sic] while visiting Australia. Mr Zonggonou was a member of the Papuan legislature and Indonesian upper house in the 1960s. Living in exile



**Wim you have gone but our vision and mission will be accomplished**

in Papua New Guinea he worked tirelessly for freedom and peace in West Papua. The Senate expresses its condolences to the Mr Zonggonou's family and friends, and people of West Papua for their loss.

Wim Zonggonau became a politician in West Papua in the 1960s when West Papuan nationalism was on the rise. He served in the Papuan legislature and the Indonesian national parliament. He is survived by his sister Dolly who lives in Vanuatu and several nephews and nieces.

A landmark report by historian Professor Pieter Drooglever, commissioned by the Dutch government and published in November 2005, suggested that the Act of Free Choice was a 'sham' and destined to failure from the outset [see *TAPOL Bulletin*, No. 181, p. 1]

**Notes:**

1. See 'The United Nations and the Indonesian Takeover of West Papua, 1962-1969: The Anatomy of a Betrayal', Dr John Saltford, Routledge Curzon 2003 (hardback), 2006 (paperback), p. 157. See also Saltford, 'United Nations Involvement with the act of self-determination in West Irian (Indonesian West New Guinea) 1968 to 1969' (22-page article), *Indonesia 69*, Cornell University, April 2000, available from TAPOL.
2. *Green Left Weekly*, 11 October 2006.

## State Terrorism and Political Identity in Indonesia: Fatally Belonging

by Ariel Heryanto, 236 pages. Routledge, 2006.

It is perhaps no coincidence that the two books under review here focus, albeit in very different ways, on the events of 1965. What this certainly tells us is that, for the historian Ariel Heryanto and the grassroots activist Brenda Capon, the events of that momentous and terrifying year are still very relevant, more than forty years on.

The kidnap and assassination of six Indonesian generals on 1 October 1965 led the way to a horrendous series of massacres that killed one million or perhaps more Indonesians, resulted in tens of thousands more being imprisoned for more than a decade, and paved the way for the seizure of power by then Major-General Suharto who ousted President Sukarno from power and established his New Order regime that was to last for 33 years.

Some circles in Indonesia still place the responsibility for the killings on the Indonesian Communist Party, PKI, without there being a shred of evidence against it. Hence, the incident which is known by the abbreviation G30S (30 September Movement) is often referred to as 'G30S/PKI'.

Heryanto's meticulous examination of the events of 1965 concentrates on the effects on Indonesian political life that have reverberated over the ensuing decades and on attitudes that have held sway in the country, even following the downfall of Suharto.

The first chapter opens with an account of the exhumation of the bodies of victims of the massacres by 300 villagers in Central Java in November 2000, two years after the downfall of Suharto. News of this action spread far and wide and when many travelled long distances to attend the reburials four months later, a hostile group of some three thousand people encircled the house inhabited by Irawan, one of those involved. They brandished weapons and shouted anti-PKI slogans, putting a stop to the activity and bringing a premature end to these historic investigations.

uninformed about violent conflicts in Aceh, West Papua and East Timor, what happened in 1965-66 is no secret in Indonesia. It is something everybody knows but never wants to talk about.

One chapter is devoted to events in 1988, a year of widespread purges, that increased massively the number of people stigmatised. Although there was no danger of a resurgent PKI, the regime proclaimed the constant need for 'vigilance'. Random accusations were levelled against vast numbers of people who were stigmatised as *terlibat* (involved) in the 1965-66 events. This can be accounted for, Heryanto says, by splits within the regime, which came to a head when the candidate for vice-president, Soedharmono, a close associate of Suharto, came under

**a profoundly important book for anyone wanting to understand Indonesia today**

attack by the military with allegations of his communist past. Repeated government pronouncements at the time that 'everything is under control' and that there was 'no danger of a communist revival', only helped to remind people of the supposed latent danger.

There were five categories of being 'involved': 'ET' for *ex tapol*, *tidak bersih diri* (unclean) *tidak bersih lingkungan* (unclean environment), *terlibat*, and *litsus*. They provided a system for examining anyone who was being considered for an official post for alleged communist sympathies.

There follows a detailed account of the cases of three Yogyakarta students who, after reading the banned novels of Pramoedya Ananta Toer, which gave an alternative history of Indonesia's independence struggle, joined a discussion group and began to sell copies of the books. This harmless activity resulted in their arrest and conviction after they were handed over to the police by a dramatist, outside whose theatre they were selling their books. The fact that this person called the police was an example of this pervasive fear of anything seen as being connected with the PKI.

Heryanto later interviewed the men and gives a detailed account of their interrogations and how one of them ended up falsely confessing to working for a communist revival, with dire consequences for his friends.

He disputes many academic accounts of repression in Indonesia as being primarily caused by the military, explaining that much of the repression and fear was the result not of acts of violence by the military but of people internalising the master narrative and blaming each other. The term *teror* in his analysis means not an action such as

9/11 in 2001 or the Bali bomb in 2002. These were, he argues, acts of political violence which killed substantial numbers of people but the vastly greater numbers of people were terrorised by these events. What the New Order regime was so successful in doing was sustaining this *teror* by keeping alive the knowledge of these events.

While I would not call this an easy read as it combines theoretical analysis with a very detailed account of Indonesian attitudes, it is a profoundly important book for anyone wanting to understand Indonesia today.

**there is a pervasive fear in Indonesia of discussing the events of 1965-66**

As the author points out, there is a pervasive fear in Indonesia of discussing the events of 1965-66 or subjecting them to scrutiny. One major contribution to creating what he calls the 'master narrative' was a film called 'Pengkhianatan G30S/PKI' or 'The G30S/PKI Treachery' which was shown annually throughout the years of the New Order. It portrays the killings of the 'exemplary generals' and the evil killers but is silent on the massacres which started in late October and lasted through the first three months of 1966. The initials PKI became so reviled that they were even used as a swearword. But as Heryanto points out, even though Indonesian governments have kept the population

## A Sweet Scent of Jasmine

by Brenda Capon, 151 pp, April 2005. Published by the author.

For members of Amnesty International, the adoption of prisoners of conscience and letter-writing campaigns is very familiar. Needless to say, Indonesia provided many thousands of prisoners to be adopted by enthusiastic letter-writers, hoping at the same time to learn something about hitherto unknown parts of the world.

Brenda Capon first got the idea of writing to a prisoner of conscience in 1983 when she read a letter in *The Church Times* inviting readers to send Christmas cards to prisoners anywhere in the world. In response, she wrote to prisoners in several countries. But it was her card to a prisoner in Pamekasan Prison on the island of Madura that led to a correspondence that lasted, with a number of interruptions, for many years.

The correspondence was promoted by The Prisoner Befriending Scheme, an offshoot of The Society of Friends of Quakers, with occasional assistance from TAPOL.

Capon's main prisoner was Soedono, a second-lieutenant in the Indonesian army who was arrested in November 1965. He was sentenced to death but the sentence was commuted to life imprisonment in 1980. When she first started the correspondence, she knew nothing about Indonesia apart from the stamps she used to collect as a youngster. But she acknowledges that as a result of her correspondence with Soedono and other Indonesian prisoners, Indonesia became a 'near-obsession'.

Fortunately for her, Soedono could write quite well in English although she decided to learn Indonesian so as to understand letters she was receiving from other prisoners. It soon became apparent that her letters meant a great deal to him. From his letters she formed the opinion that 'he was something of an idealist, a dreamer and a poetic one at that. How on earth did he become a soldier?' she writes.

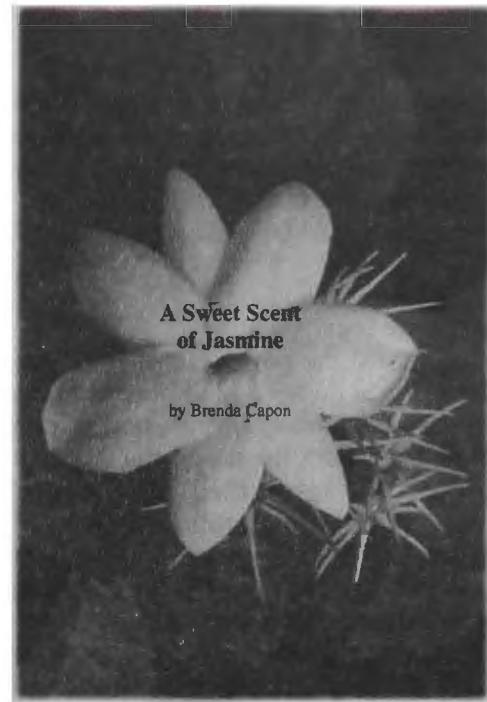
This was no doubt prompted by something he said in his first letter:

'The sun having set, the still of the night coming. Behind the window bars, I stared at the scenery of my sphere, while Blacky [his cat] making a fuss rolling beside me. The whole spaces around me was perfumed by a sweet scent of jasmine.'

There were times when letters from him dried up and she began writing to other prisoners at the same prison, wondering what had happened to Soedono, but always cautious about how she sought information about him from other prisoners. This is evident when she writes, in relation to correspondence with Paulus, another prisoner: 'I did not want Paulus to feel I was writing to him so I could find out about someone else. He needed to feel that he was important in his own right.'

In one of his early letters, Soedono had told her that he was keen to read English literature and in response, she regularly sent him books. A Protestant priest, Father Jeffrey, helped her to pass things on to Soedono and others in Pamekasan until he died some years later.

In her book, Brenda Capon shows the importance she attached to the letters she wrote and her deep understanding of what her letters meant to the prisoners.



**my Indonesian friends have taught me so many insights into their culture, and indeed into life itself**

During the 1980s, Soedono was told on several occasions that he would soon be released but what he expected never happened. It was not until 1994, after nearly three decades in prison that he was finally released on 21 April 1994. But when she received the terrible news that he had died two years later, she writes that she 'felt like a member of the family', such was her sense of closeness and intimacy with people from a far-off country, none of whom she had ever met.

The book includes a number of photographs of members of Soedono's family and of Soedono himself, which she received over the years.

In an epilogue to the book, written in January 2005, she says that although this was a costly journey emotionally, 'I have never contemplated giving up.... All my Indonesian friends have taught me and continue to teach me so many insights into their culture, and indeed into life itself, that I feel deeply indebted to them. I thank them for the privilege of sharing in their lives.'

**Carmel Budiardjo**

Copies of the book can be obtained from the author at:

1, The Cloisters,  
South Street,  
Wells,  
Somerset BA5 1SA

Please include a cheque for £10.50 plus £1.00 for UK orders. Orders from abroad should add £2.50 to the cost of the book for airmail. Payment in sterling would be appreciated.

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Lapindo owns 26 producing wells with a combined capacity of 45 million cubic feet of gas a day. According to Endang Bachtiar, former head of the Indonesian Geological Experts' Association, the value of the company's gas production is estimated at \$30 million a day.

### Greenpeace protest

In protest against the government's handling of the disaster, Greenpeace dumped mud outside the welfare ministry. Police looked on as activists poured buckets of volcanic mud taken from the site of the disaster, altogether about 700 kgs, at the gate of the ministry. Speaking on behalf of Greenpeace, Emmy Hafild said: 'It's a symbolic move. It's utterly shameless for the minister to distance himself from the disaster when his group owns the controlling shares of this operation.' A ministry official, Lalu Mara Satriawangsa, who formerly worked as a spokesman for the Bakri conglomerate accused the demonstrators of being 'unethical' for conducting a rally without permission and dumping dirt at a government office.

[Sources: *The Jakarta Post*, 14 August, 6 September and 13 September, *Reuters*, 27 and 28 September, and *Los Angeles Times*, 9 September 2006]

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Bekasi local parliament on August 3. At least 73 homes were demolished for which the Bekasi city government has paid them compensation equivalent to \$100 to build semi-permanent houses and \$200 for permanent housing.

[The above reports are taken from the website of the Australia-based Action in Solidarity with Asia and the Pacific and from 'Protests and number of poor on the rise', *Green Left Weekly*, 20 September 2006].

According to the most recent figures issued by the Central Statistics Agency (BPS), the number of people living in poverty rose from 16 per cent in February 2005 to 18.7 per cent in July 2005. The figure for March 2006 remained at 18.7 per cent [*Green Left Weekly*, *ibid.*]. Rising unemployment is a major concern. According to some estimates the level of unemployment (including underemployment) is as high as 40 million ['The Real State of the Nation Is 40 million Jobless', *The Jakarta Post*, 18 August 2006].

### Securicor workers' victory

A long-running dispute involving the British-based security services company Group 4 Securicor (G4S) was finally settled in July in accordance with a ruling of the Indonesian Supreme Court when the company agreed to pay severance pay and back pay to over 200 sacked workers.

The resolution of the dispute followed interventions at the G4S AGM in June by TAPOL and a senior union leader from Indonesia [see *TAPOL Bulletin* No 183, p. 18].

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also expects protests when the death sentence on the Bali bombers is carried out.

### Against death sentences

The trials and death sentences have instigated new campaigns against the death sentence. A broad coalition of human rights organisations, student organisations and civil society organisations including ELSAM, LBH Jakarta, PMKRI, PBHI, Ciliwung Merdeka, Setara Institute, PRD, Padma Indonesia, GMNI UKI, IKOHI and Kontras have made a statement calling upon the President to abolish the death penalty.

Tapol also protested against the trials, and has reiterated its condemnation of the death sentences. Tapol called on the Indonesian government to end its use of capital punishment in all cases.

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