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March/April 2004

## Rehabilitation nearer for PKI suspects

*The Indonesian Constitutional Court has adopted a decision restoring the right of former members of the PKI and associated mass organisations to be nominated as candidates in national and regional elections. Although the decision has come too late for implementation in elections in April this year, the decision is seen as a major breakthrough, rectifying nearly four decades of discrimination against members of the PKI.*

Ever since 1965, when the Indonesian Communist Party (PKI) was blamed for the murder on 1 October of six army generals, anyone suspected of being a member of the PKI or the many mass organisations that were associated with it has been subjected to political discrimination. It is now widely acknowledged that the 1 October 1965 Affair was an internal army affair. Nevertheless, a massive purge of alleged PKI members was launched, hundreds of thousands of people were thrown into prison while hundreds of thousands were slaughtered in massacres that swept across the country from late October till March of the following year.

Following the release in the later 1970s of all the prisoners, the vast majority of whom had been held without trial, the ex-prisoners have been subjected to a range of discriminatory measures. Over the years, especially since the downfall of the dictator, Suharto, some of these measures have been repealed while others remain in force. The Constitutional Court's decision adopted on 25 February 2004, brings us closer to a conclusion to this particular outrageous blight on Indonesian political life.

The Constitutional Court was set up in 2003 for the purpose of ensuring that legislation enacted by Parliament is not in breach of the Indonesian Constitution which clearly prohibits discrimination of any kind. All decisions of the Court are binding and are not subject to appeal. The Court also based its decision on non-judicial reasons, namely that discrimination is no longer relevant in the nation's efforts to bring about reconciliation and move towards a more just and democratic future.

### The petitioners

The Constitutional Court took its decision in response to a petition for judicial review submitted by seven men who were themselves victims of this discrimination: Semaun Utomo, Achmad Soebarto, Mulyono, Said Pradono bin Djaja, Ngadiso Yahya bin Sumoredjo, Tasmin bin Setyo Prawiro and Makmuri bin Zahzuri. A similar petition was submitted to the Court by a group of well-known politicians, headed by Deliar Noer, formerly chairman of the

Muslim youth organisation, the HMI which was the target of fierce PKI animosity prior to 1965. However this petition was rejected on the grounds that the petitioners were not themselves the injured parties.

The Court decided to repeal Article 60 (g) of the 2003 law on the election of members of the national parliament and regional legislative assemblies, prohibiting PKI members from being nominated as candidates. The Court

### CONTENTS

#### HUMAN RIGHTS

Rehabilitation nearer for PKI suspects	p1
Listening to the voice of the victims	p15

#### ELECTIONS

General elections: old wine in a new bottle	p3
---	----

#### ACEH

Unlawful trials in Aceh	p9
Aceh Peace Conference in Kuala Lumpur	p11
Aceh a threat to Indonesia's Unity	p13

#### PRESS FREEDOM

Press freedom under threat	p17
----------------------------	-----

#### WEST PAPUA

Evidence of genocide in West Papua	p19
Tangguh: increased TNI and police presence	p23

#### LABOUR

Indonesian workers seek jobs abroad	p24
-------------------------------------	-----

#### ARMS SALES

Legal challenge to UK's arms policy	p8
-------------------------------------	----

stipulated that this article was in breach of the Indonesian Constitution which prohibits discrimination based on religious beliefs, ethnicity, race, social or economic status, gender, language or political belief. The only persons who can be deprived of these rights are those suffering from severe mental disorders and those who have been convicted of serious crimes.

The Court came to the conclusion that Article 60 (g) was inserted into the law on the basis of political considerations and was therefore unacceptable. Moreover, it said, prohibitions may only be made on a case-by-case basis, and cannot be applied collectively.

The Court based its decision among others on Law No 39/1999 on Human Rights, and on the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights.

Chairman of the Court Jimly Asshiddique said: '*For me, what is important is for this nation to go in the direction of the ideal of having a democratic constitution based on the law. Without that, Indonesia will never become a nation that is taken seriously by the world community.*' [Tempo, 2-8 March, 2004]

The chairman of Komnas HAM, the National Human Rights Commission, Abdul Hakim Garuda Nusantara, said that, inspired by the Court's ruling, the Commission intends to submit an application for judicial review of all the remaining discriminatory legislation. The Court's ruling was seen as a stepping stone 'to re-examine all remaining legislation that is discriminative, either socially, politically, culturally, or in terms of economic status.' Hendardi, chairman of PBHI, the legal aid and human rights institute, welcomed the ruling 'as a first step to correcting the mistakes of the past.' [Tempo, 2-8 March, 2004]

The only dissenting voice among the Constitutional Court's nine members was (retired) Lieutenant-General Achmed Rustandi, a former senior police officer. His dissenting opinion was echoed by General Endriartono Sutarto, army chief of staff, who, along with other armed forces officers, denounced the Court's decision, arguing that the PKI had been responsible for two acts of rebellion against the state in 1948 and 1965, and still constituted a threat to the state.

By and large, the decision has been widely welcomed, among others by Indonesia's two largest Muslim organisations, Nahlatul Ulama and Muhammadiyah. The decision has also provoked widespread discussion in the media, mostly positive. This indicates that the decades-long prejudices against the PKI are now becoming a thing of the past. The Court's bold decision represents an important step in the consolidation of democratisation in Indonesia.

## Decades of discrimination against the PKI

Apart from the physical purge launched against alleged PKI members, numerous discriminatory laws and regulations were adopted during the Suharto era, formalising the discrimination that had been in force since Suharto seized power in 1965.

The starting point was a decree announced by Suharto and known as Supersemar which was proclaimed on 12 March 1966 according to which the PKI was declared to be a prohibited organisation. Four months later, on 5 July 1966, the MPR, the Supreme Legislative Council, adopted Decree XXV/1966 outlawing the PKI and prohibiting the dissemination of the teachings and doctrines of communism and

Marxism-Leninism. By this time, the MPR had been massively purged and members of the armed forces had taken the place of those who had been removed. When Abdurrahman Wahid became president in 1999 he announced his intention to press for the repeal of Decree XXV/1966 but this was greeted by a chorus of protests, forcing Gus Dur to retract. Clearly the political atmosphere was not yet ripe for such a move.

Law 8/1974 on Basic Requirements for Civil Service Employment stated that all state employees known to have abused Pancasila, the state ideology, and the 1945 Constitution or to have been involved in activities against the state were to be dishonourably dismissed.

In the early eighties, after the remaining tens of thousands of untried prisoners had been released, a regulation was adopted requiring that identity cards issued to former political prisoners should bear the initials ET (for 'former political prisoner' or OT ('for prohibited organisation')). This meant that former prisoners were branded in a way that all institutions to which they might apply for a variety of requirements were informed of their stigmatised political status. This requirement was abolished in early 1997.

According to the law, persons over the age of sixty are issued identity cards that are valid for the rest of their lives, but in the case of former prisoners, this special provision was disallowed, forcing them to apply for renewals every two years. Such an arrangement is very irksome because the issuance of identity cards requires the approval of a number of local authorities.

Minister of Home Affairs Decree 32/1981 prohibited PKI suspects or those suspected of direct or indirect involvement in the October 1965 affair from becoming members of the armed forces or the police, from being state officials, teachers, journalists, lecturers and even ministers of religion. The intention was to exclude these suspects from having any occupation where they might influence the thinking of other people.

Presidential Decree 16/1990 stipulated that a special investigation was required for all potential state employees, prospective members of Parliament and regional assemblies, and public notaries. On 8 March, 2000, President Abdurrahman Wahid put a stop to these special investigations.

However even during the post-Suharto period, discriminatory measures have been adopted. Law 22/1999 on Local Government required that no one known to have been involved in acts of treason against the state could be appointed as regional heads.

Clause 5 of 19/2002 law on political parties stipulates that parties are forbidden to adopt, advocate or disseminate communism or Marxism-Leninism.

This takes us to Law 12/2003 on General Elections. Article 60 (g) of which forbade members of the PKI from being nominated as candidates for national and regional assemblies. Now that this item of legislation has been reversed by the Constitutional Court, the logical follow-up is for all remaining discriminatory measures to be declared null and void. As Tempo points out, it is now up to Parliament and the Government to amend all remaining laws containing discriminatory clauses. 'Pending such decisions, all discriminatory measures should be suspended and no longer be implemented.' [Editorial in Tempo, 2-8 March 2004]

This is the way forward so as to ensure that the rule of law becomes more firmly established in Indonesia. \*

# General elections: old wine in a new bottle?

*In April 2004, general elections will be held for the second time since the fall of the Suharto dictatorship. In the world's largest archipelago, organising elections is a complex and costly business. Three elections will be held, for the national and local assemblies in April, and a direct presidential election in July with a second round in September. A new feature is the election of a regional representative assembly (DPD, Dewan Perwakilan Daerah) known as the Senate.*

Some political analysts say that organising free elections is the easiest part in developing a young democracy but this year's elections will involve many new parties and could produce assemblies that are very different from the present ones.

While elections are an important part of the process of democratisation, the more difficult part is establishing the rule of law, properly functioning political institutions and a clear division of powers between the executive, the legislature and the judiciary. In countries that have emerged from decades of authoritarianism, the transition to democracy is long and tortuous and Indonesia is no exception. After more than 30 years of de-politicisation under Suharto, most political parties have no distinct political programmes but have more to do with money politics and personalities. The tradition of having an opposition is absent and strong patron-client relationships are the dominant feature in political life.

Most political analysts doubt whether the elections will bring a fresh wind to Indonesian politics. Although 24 political parties will participate, only three or four are expected to win more than ten per cent of the votes and gain a significance number of the 550 seats in Parliament. Three or four smaller parties are expected to get between one and five per cent of the votes, to occupy the remaining seats.

The two largest parties, PDI-P and Golkar, will undoubtedly retain their dominant positions and most analysts expect them to form an alliance in the next government. While Indonesian opinion polls are notoriously inaccurate, recent polls suggest that PDI-P will lose votes while Golkar will keep its present position.

Present conditions favour the big parties while the politi-

cal laws adopted since the last elections favour the older parties, in particular PDI-P and Golkar.

## Strong patron-client tradition

Patron-client relations largely determine Indonesian politics with both PDI-P and Golkar being able to provide livelihoods for many of their supporters. At the very top, important business deals and government projects are channelled to party stalwarts. At the provincial, district or sub-district level a similar system prevails, with many party cadres earning their keep from this trickle down system. In the last two years many rifts have occurred inside the two parties because the resources they control are too meagre to be divided among their supporters. Splits have occurred (see below) and the general conclusion is that both parties will lose many votes because of their worsening reputations. But as long as patron-client relations provide livelihoods to many people, it is more than likely that the old structures will survive ideology and party political programmes have little relevance for the big parties.

Golkar has abandoned its image of being the ruling party as it was in Suharto's New Order. However, people like retired General Wiranto are hoping to use it to make a political comeback. PDI-P has emerged as a traditional nationalist party, with die-hard nationalist ideas about preserving the unity of the state.

## Tumultuous post-Suharto years

The years following the downfall of Suharto in May 1998 have been stormy. With three presidents, B.J.Habibie (1998-1999), Abdurrahman Wahid (1999-2001) and Megawati Sukarnoputri (2001 till now), political stability has been elusive and the country has been beset by regional conflicts and terrorist attacks. Indonesia has failed to shake off the impact of the economic crisis of 1997, leaving in its trail profound social and economic problems. On top of this, rampant corruption and elite money politics have swamped the early expectations of reformasi, the reform movement.

Elite politicians, mostly organised in Golkar, have largely managed to retain their economic and political domination while civil society forces based in pressure groups and NGOs have lost much of their bargaining position. In such circumstances, there has been widespread frustration, despair and anger among the population. Opinion polls



New Party, New Paradigm !!

New Lies, Mister !?

MERDEKA, 7 April 1999

# GENERAL ELECTIONS

held September 2003 as compared with polls in 2001 point to a decline in public expectations about satisfactory government performance.

Asked whether democracy was the best political system, 65 per cent answered positively in 2003 as compared with 71 per cent in 2001. The poll was held in all 224 districts with the exception of Aceh. In response to the question "Do you think the Suharto regime was bad?" only 26 per cent said yes compared with 60 per cent in 2001, while 56 per cent thought that the Suharto regime was better than the current democratic regime. The number of those in favour of a strongly centralised government such as existed under Suharto increased sharply.

The existence of a free press has not automatically favoured a plural political system. As in most parts of the world, ownership of radio stations, TV channels and the print media is mostly in the hands of financial interests who are affiliated to the two major parties.

## Multi-party system Indonesian style

Unlike the Anglo-Saxon tradition where two major parties compete for power, Indonesia has established a multi-party system. In Indonesia's first free parliamentary elections in 1955, a few dozen parties took part, with four parties emerging as winners: two secular parties and two Muslim parties. From 1955 until 1999, there were no free elections.

In the three decades of Suharto's dictatorship, elections were a stage-managed affair and in the early seventies the multi-party tradition was eliminated. Unlike most dictatorships Suharto constructed a unique combination of a single-party system with two other parties as a decoration, to avoid giving the impression that it was a single-party system.

The pre-1965 parties were forced to merge. Golkar became the ruling party, usually called the party of the ruler, as Suharto was the sole decision-maker while the other two federations, the PDI and the PPP, were irrelevant to the decision-making process. All the nationalist parties plus the small Christian parties came together in the PDI while all the Muslim parties merged into the PPP. Broadly speaking, the PDI represented the secular stream while the PPP represented the Muslim vote.

## The 1999 elections

The multi-party system was restored for the first elections in the post-dictatorship period. No fewer than fifty parties, most of them obscure, participated in the elections which produced no big surprises. The short period of campaigning meant that the new parties failed to win support.. The three parties which had existed during the dictatorship, Golkar, the PDI-P (formerly known as the PDI) and the PPP, together won 65 per cent of the votes.

With the exception of some Muslim parties, newly established parties performed badly. PBB, PAN and PKB emerged as parties with their own traditional following. PBB and PAN largely represent the more urban Muhammadiyah following while PKB represents the more rural following of Nahdlatul Ulama with a solid base in rural Java became the third largest, surpassing PPP, with 12.6 per cent. PPP lost its monopoly of the Muslim vote and became the fourth largest party with 10.7 per cent of the votes.

Two new parties, the PK subsequently renamed PKS, and PKP, now called the PKPI, won 1.9 and 1.4 per cent of the votes respectively and have seven and four seats in Parliament.

The 1999 elections resulted in political shifts between



*Money politics is the name of the game*

Golkar and the PDI-P. Megawati's party the PDI, renamed PDI-P, became the biggest party, largely because of its image as prime victim of the Suharto dictatorship. Megawati became the symbol of resistance to Suharto's New Order regime and attracted many young voters. The PDI-P won 33.7 per cent of the votes.

Golkar, being Suharto's party, suffered heavy losses but managed to maintain its stronghold outside Java. In the Suharto days being a civil servant was synonymous with being a loyal Golkar member. Although this affiliation is no longer obligatory, old traditions die hard. Outside Java, Golkar won 70 per cent support among the bureaucracy. About half of the provincial governors are from Golkar while the majority of bupatis (district chiefs) are members of Golkar.

## Three political streams

The PDI-P, Golkar and the Muslim parties represent the three main political streams in Indonesian politics. The PDI-P represents the secular nationalist vote, Golkar represents the bureaucracy while an array of Muslim parties represent the Muslim vote. While the three streams are fighting each other for votes, the fact is that the elite of the three streams co-exist comfortably together.

Megawati's cabinet is called *kabinet gotong royong*, (all-together cabinet). It accommodates the three streams and rejects the existence of an opposition. This consensus exists even among the small radical parties like the PKS (Partai Keadilan Sejahtera, Justice and Welfare Party) which had a seat in Wahid's cabinet. This tradition goes back to the days of Sukarno, Megawati's father, in the late fifties when he established authoritarian rule called Guided Democracy.

Everybody accepted this concept and forty years later, Megawati is following the same tradition.

In the meantime, within the original three party federations, which represent the three streams, many tensions and rifts have occurred.

## The nationalist stream

The main component of the nationalist stream is the PDI-P led by Megawati Sukarnoputri. It emerged as the largest party in 1999 with 33.7 per cent of the votes and she was expected to become Indonesia's first president after the dictatorship. But the Muslim parties ganged up and promoted Wahid, popularly known as Gus Dur, as their candidate. However, Gus Dur was president for less than two years; after a campaign of political intrigue against him, Megawati took over as president in 2001.



It is doubtless true that anybody running a country the size of Indonesia, plagued by political instability and economic malaise, will confront many difficulties but things are worse than that. Megawati is not the type to push her weight around and adopt clear policies. The PDI-P which has never had a well-oiled political machine began to fracture in many directions. One of the main fractions is run by Taufik Kiemas, Megawati's husband, often referred to as the power behind the throne. In the last four years TK, as he is known, has become a key wheeler and dealer in Indonesian politics. But his power and influence the PDI-P is counter-balanced by other factions. One is led by Roy Janis, the powerful Jakarta boss of the party, another by Arifin Panigoro, an important oil tycoon, alongside the PDI-P bureaucracy which consists of an array of first and second echelon leaders.

Endless inner-party strife within the PDI-P has resulted in factions leaving the ranks and setting up new parties. Five spin-offs from the PDI-P have managed to meet the conditions to contest the elections, such as having branches in 21 provinces. Two parties, PNI Marhaenisme and Partai Pelopor, are run by two of Megawati's sisters Sukmawati and Rachmawati. Two other parties, the PPDI and the PDIP are run by former party stalwarts Dimmy Haryanto and Sutjipto who lost out in the inner party struggles.

The fifth party, the PNBK, is chaired by Eros Djarot, a charismatic politician and formerly one of Megawati's closest confidantes. The PNBK is the only party in the nationalist camp with a clear political programme which includes sosialisme Indonesia as its objective.

It is too early to judge how these parties will perform during the elections but it is clear that the PNBK is the only newcomer with the ability to attract big crowds in public meetings and win over new members from the younger generation.

Votes for these parties will inevitably result in a decline in votes for the PDI-P, while many frustrated PDI-P supporters are likely to vote for other parties. PDI-P members are resigned to the fact that they will lose votes but are confident that they will have enough support to continue to be the largest party.

## Golkar, a strange animal

Some analysts argue that Golkar is still the party of Suharto's New Order, but this is definitely not so. While it retains many features of the ruling party under Suharto, it is definitely no longer Suharto's party.

The best way to describe Golkar is that it has transformed itself into a pragmatic party with no ideology other than the retention of power. Its strength is still rooted in the bureaucracy while it has the best party machine in the country. In this process, Golkar has experienced several hiccups and

splits. The birth of Golkar goes back to the sixties when some army officers decided to form a political organisation to counter the strong PKI, the Indonesian Communist Party. After the military takeover in 1965, Golkar took centre stage and became the dominant political force. In the course of the years Golkar has become a party with three layers: the military, the bureaucracy and an array of new politicians. These politicians occupy all the important positions in the state institutions, including the state-owned banks and state companies. Golkar is by definition a typical patron-client organisation.

The battle over assets and hegemony in Golkar started immediately after the downfall of its tsar, Suharto. In the 1999 elections several Golkar spin-off parties ran with their own lists, mostly headed by retired generals. One of the parties, the PKPI, chaired by the former army chief of staff General Edi Sudradjat, managed to win several seats in Parliament. Others failed to reach the threshold and had to restructure themselves or merge with other parties.

At least four other Golkar spin-off parties are contesting the 2004 elections. The Patriot Pancasila Party is the political wing of the infamous youth organisation Pemuda Pancasila (PP). The PP was initially set up to give protection to Golkar stalwarts but soon became a security mafia, giving protection to gambling and prostitution rackets and was also involved in extortion and loan shark activities. At the height of its power, Suharto attended its congress. In the post Suharto era, the PP faced a serious crisis and seems to be trying to reverse its fortunes by turning itself into a political vehicle and participating in the elections.

Another spin-off is Partai Demokrat, the political vehicle of Susilo Bambang Yudhoyono (SBY), the most senior retired general in the Megawati cabinet. SBY has presidential ambitions but would probably be satisfied to become someone's running mate as prospective vice-president.

The most spectacular Golkar spin-off is the PKPB chaired by a former army chief of staff General Hartono. This retired general is close to the Suharto family and a typical example of a successful soldier of the New Order era who combined Golkar activities with his military duties. The PKPB advocates a return to the good old days of the Suharto era and is pushing for Tutut Suharto, the former dictator's eldest daughter, to become president.

## Power struggle in Golkar

While some groups decided to leave Golkar and set up

# GENERAL ELECTIONS

their own parties, the power struggle inside Golkar has continued unabated. The battle for the nomination of the presidency has been extraordinarily fierce. Two top retired generals Wiranto and Prabowo, who reached the peak of their power at the time of the fall of Suharto, are pushing themselves forward for the candidacy. Fat-cat businessmen Aburizal Bakrie and Surya Paloh are also in the race, and the Sultan of Yogyakarta joined in as well. A few dark horses were in the wings, satisfied to become vice-president. Yusuf Kalla, a member of Megawati's cabinet and a prominent businessman from South Sulawesi, was also in the race.



*Protest against the acquittal of Golkar chair, Akbar Tandjung*

But everything changed when the Supreme Court announced its decision to acquit Akbar Tandjung of corruption charges. As Golkar chairman, Akbar Tandjung, is a typical Golkar stalwart. He gained experience at different levels of the party and knows the system inside out. The main ingredient in Golkar is a solid patron-client relationship. Money politics and power is the name of the game. In 2002 Akbar Tandjung went on trial because forty trillion rupiahs, owned by BULOG, the state rice distribution monopoly, had been siphoned off to oil the Golkar machine, not the first time that state institutions have been used to fund parties. Akbar was in charge of the cabinet secretariat and was the obvious suspect. He was found guilty and sentenced to three years.

He appealed against the verdict, and to no-one's surprise, he was acquitted.. Despite his tarnished reputation. Akbar has re-emerged as Indonesia's second most important politician after Megawati. With his re-emergence in the race, all the other Golkar presidential contenders withdrew, with the exception of Wiranto.

It is widely understood in Jakarta that Megawati would like to compete with a tarnished Golkar candidate rather than face General Wiranto. But at present, it seems that Akbar is holding back in a tactical move and won't put himself forward as presidential candidate, giving the impression that he would rather be the king (or queen) maker. But if Golkar wins more votes than the PDI-P and becomes the leading party, Akbar will again occupy the position at the very top.

## The Muslim stream

Since the birth of the Indonesian republic Muslim politics have always been disunited. The leading social religious organisations like NU and Muhammadiyah had their own political outlets while smaller Muslim political groups created their own parties. At least a dozen Muslim parties

took part in the 1999 elections but fewer than half won any parliamentary seats. PKB, the party of NU became the biggest Muslim party with 12.6 per cent of the votes. This is the party of Gus Dur and although it has close ties with NU, it is an open party. It rejects Syariat Islam and doesn't favour a Muslim state. A PKB spin-off called PNUI is also competing in the elections.

The other open party is PAN that won 7.1 per cent of the votes in 1999. This party is now openly endorsed by Muhammadiyah which will probably scare off some secular votes. Amien Rais, one of Indonesia's political heavyweights, will run for the presidency as chair of PAN.

PPP lost votes in 1999, retaining only 10.7 per cent. With a weak leadership under Megawati's Vice-President Hamzah Haz, several splits have occurred over the past year. One spin-off is PB Reformasi which will contend with a separate list in the elections.

The PBB is a modern Muslim party, moulded along the tradition of Masyumi, the major Muslim party during the fifties. It only achieved 1.9 per cent of the votes in 1999 and is unlikely to win much more in the 2004 elections. Its chair, Yusril Ihza Mahendra is a colourful and controversial figure and has been Indonesia's Justice Minister since 2000.

The only party that has pulled its weight is the PKS, which has considerable support in many university campuses. In 1999 it received 1.4 per cent of the votes but will certainly gain votes this time round. It is inspired by the Muslim Brotherhood in Egypt, while adjusting itself to the Indonesian political climate.

Although it is a very small party, its organisation is impressive and very disciplined. It was the major force behind the mass anti-Iraq war demonstrations in Jakarta, often mobilising tens of thousands of people. The PKS is also involved in social activities, in particular among the urban poor. Most small parties like PKS consist of a mainly middle class membership, but the PKS has been exceptional in reaching out to the grass roots. It is the only party with 30 per cent quota for women candidates.

In 1999, the combined vote of the secular parties (Golkar and PDI-P) was close to 60 per cent. The Muslim vote was close to 35 per cent. It is difficult to predict how the Muslim parties will fare in 2004 but they are unlikely to get 50 per cent or more.

The 28 million young people who will be voting for the first time are an unpredictable factor. With improved information through the radio, TV, the internet and newspapers, the traditional pattern of voting with your parents is much less likely. Muslim parties are likely to win a lot of support from these first-time voters while other votes will go to some of the new parties.

## New elements in the elections

A few new parties should be mentioned. Adi Sasono an important Muslim politician of the nineties has set up a party called Partai Merdeka. He is a firm believer in an alternative economy at grass roots level with co-operatives being the strategic lynchpin against the big players in the globalised economy.

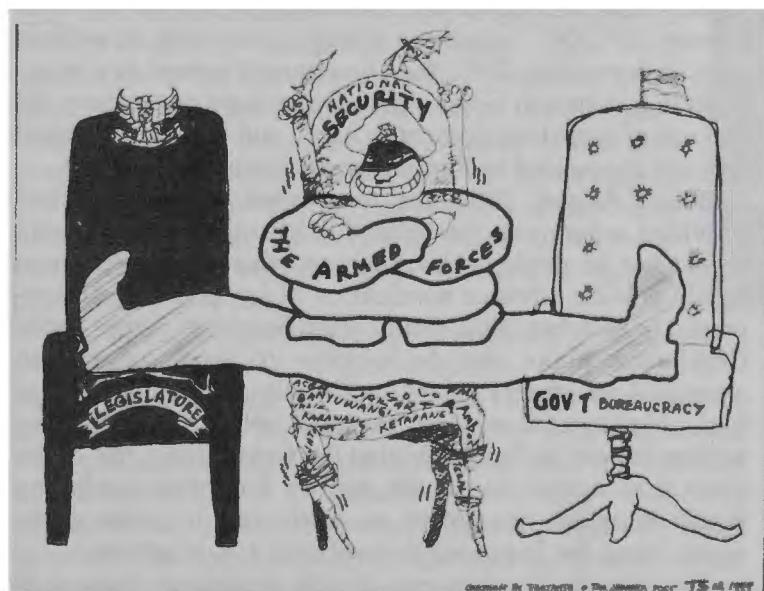
Mochtar Pakpahan a prominent trade unionist who paved the way for independent unions during the Suharto era has set up a party called Partai Buruh Sosial Demokrat whose

leaders come from his union, the SBSI and take their inspiration from European trade union traditions.

Syahrir, a well-known economist and former student leader from the early seventies, has established a party called Partai Indonesia Baru (PIB) which has attracted NGO activists. It has proposed a major overhaul of Indonesia's economic and political system.

Another new phenomenon is the PPDK established by Ryaas Rasyid, who was Minister for Autonomy Affairs in the first years of the post-Suharto period. Autonomy is the main ingredient of PPDK's party programme while President Megawati and her PDI-P stalwarts are dead against far-reaching autonomy. This party is bound to attract voters outside Java in particular in South Sulawesi the home base of many of its stalwarts.

PSI (Partai Sarikat Islam) is another new party, an alliance of several parties which failed to reach the electoral threshold. It is a combination of a number of parties, both secular and Muslim. Because of this, its main political thrust is pragmatic, restricted to denouncing the mismanagement of the present government.



*The Military are running the show*

*Jakarta Post 02.1999*

## The Regional Representative Council

Besides elections to the legislature assemblies, the electorate will also vote for candidates in a new body, the DPD (Dewan Perwakilan Daerah, the Regional Representative Council) which will function as a kind of Senate, a rectifying chamber to counter the powers of Parliament. The most significant thing about the DPD is that the candidates will not be based on the existing party system. Anybody can put themselves forward as a DPD candidate as long as he or she has 3,000 signed up supporters. Local party branches can be expected to push their regional cadres forward but this kind of election will give the opportunity to local groups (peasant unions, trade unions and community groups) to nominate their activists as candidates.

## The military

Analysing any important event in Indonesia must take account of the role of the military, the strongest political force in the country. However, its strategy has changed considerably since the New Order days.

The military doctrine of Dwifungsi, legitimising direct

military involvement in political affairs has largely been abandoned. TNI officers on active service have withdrawn from positions in legislative bodies and the bureaucracy. The only New Order stalwarts from the military are retired army officers, some of whom have gained positions in a number of parties. With few exceptions, most parties have retired officers on their boards or in their lists of candidates.

The present batch of army officers no longer seems to have ambitions to become cabinet ministers, district chiefs or governors. Involvement in politics is handled differently these days, and usually implemented in direct contact with the President, with cabinet ministers or MPs.

In particular the military top has devoted much energy to consolidating its position. The autonomy law which has vested power and money in the districts has given the military a new opportunity to use their territorial structure to entrench themselves in local politics.

In places of conflict like Aceh and West Papua, the military are playing a dominant role in local affairs, pushing the civil administration onto the back seat. By occupying a dominant role in these two conflict areas, the military are also in a position to determine the national political agenda.

The 2004 elections are unlikely to have much impact on the military's role in politics. \*

*continuation from page 24*

without documents and are branded as 'illegal workers'. In 2002, the Malaysian government ordered the deportation of tens of thousands of Indonesians. According to some sources, there are as many as 480,000 workers living unlawfully in Malaysia.

In the clampdown, thousands of the workers have been detained in Malaysia. In late 2003, 1,200 deported Indonesians arrived in Belawan, North Sumatra, after being detained in several locations for seven months.

## NGO petition rejected by court

Aghast at the problems confronted by Indonesian workers who were forced to leave Malaysia in 2002 and were stranded for months in Nunukan island, East Kalimantan, 53 NGOs filed a citizens' lawsuit against the government, calling on it to draw up legislation to provide Indonesian workers abroad with legal protection. The petitioners included the well-known Catholic priest, I Sandyawan Sumardi, human rights activist Munir from Kontras, the Commission for Victims of Violence, and Nursyahbani Katjasungkana of the Indonesian Coalition of Women. They accused the government of failing to provide protection for its citizens working abroad who were contributing huge amounts of foreign currency to the country.

However, the petition was rejected by the Central Jakarta district court which argued that the government had not violated any regulations. A lawyer speaking for the petitioners said they would appeal against the ruling. [Jakarta Post, December, 2003]

# Legal challenge to UK's arms sales policy

*A human rights activist from Aceh is challenging by judicial review the legality of the UK's policy on arms sales to Indonesia. Aguswandi claims that the licensing of military exports to Indonesia breaks UK and EU export control laws which state that licences should be refused if there is a clear risk of the equipment being used for internal repression.*

The British Government under Tony Blair has continued to licence the sale to Indonesia of military equipment - mainly spare parts for jets, tanks, armoured vehicles and similar equipment - despite the repeated past use of such equipment against civilians in East Timor, Aceh, West Papua and other areas.

British-made Hawk jets, Scorpion tanks and Saracen armoured vehicles have been used in the current war in Aceh in breach of Indonesian assurances that British equipment will not be used for offensive or counter-insurgency purposes (see *TAPOL Bulletin*, No. 171/172, p. 24 and press release at <http://tapol.gn.apc.org>).

Local television has shown heavy machine guns mounted on Scorpions firing at alleged positions of the separatist movement, GAM (*The Guardian*, 20 January 2004), despite claims by the British Government that there is no evidence of equipment being used for offensive purposes or in violation of human rights.

TAPOL contends that the very deployment of the equipment as part of a military offensive against GAM is a breach of the 'assurances'.

## Incorrect test used

Under a set of policy guidelines known as the Consolidated EU and National Arms Export Licensing Criteria, the Government is required to refuse a licence if there is a clear risk that the export might be used for internal repression.

The guidelines state that special caution and vigilance must be exercised in issuing licences for countries where serious violations of human rights have been established by the UN, the Council of Europe or the EU. The Government has acknowledged, in the course of the legal proceedings, that Indonesia is such a country.

Aguswandi's main complaint is that the British Government has indicated, by its words and actions, that it will refuse licences only after equipment has been misused. In other words, it will wait until equipment is used to violate human rights before it will do anything more. This is a clear breach of the requirement that it must refuse a licence if there is a clear risk that the equipment will be used for internal repression: the Government has unlawfully replaced the (precautionary) 'clear risk' test by a (reactive) 'evidence of misuse' test.

In the legal action launched on 10 December, Aguswandi - who currently works as a researcher for TAPOL - is seeking a declaration that the continued issuing of arms export licences for Indonesia is unlawful. The application for permission for the case to proceed to a full judicial review hearing will be considered by the High Court in London on 29 March.

## Jack Straw fails to answer key questions

Meanwhile, Foreign Secretary, Jack Straw has faced tough questioning on arms exports by a parliamentary committee which monitors Government policy in this area. The questions, during a hearing on 25 February, were prompted by a submission made to the Committee by TAPOL and Campaign Against Arms Trade (CAAT).

The Quadripartite Committee on Strategic Exports, in its inquiry into the Government's annual report on strategic exports for 2002, asked the Foreign Secretary to explain why, in September 2002, the Government agreed to a relaxation in Indonesian Government 'assurances' concerning the end use of British equipment in Aceh, and why this decision was not announced to Parliament until ten months later.

Before August 2002, the Indonesian Government had provided assurances that British-built military equipment would not be deployed to Aceh and that the Government would provide advance notification of any possible deployment. In October 2002, the Foreign Secretary wrote to the Committee about the deployment to Aceh of British armoured personnel carriers for 'casualty removal and logistics'. However, it was not revealed until a parliamentary written answer in June 2003 that the Government had at the same time agreed to lift the ban on Indonesia deploying British-supplied equipment to Aceh and to remove the requirement for Indonesia to notify the UK in advance.

The change of policy was highly significant because it came at a time when violence was increasing in Aceh and it enabled Indonesia to deploy lethal equipment to Aceh as part of the martial law offensive, which began in May 2003, without the British Government having any control over its end use. The Government's own annual Human Rights report for 2002 (which covers July 2001 to July 2002) notes that: 'In Aceh there was a rise in the level of violence following the expiry of the Humanitarian Pause in January 2001...the majority of casualties have been civilians.'

A badly-briefed Foreign Secretary, no doubt keen to stall for time, was unable to answer any of these embarrassing questions satisfactorily and had to agree to provide further evidence to the Committee about the reason for the change in policy and his failure to inform Parliament.

The 2002 report disclosed that the Government authorised a massive 20-fold increase in the value of arms sales to Jakarta, from £2 million in 2000 to £41 million in 2002. The Foreign Secretary admitted in his testimony that licences for Hawks spares have been issued since the start of martial law in Aceh.

# Unlawful trials and prisoner abuse in Aceh

*Since the declaration of martial law in Aceh, there has been a phenomenal increase in the number of prisoners and convictions in all parts of the region. Thousands of people have been arrested and tried without due process. Most of the prisoners have been convicted in unlawful trials and many were subjected to torture and systematic abuse of their rights. It is questionable whether many are GAM combatants. Most are Acehnese villagers who may or may not have GAM sympathies.*

With the establishment of martial law in Aceh, the Indonesian Army (TNI) is in full control of virtually all aspects of life. The military have used their special powers to arrest, detain and put on trial many hundreds of people. The aim is to intimidate activists and create an atmosphere of fear.

According to the martial authority in Aceh (PDMD), during the first eight months of martial law, from 19 May 2003 till 24 January 2004, 1,623 'GAM suspects' were processed by the police. Of these, 1,361 were handed on to the attorney general. Altogether 1,096 detainees have been interrogated while 163 detainees were released for lack of evidence. No fewer than 801 people have been tried, found guilty of crimes against the state (makar) and sentenced to terms of imprisonment ranging from one to twenty years. Of all those convicted, only eighteen have decided to appeal against their sentence.

Most of the prisoners have been convicted in unlawful trials held before emergency courts. According to Rufriadi of the Legal Aid Foundation (LBH) Aceh, almost 80 percent of the trials did not comply with established legal procedures. Most of the defendants were not assisted by a defence lawyer. Of those who were lucky enough to obtain the services of a lawyer, this happened only after their case had been handed on to the attorney general which means that they underwent interrogation by the police without a lawyer being present. According to Indonesian law (KUHP), defendants must be accompanied by a lawyer during police interrogation.

## Trials held in a great hurry

The trials were completed in record time and in many cases, the verdicts were handed down after a single, brief court hearing. Very often the only witness called was the arresting police or military officer and the only evidence against the accused was his confession which, according to many accounts, was extracted by means of torture. Most of the judges and prosecutors were brought in from outside Aceh to clear the huge backlog of cases, in order to give the appearance that everything was being done in accordance with the law.

In Pidie subdistrict for instance, Judge Nani Sukmawati who was sent to Pidie to lead the team of judges there, admitted that the judges were overworked and under enormous pressure to get the trials finished in time. She herself passed verdicts on 72 cases in six weeks. Moreover, she said, during the recent Muslim Eid-al-Fitr holiday, the judges rushed through the cases because they were 'in a hurry to get home for the holidays'.

The Legal Aid Institute in Banda Aceh has a very small



Acehnese prisoners in shackles taken to the airport

staff and functions under extremely difficult circumstances. It has therefore only been possible for them to handle a few dozen cases. In several of the cases, they discovered that the defendant had already been charged and their role was limited to assisting the defendant when the case was brought to trial. According to one of their lawyers, Syarifah Murlina, many those who were convicted decided not to appeal against the verdicts for fear that the sentence could be increased. And in any case, the judges failed in most cases to advise the defendants about their right to appeal.

According to local sources, many of the prisoners were beaten, kicked, punched, attacked with sticks or subjected to other forms of torture or ill-treatment. There were many cases of the systematic abuse of their rights as detainees. During an interview by AP, a teacher who was accused of aiding GAM bared his arms to reveal a number of scars that were from injuries sustained while being dragged over concrete. He told the journalist that several of his co-prisoners had attempted suicide in their cells because of the terrible beatings to which they had been subjected. [AP, 7 December 2003]

## Transfer to Java

In addition to all these injustices, hundreds of prisoners sentenced to three years or more are being transferred to prisons in Java. In November 2003, the head of the regional office of the Department of Justice and Human Rights, T Darwin, announced that 160 prisoners were being transferred to prisons in Java, to Pekalongan, Ambarawa, Magelang Kedung Pane (Semarang), and the notorious prison island of Nusakambangan. This was the first wave of transfers, he said.

The authorities have come up with a number of reasons to

justify these unlawful transfers. The chief of the Aceh Police, Bachrumsyah, claimed that the transfers were necessary because all the prisons in Aceh were full and were unable to cope with these additional prisoners. But according to a spokesperson of the martial law authority, they were being transferred so that they could learn more about the Javanese people and their culture to counter GAM's denunciation of the Javanese for being colonialist. Another reason for the transfers, according to army officers, is to sever the prisoners' connections with their alleged separatist colleagues. Mingling with prisoners in Java would, they hope, dilute their support independence from Indonesia. But the treatment to which they have been subjected can hardly achieve such an objective.

According to press reports, the prisoners were shackled to each other and upon arrival in prisons in Java, were put into blocs together with criminal prisoners and subjected to severe violence, intimidation and discrimination. Transfer to locations far from their homes and families is in flagrant breach of international standards concerning the treatment of prisoners. Prisoners' families have expressed deep concern regarding these transfers. Many were not notified about the transfers and were not allowed to see the men before they left Aceh.

## Torture in the prisons

Reports about the transfers make grim reading. Muhamad. Nazar, who was one of the first Acehnese to be sentenced, was dragged out of his cell, handcuffed along with dozens of prisoners. They were pushed and shoved onto an army truck parked in front of the prison.. After a while, they were dragged off the truck, still handcuffed and forced back into their cells. Local contacts say that this was a kind of dress rehearsal for their transfer to Java, giving them a taste of the harsh treatment to come.

Several days later, Nazar was punched repeatedly in the face and kicked in the chest. By the time he was sent back to his cell, he was in a very weak condition. More than a year ago, Nazar was sentenced to five years after being charged with rebellion.

All the Acehnese prisoners are being subjected to discriminatory treatment and have been tortured inside prison. Our contacts report that harsh treatment by the guards, police as well as military, is relentless and the prisoners are haunted by their terrible experiences.

Discrimination is part of a deliberate policy. Reports suggest that the authorities have stirred up racial hatred against the Acehnese in order to alienate them from the other prisoners. This makes a mockery of the claim that one reason for their transfer to Java is to give them a chance to understand Javanese culture. Sowing the seeds of hatred towards Acehnese is not all that difficult because few people in Java have any sympathy for the Acehnese struggle and see the Acehnese as a serious threat to Indonesian nationalist pretensions.

## Activists arrested

Acehnese activists continue to be the target of military operations. At the beginning of February, ten student activists from the women's organisation ORPAD and the Linge Student Network were arrested and detained. They were accused of providing sanctuary for rebels and for allegedly taking part in an ambush organised by the rebels. Following these arrests, Amnesty International issued a statement warning that the detainees could be subjected to



*Teuku Kamaruzzaman, one of the negotiators on trial. He received a 13-year sentence.*

torture and calling for their release.

The actions against ORPAD members were also in response to statements made by the organisation's chair, Raihan Adriana who has stressed on a number of occasions that it is not possible to hold free and fair elections in Aceh while martial law remains in place.

On 28 February, eight of the activists were released while the other two will be charged with treason for allegedly supporting separatist rebels. The two who now face charges of rebellion are Herlina of ORPAD, Acehnese Democratic Women's Organisation and Iwan Irama Putra of the Linge Students Network.

## Campaign to halt unlawful trials in Aceh

On 19 February, TAPOL launched a campaign to protest against unlawful trials and the abuse of prisoners in Aceh. In its Urgent Action, it urged NGOs around the world to protest against these outrageous abuses of justice. Groups in the UK were asked to take action by writing to their MPs urging them to call upon Foreign Secretary Jack Straw to protest to the Indonesian Government about the treatment of the prisoners and demand their release. Groups in other countries were asked to take similar actions.

We urge readers to send letters along similar lines to the Indonesian Government at the following address: President Megawati Sukarnoputri, President of the Republic of Indonesia, Istana Merdeka, Jakarta 10110.

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the arrest of activists was closely linked to the election in Aceh. ORPAD, for example, has been campaigning strongly against the election in Aceh. Its chairwoman, Raihan Adriani, gave many interviews stressing that democratic elections could not be held under martial law. On 19 February 2004, ORPAD also accused the martial law authority of making a deal with Partai Demokrat which is chaired by Susilo Bambang Yudhoyono, the commander of the martial law authority in Jakarta, according to which Acehnese who are members of Susilo's party will enjoy special privileges during the elections in Aceh. (Kompas, 19 February 2004). \*

# Aceh Peace Conference in Kuala Lumpur

*On 13 and 14 December 2003 a two-day workshop, 'Contributing Towards Sustainable Peace in Aceh', was held in Kuala Lumpur. With participants from many parts of the world, the majority of those present were representatives of Acehnese civil society organisations, including Acehnese in the diaspora, in Europe, the US and Australia.*

The Conference was jointly organised by SCHRA, the Support Committee for Human Rights in Aceh, USIP, the United States Institute for Peace and Research and the Education Centre of the University of Sains Malaysia (USM).

In December, peace in Aceh was at its lowest ebb, as Jakarta had just decided to extend martial law in Aceh for an unlimited period. As it would have been impossible to hold a meeting on Aceh in Jakarta, Kuala Lumpur was the most obvious venue. Six months earlier, the SCHRA Steering Committee had met in Kuala Lumpur and a workshop on Conflict Resolution in Aceh was held in Penang, at the University of Sains Malaysia.

Aceh has been an issue in Malaysian politics for decades. There has been a regular influx of Acehnese refugees into Malaysia since 1989, the start of DOM, when Aceh was a 'military operation zone' and there have been persistent military operations; thousands of Acehnese were forced out of their villages and ended up in Malaysia. As a result, tens of thousands of Acehnese now live in Malaysia, most of whom blend well into Malaysian society.

#### Aim of the conference

The decision to hold the workshop was taken at the SCHRA meeting in July 2003 with the aim of broadening Acehnese civil society dialogue and making it more inclusive.

The aim was twofold: to bring together as many Acehnese as possible, along with international colleagues, to share experiences of international campaigning, and for Acehnese to discuss and strategize about the international campaign on Aceh. The first day was given over to a meeting of the Acehnese alone.

The objective of the three-day event was to contribute positively to the forthcoming peace process in Aceh by

helping elements from civil society to draw up a clear agenda. Special attention was given to ensuring the participation of Acehnese women, overcoming the past marginalisation of women.

#### Key objectives

The five key objectives were as follows:

1. To create a bridge and better understanding between the perspective of Acehnese, and regional and international activists for the attainment of a sustainable peace in Aceh.
2. To draw lessons from the collapsed peace talks.
3. To internationalise the Acehese issue.
4. To encourage the participation of civil society in shaping the peace process.
5. To learn from the experiences of academics and others about peace processes in general, including learning from successful and failed processes elsewhere.

Acehnese from a wide range of organisations participated as well as academics and members of the Indonesian Parliament; there were also Acehnese from Jakarta, from the US, Australia, Europe and Malaysia, in all a total of 25 participants. Members from the SCHRA steering committee were also present, coming from Indonesia (Jakarta and Yogyakarta), Thailand, Malaysia, the UK, Australia and New Zealand, as well as representatives from several Indonesian organisations. The US, UK and Norwegian embassies were also represented, as well as USIP and USM (co-organisers of the conference) and Malaysian civil society organisations.

Key resource persons from the international arena were Lord Avebury (UK) who has been involved in the Aceh Peace Process since the start, Prof. Anthony Reid, National University of Singapore, an Aceh specialist, Dr. Lesley McCulloch (Researcher, Deakin University, Australia), Aboepriyadi Santoso (Radio Netherlands), a frequent visitor to Aceh and Liem Soei Liong, SCHRA, an observer on Aceh affairs. Ed McWilliams, a leading activist of the Indonesian Human Rights Network and former US State Department official was unable to attend but submitted a paper.

The key persons from Indonesia were Otto Syamsuddin Ishak of Yappika, an Aceh specialist, Ghazali Abbas Adan regional representative in the Indonesian Parliament, and Abdul Munir Mulkan, a member of the central board of Muhammadiyah, Yogyakarta. Others in attendance were Ayesah Abu Bakar, USM, a specialist on the conflict in Mindanao and Fan Yew Teng, a specialist on the conflict in Sri Lanka. Two key members of Acehnese civil society presented their views on the present situation: Rufiadi, Aceh Judicial Monitoring, on injustices and weak law enforcement and Juanda, representing the Acehnese Civil Society Task



Fresh Indonesian troops in Aceh

Force, who spoke about social conditions under martial law.

The three-day discussions were lively, with the Acehnese participants being able to speak frankly about their experiences during the six months of martial law.

## 24-Point Programme

In the final session, a 24-point action programme was agreed. SCHRA member organizations are encouraged to select suitable items for their campaigning.

1. Campaign on a European Union resolution at the UN Human Rights Commission in Geneva during the current and future years.
2. Campaign to press the UN Secretary General to appoint a special assistant on Aceh.
3. Encourage the International Committee of the Red Cross to monitor human rights and humanitarian conditions in Aceh.
4. Encourage a broad dialogue among the Acehnese.
5. Explore the role of the Henry Dunant Centre in Geneva, and possible roles for Japan and Norway.
6. Exert pressure on the Indonesian Government with regard to the role of civil society: its format and modalities
7. Push for an intermediate solution: a consultative assembly in Aceh, an interim process to replace the martial law administration.
8. Explore the possibilities of using the Indonesian general elections, for example asking candidates what their programme is on restoring peace in Aceh.
9. Access for journalists and observers during the elections in Aceh.
10. Examine the process of electing candidates.
11. Demand more transparency from companies such as EXXON-MOBIL with regard to activities of the Indonesian army in the vicinity of their premises.
12. Raise Aceh at meetings of the Consultative Group on Indonesia.
13. Exert pressure for freedom of expression in particular for human rights defenders and local journalists.
14. Compile reports to special rapporteurs of the UN Human Rights Commission in preparation for its session in April 2004.
15. Assisting human rights victims to communicate with the UN Human Rights Commission.
16. Campaign regarding the fate of Acehnese refugees in Malaysia
17. Campaign on the cases of convicted Acehnese, Cut Nur Asikin, Mohammad Nazar, and the GAM negotiators.
18. Campaign on the hundreds of legal cases in Aceh.
19. Protection of human rights defenders.
20. Campaign to end martial law in Aceh.
21. Campaign to stop arms sales to Indonesia.
22. Encourage high level missions from the EU, the European Parliament, UN special rapporteurs and the UNHCR.
23. Facilitate the development of internal dialogue within civil society including Indonesians and international NGOs.
24. Continue brainstorming to set up a think tank on Aceh.

International pressure  
The SCHRA conference took place at a period of intensifying international pressure on Jakarta regarding the Aceh Peace Process, including resolutions adopted by the European Parliament and the US Congress and the fact that Aceh was raised during the recent CGI meeting although the response from the government in Jakarta has so far been

negative. Nor has it been possible to persuade major Indonesian political parties to take up the Aceh issue.. The Indonesian elections in April 2004 and the upsurge of nationalism in Indonesia have played a role in keeping Aceh off the political agenda.

### Coalition with peace groups

SCHRA as an international coalition of human rights groups has encouraged efforts in Kuala Lumpur by creating new openings with peace groups. The working relationship with USIP is one example. The absence of a peace movement in Indonesia was widely felt during the conference. It is hoped that Indonesian participants will initiate meetings and seminars for the creation of a peace movement in Indonesia.

## SCHRA Steering Committee

After the conference, the steering committee met to discuss its activities during the first half of 2004. SCHRA has chapters in America, Europe, Asia and Australia while a new chapter has been set up by the Indonesia Human Rights Committee in Auckland, New Zealand.

### *continuation of page 14*

basic rights is an essential pre-condition for free and fair elections, whereas under martial law, the Achenese have been denied their rights to freedom of expression, association and assembly, and the military authorities have imposed severe restrictions on the civilian population.

According to Aceh Electoral Watch (AEW) in a statement on 4 February, the authorities intervened to block the candidature of several people who were very critical of martial law. According to AEW, local people were forced to reject the candidacy of anyone who is opposed to martial law. (*Detik Com*, 4 February 2003). Ghazali Adan, a prominent Acehnese who has repeatedly denounced the military approach in Aceh, was withdrawn as a candidate for the national parliament.

It was also reported on 10 February that the martial law authorities would restrict election campaigning by parties in several sub-districts, including North Aceh, East Aceh, Bireuen, Pidie, Aceh Jaya and Aceh Barat Daya. (*Kompas* 10 February 2003).

Meanwhile, the EU has threatened not to send its election monitoring team to Indonesia if the Government refuses to allow it to enter Aceh and West Papua. In a letter written by Chris Patten, the EU Commissioner for External Relations, this was said after a stalemate had been reached in EU negotiations with Jakarta regarding allowing the team to visit Aceh and West Papua.

## Targeting activists

Another feature of the second phase of martial law is the intimidation and arrest of many activists in Aceh. In February, several student activists from ORPAD, the democratic women's organisation, and the Linge Student Network were arrested and detained by Brimob (elite police force), a clear sign that the martial law authority is determined to remove opponents of martial law as well as any groups which oppose elections being held in Aceh under martial law.

According to Munarman, voicing the views of the AEW,  
*continued on page 10*

# Aceh seen as a threat to Indonesia's unity

*Martial law has been in force in Aceh for nine months but there are no signs that the military operations will end. The government in Jakarta has no exit strategy, which means never-ending suffering for the people. With the elections approaching fast, the authorities are facing the impossible task of holding credible free elections in this trouble spot.*

In the early days of martial law, in the middle of 2003, Aceh was front page news for the Indonesian press but it gradually slipped down, onto the back pages. In the early days, the country's major newspaper devoted a special page to events in Aceh but this too has changed.

The Indonesian military are deliberately downplaying reporting and have now stopped publicising the number the GAM casualties. The mood has changed and the feeling is growing that separatism such as is evident in Aceh should be dealt with firmly.

## Growing anti-separatism

The hostility towards separatism among the general public has grown, which is quite a change as compared with the period before 1999. During the earlier military operations which lasted almost 10 years (1989-1998), known as the DOM period, there was public outcry against the gross human rights violations perpetrated by TNI, the Indonesian armed forces. One of the first steps taken by the transitional Habibie government was to order a halt to the DOM operations. But much has changed in the last six years. The country has experienced a number of regional upheavals. Political instability, the result of separatism and a number of terrorist attacks, has reached saturation point. Movements like GAM and the OPM in West Papua are bearing the brunt of people's frustrations. TNI operations are now seen by more and more people in a positive light.

## Losing grip on Aceh

When East Timor gained its independence in 1999 after a referendum, it was seen in Indonesia as a serious blow and a national humiliation, which in turn fortified anti-separatist sentiments. During the concluding months of the Suharto regime, Megawati Sukarnoputri, now the country's president, strongly supported the integration of East Timor into the Indonesian Republic. Many of the country's elite politicians realised that the independence aspirations of the Acehnese had intensified, in particular during the DOM period. Ministers admitted frankly that Jakarta had lost its authority in many parts of Aceh. Having set their minds against making the same mistake as in East Timor by allowing a referendum, a military solution became the only way out of the crisis in Aceh.

Efforts to quell separatism in Aceh are part of a growing sense of panic that the unity of the Indonesian Republic is under threat. The term NKRI, which stands for the Unitary State of the Republic of Indonesia, is extensively used these days to affirm the determination in Jakarta to prevent the Republic from 'losing' more territory as resistance to Indonesian rule grows not only in Aceh but also in West Papua.

## Never ending conflict

According to official figures, 33,000 troops and 15,000 police were deployed for the DOM operations but the thrust of the policy towards Aceh has now changed. [see TAPOL Bulletin 173/174, December 2003] In the early



*Raiders in Aceh, nowadays a familiar sight*

stages of the war, the main objective was to separate the guerrillas from the villagers.

It is widely acknowledged that most warriors in the TNA, GAM's armed forces, are ordinary villagers most of whom are not full-time guerrillas. But occupation of the villages by the TNI has created logistical problems for the TNA. Most guerrillas are no longer able to return home to their families for their daily sustenance and are having to find their own food in the bush or the mountains. By concentrating on strongholds of GAM, the TNI has been able to create communication problems between TNA units. Few units have sophisticated satellite phones or hand phone connections, and where such equipment is available, it is often out of order.

With the permanent presence of troops in the villages, the guerrillas have been forced to live permanently in the bush, a new hardship for most of them. In earlier days, the troops stayed in villages for a few days and then moved on so that the guerrillas were able to return home. The strategy of strategic hamlets, creating a division between the villagers and TNA fighters, has caused new problems. The guerrillas know that their families are living in conditions of virtual captivity. It is likely that the spate of recent surrenders by GAM members is the result of this new strategy.

While the TNA has its problems, the morale of Indonesian troops is also in decline. After nine months of constant military operations, the TNI has failed to capture any of the eighty or so GAM military leaders. Hostility in the villages is wide-

spread and although the TNA guerrillas are now avoiding major skirmishes, casualties in the TNI continue to mount.

This explains why the TNI leadership was forced to drastically change their strategy. Using territorial troops was proving ineffective, and it became clear that waging war against the guerrillas would need a different approach.

## Raiders, guerrilla vs guerrilla

In December 2003, there was a massive show of force in Jakarta and a new unit called Raiders was put on display. Actually, the raiders have been recruited from the territorial commands and have been given special counter-insurgency training. After a few weeks of training, the raiders were put on show by army chief of staff, the hardline General Ryamizard Ryacudu.

The raiders have been organised in platoons and broken down into smaller units which are despatched to the jungle to chase the guerrillas. For the time being, they are concentrating on three districts which have been identified as GAM-controlled territory. From the occasional reports reaching the outside world, it seems clear that these operations have not been successful. The TNA warriors, based in their own areas, are easily able to go into hiding and avoid clashes. In other words, military operation phase two has been a flop.

The war in Aceh seems to have reached a point of no return. The TNI will not be able to defeat the TNA guerrillas and the TNA has never had any illusion about being able to score a military victory against the TNI. In military terms, the war has now turned into a low intensity conflict, leaving the Acehnese to suffer because of their support for GAM. Meanwhile, the Indonesian military have shifted to another strategy, that of provoking horizontal conflict, with Acehnese fighting each other.

## Ideological war

Retired Major General Sudradjat, one of the key officials at the Defence Ministry and the one in charge of designing strategic policies is quite frank about the war in Aceh and calls it an ideological war. In an interview with the *Tempo Daily* he explains the nature of the war in Aceh: '*The problems in Aceh cannot be resolved in a quick way. The battle that occurs is of ideological nature. There is a philosophy behind it. Our experience how to overcome DI/TII [The movement in the fifties that fought for a Islam State, TAPOL ed.] can be used as a lesson, i.e. we were not able to solve it quickly.* [Tempo, 7 March 2004]

Major General Sudradjat explains that applying the hearts and minds strategy not only means the extermination of GAM but this should go hand in hand with the physical rehabilitation of the villages and improvement of the human resources of the Acehnese. In theory, Sudradjat's words sound impressive but in practice it needs professional soldiers that are able to apply this strategy.

The average TNI soldier is poorly trained and of low morale. It is doubtful that TNI can apply a successful hearts and minds strategy in Aceh. TNI's hearts and minds strategy in East Timor was a complete failure and only reinforced the resistance. The easier way is to recruit Acehnese to fight the Acehnese, the same method earlier applied in East Timor with devastating effects.

## Militias in Aceh

The seeds for a civil war are being sown in Aceh. During

the second phase of martial law, the martial law authority and the local government adopted a policy of setting up 'civilian defence groups', the name by which militias are officially known. These groups are being set up throughout Aceh to combat GAM but local activists fear that this will fuel a bloody conflict between Acehnese.

There have been militia gangs in Aceh since the start of the conflict, a policy that was also pursued in East Timor at the height of the resistance to the Indonesian occupation. However, the militia groups in Aceh are not well organised and there has been scant support for them because of the deep-rooted hostility of the Acehnese towards Jakarta. Before martial law was declared and during the period when Aceh was a 'military operation zone' (DOM), the number of militias was very small and they were confined to just a few areas, mainly Central Aceh, South Aceh and East Aceh.

But since the imposition of martial law in May 2003, more militia groups have been established. The task of persuading Acehnese to become militias has been given to the civilian authorities. The governor of Aceh, Abdullah Puteh, has held many public rallies in an attempt to encourage people to sign up. Anyone who refuses to become a militia is branded as being anti Indonesia and can face serious consequences.

Given the pressure that has been exerted on the population, groups of militias have been set up in almost every sub-district. The names they bear are intensely ideological such as *Gerakan Pemuda Merah Putih* (Red-and-White Youth Movement), and *Front Anti GAM* (Anti GAM Front).

The creation of militias in Aceh is nothing less than a tactic to provoke conflict among the Acehnese. However, the policy of relying on recruiting militias is also a sign that the present military operation is not working. The policy was adopted after the military realised that they enjoyed very little support for their operations among the Acehnese. The commander of the martial law authority in Aceh, Endang Suwarya, frankly admitted at the end of the first period of the martial law that there was very little support from the locals for the operation.

In the second phase of martial law, more civilians have been forced to join up. According to reports from local sources, people have been ordered to hunt down GAM members. In some cases, civilians are ordered stand in the frontline when skirmishes occur so as to protect soldiers from being killed by GAM.

Most operations are now focussed in remote areas and villages while conditions in the towns appear to be normal. However, this is not the case in those urban areas where undisclosed military operations are underway. One tactic is to alienate Acehnese whose family members are involved in GAM. Their houses are marked with red crosses as a warning to others and a way of turning their neighbours against them.

## The election in Aceh

Despite objections in many circles about the plan to hold elections in Aceh in April, the Indonesian Government have said that they intend to go ahead with the plan. It is impossible for free and fair elections to take place under conditions of martial law.

MM Billah of the National Human Rights Commission, Komnas HAM, has acknowledged that an election in Aceh under martial law cannot be democratic. According to him, the government should lift martial law before the election is held (*Republika*, 17 December, 2003). The restoration of

*continued on page 10*

# Listening to the voice of the victims

*While scores of books have been published in Indonesia or overseas about the events of 1 October 1965, they almost all focus heavily on what is officially known as the G-30-S and largely ignore the purge that followed in its wake, still less base their analysis on the experiences of the hundreds of thousands of victims. An important new book has now appeared which focuses on understanding the experiences of the victims.*

The new book, *Tahun Yang Tak Pernah Berakhir, Memahami Pengalaman Korban 65*, (The Never-Ending Year, Understanding the Experiences of the 65 Victims), is published by one of Indonesia's foremost human rights organisations, ELSAM, in collaboration with the Volunteers' Team for Humanitarianism and the Indonesian Social History Institute.

The book consists of six essays based on oral history, dealing with the arrests and killings in Central Java, a long wait in the face of many obstacles, on women who became political prisoners, on remaining firm in a time of madness, on forced labour and development (the prisoners contribution to the Suharto regime), and on the armed PKI rebellion in South Blitar.

The editors explain in their Introduction:

Linking social memory with monuments, museums, ceremonies and books is done in such a way as to remind people of the 30 September Movement while forgetting what happened afterwards. The murder of seven army officers takes pride of place over the mass arrests and killings as the nation's major tragedy. Everything is done to focus on a relatively small incident while the horrifying catastrophe which resulted in mass slaughter is simply passed over. All the public consciousness and sympathy that still remains is engulfed by the portrayal of the PKI as a mighty, inhuman monster. The state wants people to regard the 'PKI' as being so evil that it is perfectly reasonable for it to have been treated in this way. People are encouraged not to think about human beings but only about the 'PKI' as an abstract category (page 12).

The editors draw attention to the fact that after most of the prisoners were released during the course of the 1970s, identity cards issued to former prisoners bore special initials identifying their political status. A regulation issued by the Minister of Home Affairs in 1981 stated that they were also prohibited from working in occupations that could influence public opinion. Moreover, it was feared that they might use such positions to spread communism. What is more likely, say the editors, is that the government feared that they might talk about the crimes perpetrated by the military in 1965-66.

The social memory about 1965-66 has been formed by state propaganda and the silencing of the voice of the victims. 'We cannot go on allowing the voice of the victims to be ignored,' say the editors.

## Discovering family secrets

A number of volunteers were recruited to interview a total of 260 people consisting of former political prisoners and their families as well as the families of people who were killed in the 1965-66 massacres. But some people did not

want to be interviewed out of a sense of fear. 'Even though the Suharto regime has fallen, they knew that the military are still in power and that the reformasi politicians are conservatives who served Suharto for many years.'



*Ruslan Wijayasastra, a PKI life-prisoner in Cipinang Prison. This picture was taken in 1993 and smuggled out. He eventually died in prison.*

The editors draw attention to the attitude of the volunteer interviewers, most of whom were from the younger generation. When they first met and spoke to victims of the terror, they became very angry because what they heard seemed to reflect on their own communities, even on members of their own families. Some of the volunteers managed to uncover family secrets in the course of their work. One volunteer returned to his native village in East Java and asked his grandmother to tell him what happened in 1965. For the first time ever, she told him about her husband, his grandfather, who was a member of the peasants' organisation, the BTI, and who disappeared at the end of 1965. To this day, she doesn't know what happened to him. She has kept silent for all these years, hoping against hope that he might return home one day. Another volunteer knew that his uncle had been a political prisoner but had never heard him say anything about what happened. Another volunteer only found out, during the course of his interviews, that many of his relatives were killed in 1965-66. Other members of the family had never spoken about what happened to them. (Page 20)

One of the six essays consists of the stories of victims' families collected by Yayan Wiludiharto. The writer explained in the preface to his essay that when he was a boy, he believed that PKI people were not like ordinary people, that they were very terrifying. Every year at school, the

children had to watch a propaganda film called The G-30-S/PKI Treachery. 'All our sympathies went to the families of the sadistically tortured and murdered generals. We felt that the "PKI members" deserved to be exterminated.... because they had committed horrific crimes. When our teachers were angry with mischievous children, they would accuse them of being PKI.'

After the events of 27 July 1996, he began to think more seriously about history. Occasionally, he would go out on the street with friends to sell books that were banned by the New Order government. One book that he read at the time was *Surviving Indonesia's Gulag* by Carmel Budiardjo. 'I was shocked to read about the terrible things that happened to political prisoners. I could not believe that such terrible things had happened in my country.'

'I first came face to face with some victims of the 1965 Tragedy at the end of 2000. I thought that it would be easy to get them to tell their stories but this was not so. Having been closely supervised for decades not only by government officials but also by their own communities , they were very wary about meeting new people. When they started coming up with frank answers about their personal experiences, all the bitterness of their lives came out.... Things didn't always go smoothly, especially with people who had hidden their stories to protect their families, in particular their children.'

He recalled the continual New Order propaganda about the need to nurture 'prosperous' families, about birth control and about healthy living in the countryside. 'But what about the hundreds of thousands of families who were regarded as being PKI? The government stole their dreams, set families against each other and foreclosed all opportunities for them to live peaceful and happy lives.' (Page 63)

## Prisoners used for forced labour

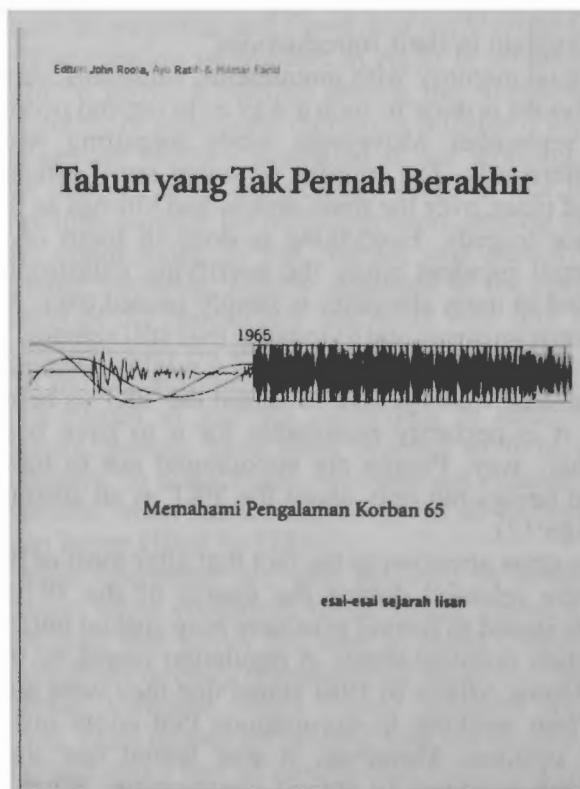
Any history book in Indonesia will devote special attention to the way in which Indonesians were used as forced labour during the Japanese occupation from 1942-1945 known as Romusha, and the forced labour system inflicted on the Javanese in the nineteenth century during the Dutch colonial era, while there is total silence about the way in which political prisoners were extensively used as forced labour after 1965.

In an essay, Romusha and Development, the Contribution of Political Prisoners to the Suharto Regime, Razif describes how people who were accused of being communists or their sympathisers were forced to work without any remuneration:

'Under the Suharto regime, forced labour was used in many regions, from Sumatra to the island of Buru. In Lampung (South Sumatra) for instance, political prisoners were forcibly used in (what became known as) 'kopel' River (kopel is the Dutch word for a soldier's belt) to dig up sand. Anyone who worked too slowly would suffer blows from the guards' belts. In Ciandjur, West Java, prisoner labour was used to build the Siliwangi Monument which is now the pride of the local community. (Siliwangi was the name of the West Java military command.) The prisoners were used to keep the cities clean throughout the province of East Java and they even built the Trisula Operation Monument in South Blitar. (The Trisula Operation crushed a PKI uprising in South Blitar, in 1968.) Almost all the buildings in Palu (Sulawesi) city and its outskirts were constructed by prisoner labour. The majority were freed from this forced

labour only after President Suharto was deposed in 1998. 'Prisoners who were incarcerated in Sukamiskin Prison, Bandung were forced, after being released in 1992, to take part in forced labour. The Cirandjang village head ordered fourteen former prisoners to clean the Cirandjang Road up to the Rajamanda Bridge, a distance of 15 kilometres, as their routine work. Once every fortnight, they had to pull up the grass along the road, and they also had to clean the Cirandjang chief's office. Not only did they build roads, bridges and monuments, but they also worked as house boys in the homes of army officers. This would include washing clothes, cleaning and repairing the houses and making household equipment. In addition, their labour was used to build mosques and churches.' (Page 140)

The essay also goes into detail about the way prisoners who were banished to the island of Buru in 1969 had to work hard on a number of projects. The island was covered by thick jungle which had to be cleared by the prisoners, before building their own barracks. Much of the timber which they produced was taken by their guards who sent it away from the island and sold it. In the early months, they had to work with their bare hands as no digging equipment was available. The prisoners were also extremely short of food, malnourishment was rife and many succumbed to a variety of illnesses. (Pages 147-152) \*



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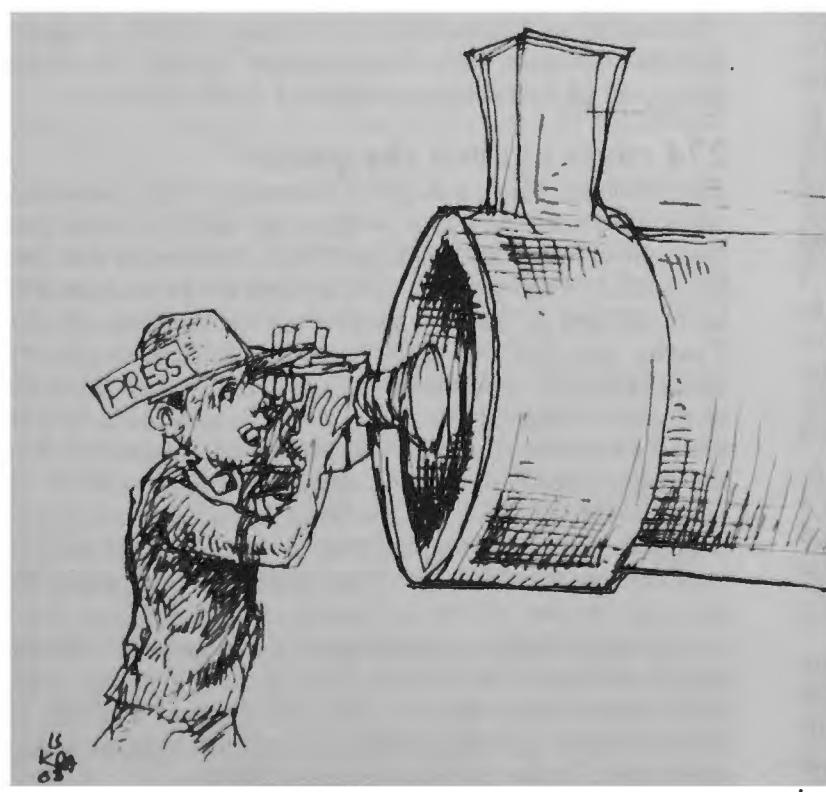
# Press freedom under threat

*Indonesia's most powerful business tycoon, Tomy Winata, is using his unlimited influence to undermine the freedom of the press, the most crucial element in the country's reform programme, to protect himself against exposures about his business interests. A leading publication, Tempo, was targeted by libel suits and acts of violence, while journalists from other publications have been convicted on spurious charges. The protections provided under the 1999 Press Law have been ignored, while defamation articles in the Criminal Code are being used to browbeat the press.*

Winata's wrath was aroused by an article published by Tempo in March 2003 which argued that he stood to benefit from a fire that engulfed more than 5,500 kiosks in the Tanah Abang textile market in Central Jakarta. The article was entitled 'Ada Tomy di Tenabang' (Is Tomy in Tanah Abang?) and described the tycoon, whose business interests are primarily in banking and real estate, as a 'scavenger extraordinaire'.

He is widely known to have ties with the underworld and the military, frequently hiring thugs to press home his message and is generous with bribes for officials. [Laksamana Net, 25 February 2004] The Tempo report also devoted several paragraphs to Winata's denial of any involvement, but he nevertheless accused the publication of 'damaging his good name'.

On 8 March last year, around one hundred thugs led by a trusty of the tycoon named David Tjoe attacked Tempo's editorial office, injuring two employees. Laksamana Net reported that some of the thugs were members of a gang called 'Indonesian Young Bulls' (BMI), a paramilitary organisation affiliated to the PDI-P which is led by Megawati Sukarnoputri. Police stood by while the attack proceeded.



There are strong indications that the police were in fact colluding with the tycoon. Koran Tempo [Laksamana Net, 25 February 2004] reports that a senior police officer

contacted Winata to 'request permission' to arrest his men. Winata claims that he told the officer 'to disperse the rally'. No such thing happened of course. Shortly after the incident, AJI, the Alliance of Independent Journalists, sought to press for charges to be brought against the police for failing in their duty to protect the public.

The claim for huge damages for alleged libel was widely denounced by media workers as a threat to press freedom and a move to intimidate the press. Pressing home the point, Goenawan Mohamad, one of the country's foremost journalists and commentators, called on media workers to stand together against this assault. 'We must unite and resist any attempts to limit press freedom, otherwise this hard-earned liberty will be put at risk.... If one journalist is imprisoned, others will follow.' [Jakarta Post, 16 October 2003].

The court even ordered the seizure of Goenawan Mohamad's residence as a way of securing assets should Winata win the case and damages would have to be paid. Commentators have noted that there has been no court orders for the seizure of assets in corruption cases currently under consideration.

The libel suit against Tempo was based on the much reviled defamation article incorporated some years ago into Indonesia's Criminal Code. This has led to renewed calls for the so-called "hate article", a hang-over from Dutch colonial times, to be repealed. Winata's libel case simply ignored the Press Law of 1999, enacted as one of several reforms in the wake of the downfall of the Suharto dictatorship, which provides safeguards for the press and points to the need for people who are dissatisfied with allegations against them to use their right of reply.

In the Suharto era, the authorities clamped down hard on the press and banned a number of publications, including Tempo. Such actions are no longer in favour but the present government has made it known that offending journalists and their publications will face prosecution under the Criminal Code if they publish libellous reports. Media workers decry the fact that in the post-Suharto era, the Criminal Code is being wheeled out to punish so-called 'misdeeds' which is making a mockery of press freedom, regarded as the key reform in the much vaunted programme of democratisation.

## Press under strong pressure

Press freedom flourished in Indonesia as never before in the aftermath of Suharto's fall in 1998. The ultimate victory was the abolition of the Minister of Information, a post in the cabinet that functioned for decades as a censor

supremo over the press. Most frequently, a senior armed forces officer was appointed as the minister and nicknamed by the student opposition the 'minister for propaganda and censorship'. During the 18 months of Wahid's term as President, this post was abolished, a clear sign to the outside world that the days of censorship were over.

From 1998 until 2001 the Indonesian press enjoyed a kind of 'Prague spring', a liberal period and was regarded by many as the most liberal press in Southeast Asia. But this liberal period had its dark side as many media conglomerates emerged: commercial TV, radio, magazines and dailies run and owned by tycoons close to the political establishment. Reporting in the press is dominated by major events in Jakarta, while major local events are largely ignored.

As soon as Megawati took over the presidency in 2001, the post was restored but given a new name, Minister of Communication and Information. Although his role is less heavy-handed than in the Suharto era, the decision made it clear that the present administration wants to have greater state control over the press.

Many laws have been revoked or amended in the post-Suharto period, including the press law. These changes have removed the most glaring anti-democratic features of previous laws while ensuring that the grip of the political establishment remains firm.

Some positive developments in press freedom in recent years have been reversed, putting the media under the control of Parliament (DPR). The majority of DPR members are from the two major parties PDI-P and Golkar, representing the political establishment. It basically means that the Indonesian press now faces more restrictions.

AJI, the journalists' union has justifiably questioned the need for a press law to regulate the press. As they say, the bottom line is that press freedom will be curbed and regulated by power politics in Parliament.

## The role of the Press Council

The post-Suharto era also produced a new body called the Press Council, replacing the other bodies that basically functioned as censorship bodies. The Press Council was set up to safeguard the good quality of the press and also to mediate in all cases involving the media. The Council functions as an independent body and consists of respected former journalists and academics.

In the present wave of legal disputes which have seen *Tempo* and *Rakyat Merdeka* being charged for libel in a criminal court, the Press Council tried to play a role as mediator, settling the disputes outside the courts.

The *PPM* (*Pemuda Panca Marga*) case, for example, reflects the difficulties of a free press. The PPM, a notorious youth group, was infuriated because *Tempo* published an article about how PPM members attacked the Kontras office on 27 May 2003. *Tempo* was accused of publishing a libelous statement and describing PPM as a 'gang' that used violent methods. Initially PPM agreed to enter into a deal with the weekly but unexpectedly filed a lawsuit on 22 December.

The organisation has used the court to demand huge compensation from *Tempo*, no less than Rp250 billion (US\$29.76 million). The judges rejected the request of *Tempo*'s Defence Team that the Press Council should act as mediators and appointed a member of the National Mediation Centre to mediator under the supervision of the Supreme Court. [Jakarta Post, 27 Feb. 2004]

A recent proposal presented to Parliament suggests that

the Press Council should be placed under the supervision of the legislature and would play a more pro-active role, interfering and giving 'guidance' to the press. Ichlasul Amal, the chairman of the Press Council, has rejected this proposal as it would turn the Council into a kind of 'police force' with powers to control the press.

## Tempo wins a partial victory

In February 2004, the Central Jakarta District Court rejected the lawsuit against *Tempo* on the grounds of 'a lack of defendants'. It accepted the journal's argument that the lawsuit should have been filed not only against *Tempo* but also against *detik.com*, the website which carried the same story. Winata's lawyer later claimed that the court decision did not mean that *Tempo* had been vindicated and hinted that her client may appeal against the verdict.

In June 2003, *Tempo*'s sister publication, *Koran Tempo* [*Tempo Newspaper*] quoted Goenawan Mohamad as saying: 'This country should not be controlled by organised crime or by Tomy Winanta.' The article also cited allegations that Winata was linked to illegal gambling. This led to another libel lawsuit which resulted in a record libel judgement against the publication on 20 January 2004, ordering it to pay US\$1 million to Winata and to publish an apology in a number of national newspapers on three consecutive days. Failure to comply will incur a fine of Rp 10 million (\$1,190). *Koran Tempo*'s chief editor, Bambang Harymurti said that they would appeal against the verdict.

## Other journalists penalised

In another lawsuit, the South Jakarta District court handed down a six-month suspended sentence against Supratman, the executive editor of a popular tabloid, *Rakyat Merdeka* and a five-month suspended sentence on Karim Paputungan for publishing articles deemed to be insulting to President Megawati Soekarnoputri and Akbar Tanjung, the speaker of Parliament.

According to *Jakarta Post* [27 January 2004], altogether ten libel lawsuits have been brought against the *Tempo* group, six of which were brought by Tomy Winata.

## 274 cases against the press

The National Human Rights Commission has meanwhile announced the findings of a team set up to monitor press freedom in Indonesia since the 1990s. It recorded that there had been 274 cases of violence against the press from 1996 up to the end of 2003. A spokesman for the team, Anshari Thayib, said that 144 cases involved physical threats, 110 cases involved intimidation of journalists, while there was one case of sexual harassment. The cases including the unsolved murder of Fuad Udin Muhamad, a journalist from the Yogyakarta-based Bernas daily on 13 August 1996. The case was initially heard by the Yogyakarta District Court but dropped, to avoid implicating a senior local official. Anshari said that his team would initiate investigations into this case in view of the availability of new evidence implicating state officials, including Sri Roso Sudarmo, the then regent of Bantul in Central Java. It was because of this man's involvement that the case was dropped in 1996. The new evidence includes testimony from the murdered man's colleagues. [Jakarta Post, 1 August 2003]

# Yale finds evidence of genocide in West Papua

*Two recent events have highlighted the prolonged suffering of the West Papuan people and the urgent need for international action. In December, Yale University Law School published a damning report which finds strong evidence of genocide in West Papua, and in February, Nobel Peace Laureate, Archbishop Desmond Tutu responded to the 'brutal oppression' of the West Papuan people by urging the UN to review its role in Indonesia's annexation of the territory.*

Genocide is the 'quintessential human rights crime'. It is 'the ultimate denial of the right to existence of entire groups of human beings' and as such it is not a term to be used lightly, say the Yale researchers.

Notwithstanding that caution, they conclude that the historical and contemporary evidence strongly suggests that the Indonesian Government has committed genocide in West Papua.

The report by the prestigious university, entitled Indonesian Human Rights Abuses in West Papua: Application of the Law of Genocide to the History of Indonesian Control (1), finds that the West Papuan people have suffered persistent abuses and that the Indonesian security forces have engaged in widespread violence, extrajudicial killings, torture, rape and sexual violence since the Act of 'Free' Choice in 1969.

It goes on to say that these acts, taken together with practices which have led to pervasive environmental harm, the undermining of traditional subsistence methods, and widespread disease, malnutrition and death, 'appear to constitute conditions of life calculated to bring about the destruction of the West Papuans'. Many of these acts, it argues, constitute crimes against humanity under international law.

It concludes that: 'Although no single act or set of acts can be said to have constituted genocide, per se...there can be little doubt that the Indonesian government has engaged in a systematic pattern of acts that has resulted in harm to - and indeed the destruction of - a substantial part of the indigenous population of West Papua.'

On the difficult issue of whether the Government had the intention to commit genocide required under international law, the report says that 'such a pattern of ... acts and omissions supports the conclusion that the government has acted with the necessary intent to find that it has perpetrated genocide against the people of West Papua'.

The report highlights the urgent need for heightened international attention to the grave human rights situation in West Papua. A press release issued by the Law School draws attention to ongoing 'violence, civil unrest, and grievous abuses of human rights and points out that without significant international pressure, 'the pattern of violent repression in West Papua is likely to continue'.

## State Dept: no improvement in rights

The fact that the human rights situation in West Papua remains in crisis is confirmed by the US State Department's Annual Human Rights Country Report for Indonesia for 2003 (2). Its general conclusion is that the Government's human rights record remained poor in 2003 and that it continued to commit serious abuses. Security force members 'murdered, tortured, raped, beat and arbitrarily detained civilians and members of separatist movements,' it says.

On West Papua, it states that there was 'no improvement' in the human rights situation and the Government made little progress in establishing accountability for numerous human rights violations committed in previous years. The most serious violations, it notes, took place in the Central Highlands where there were extrajudicial killings, numerous acts of torture and politically motivated arson.

## Rights abusers move in

Fears that the Indonesian military (TNI) is involved in a systematic attempt to destabilise West Papua and create unrest were reinforced in December by the appointment of Indonesia's former East Timor police chief, Timbul Silaen, as the new police chief of West Papua and the involvement



Demonstration in Jakarta demanding justice for human rights violations in West Papua

of notorious East Timor militia leader, Eurico Guterres, in a new West Papua militia group.

The day after Silaen's appointment was announced on 1 December, it was revealed that Guterres planned to set up a branch of his militia group known as FPMP (Front Pembela Merah Putih - Red and White Defenders Front) in the mining town of Timika and was actively recruiting members for the group.

Both Silaen and Guterres have been implicated in serious crimes committed at the time of East Timor's 1999 vote for independence when systematic and gross violations of human rights were perpetrated against the country's civilian population by the Indonesian military and their militia proxies.

Guterres, leader of the Aitarak militia group, was convicted of crimes against humanity by Jakarta's ad hoc human rights court on East Timor in November 2002. He was given a minimal sentence of ten years imprisonment, but is free

pending an appeal, which could take many years.

Silaen, East Timor's police chief in 1999, was acquitted by the ad hoc court - which has been widely criticised for being deeply flawed and failing to provide justice for the victims of violence in East Timor - but along with Guterres, he has been indicted on crimes against humanity charges by East Timor's Serious Crimes Unit (3).

TAPOL and other members of the international solidarity movement for West Papua have previously warned that the failure of Indonesia's ad hoc trial process would undermine efforts to end impunity and result in increased violence and oppression in areas such as West Papua and Aceh (4). TAPOL is calling for Silaen's appointment to be rescinded and for both men to be transferred to East Timor to face trial.

## Army ordered Freeport killings

Further evidence of the military's destabilising role has emerged with a report that US officials believe local army commanders ordered an ambush that killed an Indonesian and two American teachers near the Freeport copper-and-gold mine in Timika in August 2002.

Military involvement in the attack on a convoy of buses carrying teachers and children from Freeport's international school has long been suspected by the local police and human rights groups, but joint investigations by the police and US FBI officials have faced persistent obstructions and cover-ups by the army (5). The US State Department country report described a joint police and army investigation as 'ineffectual' due to a lack of co-operation by the TNI.



*Raiders, a new army unit especially created to eradicate separatism.*

Following a fifth visit to West Papua by FBI agents at the beginning of March, a senior US official was quoted by Associated Press as saying: 'It's no longer a question of who did it. It's only a question of how high this went within the chain of command.' (6) Previous reports have suggested that the ambush was discussed in advance at the highest level of the army. However, the US Embassy in Jakarta issued a

statement denying the Associated Press report, stating that the investigation was ongoing and that the FBI had reached no conclusion regarding any party's guilt or innocence.

The murder of the two American citizens remains a stumbling block to the resumption of full military relations between the US and Indonesia. The Bush Administration is trying to normalise relations, suspended in the wake of the army's devastation of East Timor in 1999, but in January, Congress restored a ban on International Military Education and Training (IMET) until the State Department determines that the TNI and the Indonesian Government are co-operating with the FBI's investigation into the Freeport killings. The Congressional measure continues the ban on foreign military financing of weapons sales and licenses for the export of lethal military equipment to Indonesia (7).

Despite the fact that some of the worst human rights violations in Indonesia are committed by the military in the vicinity of major enterprises, such as the Freeport mine, the Government has recently announced that it will continue to use the military to provide security at 'vital projects' in a bid to attract new foreign investment. In a 'multilayered security system', the police and military will provide a 'third ring' of protection behind internal security guards and local residents (8). This will apply to Freeport, but it is not yet clear if it will apply to BP's Tangguh gas project [see separate item].

It was recently revealed that the TNI has dropped plans to withdraw a 550-strong task force from the Freeport mining area. According to the Far Eastern Economic Review, armed forces commander, Endriartono Sutarto announced in November that he was seeking government approval for the troop withdrawal, because he no longer wanted the army to be perceived as a mercenary force in the pay of foreign companies, but the plan was changed at the urging of army's hardline chief of staff, Gen. Ryamizard Ryacudu (9).

## Independence supporters targeted

A key component of the military's destabilisation strategy appears to be the renewed targeting of peaceful political activists and the use of repressive legislation to limit freedom of expression.

In a provocative move in December, 16 political prisoners, who had been under 'town arrest' in the highland town of Wamena, were detained and 12 were transferred to Abepura prison in Jayapura, hundreds of kilometres from their homes. The prisoners were all convicted in relation to incidents in Wamena in October 2000 in trials which were widely condemned as unfair (10). Four of the prisoners - Rev. Obeth Komba, Amelia Yiggibalom (who remains in Wamena prison), Rev. Yuda Meage, and Murjono Murib - are local Panel members of the pro-independence Papua Presidium Council and are considered to be prisoners of conscience by Amnesty International. Those taken to Jayapura were not allowed to inform their families and lawyers at the time of their transfer, a violation of international standards concerning the treatment of prisoners. TAPOL is calling for the immediate and unconditional release of all the prisoners.

Seven Amnesty prisoners of conscience are currently facing trial in the town of Manokwari. They were arrested during a peaceful flag-raising ceremony on 27 November and have been charged with rebellion. Four students, who were detained for nearly two months after releasing flags attached to balloons in the Central Java town of Semarang, were released without charge on 1 February.

In January, three men were sentenced to life imprisonment and four others were jailed for 20 years for their alleged roles in an attack on an ammunition dump in Wamena in April 2004. The incident led to a military crackdown in which at least 16 people died from exposure, starvation or at the hands of the military (11).

The National Commission on Human Rights (Komnas HAM) has established a Commission of Inquiry (KPP HAM) to investigate allegations of grave violations of human rights committed by the military following the Wamena raid and similar allegations of human rights violations by the notorious Police Mobile Brigade (Brimob) in the Wasior area in 2001 (12). There are, however, doubts as to whether the Inquiry will receive the full support of the authorities and whether its findings will be followed up. A similar inquiry which found evidence of gross violations of human rights in relation to police attacks on students in Abepura in December 2000 has not yet resulted in trials of the alleged perpetrators (13).

Meanwhile the circumstances behind the assassination of independence leader, Theys Eluay, in November 2001 remain unresolved (14). West Papuan tribal leaders meeting in February have rejected what they called an unsatisfactory investigation into the killing and asked for UN help in setting up an independent inquiry (15).



## Archbishop Tutu calls on UN to act

Responding to the West Papuans' desperate 'cry for justice', South Africa's Nobel Peace Laureate, Desmond Tutu, has joined growing international calls for UN Secretary General, Kofi Annan, to instigate a review of the UN's role in Indonesia's take-over of West Papua.

In a statement issued in February, he said the people of West Papua 'continue to suffer brutal oppression' where their fundamental dignity as human beings and their basic human rights, including the right to self-determination are being denied.

In calling for a review of the UN's conduct he said a strong UN will be capable of acknowledging and correcting its mistakes. An international campaign to persuade the Secretary-General to review the UN's conduct in relation to the 1969 Act of 'Free' Choice was launched in March 2002 (16). It is attracting growing support including a majority of members of the Irish Parliament.

## STATEMENT BY ARCHBISHOP DESMOND TUTU, SOUTH AFRICA

For many years the people of South Africa suffered under the yoke of oppression and apartheid. Many people continue to suffer brutal oppression, where their fundamental dignity as human beings is denied. One such people is the people of West Papua.

The people of West Papua have been denied their basic human rights, including their right to self-determination. Their cry for justice and freedom has fallen largely on deaf ears.

An estimated 100,000 people have died in West Papua since Indonesia took control of the territory in 1963.

It is with deep concern I have learned about the United Nations' role in the take-over of West Papua by Indonesia, and in the now-discredited "Act of 'Free' Choice" of 1969. Instead of a proper referendum, where every adult male and female had the opportunity to vote by secret ballot on whether or not they wished to be part of Indonesia, just over 1,000 people were hand-picked and coerced into declaring for Indonesia in public in a climate of fear and repression.

The UN had just 16 observers to this Act for a country the size of Spain. The then Secretary-General's Representative reported on the conduct of the Act to the UN General Assembly in 1969, which noted his report on 19 November of that year.

One of the senior UN officials at the time, Chakravarthy Narasimhan, has since called the process a "whitewash". A strong United Nations will be capable of, among other things, acknowledging and correcting its mistakes.

I would like to add my voice to growing international calls for the UN Secretary General to instigate a review of the UN's conduct in relation to the now-discredited "Act of 'Free' Choice".

I will keep the people of West Papua in my prayers, and I would like to extend my best wishes and moral support to them in their hour of need.

February 23, 2004

## No end to three-way split crisis

There is no end in sight to the political and security crisis caused by the Government's controversial attempt to split West Papua into three provinces. Suspicion that this policy was initiated by the TNI was strengthened by reports that the military have established an eight kilometre-wide 'border' between the newly formed West Irian Jaya and the rest of West Papua (17). This border area is rich in timber resources. Similar 'border' areas are reportedly planned for the new province of Central Irian Jaya. They would be under TNI control and would offer lucrative opportunities for natural resource exploitation. At a seminar in Jakarta in February, a former Indonesian Ambassador to Australia, Sabam Siagian, questioned the interests of the National Intelligence Agency (BIN) and the TNI whom he believed to be behind the decision to split the territory.

The seminar, featuring leading West Papuan experts, Indonesian official and religious leaders, called on the Government to lift Presidential Instruction 1/2003 on the three-way split and enforce Law 21/2001 on special autonomy (18). Although special autonomy falls far short of the self-determination wanted by the overwhelming majority of West Papuans, some are prepared to accept it as a step

towards that objective.

The seminar also called for the establishment of an independent special team to bridge the widening distrust between Jakarta and West Papua. This echoes calls by Papuan civil society for the Government to enter into peaceful dialogue with West Papuan representatives mediated by a third neutral party.

Former Papua governor, Barnabas Suebu said at the seminar that 'Papuans no longer had confidence in the central government since Jakarta appeared to have no real solution to prolonged and perceived injustices'. He warned that the situation would become worse, especially during the forthcoming elections, and Papua would suffer the same fate as Aceh if Jakarta continued to treat Papuans as objects in its policies.



*Demonstration by West Papuan students in Semarang on 1 December 2003, commemorating the right of self-determination granted on 1 December 1961.*

Indonesia's Constitutional Court is currently examining the constitutional validity of the 1999 law which originally created two additional provinces for West Papua (19).

## Troops on increased alert for elections

The forthcoming national elections are bound to be a time of heightened tension and possible violence in West Papua. Whether or not the situation deteriorates, it is clear that the current conditions of military repression will not permit free and fair elections. Furthermore the banning of West Papuan national parties means that the vast majority of the population who support independence will be denied a democratic outlet for their aspirations.

Two thirds of the Papuan police force of 9,000 officers will be deployed to guard the elections, and will be backed up by 2,000 military personnel. The commander of the local Trikora military command has said that troops will increase their vigilance.

## Notes

(1) See:

[http://www.law.yale.edu/outside/html/Public\\_Affairs/426/westpapuahrights.pdf](http://www.law.yale.edu/outside/html/Public_Affairs/426/westpapuahrights.pdf)

(2) See <http://www.state.gov/g/drl/rls/hrrpt/2003/27771.htm>

(3) See *TAPOL* press release, 4 December 2003, at [tapol.gn.apc.org/pr031204.htm](http://tapol.gn.apc.org/pr031204.htm)

(4) See West Papua Association-UK, press release, 26 June

2003, at [tapol.gn.apc.org/pr030626.htm](http://tapol.gn.apc.org/pr030626.htm)

(5) See 'More Kopassus Crimes in West Papua', *TAPOL Bulletin*, No 169/170, p. 22 and 'Military sets Papua agenda', *TAPOL Bulletin*, No 173/174, p. 12.

(6) 'Indonesian Army Ordered Deadly Ambush', Associated Press, 3 March 2003.

(7) See 'Congress Reinstates Ban on Military Training for Indonesia, Defies Administration', East Timor Action Network (ETAN) press release, 22 January 2004, and further information at [www.etan.org](http://www.etan.org). Also 'US Congress opposes military ties...', *TAPOL Bulletin*, No 173/174, p. 23.

(8) See 'Govt ups security to attract investors', *Jakarta Post*, 1 March 2004, and 'Govt Asked the Military to Continue

Maintaining Security as the "Third Ring"', [MiningIndo.com](http://MiningIndo.com), 1 March 2004.

(9) 'Troops to Stay at Freeport's Papua Mine', FEER, 4 March 2004.

(10) See 'Wamena tragedy a provocation', *TAPOL Bulletin*, No 161, p. 18 and 'Wamena political prisoners campaign', *TAPOL Bulletin*, No 162, p. 20.

(11) See 'Military operations in the Central Highlands', *TAPOL Bulletin*, No 171/172, p. 18 and 'Military sets Papua agenda', *TAPOL Bulletin*, No 173/174, p. 12.

(12) See 'Brimob's Sweep-and-Crush Operation', *TAPOL Bulletin*, No 163, p. 23.

(13) See 'Rights commission accuses police in Papua', *TAPOL Bulletin*, No 162, p. 18.

(14) See 'Military sets Papua agenda', *TAPOL Bulletin*, No 173/174, p. 12, and reports in previous *TAPOL Bulletins*.

(15) 'Tribal Leaders Demand UN Probe into Theys' Murder', *Jakarta Post*, 28 February 2004.

(16) See 'West Papua campaign launched at UN', *TAPOL Bulletin*, No 166/167 and further information at : <http://westpapuaaction.buz.org/unreview>

(17) See The Papua Report, February 2004, RFK Memorial Center for Human Rights, Indonesia Support Group.

(18) See 'Experts seek to Dispel Trust Between Government and Papua', *Jakarta Post*, 18 February 2004.

(19) 'Papuans Awaiting Court's Verdict on Division of the Province', *Jakarta Post*, 13 January 2004.

# Tangguh: increased TNI and police presence

*The construction of British Petroleum's \$2 billion Tangguh natural gas project in Bintuni Bay looks set to begin in 2004. With contracts to supply gas to the US, the Philippines, South Korea and China, the final investment decision will be taken later this year. Whilst the project will secure massive profits for BP, its impact on West Papua includes increased militarisation with its associated risk of human rights abuses and the potential for internal conflict. West Papuan human rights advocates demand the 'right to say no' to multinational corporations.*

In June 2003, the BP-funded Tangguh Independent Advisory Panel, TIAP, paid its second visit to the site of BP's planned liquefied natural gas mega-project. Its findings provided the input for its Second Annual Report on Tangguh, published in November 2003. Set up and funded by BP, TIAP gives external advice to the company regarding 'non-commercial aspects' of the project. [TIAP second annual report on Tangguh, p.1] Chaired by US Senator George Mitchell, and including Lord David Hannay of Chiswick, TIAP's independence has been questioned. As well as being funded by BP, one of the four-man panel, Sabam Siagian, sits on the board of Kaltim Prima, the giant coal mine co-owned by BP. Nevertheless, the TIAP report raises some important questions about Tangguh.

## 'Important to the prestige of Indonesia'

President Megawati inaugurated Tangguh in December 2002, referring to it as a 'national project' and thereby highlighting the political importance of Tangguh for Jakarta. But, by not declaring it a 'vital project', she left a degree of uncertainty over what role the military will play in 'protecting' Tangguh. The police chief of operations, Colonel Max D. Aer, told the TIAP team of the importance of Tangguh 'to the prestige of Indonesia' stressing that security was a top priority. [TIAP report, 2003, p17.]

Clearly, the prestigious nature of Tangguh for Jakarta cannot be separated from Jakarta's assertion of control over West Papua, primarily through an increased military presence.

Last June, TAPOL warned that Tangguh was likely to act as a catalyst for militarisation in West Papua. [TAPOL Bulletin 171/2, 2003.] Troop numbers in West Papua have more than doubled over the past year, increasing from an estimated 4,350 in 2002 to around ten thousand in 2003. An additional 2,000 troops was announced in August 2003, following protests against the decision to split West Papua into three separate provinces.

## New Brimob presence in Bintuni

TIAP notes that 'Police expenditures will increase as a result of the need to provide security in the new Bintuni district'. Part of these additional expenses will be for a unit of Brimob, the notorious mobile police brigade. Although part of the police, not the military, Brimob have been linked to numerous cases of human rights abuses in West Papua and across Indonesia. An additional Brimob presence will increase the risk of human rights abuses in the area.

## Backtracking on TNI role?

TIAP's second annual report rightly considered the security provision as 'one of the most sensitive issues for the Project'. Developments in the year between TIAP's two annual reports indicate the high level of sensitivity and the intractable problem of the security forces' relationship to the project.

Yet, TIAP's latest report and, most significantly, BP's response to it, indicate a change in attitude towards the security forces, pointing to the increased likelihood that they will play a significant role 'protecting' Tangguh.

In their first annual report, TIAP recommended that BP 'resist demands by the TNI or the police for direct funding' to which BP expressed its agreement. [See BP response to TIAP report, 2002, p9.] A year later, TIAP says: 'It is plain that both the police and TNI will have a role in Tangguh security', and that, in relation to increased police expenditure, 'BP must face the reality of providing some appropriate support for those increased costs'. TIAP's second report goes much further in this direction and considers the standards which should be applied to 'specific support for the police' and 'any support provided to the TNI'. In their written response to TIAP, BP failed to rule out such scenarios, effectively leaving the door open for the company to fund the police and the military.

## No right to say 'no'

Addressing the University of Columbia's Centre for the Study of Human Rights in October last year, leading West Papuan human rights advocate, John Rumbiak, pointed out that indigenous communities continue to have one of their most basic rights violated by multinational companies: the right to say 'no': "The failure to respect communities' basic right to "just say no" exists at the heart of the nexus of human rights violations, environmental degradation and conflict." [J. Rumbiak, Globalisation, Rights and Poverty, 2003.]

In assessing the Tangguh project's impact on human rights, it is crucial to ask whether this 'right to say no' has been upheld or violated by BP. Available information on BP's consultation with groups affected by the project gives no indication that any right to say 'no' is being respected. This raises the question: where mega-projects are proposed, is the future of indigenous communities and their environment controlled by the communities themselves or by multinational corporations like BP? \*

# Indonesian workers seek jobs abroad

*With a rapidly growing population and an unresolved economic crisis, the export of Indonesian workers has become one of the main ways of reducing unemployment. The remittance of money by workers to their families has become a major source of Indonesia's foreign exchange earnings but this economic benefit hides the intolerable treatment of many workers by their foreign employers. NGOs accuse the government of failing to give the workers proper legal protection.*

There are frequent reports in the Indonesian press about workers, mostly women, returning from abroad suffering from serious injuries and requiring hospital treatment. The number of workers who die while abroad is a further indication of mal-treatment. The number of unemployed in Indonesia is now thought to be 41.2 million while 2.5 million people enter the labour market each year. Seeking jobs abroad looks like being the only way out because of the decline in foreign investment and the closure of numerous factories. It is estimated that around two million Indonesian workers are working abroad at any one time.

However, there are conflicting views about whether the export of workers should continue. A research institute affiliated to Nahdatul Ulama called on the government last year to terminate the programme because of the plight that has befallen hundreds of workers. Speaking for the institute, Achain Zaidy said the government should appoint more labour attachés and police liaison officers in countries where Indonesians are currently employed to protect their civil rights. [Jakarta Post, 24 October 2003] However, three thousand prospective migrant workers took part in a rally in Jakarta, calling on the government to continue to allow the recruitment of workers for employment overseas, to help cope with the lack of jobs at home. [Jakarta Post, 18 October 2003]

Yati, a woman worker who returned from Riyadh, had bruises on her back, her feet were battered, her hands swollen and her head almost bald. A red spot between her eyes was where her employer had hit her with a high-heel shoe. She decided to leave Saudi Arabia before the end of her 2-year contract and returned home with Rp.1.7 million in cash (US\$200) and a cheque for \$1,570, her earnings for 12 months. Another woman, Musriah, broke her back and ankle when she jumped from a third-floor window to escape from her employer's house. 'I just had to escape. I couldn't bear it any more.' After she begged to go home, her employer locked her up but she escaped by jumping from the window.

Wiwit had returned from Singapore where she worked every day from 5am till midnight. She got two slices of bread and half-cooked rice in the morning because she was only allowed ten minutes to prepare the meal, and a few vegetables for lunch and dinner. She said her employer had beaten her for working too slowly and she was weak through lack of food and rest. She was promised Rp1.5 million (around \$180) a month but returned home with only \$9. She was treated in a psychiatric ward for a mental breakdown. [Jakarta Post, 6 December, 2003]

An official at the Sukanto Police Hospital in East Jakarta said they had treated 38 returned workers for seri-

ous injuries in the past two months. Wiwin Marka died in the hospital two days after being admitted. Nurmawati, an activist for the Consortium for Migrant Workers' Protection, said Wiwin, who had also returned from Saudi Arabia, was 'skin and bones' when she was admitted into hospital. 'She complained of burning lungs and could not eat or drink because she would throw up afterwards.' Three other returned workers were being treated at the hospital for severe burns and digestive problems. [Jakarta Post, 17 November 2003]

## 'Illegal workers' jailed in Malaysia

By far the largest number of workers abroad are in Malaysia where it is thought that up to one million Indonesians are working. Many have entered the country

*continued on page 7*

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