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## Resounding victory for democracy in Aceh

**The local elections in Aceh on 11 December 2006 resulted in convincing victories for independent candidates. Irwandi Yusuf and Muhammad Nazar secured the positions of governor and vice-governor while other key posts, such as district heads (bupati) in North and East Aceh and mayors of the cities of Lhok Seumawe and Sabang, were also won by independents. The Acehnese voted for a dramatic change in the political landscape.**

Under Indonesian law, there is no place for independent candidates in elections but the recently adopted LOGA (Law on the Governance of Aceh) made provision for such an option. As a result, independent candidates who obtained the necessary initial number of supporters were able to stand and they gained considerable support from the electorate. It is understood that LOGA will be amended to enable local parties to contest future elections. This is a precedent that is bound to reverberate in other parts of Indonesia.

As things stand, political parties in Indonesia need to have branches in at least half of the provinces to be able to compete in elections. This restricts elections to national parties and blocks the way for local parties.

### **No second round needed**

The governorship in Aceh was a much coveted position, especially since the tsunami when there has been a strong emphasis on reconstruction and reconciliation. All the larger national parties such as GOLKAR, PPP, PAN, PBB, PDI-P, PBR and PKS fielded candidates. The candidates were nominated in pairs for each of the top positions being contested. Several of the pairs were independents while one pair was a combination of a party representative and an independent.

The official result, announced on 2 January, was that Irwandi Yusuf and Muhammad Nazar had won with 768,745 votes or 38.20 per cent of the 2,012,370 votes cast. They will be sworn in on 8 February. They scored very well in sixteen of the 21 sub-districts and cities. The runners up with 16.62 per cent of the votes were Humam Hamid and Hasbi Abdullah, a combination of the PPP and an independent. GOLKAR, which is the largest party in Indonesia, fielded Malik Raden and Sayed Fuad who came third with only 13.97 per cent of the votes. Two generals, both former commanders in Aceh, performed woefully. Retired generals Tamlicha Ali and Harmen Nuriqmar won only 3.99 per cent while retired generals Djali Yusuf and

Syauqas Rahmatillah got even less at 3.26 per cent, placing them at the bottom the pile. Another independent couple, Ghazali and Salahuddin al Fata, achieved a respectable 7.80 per cent, despite a lack of funds and with no electoral machine to help them. Ghazali Abbas, a former outspoken MP in Jakarta still has quite a lot of support in Acehnese civil society who remember him as the only parliamentarian to speak out against military

## Contents

### **Aceh**

Resounding victory for democracy page 1

### **West Papua**

Renewed conflict in Puncak Jaya page 5  
Timika murder mystery unresolved page 6  
Autonomy fails to improve human rights page 8  
West Papua debated in UK Parliament page 10  
Murder of Theys Eluay was well planned page 12

### **International**

RI-Aus security pact doomed to fail page 14

### **Justice**

Truth and reconciliation put on hold page 15

### **Timor-Leste**

*Chega!* launched at Westminster page 17

### **Economy**

Poverty and corruption page 19

### **Human Rights**

Activists attacked page 21  
Films about Aceh and East Timor banned page 21  
Insulting President no longer a crime page 21  
Prosecutor to appeal Polycarpus acquittal page 22

### **Labour**

UN calls for protection of migrant workers page 22  
Musim mas update page 22

### **Book reviews**

Two important books on West Papua page 23

brutality during the worst periods of the conflict in Aceh.

The opinion polls and predictions by some experts and Aceh watchers were way off the mark. The Humam Hamid-Hasbi Abdullah team were seen by many as the favourites while the combination of Azwar Abubakar, former governor of Aceh, and Nasir Djamil, a young national MP from the PKS, were also seen as potential winners. But the results revealed that the electorate voted for radical change while striking a heavy blow against the national parties based in Jakarta.

According to the election law, if no pair obtained 25 per cent of the votes, a second round would have been needed. With such a strong field of candidates, most observers predicted that no one would reach the threshold and a second round would take place in February. But this proved to be wrong, with the Irwandi-Nazar team substantially exceeding the 25 per cent threshold, with more than double the votes of the runners up. The winners won not only in GAM strongholds but also elsewhere, in areas often seen as being either neutral or with weak support for GAM.

Of the 21 districts and cities, only five went to non-independent candidates. Due to the complicated demography of Aceh over the last few years, many thousands had left Aceh during the years of conflict but returned home after the peace process. Many survivors of the tsunami disaster had lost their personal documents and could not register in time to vote. Of the 2.6 million eligible voters, only 2,166,033 cast their votes.

#### Free and democratic elections

The elections took place without any major disturbances. Monitoring teams from many parts of the world confirmed that the election was orderly and peaceful. Observers from the European Parliament described the elections as a victory for democracy in Indonesia. The only major flaw was the many unregistered voters, but their protests were directed through the proper channels and there were no demonstrations or unrest.

Bearing in mind that three years ago, Irwandi and Nazar were both in jail as political prisoners and military operations against GAM were in full swing, the elections signal a huge change in Aceh.

Since the signing of the Memorandum of Understanding in 2005, Jakarta has abandoned the security approach and has accepted GAM as a partner in the peace process. As a result, GAM members and supporters are at last enjoying the same basic rights as other citizens in Aceh.

#### The independent candidates

Most of the independent candidates projected clear political programmes, in particular members of GAM and SIRI (Aceh Referendum Information Centre), which had



Voting in the december elections. Photo - Tapol

advocated the holding of a referendum on the political future of Aceh in the late nineties.

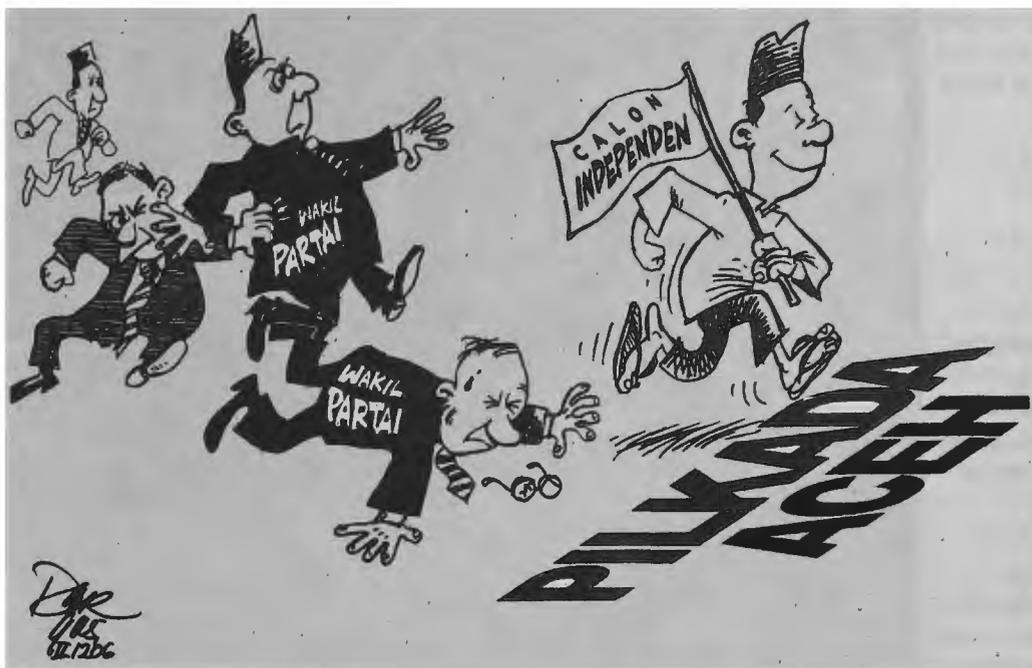
Irwandi, the elected governor, has a colourful background. He joined GAM only eight years ago, in 1998, after returning from the US where he studied veterinary science. He became GAM liaison officer in Jakarta and was arrested in 2003 and given a nine-year jail sentence. He escaped from Keudah Prison during the tsunami on 26 December 2004 and was a member of the GAM delegation at the Helsinki peace talks. After the MoU was signed in August 2005, he became the GAM representative in AMM, the Aceh Monitoring Mission, the body responsible for implementation of the MoU.

Initially Irwandi did not intend to stand for the governorship but developments in GAM compelled him to

### a precedent that is bound to reverberate in other parts of Indonesia.

do so. The old GAM leadership, including those living in exile in Sweden, expressed support for the duo Humam Hamid, an Acehese intellectual with a good track record, and Hasbi Abdullah, a former political prisoner, a well-known GAM activist. They have become known as the H2O duo. Since the peace process, all GAM ex-combatants have been organised in a non-military structure known as KPA (*Komisi Peralihan Aceh* or Aceh Transitional Commission). The highest structure within GAM is the *majelis*, which is a kind of parliament. Some key members of the *majelis* promoted the H2O duo, but this combination was rejected by the GAM rank-and-file, organised within the KPA.

After a brief period of uncertainty, the Irwandi-Nazar duo emerged as the choice of the rank and file. Despite the initial support by the GAM leadership for H2O, the rank-and-file support secured victory for Irwandi and his running mate.



## the electorate voted for radical change, striking a heavy blow against the Jakarta-based national parties

Muhammad Nazar was the chair of SIRA, the Aceh Referendum Information Centre, from 1998. In 1999 he was arrested after organising a huge mass rally in November 1999. He was released in 2002 but soon afterwards, martial law was re-introduced and Nazar landed in jail again after being sentenced to eight years imprisonment. As a result of the signing of the MoU, he was released on 31 August 2005.

The relationship between GAM and SIRA is quite complex. On the one hand it could be said that SIRA has functioned as the peaceful political wing of GAM but but on the other hand it has often operated rather independently of GAM. Key players in SIRA were student activists and their top leaders are still in their early thirties.

The other independent candidates have a similar background. Munawar Liza, formerly the GAM representative in the US, together with Islamuddin, a SIRA activist, won the election for mayor in the harbour city of Sabang. The same occurred in the second biggest city, Lhok Seumawe, where two well-known GAM activists, Munir Usman and Suaidi Yahya, were easily elected. In other places such as Aceh Timur, two independent pairs were fielded: Muslim Abdullah, a local GAM activist, and Nasruddin, a SIRA activist won the seats of district and vice district chiefs. In the Aceh Raya district, the independent candidates Azhar Abdurrachman and Zamzami A. Rani were elected. In the GAM strongholds of Pidie and Aceh Utara the pairs of Mirza Ismael and Nazir Adam and Ilyas al Hamid and Syarifuddin won large majorities.

### Significance of the victory

The significance of the electoral victory of the independent candidates should not be under-estimated. The defeat of the national parties shows that the Acehnese opted for political change and for a new

direction. It also means that money politics, a common feature in Jakarta, has been rejected. The independent candidates campaigned on shoestring budgets while their supporters assembled spontaneously, by contrast with the traditional mobilisation of large crowds by national parties, transporting large numbers of people to their rallies on hired buses and trucks. The independent candidates also lacked the funds to produce leaflets and banners. As it turned out, the Aceh electorate was not impressed by the many banners held aloft on behalf of the national party candidates.

The Acehnese electorate has shown a defiance of Jakarta politics since the early seventies. While the entire country was arm-twisted into accepting GOLKAR, the ruling party, the Acehnese stubbornly turned away from GOLKAR and opted for the PPP, a Muslim party federation and one of the three parties allowed to function under Suharto

It took more than 20 years for the Suharto regime to push GOLKAR down the throats of the Acehnese. It was not until the last Suharto-era elections in the nineties, when DOM (military operations) were in full swing, that the Acehnese grudgingly accepted the dominance of GOLKAR, helped along by huge injections of money. However, in the post-Suharto period, when political freedoms were granted, the Acehnese quickly abandoned their GOLKAR allegiance. While the trend in most parts of Indonesia was to vote primarily for the two secular parties, GOLKAR and the PDI-P, the Acehnese defied this trend and lent their support to a wide variety of Muslim political parties and to GOLKAR.

## a victory for democracy in Indonesia... money politics have been defeated

The December elections gave the Acehnese a real choice for the first time. As a result, their allegiance went in large part to GAM. The victory of the Irwandi-Nazar team can be seen as a victory for GAM or more generally as a victory for a change in the political landscape of Aceh. It can also be seen that support for GAM far exceeds its membership. The official number of former GAM combatants is put at 3,000, while GAM membership is up to ten times as much. But the support GAM won in the elections, discounting the non-registered voters, was at least 25 times the size of the membership. Many observers were doubtful about the extent of the support for GAM, but the election results removed any uncertainty.

The 30 years of war and conflict have substantially affected the political views and perceptions of the Acehnese. They have become more critical than voters

elsewhere in Indonesia and have also developed a strong desire for reform, self governance, and a say in running their own economy. The MoU provides all this and it was GAM that negotiated the agreement in Helsinki. As a result, the Acehnese showed gratitude by voting for the independent candidates.

### Consequences for other provinces

Other provinces, in particular West Papua, which has also been granted special autonomy status, do not enjoy the chance of having independent candidates and local parties.

Now that there has been a breakthrough in Aceh, it will be more difficult for the national parliament in Jakarta to insist that other provinces should not have the same option. First reactions in Jakarta were mixed, non-committal and along the lines of wait-and-see. Nevertheless, apart from ultra nationalist voices within the PDI-P, there has been little in the way of anger or dismay. Vice-President Yusuf Kalla came to Irwandi's defence, saying he was confident that the new government in Aceh would establish relations with the centre, as other provinces have done.

### Press comments

The press in Jakarta has generally welcomed the election of Irwandi and Nazar, commenting rather extensively on the defeat of the major Jakarta parties. An editorial in *Media Indonesia* bore the title: 'Aceh slaps the face of the political parties' while *Suara Pembaruan* wrote an editorial on: 'The demise of the supremacy of political parties'. They say it all. It is to be expected that the national press will continue to focus on the performance of the Aceh leaders and their future relations with the government in Jakarta.

General elections are due to be held in 2009 when the Acehnese will choose their representatives to the national parliament as well as voting for local assemblies. By that time, GAM and other groups will probably have already re-constituted themselves as local parties and be in an even better position to threaten the existence of the national parties. While it is too early to make predictions, it is not difficult to foresee that there could be more drastic changes in the political landscape.

### AMM, a success story

The AMM (Aceh Monitoring Mission) was set up as the result of the MoU signed in Helsinki and came into being on 15 September 2005. It was set up by the European Union and ASEAN to monitor the peace agreement. Its initial mandate was extended several times and it completed its mission on 15 December 2006, four days after the local elections.

In the sixteen months of its existence, there were no serious violations of the MoU, a reflection of the professionalism of the AMM staff as well as the political will of the Indonesian government and GAM to ensure that the peace process was a success.

AMM undertook the decommissioning of GAM weapons and monitored the withdrawal of Indonesian



**AMM decommissioning operation**

non-organic troops from Aceh. It also functioned as mediator between GAM and the Indonesian government and was able to respond swiftly whenever problems occurred. The AMM monitored the drafting and adoption of LOGA through the local and national parliaments.

The AMM is regarded by peace and conflict resolution experts as a model for the management and resolution of conflicts elsewhere in the world.

## The AMM is regarded by peace and conflict resolution experts as a model for the management and resolution of conflicts elsewhere

There were some weaknesses, however, such as a lack of contacts and coordination with the different groups in Acehnese civil society and poor coordination regarding the reintegration of GAM ex-combatants into society.

The peace process and the democratisation of Aceh will need to continue. Other institutions will be needed to take over the work of the AMM. The peace process is not only a matter for the Acehnese and the Jakarta government. The international community also has a responsibility to sustain the commitment to peace in Aceh.

# Renewed conflict in Puncak Jaya

**Disturbing reports have emerged over the Christmas and New Year period of a substantial deployment of troops and military operations in and around the town of Mulia in West Papua's central highland region of Puncak Jaya. The operations are a response to flag-raising incidents and the killing on 8 December of two army personnel blamed on the Free Papua Movement, OPM. Reports indicate that the conflict between the security forces and the OPM has forced many hundreds of people to flee their homes leaving them vulnerable to hunger, illness and death.**

Information is difficult to obtain from the area because of tight restrictions on access for journalists, human rights monitors and others. It is difficult to verify the number of persons affected, but church representatives have said that as many as 5300 people are at risk in the sub district of Yamo. Food and medicine is urgently needed to prevent a humanitarian catastrophe

Similar military operations in the same area resulted in the displacement of several thousand villagers and dozens of deaths in 2003 and 2004/05 [note 1].

## Human rights not an issue

Responding to the killing of the soldiers, the commander of the Indonesian military (TNI), Marshall Djoko Suyanto, said on 11 December that TNI actions would be informed by government policy and not human rights criteria. He complained that human rights were being used as a tool to criticise soldiers by people who resent the TNI's presence in Papua [2]. His statements would appear to give free rein to the troops in their behaviour towards the local population.

The number of civilian casualties of the conflict involving the Indonesian military (TNI), para-military police (*Brimob*) and the OPM are not known. However, unconfirmed reports suggest that two more army personnel were killed on or about 26 December and that five *Kopassus* special forces officers and a Papuan civilian Gunir Murib were killed on 5 January.

A local source has said that a Papuan woman, Melina Murib (aged 38), her daughter, Tanem Tabuni (aged 13), and son, Meliem Tabuni (aged 8), drowned on 4 January when crossing a river to escape military and police gunfire [3].

The source also claimed that five women - Lerina Tobolom, Yosina Tabuni, Kelina Wenda, Delina Tabuni, Herlina Wenda - were raped by the TNI and that eight other persons were beaten and tortured.[3].

## Tabuni OPM group the target of secret operations?

The current conflict in Puncak Jaya may relate to efforts by the military to target the local OPM group led by

Goliat Tabuni. It has been suggested that the two military personnel killed on 8 December - *Kopassus* special forces officer, Sertu Joko Susanto, and retired army officer, Tobias Sirken - were undertaking some form of negotiation with the Goliat Tabuni group with the intention of luring him into being captured and possibly killed. Tabuni was also a focus of the 2004/05 operations.

It is not clear whether the Tabuni group played a part in the killing of the two soldiers, but doubt has been cast on the claim that the group was involved. Some local observers have expressed the view that the TNI orchestrated the killings to create a situation of tension and unrest that would make operations against the OPM and pro-independence supporters easier to undertake. The killings would also be used to justify the establishment of more local military commands and an increase in the number of troops in the central highlands where support for independence is at its strongest [4].

There is also speculation that the incident was set up to further the objectives of a secret intelligence operation, known as 'Operation to Handle Regional Conditions and

**communities are under threat from military operations, the influx of migrants, economic marginalisation and the lack of government action in health and education**

Develop a Communications Network' [5]. This was instigated in June 2000 by the Department of Internal Affairs in Jakarta to target the pro-independence movement in response to the outstanding successes of the movement in organising the Second Papuan Peoples' Congress and establishing the Papuan Presidium Council in May/June 2000.

The same intelligence operation is thought to have motivated the killing of Papuan nationalist leader, Theys Eluay, in November 2001 [see separate article] and may have provided the incentive for a number of other incidents [6], including the Timka killings in August 2002 [see separate article], the raid on an arms depot in Wamena in April 2003 that resulted in the deaths of two army personnel and more than a dozen civilians [7], the killing of Yustinus Murib and nine other men in November 2003 [8], and the killing of Reverend Elisa Tabuni in August 2004 [1].

## TAPOL urges dialogue

There is a sense amongst the highland people that their communities are under threat from military operations, the steady influx of migrants from Indonesia, economic marginalisation and the lack of government action in key areas such as health and education. In their situation, flag-raising and support for independence are manifestations of their deep resentment at the way they are being treated.

continued on page 16

# Convictions fail to resolve Timika murder mystery

Yet another high-profile trial in Indonesia has ended with serious questions about the credibility of the proceedings, the politicisation of the investigation, and the role of the military in influencing the outcome of the case. On 7 November 2006, Antonius Wamang, an alleged member of the Free Papua Movement, OPM, was sentenced to life imprisonment by the Central Jakarta District Court for his part in the August 2002 killing of two Americans and an Indonesian near the Freeport copper-and-gold mine in Timika. Six others were jailed for between 18 months and seven years. However, key questions remain about the long-suspected role of the Indonesian military in the deadly attack.



Antonius Wamang (L) and other Papuan defendants listen to the judges during their trial at a central Jakarta court November 7, 2006. REUTERS/Crack Palinggi

Around midday on 31 August 2002 a convoy of vehicles transporting a group of teachers from Freeport's international school home from a picnic was ambushed and came under sustained firearms attack. Americans Rickey Lynn Spier and Leon Edwin Burgon and Indonesian Bambang Riswanto suffered fatal injuries [1]. The incident took place at a point known as Mile 63 on the 79-mile long road that connects the Freeport mining town of Tembagapura to the urban centre of Timika. The presence of the Freeport mine in the area means that security is high and there are numerous military checkpoints along the road.

Wamang has admitted his role in the attack, saying that he and his men intended to target Indonesian troops travelling along the road, but evidence suggests that security forces personnel may also have participated or at least may have known about Wamang's plans and provided him with the ammunition to carry them out.

Two of the other accused, Agus Anggaibak (real name, Johni Kacamol) and Yulainus Deikme, were also part of Wamang's group and were sentenced to seven years' imprisonment. The other four, Hardi Tsugumol, Reverend Ishak Onawame and two of his church workers, Esau Onawame and Yarius Kiwak, received jail terms of 18 months each for helping to plan the ambush. Tsugumol was seriously ill during the trial and died on 1 December 2006. Rev. Onawame and his church workers have persistently claimed they were not involved in the crime. It appears their confessions were obtained under questionable circumstances.

The defendants refused to acknowledge the legitimacy of the proceedings against them. They declined to enter a proper defence and remained largely silent throughout, staging regular protests and walk-outs. Chief amongst their complaints was the decision to hold the trial in Jakarta instead of Timika where the crime occurred. The accused men claimed they were denied access to their lawyers and that the medical treatment of Hardi Tsugumol was inadequate. They were also incensed by the manner of their arrest, which involved them being delivered into

## ...the site of the attack would have been impossible to reach without TNI co-operation

the custody of the Indonesian security forces by two FBI agents who misled them into believing that they were being taken for trial in the US (where Wamang had been indicted by the Department of Justice in June 2004).

The men who were tried were among a group of twelve Papuans enticed by the FBI to visit a hotel in Timika on 11 January 2006. After being told to get into a truck to go to Timika airport, they were taken to a local police station where Indonesian troops and Brimob police special forces were waiting. Four of the men were later released; the others were taken to Jayapura and then on to Jakarta.

The case attracted intense publicity and became highly political from an early stage because of its impact on relations – especially military ties – between Indonesia and the US. Despite initial resistance by the TNI, the FBI

became involved in the investigation and the eventual capture and prosecution of Wamang and his co-defendants allowed Jakarta and Washington to normalise military relations.

### **Did Wamang act alone?**

In the immediate aftermath of the attack, various allegations and counter-allegations were made about the involvement of the OPM and the TNI. An investigation by the Indonesian police in Papua and the human rights organisation, ELSHAM, provided strong indications that Wamang and his group did not act alone.

From the beginning, questions were asked about the ability of the OPM to sustain an attack on the teachers' convoy for around 30 to 45 minutes with the basic weaponry at their disposal. The investigations also pointed to the fact that the attackers were well-trained sharpshooters and that the site of the attack was tightly secured and would have been impossible to reach without TNI co-operation. Military personnel appeared on the scene only after the attack had ended despite it being close to a permanently-staffed security post.

Eyewitness testimony, forensic evidence on the firearms used, and circumstantial evidence suggest that a second group of TNI gunmen may have been involved. The circumstantial evidence includes the intimidation of witnesses and ELSHAM workers, attacks on ELSHAM offices and staff; a legal action for defamation by the TNI against ELSHAM, the conduct of a sham reconstruction, and the doctoring of the crime scene by the TNI. All these matters are considered in detail in an important series of three articles entitled 'Murder at Mile 63' by Indonesian journalist, Andreas Harsono, and anthropologist and Papuan expert, S. Eben Kirksey, published by *Joyo Indonesia News Service* and the *Pantau Foundation* [2].

In interviews cited by Harsono and Kirksey, Wamang has provided a credible account of a trip to Jakarta to obtain bullets and weapons from police and military contacts although he claims that the guns were subsequently diverted to Aceh. This has given rise to speculation that the TNI used its prior knowledge of Wamang's plans to stage its own attack in order to discredit the OPM. In November 2002, the *Washington Post* reported that the ambush was discussed at the highest level of the military [3]. An additional or alternative motive may have been the TNI's desire to warn the Indonesian authorities and Freeport that the TNI should not be deprived of its lucrative security role at the Freeport mine.

Despite being available to the prosecution, none of the evidence that suggests Wamang did not act alone was tested in court nor were the motives of other possible perpetrators.

### **Indonesia-US military ties back to normal**

The Timika case became a major stumbling block to the resumption of full military relations between Indonesia and the US. This had been a particular priority for the US since 9/11 despite strong objections by the US Congress and human rights groups. Restrictions under various

forms had been US policy since the massacre of peaceful demonstrators at Santa Cruz cemetery in Timor-Leste in 1991. All military assistance to Indonesia was cut in 1999 after the Indonesian military and its militias ravaged Timor-Leste in response to the UN-administered vote for independence.

## **Eyewitness testimony, forensic evidence on the firearms used, and circumstantial evidence suggest that a second group of TNI gunmen may have been involved.**

In 2003, Congress imposed a ban on a small but symbolically important programme known as International Military Education and Training (IMET) and foreign military financing of weapons sales until the State Department determined that the Indonesian government and military were co-operating with the FBI investigation into the Timika killings. However, the surprise indictment of Wamang in the US in June 2004 led to Secretary of State, Condoleezza Rice restoring IMET in February 2005. In November 2005, the Bush administration swept aside a bipartisan Congressional consensus and exploited a 'national security waiver' to restore full military ties. In May 2006, the administration announced a new Pentagon programme that will provide up to \$19 million in additional funds for building Indonesian military capacity [4].

### **Notes:**

1. See also earlier *TAPOL Bulletin* reports: No. 169/70, p.22; No 171/172, p. 18; No 174/174, p. 12; No 175, p. 20; No 176, p. 18; No 182, p. 7; No. 184, p. 10.
2. Available at - [www.tapol.org/reports/murder63.htm](http://www.tapol.org/reports/murder63.htm)
3. Indonesia Military Allegedly Talked of Targetting Mine, *The Washington Post*, 2 November 2002.
4. On Indonesia-US military ties, see also *TAPOL Bulletin* No. 178, p. 14; No 181, p. 21.

# No human rights improvement under special autonomy

**The human rights situation in West Papua has remained dismal since the introduction of special autonomy in 2001. In a report summarising conditions in 2006, the Papuan human rights organisation, ELSHAM, lists a number of incidents that have resulted in atrocities and yet more suffering for the West Papuan people.**

Special Autonomy was introduced in 2001 as a special concession to Papuans who had been unlawfully integrated into the Indonesian Republic in 1969 by means of the Act of Free Choice when just over one thousand tribal leaders were corralled into voting unanimously to be part of Indonesia. They had no choice in the matter.

The law was enacted as the result of a political decision by the Indonesian government after it had come under intense pressure from the Papuan people from 1995-2000 over the question of a Free Papua.

After the introduction of regional autonomy throughout Indonesia, Papuan leaders from the churches, local NGOs, academics and tribal leaders came together to draft a law on special autonomy. This was welcomed at the time by the Jakarta government as a way to quell demands for independence that had found powerful expression after the downfall of the dictator, Suharto in May 1998. The Papuans took their mandate seriously and drafted a law that contained many positive features regarding the sharing of revenues and the right to consultation about major political decisions in the province.

The OTSUS (Special Autonomy) law also provided for the creation of an all-Papuan people's assembly, the Majelis Rakyat Papua (MRP), composed of church leaders, tribal leaders and women's representatives in equal numbers. This body would be consulted on major decisions such as, for example, the partition of the province of Papua.

## **Prolonged conflicts**

However, as the years have passed, Jakarta has shown little intention of complying with the initial promises. In its end-of-year report, ELSHAM, the Institute for the Study and Advocacy of Human Rights, states that profoundly important problems relating to Papua's legal status, to history and politics have resulted in economic and social problems. The result has been prolonged conflicts between Papuan society and the Indonesian government, which persist to the present day. The failure to solve these problems by means of peaceful dialogue has led to casualties among the Papuans and on the Indonesian side as well.

ELSHAM which has a track record of monitoring human rights abuses, provides examples of numerous

human rights violations during the five years of special autonomy:

Nineteen summary executions: Including Tolinawimban Gire, Yustinus Murib, Derek Murib, Pastor Elisa Tabuni, Moses Douw, Marinus Kogoya, Sodema Hubi, Mokaneak Kossy, Marius Marian, Yunus Giay.

18 arbitrary arrests, 157 cases of mal-treatment and two forced disappearances.

ELSHAM describes the many violations of human rights as tending towards a process of ethnic genocide (its point here, we believe, is to emphasise its general concern about what it sees as long-term threats to the survival of the Papuan people as a majority in their homeland rather than to assert a legal case for genocide).

ELSHAM also highlights problems in other areas. Minimal attention has been paid to healthcare and the spread of HIV/AIDS has subjected the Papuans to a form of mental torture. The authorities have failed to produce accurate data about the people suffering from the disease, how they were identified and how they came to be infected.

## **The trillions of rupiahs derived from special autonomy, have brought little if any benefit to the Papuans**

With regard to the economy, the markets and banks are controlled by immigrants from outside Papua while the regional government and local businesses have done nothing to empower local people. As a result, Papuans live in poverty in a land rich in natural resources. The trillions of rupiahs derived from special autonomy, have brought little if any benefit to the Papuans.

In the field of education, expenditure has benefited officials and employees from Indonesia instead of the economically weak local population. The officials regard their tour of duty in Papua as a chance to obtain educational advancement and enrich themselves by embezzling people's money.

Governmental organs are inaccessible to Papuans while nothing has been done by the *Majelis Rakyat Papua* to protect human rights. The MRP has been unable to exert any authority because there is confusion about its powers in the absence of special regulations.

## **Violations in 2006**

The report then gives examples of violations during 2006:

On 6 and- 7 January, Antonius Wamang and others were arrested in Timika by the FBI in collaboration with the Indonesian police, Polri. Eight of the twelve men arrested were taken without lawyers to Jayapura and flown to Jakarta where they were detained and interrogated in violation of legitimate procedures. This was the result of a political bargain between the Indonesian

government and the US government, the price paid by Indonesia for the restoration of military ties with the US.

On 7 November, Antonius Wanmang (39) was sentenced to life imprisonment. Agus Anggaibak (real name: Johni Kacamol) and Yulianus Deikme were sentenced to seven years, Yairus Kiwak, Hardi Tsugumol, Rev. Ishak Onawame, and Esau Onawame were sentenced to one year and six months. Hardi Tsugumol (37) died in custody on 1 December 2006 [see separate article].

Several human rights NGOs such as the Jakarta-based PBHI, ELSHAM-Papua and church and student networks protested about these cases and provided legal counsel to the victims.

The cases served the political interests of the government and its relationship with the Freeport copper-and-gold company and helped restore US confidence.

On 20 January, a *Kostrad* (strategic command) special team in Nabire shot dead Moses Douw(19) a school

## Violations are continuing in complete disregard for the sense of justice of the Papuan people

student in the village of Wagethe, sub-district Paniai. Three of his colleagues were injured by gunfire. The case remains unresolved to this day while the families of the victims are left with a sense of deep injustice.

On 16 May, members of the police and Brimob shot dead two Papuans, Sodema Hubi (65) and Mokaneak Kossy (47) while two others, Marius Marian (28) and Yunus Giay (26) were injured. This incident occurred during a clash between members of *Brimob* and supporters of the former Wamena sub-district chief, Drs. David A. Hubi who was charged by Wamena court for the corruption of Rp.10 billion.

On 16 March, there was a clash between police and students at Cenderawasih University in Abepura. Five members of the security forces were killed while several people on both sides were wounded. During a military operation following the incident, a student was killed while hundreds of students disappeared. They are thought to have fled to Papua New Guinea but nothing is known regarding their fate to this day.

As a result of this incident, about twenty pupils and students were taken into custody by the police, tried, found guilty and given sentences ranging from seven to fifteen years imprisonment.

### ELSHAM's conclusions

The OTSUS law has resulted in a transfer of power from the centre, creating new forms of corruption in the region, with no benefits for the native inhabitants. Far from working effectively to advance the living conditions of the Papuan people, OTSUS funds have been used by officials to accumulate personal wealth, which has bred jealousies.

According to ELSHAM, OTSUS has sown the seeds of genocide in Papua rather than empowering the Papuan people and making them masters in their own homeland.

The provincial government and multinational corporations, such as PT Freeport and the LNG project, have supported the process of genocide of the Papuans because of their failure to protect and empower the native inhabitants.

(Again, ELSHAM's apparent purpose in referring to genocide is to make a point about OTSUS providing a cover for the continuation of government policies that pose a threat to the survival of the Papuan people as a majority in their homeland).

ELSHAM calls for political will both from the provincial government and the MRP in pursuit of their mandates to alleviate the sufferings of the people that have occurred in the name of development.

Finally, ELSHAM calls on the Indonesian Government, the TNI/Polri and civilian institutions to stop ignoring the human rights problems in Papua. Violations of human rights are continuing in complete disregard for the sense of justice of the Papuan people, it says.

### Serious health problems in Papua

*Medicins Sans Frontieres* (MSF) has just completed the first phase of a measles campaign in the south of Papua. A total of 13,659 children between the ages of six months and 15 years were vaccinated.

In February, MSF started receiving reports of measles cases in Papua's southern Asmat region. When it was clear the disease was spreading, MSF, together with national and provincial health officials, launched a mass vaccination campaign covering four out of seven sub-districts - a population of 43,904.

This outbreak highlights the high burden of infectious disease in the province and the lack of health services resulting in poor routine vaccination.

In March, MSF succeeded in vaccinating 80 per cent of the target population in an area where the previous vaccination level had been about 39 per cent.

MSF also responded to a cholera outbreak in the highlands region of Wamena after sending an emergency team to investigate and set up a treatment centre to support Wamena General Hospital. The treatment centre was staffed by Indonesian and international medical staff.

Papua's health status is the lowest in Indonesia. Limited access to health facilities, lack of health education and poor sanitation leave large parts of the population vulnerable to outbreaks of disease, according to MSF.

"People are living in conditions that I did not think were possible in Indonesia, and are dying from simple, curable illnesses," said MSF Dr Kabul Priyantoro. "More needs to be done to ensure Papuans have better access to health care or we will continue to see epidemics such as this."

He said that responding to emergencies in Papua is particularly challenging as the lack of infrastructure and isolation of many communities places them out of the immediate reach of health facilities.

"Papua is without a doubt one of the toughest places to provide emergency medical care in," said MSF Head of Mission, Wim Fransen. "Just reaching people is a battle in itself." Papua also has one of the highest incidences of malaria in Indonesia.

Source: Jean-Pierre Amigo/MSF

# West Papua debated in UK Parliament

**West Papua was the subject of a one-hour debate in the House of Lords on 8 January 2007. Seven members of the Lords spoke, making recommendations about what the British Government should do to promote the cause of the West Papuan people. One speaker quoted at length from a letter to the Indonesian ambassador written by a West Papuan leader in the UK. The Government had little to offer in response to the many suggestions made in the debate.**

Opening the debate was Lord Harries, formerly Bishop of Oxford, who has for years spoken out in support of the West Papuan people. He asked what representations the Government are making to further the independence of West Papua. He said that while West Papua may seem far away, to its people their problems are immediate and painful, and the principles are fundamental to civilised life in the modern world. The issue is whether a people have the right to self-determination and, if so, how we ensure that they can freely choose to exercise that right. The West Papuans are a people, the same people as those of Papua New Guinea who obtained their independence from Britain over 30 years ago. They have no desire to be ruled from Jakarta. As a Foreign and Commonwealth Office briefing in 1969, now publicly available, put it:

'Privately.... we recognise that the people of West Irian (West Papua) have no desire to be ruled by the Indonesians', and that 'the process of consultation did not allow a genuinely free choice to be made'.

That is putting it mildly, said the peer. The so-called Act of Free Choice consisted of 1,026 people being forced at gunpoint to vote for integration with Suharto's Indonesia, and this being taken as the voice of the people. In a historic statement to this House two years ago, Baroness Symons, who was then the Minister, acknowledged that 'there were 1,000 handpicked representatives and that they were largely coerced into declaring for inclusion in Indonesia'.

After explaining that West Papua was being split into three provinces and that local autonomy had been introduced with little effect, Lord Harries said the question now is: what can be done to rectify an historical wrong. Present policy is leading to increasing unrest, human rights abuses and the build-up of military forces, a policy of divide and rule with an economic dimension when one province has the liquid gas.



**Continued protest in the UK, Indonesian Embassy, 1 December 2006**

## **Flawed Act should be re-run**

Commending Baroness Symons for having the honesty to admit in December 2004 that what happened in 1969 was a travesty, he said the Government can only enhance their reputation by pursuing a steady and consistent policy. He urged the Government to support a UN-sponsored re-run of the Act of Free Choice, this time as a genuine referendum, internationally monitored and giving the tribal peoples of West Papua the chance to choose freely between independence, free association or continued integration with Indonesia.

## **Human rights abuses**

He said the Government should make representations about human rights abuses documented by Amnesty International. In particular, Lord Harries referred to more than 100 political prisoners, including Filep Karma and Yusak Pakage, jailed for 15 and 10 years respectively for raising the West Papuan national flag on 1 December 2004. The government should raise these cases and make it clear to Jakarta that not only must they be treated humanely, but their imprisonment is totally unacceptable in a democratic society.

There were also questions of freedom of speech, freedom of assembly, freedom to form political parties, freedom of access for journalists and NGOs and the importance of achieving a genuine dialogue between the

Indonesian Government and the people in West Papua who wish to raise the issue of self-determination.

Next, Lord Griffiths, Labour, spoke about the massive transmigration programme that brought 1.2 million people into West Papua of Javanese and Sumatran origin, nearly all of them Muslims, changing the nature of Papuan society and culture radically. After describing the Act of Free Choice as 'cynical and wrong', he called for the implementation of an ethical foreign policy towards Indonesia.

Lord Archer, also Labour, spoke mostly about the right of self-determination. Although the Indonesian

## 'while West Papua may seem far away, to its people their problems are immediate and painful'

Government introduced the special autonomy law in 2001, there has been no autonomy, and the atrocities go on. The persecution, the murders and the incarcerations will continue for as long as the protest continues. He said any form of international action must be initiated by a national Government.

Lord Judd, Labour, quoted a letter from Benny Wenda, chairman of the *Koteka Tribal Assembly* now living in the UK, to the Indonesian ambassador on 1 December 2006. He referred to the invasion of Papuan lands and the removal of people to make way for the exploitation of gold, copper, oil and timber reserves. Ruthless techniques were employed, such as bombing from helicopters. People were rendered homeless, raped and murdered; all this was part of what happened. 'We call our Land our Mother,' he said, 'because she gives us everything we need to live. (But) you sold our Mother to British, American and Australian companies like Rio Tinto and BP. You got rich whilst we West Papuans got poorer.'

### Self-determination, a legal right

Lord Avebury said that the UK Government does not support West Papua independence. 'We were accomplices in its unlawful annexation by Indonesia' he said. Self-determination, while undoubtedly a legal right, is a matter of state practice in the absence of any rules, he asked how it should be enforced.

Six years ago, a Government minister said, in response to a question about whether they considered that an independent audit of the UN's role should be commissioned, that she was satisfied that the study by the Institute of Netherlands History would serve that purpose. That report, by Professor Pieter Drooglever, was published in November 2005 and confirmed that the outcome was pre-determined by Suharto, who had issued instructions that nothing but a ruling in favour of Indonesia would be acceptable. The UN observers were allowed to see as little as possible and were ejected from the territory immediately after the so-called vote.

An agreement to conduct the Act of Free Choice 'in accordance with international practice' was violated by the UN which failed to organise a *plebiscite* and, instead, agreed that the decision as to the future status of West Papua would be made by an assembly, whose members would be indirectly elected by an undefined electorate. The Indonesians chose the 1,000-odd candidates, all of whom were elected unopposed, with the so-called 'voters'

browbeaten or bribed into approving them by acclamation.

By the time of the 'vote', the UN team had been whittled down to a mere 16 members at the insistence of the Indonesians. It would have been impossible for the team to fulfil its remit, even with full co-operation, in a territory the size of California with only the most primitive transport and communication systems. However, members of the team did not complain when no interpreters were provided or when they had to ask permission every time they wanted to move outside the capital. They failed to blow the whistle when they saw Indonesian soldiers and officials pouring into the territory in far larger numbers than planned and exerting heavy pressure on the Papuans to choose integration and give up the dream of self-

determination.

That fraudulent process was endorsed by the UN General Assembly with the approval of the UK. The UK firmly supported the betrayal of the West Papuans, not on grounds of principle but in solidarity with the Dutch and to improve UK relations with the military dictator General Suharto, who had done a splendid job exterminating half a million communists and was therefore a man to be encouraged.

Baroness Rawlings, a Conservative, asked the Minister to comment on reports that a force of between 2,000 and 5,000 military and police mobile brigade personnel were undertaking an operation in the Punjaya (Puncak Jaya) region.

Under special autonomy, a Papuan People's Council was formed providing for the redistribution of resource revenues. But she was frustrated by the continuing failure regarding implementation of special autonomy. She said she believed that full implementation would lay the groundwork for a long-term resolution to the growing crisis in West Papua and would offer stability for the province. She asked what steps the Government has taken to encourage the Indonesian Government to proceed with special autonomy, and wanted to know whether the Prime

## 'Papua is the last blot on Indonesia's global reputation' - Foreign Office Minister

Minister raised the issue during his visit to Indonesia last year.

However, she did not believe that meaningful dialogue with the Government of Indonesia can take place on the basis of calls for Papuan independence. Her party supports the UK Government in respecting the territorial integrity of Indonesia and is calling for an open, inclusive and frank discussion and the full implementation of special autonomy. Indonesia was dragging its feet and the Government should press harder to find, through dialogue, a peaceful, just and dignified resolution.

### Government has little to offer

Replying for the Government, Baroness Royall said: 'We respect Indonesia's territorial integrity and have never supported Papuan independence.'

Lord Harries had asked whether the Government would support a re-run of the Act of Free Choice.

continued on page 13

# Murder of Theys Eluay was well planned

While killings in West Papua are a regular occurrence, some stand out as being politically motivated to decapitate the independence movement. First there was Arnold Ap who was killed in 1984, then Tom Waggai who died in mysterious circumstances in 1989, and then in November 2001, the assassination of tribal leader Theys Hiyo Eluay. His death is the subject of a book published last May by a prominent Papuan church leader. Former Indonesian president, Abdurrahman Wahid, says Theys should be declared a 'national hero'.

The author of *Pembunuhan Theys: Kematian HAM di Tanah Papua* (The Murder of Theys: The Death of Human Rights in the Land of Papua) is the Reverend Dr Benny Giay, who lectures on theology at the Walter Post Theological College in Jayapura. The book was first published in October 2003. Within a week, it had been banned on the grounds that it 'would incite unrest in the community'. The ban, initially announced by the attorney-general, was reiterated by the military commander of West Papua. After the book was withdrawn from circulation, human rights organisations condemned it as a violation of freedom of expression.

Under such circumstances, the author clearly knew the risks he personally was taking by going ahead with a second edition of the book.

Theys Hiyo Eluay had become a highly respected Papuan leader and was elected to chair the Papuan Presidium Council at the Second People's Congress, held in Jayapura in June 2000. This was just two years after the downfall of Suharto in May 1998. During his term in office, President Abdurrahman Wahid several times expressed sympathy for the Papuan people's cause and made a large donation to help cover the costs of the Congress.

## Paving the way for murder

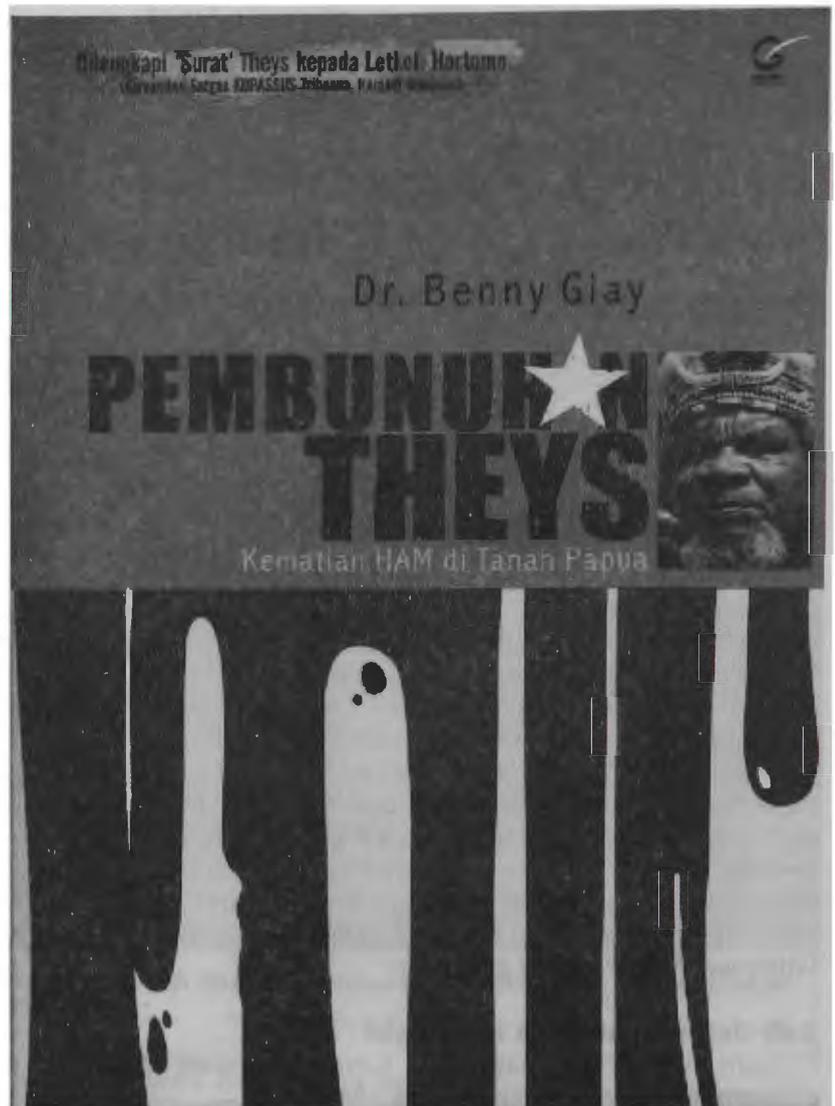
Theys Hijo Eluay was murdered on 10 November 2001 on his way home from a Heroes Day celebration to which he had been invited by Lieut.Colonel Hartomo, the commander of the local unit of *Kopassus*, the special forces command of the Indonesian army. Hartomo had earlier visited the Papuan leader at his home in a show of friendship and presented him with a gift. But visit to the *Kopassus* base was to have fatal consequences for Theys Eluay.

On his way home, the car in which he was travelling was overtaken by a Kijang vehicle occupied by unknown persons. After the driver had been thrown out of the car, the Papuan leader was strangled to death. His abandoned car was not discovered until the following day with the dead man on the back seat. It was widely reported at the time that his driver had gone missing. After being forced

**the crime was planned and conceived in Jakarta, to quell West Papuan aspirations for independence**

from the car, the driver, Aristoteles Masoka, thinking that his boss was on good terms with *Kopassus*, persuaded a passing vehicle to drive him back to the *Kopassus* base to report the abduction. However, this proved fatal as he disappeared and has never been heard of since.

The new account of the assassination of Theys Eluay by Dr Benny Giay draws attention to three events which he says paved the way for the killing. The first was a highly secret document dated 9 June 2000 by the Director-General for National Unity and Community Guidance of the Department of Internal Affairs in Jakarta titled: Operation to Handle Conditions in the Region and Develop a Communications Network. This operation had been planned after the Department received a cable from the governor of West Papua warning that the aspirations of the Papuan people for independence had 'crystallised' at the Second People's Congress in 2000. The document listed the names of Papuans who should be targeted. Theys Hiyo Eluay was included as one of a group of tribal leaders, along with Tom Beanal, Agus Alua and the now deceased Yusuf Tanawani.



The second move preparatory to the murder, according to Dr Giay, was the organisation of a Papuan Festival which took place from 1 – 16 November 2001. A number of local churches were involved in organising the Festival along with the local administration; the army was charged with providing forty trucks to bring people to the Festival. Commenting on the churches' involvement, Dr Giay says that, in their eagerness to win converts, church leaders often fall prey to schemes devised by those in power, to the detriment of their congregations.

The third factor was an atmosphere of panic created in Jayapura, following rumours about a 'Dracula figure'. Just prior to the assassination, there had been many Dracula reports in the press, which had spread like wildfire among the migrant communities. According to Dr Giay, the 'Dracula Panic' lasted from 7–10 November 2001. It was claimed that a number of people had been attacked and bitten by the monster and had been taken to hospital. Fearing this alleged monster, many people were too scared to leave their homes amid warnings that no one should venture out on their own after dark.

Dr Giay devotes several pages to what he describes as testimonies by witnesses, including reports that appeared in the local and national press in the weeks following the death of Theys.

### State held responsible for the murder

Drawing his investigation together, Dr Giay concludes that the perpetrators of the politically-motivated assassination were members of *Kopassus* while the crime was planned and conceived in Jakarta, to quell West Papuan aspirations for independence. Jakarta's role is evident, he argues from the fact that the perpetrators were tried in a military court and not before the human rights court.

At the trial, one year later, seven *Kopassus* soldiers were charged not with murder but with 'maltreatment that resulted in the victim's death. The men were given sentences of between three and three-and-a-half years each. No one was ever charged in connection with the driver's disappearance.

The trial of the *Kopassus* men was widely condemned at the time as a travesty of justice. According to the indictment, Colonel Hartomo had realised that Theys was committed to West Papua's independence. The soldiers who accompanied him in the vehicle had allegedly tried to persuade him not to go ahead with the cause but he refused. He had allegedly screamed abuse at the soldiers, whereupon one of them clamped his hand over the victim's mouth three times, until he realised that Theys was dead. In other words they had been provoked by the Papuan leader's belligerence. The only witness who could have contradicted this account was his driver who has never been traced.

[See *TAPOL Bulletins* Nos 168, 169/170 and 171/172, September 2002, January-February and June-July 2003.]

### Kingmi Church stormed

On 30 December 2006, Kingmi Church with which Dr Giay is closely associated was stormed and occupied by Indonesian police officers. Two pastors in the church were injured in the attack.

Dr Giay told the press after the attack that he regarded it 'as an attack on the institution of the Church itself'. As he was speaking, members of the church were out on the

streets demanding that the police leave the Synod office so that they could use their place of worship properly. [Press Release by the *West Papua Institute for Human Rights*, 31 December 2006]

The occupation of the Kingmi Church followed a public accusation earlier in the year accusing the Church in West Papua and international NGOs of promoting West

## 'He was a great man, a fighter, not only for his own people but for all of us' - Gus Dur

Papuan independence. It is an accusation that is strongly denied by Dr Giay.

A spokesman for the Institute of Papuan Advocacy and Human Rights (IPAHR), Jason MacLeod, described the accusation as 'ominous'. The label OPM is used by the police to silence debate and stigmatise West Papuans in order to justify repressive security operations. 'Church leaders who speak out for peace and justice are regularly subject to surveillance and intimidation by the security forces,' he said.

### They is a 'national hero', says Gus Dur

Former Indonesian President, Abdurrahman Wahid, speaking at the graveside of Theys Hiyo Eluay in Sentani, said that the Papuan leader, chairman of the Papuan Presidium Council, should be proclaimed a national hero. Gus Dur, as Wahid is popularly known, visited the grave on the fifth anniversary of the death of Theys.

'He was a great man, a fighter, not only for his own people but for all of us,' he said.

On the same occasion, Gus Dur also laid the foundation stone nearby for a monument for democracy and human rights. [*Kompas*, 14 November 2006]

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continued from page 11

Conceding that the Act was 'extremely flawed', she said the UK has no plans to support a review because it was a matter for The Netherlands and the UN. The 2001 special autonomy law allows the establishment of a truth and reconciliation committee to look at the incorporation of Papua into Indonesia, which indicates that the Indonesian Government recognise the need to address the long-standing problems in Papua. She claimed that the human rights situation in Papua is improving. 'There is little credible information to suggest that major systematic abuses of human rights are currently taking place.' The major concerns are chronic low-level harassment, violations of freedom of expression and association, and social and economic rights.

Baroness Royall accepted that Papua is in many ways the last blot on Indonesia's global reputation. The UK Government believe that the best way forward is through peaceful dialogue between representatives of the Papuan people and the Indonesian Government and the implementation of special autonomy. We will do all we can to support that process, she said in conclusion.

# Indonesia-Australia security pact doomed to fail

**In their rush to repair yet another downturn in their uneasy relationship, the governments of Indonesia and Australia have signed an 'Agreement on the Framework for Security Co-operation'. The accord is high on rhetoric and low on substance. One of its main purposes is to prevent support for West Papuan independence in Australia, but it is so full of inconsistencies, and meaningless phrases that it is more likely to exacerbate than prevent future crises between Jakarta and Canberra.**

The latest in a series of diplomatic rifts between the two countries occurred when Australian immigration authorities granted temporary protection visas to 42 West

## the TNI is the entity that poses the gravest threat to Indonesia's stability

Papuan asylum seekers in March last year (protection was granted to a 43rd person on appeal later in the year). Indonesia immediately withdrew its Ambassador to Australia and set about persuading Australia to tighten its border protection and its system for assessing asylum claims [1].

Further tensions were caused in December, after the signing of the agreement, when the Indonesian Supreme Court overturned Muslim cleric Abu Bakar Bashir's conviction for conspiracy in relation to the 2002 Bali bombings which killed 88 Australians.

A new security treaty was first proposed by President Susilo Bambang Yudhoyono in 2005, but the spat over the asylum seekers provided the impetus for the Agreement to be concluded. It was signed on the Indonesian island of Lombok on 13 November 2006 [2].

The previous security treaty, signed in 1995, was torn up by Indonesia in response to Australia's involvement in the international intervention in Timor-Leste following its 1999 vote for independence.

The latest Agreement sets out a framework for co-operation on defence (including military education and training, joint exercises, study visits and exchanges), law enforcement, counter-terrorism, intelligence, maritime security, and preventing the proliferation of weapons of mass destruction.

### West Papuan activists targeted

However, one of its most significant and substantive provisions (Article 2), in a clear reference to West Papua, states that:

'The parties...shall not in any manner support or participate in activities by any person or entity which

constitutes a threat to the stability, sovereignty or territorial integrity of the other Party, including by those who seek to use its territory for encouraging or committing such activities, including separatism, in the territory of the other Party.'

The two countries also agree to be guided by the principle of 'Mutual respect and support for the sovereignty, territorial integrity, national unity and political independence of each other, and also non-interference in the internal affairs of one another'.

Significantly, the Agreement does not even pay lip service to human rights (they are not mentioned throughout its eight pages) let alone attempt to address the human rights aspects of security co-operation in a meaningful way. It fails to account for the fact that human rights violations are a major source of instability and motivation for separatist activities in Indonesia.

A Newspoll of 1200 Australians conducted before the treaty was signed found that 64 per cent of respondents said the Agreement should include a clause guaranteeing free access to areas of Indonesia, including West Papua; 72 per cent supported a guarantee of free access for human rights monitors to the province [3].

The Australian Federal Parliament's Treaties Committee is now inquiring into the treaty and will report to Parliament by June.

### Key provisions unenforceable

The word 'separatism' is not defined in the Agreement. It could therefore be argued that support for West Papuan self-determination, as opposed to independence, is permissible. The Australian Green Party has vowed to continue supporting self-determination [4].

In any event, the Agreement specifically states that it does not affect the existing rights and obligations of either country under international law. On that basis, Australia would be obliged to allow West Papuan activists to express their support for independence in accordance with

## 'the Agreement does not even pay lip service to human rights'

the internationally-recognised right to freedom of expression.

The lack of clarity and contradictions in these key provisions effectively mean they are unenforceable and not worth the paper they are written on.

Paradoxically, it could also be argued that the Agreement breaches its own terms since security co-operation involves support for the Indonesian military, TNI (including the notorious *Kopassus* special forces), which - because of its willingness to use excessive force and

continued on page 16

# Truth and reconciliation put on hold

**Indonesia's Constitutional Court has ruled that a 2004 law establishing a Truth and Reconciliation Commission (TRC) is unconstitutional because it empowers the President to grant amnesty to perpetrators of gross violations of human rights. The Commission now has no legal basis and cannot be set up until new legislation is passed. The ruling to strike down the offending amnesty provisions, announced on 7 December 2006, has been welcomed, but there is disappointment that the law was annulled in its entirety, leaving the victims of Suharto-era atrocities without an important means of restitution and redress.**

Establishing the truth about past human rights abuses, securing accountability for gross violations, and facilitating reconciliation between victims and perpetrators are key prerequisites to further progress in Indonesia's transition to democracy.

The current lack of progress in these areas is a sign that the transition still has a long way to go notwithstanding the success of the 2004 legislative and presidential elections, the Aceh peace process, and the recent local elections in Aceh.

Indonesia's commitment to the rule of law continues to be undermined by its failure to address the many crimes against humanity perpetrated during the 32 years of Suharto's New Order regime.

New political and legal initiatives are now needed from both civil society and the government to ensure that past and future needs for truth and justice are properly addressed.

The demise of the TRC poses particular questions for transitional justice in Aceh. The August 2005 peace agreement between the government of Indonesia and the Free Aceh Movement, GAM, provided for a TRC to be established for Aceh by the Indonesian TRC, but that cannot now happen.

## **Troubled history**

The problems of the transitional justice process are evident from the troubled history of the TRC. The idea of a TRC was first proposed by the administration of former President Wahid (1999-2001). Provision for the establishment of a TRC was made in Law 26/2000 on Human Rights Courts, the law under which the ad hoc court for East Timor was established. The law stated that the 'resolution of gross violations of human rights occurring prior to the coming into force of this Act may be undertaken by a Truth and Reconciliation Commission'.

The TRC was then neglected until the end of the Megawati Sukarnoputri presidency (2001-2004), when it was formally established in September 2004, by law

27/2004 [See 'The continuing search for truth and justice', *TAPOL Bulletin* No 177, p.10].

It was hoped that one of the Commission's first tasks would be to expose the truth about the one of the last century's most heinous crimes, the slaughter of hundreds of thousands of Communists and left-wing suspects following Suharto's rise to power in 1965/66.

However, the Commission was never actually set up by the current administration, giving rise to suspicion that it was opposed by President Yudhoyono, a former military officer, and elements in the government.

As soon as it was passed the TRC law was criticised because it 'leans too heavily towards the possibility of pardoning past perpetrators of human rights violations, and not enough toward rehabilitating and compensating their victims' [Towards reconciliation, *Jakarta Post* editorial, 8 September 2004]. The amnesty provisions in the law were regarded as contrary to international

**Indonesia's commitment to the rule of law continues to be undermined by its failure to address the many crimes against humanity perpetrated during Suharto's New Order regime.**

standards which reject the possibility of amnesty for gross violations of human rights.

## **Civil society ambivalent**

The complexities of the issue were underlined by the fact that different opinions emerged amongst Indonesian civil society groups as to whether the law provided a means of resolving past abuses. One group held the view that it did offer the prospect of realistic solutions and should be supported, while a second group argued that it failed to promote human rights and undermined the search for justice.

Eventually the two groups reached an accommodation by forming an Advocacy Team for Truth and Justice (*Tim Advokasi Kebenaran dan Keadilan*), which decided to test the law by filing the case at the Constitutional Court. The team included organisations such as *Elsam*, *Kontras*, *Imparsial*, *LBH Jakarta*, and *SNB (Solidaritas Nusa Bangsa)*.

The Court considered a number of Articles in the law and eventually decided that Article 27 violated the Indonesian Constitution because it provided that compensation or rehabilitation for victims could be ordered only if the perpetrator was granted amnesty. It further ruled that, as Article 27 was key to the whole law, the law in its entirety had to be annulled. The Court also concluded that by treating perpetrators more favourably than victims, the law offended the human rights provisions in Article 28 of the Constitution that require non-discrimination and equality of treatment before the law.

The Court was not expected to go as far as ordering this ultimate sanction of annulment and rights groups are disappointed that they are back to square one in their campaign for truth, justice and redress for the victims. However, it is also felt by some that they have been presented with an opportunity to help develop an improved law that will secure victims' rights and comply with international human rights standards.

#### **Little progress on Suharto-era crimes**

Meanwhile, little progress has been made in investigating and prosecuting those responsible for Suharto-era atrocities. In November, the Indonesian House of Representatives demanded that the government act upon findings of the National Commission on Human Rights (*Komnas HAM*) on the forced disappearance of 13 pro-democracy activists prior to the fall of Suharto in 1998. The House was critical of the Attorney-General's failure to follow up on the *Komnas HAM* report.

*Komnas HAM* has itself complained that its work is being obstructed and under-funded; it has pointed to the fact that a number of cases it has investigated (including the Trisakti and Semanggi I and II shooting of students in 1998 and 1999; the May 1998 riots that accompanied Suharto's fall from power; and the Wasior and Wamena killings in West Papua) have been halted or become dormant since being passed to the Attorney-General's office.

continued from page 5

TAPOL has issued a statement [9] and written a letter to the UK Foreign Office expressing concern about the military operations in Puncak Jaya and urging dialogue between the Government of Indonesia and West Papuan representatives as the best way to respond to the growing tensions.

It has also called for an ambassadorial-level EU delegation from Jakarta to visit the Mulia area and publicly report on the situation there. It has urged the Indonesian government to cease military operations in Puncak Jaya, withdraw its troops, and allow free and unfettered access to the area by diplomats, journalists, human rights monitors and humanitarian workers.

#### **Notes:**

1. See *TAPOL Bulletin* No 178, p. 23.
2. 'TNI Commander Asks OPM to Surrender', *Tempo Interactive*, 12 December 2006.
3. Latest news from Puncak Jaya 11.1.07, *Free West Papua Campaign*, UK.
4. See special report on the 8 December incident by Socratez Sofyan Yoman, President of the Fellowship of West Papuan Baptist Churches, 4 January 2007, available at <https://lists.riseup.net/www/arc/reg.westpapua/2007-01/msg00012.html>.
5. See special report, *ibid*. Details of the special operation are available at <http://tapol.gn.apc.org/news/files/st011012wpsecret.htm>
6. See special report by Socratez Yoman, *op. cit.* note 4.
7. See *TAPOL Bulletin* No 171/72, p. 18.
8. See *TAPOL Bulletin* No 173, p. 11.
9. See <http://tapol.gn.apc.org/news/files/st061229.htm>

continued from page 14

reluctance to submit to civilian control - is the entity that poses the gravest threat to Indonesia's stability.

Given its enthusiasm for non-interference, it is ironic that the most recent violation of that principle was committed by Indonesia when it blatantly attempted to influence the outcome of the West Papuan asylum claims, a matter entirely within Australia's jurisdiction.

It would be illuminating to speculate on what might happen if another West Papuan asylum claim were to be made in Australia. Each party would interpret the treaty to suit its own purposes: Indonesia would demand the return of the asylum seekers and Australia would plead its obligations under domestic and international law. In fact, nothing would have changed. The end result would be stalemate and another downturn in the relationship between the two countries.

Hugh White, professor at the Australian National University in Canberra, has said of the Agreement: 'It will raise unrealistic expectation which will lead to bitter disappointments, making the relationship more, not less, vulnerable to shocks and crises. Without deeper work on

the fundamentals of the relationship from both sides, agreements like the one signed in November are worse than useless.' [5]

A period of reflection, a determination to spurn knee-jerk responses, and a commitment to promote peace, human rights and democracy in West Papua and elsewhere would be much more beneficial to the long-term security interests of the two countries.

#### **Notes:**

1. See *TAPOL Bulletin* No. 182, p. 4; No. 183, p.11.
2. The text of the Agreement is available at: <http://www.dfat.gov.au/geo/indonesia/ind-aus-sec06.html>
3. Poll demands human rights clauses in Indonesia Treaty, *Newspoll* media release, 8 November 2006.
4. Greens ignore security treaty to celebrate West Papuan Day, *Green Party* media release, 1 December 2006.
5. The Lombok Pact's Empty Promise, *Far Eastern Economic Review*, December 2006.

# Chega! launched at Westminster

**Chega!, the highly-praised report of Timor-Leste's Commission for Reception, Truth and Reconciliation (CAVR) was launched in the UK Parliament on 28 November at an event sponsored by TAPOL, the Parliamentary Human Rights Group (PHRG), Amnesty International, Human Rights Watch and Progressio. Timor-Leste's Prime Minister, José Ramos-Horta, provided a keynote message of support. Chega! is now being disseminated throughout Timor-Leste, but implementation of the report awaits consideration of its findings by Timor-Leste's national parliament.**

The main purposes of the launch, timed to coincide with a similar event in Canberra, were to raise awareness of *Chega!* and to urge UK parliamentarians to:

- insist that impunity is not tolerated and press for the implementation of relevant recommendations on justice made by the CAVR and UN-appointed Commission of Experts [see *TAPOL Bulletin* No. 184, p. 14];
- encourage their counterparts in the *Timor-Leste* Parliament to consider the report and to facilitate the implementation of relevant recommendations;
- press the UK government, as a major funder of the CAVR, to formally respond to *Chega!*, particularly to the recommendations addressed to the UK, and to propose that *Chega!* be considered by the UN Security Council.

The event was chaired by Ann Clwyd MP, the chair of the PHRG. It was attended by MPs, NGO representatives and the Foreign Office.

Extracts from the documentary about the work of the CAVR and the history of the Timor-Leste conflict, *Dalan ba Dame*, were shown. The event was then addressed by former CAVR Commissioner, Father Jovito de Araujo, Timor-Leste's Ambassador to the European Union, José Amorim Dias and a representative of *REDE Feto*, Timor-Leste's women's national network, Ivete de Oliveira.

## Message from Prime Minister Horta

The following is an unedited transcript of a video message recorded by Prime Minister José Ramos-Horta for the UK and Australian launches of *Chega!*:

'The CAVR process was an extraordinary endeavour both in terms of the workload, the magnitude of the task undertaken by the Commissioners, but also in terms of its



**Chega! launch at UK parliament, Westminster. Photo - Tapol**

emotional impact on anyone who go through that entire process that lasted several years or who dared to read the report and the conclusions and recommendations.

**'...an extraordinary endeavour in terms of the workload, the magnitude of the task and its emotional impact' – José Ramos-Horta**

'It's a mind-boggling, heart-breaking, brings anger, tears to anyone who is familiar with the history of the 24 years of occupation.

'The recommendations are far-reaching. Some are doable by the government, others might not be within our possibilities to do it, but what I can say is that as prime minister of this country I will do my best to co-operate, to assist, to support first in the dissemination of the report so that it becomes a learning process for all of us so that we

learn from the past, so that we don't repeat the same errors that in part contributed to this tragedy, but also other more concrete recommendations contained in the report, recommendations the government as a whole, with the parliament and others we will endeavour to implement them.

'We owe it to the people. We owe it to the victims. We owe it to the current generation and the future generation so that Timor-Leste can live in peace and in harmony.'

## Father Jovito

In his address, Father Jovito made the point that *Chega!* was not the end of the road and that it was important for all concerned to see the process through to the end. He also stressed the relevance of *Chega!* to the situation of unrest in Timor-Leste in 2006. People's exposure to violence and impunity had led to some of them becoming addicted to violence and being easily traumatised, he said.

The lessons of the report had to be learnt and acted upon so that Timor-Leste could become a stable, non-violent country. He said that the report did not support the claim (made by some during last year's crisis) that some parts of Timor-Leste had suffered more than others under the Indonesian occupation.

Father Jovito highlighted certain of *Chega!*'s recommendations, including the need for the report to be debated by the UN and for measures to be taken to ensure the professionalism and neutrality of the police and defence forces. The challenge now is to get *Chega!* acted upon. Financial assistance to the post-CAVR secretariat would be useful, he said.

## in one village, virtually all the women had become widows

### Ivete de Oliveira

Ivete de Oliveira said that *Chega!* had provided some hope for the women and children victims of the conflict. It told the truth about what had really happened to them, but brought back painful memories.

She described in distressing detail how many children of rape victims didn't know their fathers; how there were instances of pregnant women being raped; how women were threatened that their children would be killed if they didn't submit to the soldiers' demands; how military equipment was used to facilitate rape; how crimes of sexual violence increased during major military operations; how women were made slaves of military officers; how one woman gave birth to five children each by different fathers; and how in one village, virtually all the women had become widows.

Oliveira explained how the victims' suffering was magnified by the cultural difficulties in the way of rehabilitation. Victims were stigmatised and ostracised by their communities. They felt shame and humiliation in testifying to the CAVR. Now they want justice, to empower themselves and to be involved in nation-building.

### José Amorim Dias

In endorsing the statements of his prime minister, José Amorim Dias said *Chega!* reflected what each one of the Timorese had suffered in the past. Everyone had lost at



## *Chega!*

### The Final Report of the Timor-Leste Commission for Reception, Truth and Reconciliation (CAVR)



least one family member. He said it was important for their brothers and sisters in Indonesia to learn about what their military had done to the Timorese.

It was also important for the Timorese – including the government and the church – to reflect on what had happened, correct their attitudes to the people, and work out what to do to help.

The patriarchal nature of the society was one issue that needed to be addressed.

### Timor Parliament's role

*Chega!* recommends that the National Parliament of Timor-Leste take primary responsibility for overseeing and monitoring the implementation of the report. Members of the international community, including the UK government and the United Nations, have demonstrated a reluctance to act on the report until the democratically-elected representatives of the Timor-Leste people are known.

The UK government has informed TAPOL that it will not respond – even to those recommendations that directly concern the UK – until the report has been considered by the National Parliament. In his recent report on justice and reconciliation in Timor-Leste [see *TAPOL Bulletin*, No. 184, *ibid*], the UN Secretary-General noted that Parliament had not yet started debate on the report.

The PHRG and the NGO sponsors of the UK launch have agreed to lobby the Parliament on this important issue. The PHRG will also encourage the Parliament to join the International Parliamentary Union, IPU, which has a sub-committee on human rights and next meets in Bali in April 2007.

continued on page 24

# Economy blighted by poverty and corruption

**There are two sides to the Indonesian economy. In terms of key economic indicators, it is seen as stable and solid, but there is another, darker side. Recent figures indicate that at least half the population is living in poverty. To add to the problems, little progress has been made in dealing with the corruption that is blighting the economy.**

The standard economic indicators used by most economists would suggest that there is nothing to worry about. Foreign exchange reserves are reassuring, inflation has remained steady at around 5 per cent, the rupiah has enjoyed relative stability, interest rates have been falling and exports are booming.

## **Corruption a 'heavy anchor'**

It was none other than Paul Wolfowitz, now head of the World Bank, who described corruption as the 'heavy anchor' holding back Indonesia. Wolfowitz is no stranger to Indonesia, having been the US ambassador for a period during the Suharto era. In those days, the World Bank refrained from mentioning the 'c' word, but now Joel Hellman, who heads the World Bank's Indonesia anti-corruption unit, concedes that the Bank must share the blame for ignoring the regime's excesses and allowing billions of dollars to be siphoned off.

Referring to a major project using \$10 billion allocated to post-tsunami reconstruction in Aceh, much of it funded by Australia, Hellman said: 'Now our projects have layer upon layer of safeguards to try and prevent bribery, and even still, we're constantly faced by the problem, and by no means have we solved it.'

He also said an internal investigation had found a large British consultancy firm (name not mentioned) that had greased the palms of numerous Indonesian officials. Under the Bank's anti-corruption guidelines, it wrote to the Indonesian government four months ago cancelling \$10 million allocated to three road projects and demanded that \$6 million paid to the firm be re-funded, but the Government refused, and even blasted the Bank for making the matter public. But the chief executive of Indonesia's planning board, *Bappenas*, said it was a two-way process, that there were irregularities in the awarding of the project, suggesting that World Bank personnel were involved. [Sydney Morning Herald, 17 November 2006]

Speaking at a seminar on Corruption and Culture last December, sponsored by the US embassy and the University of Atmajaya, Indonesian historian Anhar Gonggong said that corruption was rooted in the country's culture and took various forms. A recent survey by Transparency International found that most Indonesians believe that the House of Representatives, the police and the judiciary are the most corrupt institutions in the country.

Another speaker, from the Catholic Council of Bishops, Father Benny Susetyo, said that corruption had become endemic in society while the political system made those in power more corrupt. In his words, corruption 'is caused by the massive concentration of power in decision-makers who do not have any direct responsibility to the people'. He even argued that Indonesians could commit corruption legally 'when the state makes legislation that accommodates the bribers'. [Jakarta Post, 16 December 2006]

According to Transparency International's annual reports on corruption, Indonesia was the sixth worst performer out of 163 countries in 2004. It improved slightly to seventh worst in 2005

## **Major corruptors untouched**

Anti-graft activists are critical of the Yudhoyono government for failing to take action against major corruptors based in the State Palace during the Suharto era and against the military. Denny Indrayana, the chairman of Gadjah Mada University's anti-graft study centre said members of the Suharto family and the military were being ignored as well as a group of the

## **Indonesia was the sixth most corrupt country out of 163 in 2004**

conglomerates accused of swindling massive funds from the Bank of Indonesia Liquidity Fund (BLBI).

The SBY government was criticised for only going after low-ranking or former officials in corruption cases, without ever touching the four targets. Efforts to start an investigation of the four targets fizzled out with little fanfare several years ago.

The corruption allegations against the family of Soeharto have become a perennial headache for the Yudhoyono administration. 'The likelihood is that until the end of his term, Yudhoyono will do nothing against the Cendana (Suharto) family,' Denny said..

As for the military, which Denny said he suspected had a history of corruption cases involving arms purchases, it has never been investigated. [Jakarta Post, 15 January 2007]

## **Corruption Eradication Commission to be abolished**

In a surprise decision, the Constitutional Court announced in December that the Corruption Eradication Commission (KPK) would be abolished in three years time, along with the Corruption Court (*Tipikor*). In response to the decision, Teten Masduki, head of Indonesia Corruption Watch, said that even though this would happen in three years' time, the Constitutional Court had 'scored a victory for corruptors'. He warmly praised the work of the Corruption Court which always came down against the corruptors and in cases where they needed to appeal

against a decision, they further strengthened their arguments. He warned that the three-year grace period could be used by the Constitutional Court to intervene in pending cases such as the recent high-profile case of an alleged major corruptor Bagir Manan. Furthermore, as is well known, the Indonesian parliament is also very resistant to moves to combat corruption. [*Suara Pamburuan*, 21 December 2006]

## The scourge of poverty

While most economic indicators suggest that the economy is doing well, commentators who look beyond these indicators, point to a very different reality. According to B. Herry-Priyono, writing in *The Jakarta Post*, the most important news came on 7 December 2006, with the release of a 350-page report by the World Bank revealing that 108.78 million Indonesians are living on less than \$2 a day, the equivalent of the cost of a cup of cappuccino in a modest café in Jakarta. Of these 108.78 million, 69 per cent live in rural areas and 64 per cent work in agriculture, 75 per cent work in the informal sector while 55 per cent have less than a primary education.

Some economists argue that with a booming corporate sector, the best way to deal with the poor would be to incorporate them as quickly as possible into the corporate sector. But according to Herry Priyono, this remedy would only entrap the poor into greater dependence. He turns instead to the ideas of Muhammad Yunus from

## at least half the population is living in poverty

Bangladesh, winner of the 2006 Nobel Prize, who argues that far from formalising the informal sector, poor people should be helped with small amounts of capital and entrepreneurship on the basis of their own strengths, potentials and energies. [*Jakarta Post*, 30 December 2006]

In an editorial on 20 December, *The Jakarta Post* argued that the \$2 poverty line is meaningless, because 'the dollar is not valued at its current exchange rate against the rupiah, but at the rupiah's purchasing power parity, which this year is set at about Rp 3,250 per American dollar. Hence, the poverty line (\$2) amounts to daily spending of Rp 6,500 (\$2) per person, which is certainly far from sufficient for fulfilling even the most basic needs for living in a large city like Jakarta.'

Bullish sentiments on the Indonesian stock exchange mean nothing to these poor people none of whom own shares. What the government has failed miserably to do is to help deliver productive jobs that provide a living wage, wrote the *Jakarta Post*.

According to official statistics, 11.6 million people are unemployed, which amounts to 11 per cent of the workforce, while the number of under-employed, that is people working less than 35 hours a week, amounts to a whopping 45 million. A recent labour survey showed that 60 per cent of the jobless are elementary or high school graduates and school dropouts aged between 18 and 35. These people are at the heart of prevailing social problems.

Mass rallies in many Indonesian towns held to mark May Day last year forced the government to drop its plan to review the labour law. The unions had rejected proposals by employers that they should be allowed to engage in outsourcing their core businesses so as to

minimise labour costs. This would free them from paying severance pay to dismissed workers and enable them to simplify recruitment of expatriates.

The Minister for Manpower and Transmigration has reformed and simplified labour export procedures to make it possible for more Indonesian workers to be shipped abroad for jobs. In 2004 and 2005, around 450,000 workers were sent abroad, of whom the vast majority are women.

Attention was also drawn to the continuing transmigration programme to re-settle people from Java to the less populated outer islands. The government has been accused of being slow in resettling poor families and job seekers to the transmigration areas. As a result, the bulk of the resettled families have ended up in miserable conditions. The programme has also led to conflicts with the local people whose ancestral lands have been given to newcomers. More than 500 transmigrant families from Poso, East Timor and Ambon have left their homes in Talakar and Soroako, South Sulawesi, because of conflicts over land, while others left because the land was unproductive. [*The Jakarta Post*, 26 December 2006]

## Mud continues to flow in East Java

The mudflow which has been inundating villages in East Java since last May, is still gushing, with no end in sight to the disaster. [See *TAPOL Bulletin* No 184, October 2006] Latest figures suggest that as many as 24,000 people have been affected. To make matters worse, a gas pipeline near the centre of the gushing hole exploded in November, killing 13 people.

The 'mud volcano' as it is now being called has been spewing up to 120,000 cubic metres of sludge from its core each day. Whole villages in East Java have been buried to their rooftops. The flow has covered more than 400 hectares and buried the homes of 24,000 people, half of whom are still sheltering in a refugee camp. A toll road has been cut, 24 factories inundated, and the mud is now inching dangerously close to a railway line. [*Daily Telegraph* (Australia) 30 December 2006]

According to recent press reports, the authorities have now given up trying to stem the flow and have decided to try to re-direct the flow out to sea, in the Madura Strait. Meanwhile, estimated compensation payments continue to mount. The two companies involved, PT Lapindo Brantas, a subsidiary of PT Energy Mega Persada which is controlled by the family of Abdurizal Bakrie, the Minister for Social Affairs in the Yudhoyono government, and an Australian company, Santos. The Bakrie family is reputed to be one of Indonesia's wealthiest families.

A dispute has been brewing about the cause of the disaster. Some say that it was caused by an earthquake in Yogyakarta which occurred just six hours before the flow started, while others argue that it was triggered by malpractice and failure to install proper casing on the well.

The two companies at the centre of the disaster now face compensation payments by March this year of as much as \$530 million to the affected villagers and to restore damaged roads, buildings, and factories.

Since the tsunami in December 2004, Indonesia has suffered a stream of smaller disasters, while seismologists warn that more disasters are on the way for a country that is sitting on a 'Wall of Fire'.

# Human rights briefs

## Activists attacked

On two occasions in December, gatherings of human rights activists were disrupted by paramilitary gangs and forced to disband. These unlawful attacks occurred in the presence of police who did nothing to protect the activists, in gross violation of the freedom of expression guaranteed under the Indonesian Constitution and by the International Covenant for Civil and Political Rights of which Indonesia is a signatory.

A public event organised on 12 December by local human rights advocacy groups in Surabaya, East Java, to celebrate Human Rights Day was violently disrupted by unidentified members of the Anti-Communist Front (*Front Anti-Komunis FUI*). The event was being held to screen several political documentaries. One was a film made by Australian film-makers called 'Shadow Play' which focuses on the massacres that took place in many parts of Indonesia in 1965-66, when hundreds of thousands of people were killed. The other was 'Stage Limit' which is about the abductions of pro-democracy activists in 1997-98.

Shortly after noon, more than 100 members of the FUI gate-crashed the event with the clear intention of forcing those present to disperse. The disruptors demanded that the screening be halted as it would encourage 'communist ideology' and anti-Islamic sentiment in the public. They also threatened to kill those taking part. Fearful of their safety, the organisers abandoned the gathering. FUI members then seized all the documentary films, while police stood by without intervening.

The other event took place on 14 December in Bandung, West Java. This was a public discussion on the issue of Marxist movements. It included a lecture by guest speaker, Marhaen Suprpto, and took place at the Ultimus book-shop in Bandung. This too was violently disrupted by members of the so-called Youth of Military Veterans (*Pemuda Panca Marga – PPM*) who barricaded the bookshop with a vehicle flying a PPM banner. Their followers entered the hall and disrupted the discussion, forcing those inside to disperse. As they tried to leave the building, they were severely set upon by PPM members.

The guest speaker and two rather elderly people present at the lecture were taken to the police intel office and held overnight. However, no action whatever was taken against the members of the paramilitary groups who had violated their right of assembly and freedom of expression.

These two very serious incidents and the failure of the police to give these lawful events any protection represent a serious challenge to democratic processes and are clearly intended to incite actions against human rights groups, using anti-communist slogans.

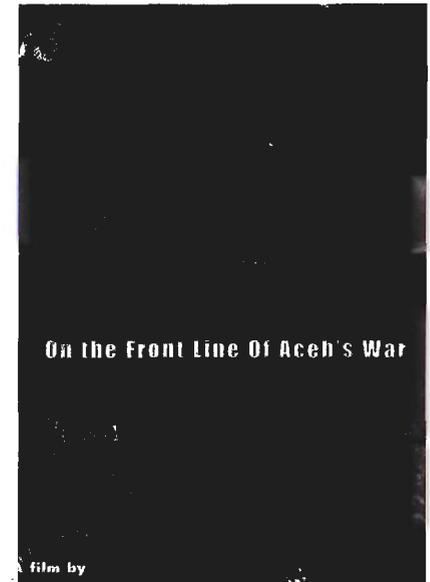
## Films about Aceh and East Timor banned

In November the Indonesian Film Censorship Institute, LSF, prohibited the showing of three films about Timor-Leste and one about Aceh, at the 8th International Film Festival in Jakarta in December.

'The Black Road', about Aceh, is a documentary by the US journalist William Nessen who spent several months with the Free Aceh Movement, GAM, in 2003. He was detained when he emerged from his hideout and imprisoned for covering clashes between the army and GAM. The three banned films about Timor-Leste are: 'Tales of Crocodiles' by a Dutch film-maker, 'Passabe', by Singaporean James Leong, and 'Timor Loro Sae' by Brazilian film-maker, Lucelia Santos.

The three films about Timor-Leste were also refused showings at the 2005 Festival.

Reporters Without Borders, the worldwide press freedom organisation, strongly criticised the decision. 'The return of peace to Aceh and East Timor should allow a free and calm debate on the situation in these two regions,' it said in a statement. 'But the government continues to choose the outdated method of censorship, which is regrettable.'



## Insulting President no longer a crime

The Constitutional Court issued a decision at the beginning of December scrapping three articles of the Indonesian Criminal Code which made it a crime to insult the head of state. The decision was taken in response to a submission by a lawyer who was acting for two men who were on trial for insulting President Yudhoyono.

The decision was taken by a split decision of the Court with five judges in favour and four dissenting judges.

The Criminal Code that is still being used in Indonesia was inherited from the Dutch era, and was frequently used during the regime of Suharto.

Welcoming the decision, Human Rights Watch said that the government should immediately and unconditionally release all those currently in prison for charges under the articles that have now been struck down and should instruct prosecutors to drop all pending charges for peaceful political expression.

Fakhrur Rahman, 21, a student from Jakarta's Islamic University, is the latest person to have been convicted for insulting the president. He was sentenced to three months imprisonment.

### **Police and prosecutor to appeal against Pollycarpus acquittal**

The Attorney-General and the police announced at the end of December that they would file for a review of the Supreme Court's decision to overturn the conviction of the pilot convicted of the murder of human rights activist Munir Said Thalib in September 2004.

Pollycarpus, an off-duty pilot who persuaded Munir to shift to a business class seat on board Garuda flight 974, where he was given refreshments laced with arsenic, was sentenced to fourteen years for his part in the murder conspiracy. However, the verdict was quashed by a

decision of the Supreme Court last October, leaving him to serve a two-year sentence for falsification of documents. Pollycarpus was released a few days before the New Year after a three-month reduction in the two year sentence for falsification.

Attorney General Abdul Rahman Saleh could not say when he would submit the final appeal to overturn the Supreme Court's verdict but said: 'Big questions (about Pollycarpus) still remain. We will go after him.' He said that the murder trial had revealed facts that linked Pollycarpus to Munir's death. 'Why did he falsify the documents? Why did he call up Munir's wife (before boarding)? Why did he offer Munir to exchange their seats? Those questions are still left unanswered,' he said.

Police chief General Sutanto said earlier that they would summon new witnesses in an effort to shed new light on the murder of Munir in 2004. 'We are still looking for new testimonies from the old witnesses and the new ones.' However, he declined to mention the names of the new witnesses nor say when any summons would be issued. [*The Jakarta Post*, 29 December 2006]

## **Labour updates**

### **UN expert calls for greater protection of migrant workers**

Following a visit to Indonesia from 12-21 December, the UN special rapporteur on the human rights of migrants, Jorge Bustamante, urged the government to ensure that recruitment agencies protect the rights of their workers and end all illegal recruitment and exploitation [*UN press release*, 22 December 2006].

He was particularly concerned about reports of sexual, physical, and psychological abuse, long working hours, and irregular payment of salaries.

Indonesia provides large numbers of migrant workers, mostly women, for overseas employees.

Mr Bustamante called on NGOs and other social actors such as the media, employers, police and immigration officials to remain vigilant and spare no efforts in protecting the rights of migrants living in Indonesia and the rights of Indonesians migrant workers abroad.

The special rapporteur expressed concern that a Memorandum of Association between Indonesia and Malaysia addressed the interests of employers and recruitment agencies 'without equal consideration for the human rights of the migrants themselves' [see *TAPOL Bulletin*, No. 183, p. 16].

He urged the Indonesian authorities to ensure that domestic law and its implementation complies with international obligations to protect the rights of women as defined in the Convention on the Elimination of All Forms of Discrimination against Women to which Indonesia is a party. A forthcoming report by Amnesty International will highlight concerns about the treatment of domestic workers in Indonesia.

The special rapporteur encouraged the Government to ratify the 1990 Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

He will now provide the Government with recommendations on these issues in his report to the Geneva-based Human Rights Council.

### **Musim Mas: Mixed news on jailed union leaders**

Three of the six men jailed for their union activities at the giant Musim Mas oil palm plantation and processing plant in Riau province were granted remission of their sentences and released from prison as a gesture to mark the beginning of the Muslim festival of Idul Fitri on 24 October 2006.

The six men were arrested following a strike and demonstration at the plant in September 2005. The dispute arose over a question of union recognition and the implementation of minimum working standards. The men were charged in relation to damage caused to a factory gate and injuries to two company employees, although there is no evidence they were involved in any violence.

The three remaining men, Robin Kimbi, Masri Sebayang and Sruhas Towo, are still in jail. They have been adopted as prisoners of conscience by Amnesty International, which is seeking their immediate release.

See also *TAPOL Bulletin* No 182, p. 20 and No 183, p. 15.

**Neles Tebay, *Interfaith Endeavours for Peace in West Papua, Pontifical Mission Society, Aachen, Germany, 76 pages.***

**Clinton Fernandes, *Reluctant Indonesians: Australia, Indonesia and the Future of West Papua, Scribe Short Books, Melbourne, 138 pages.***

There has been a welter of books appearing in the past year or so about West Papua, a sign that this issue is at last beginning to get the attention that it deserves. The two books under review are particularly welcome in that they are both of modest length, concise in presentation and provide an excellent introduction for people seeking to understand an issue that has for far too long been out of sight. If one considers that West Papua fell under Indonesian control more than forty years ago, since when there have been endless atrocities, massive violations of land rights and the unwelcome influx of tens of thousands of settlers from Indonesia, the publication of these two books is very welcome. University and public libraries should be encouraged to obtain copies as quickly as possible.

The author of *Interfaith Endeavours*, Fr Neles Tebay, a Papuan priest who has spent the past several years studying in Rome, is a regular columnist in *The Jakarta Post*, Indonesia's leading English daily. He is a widely-acknowledged expert on the issues confronting his people. He explains in the Introduction that the leaders of all faiths, Christianity (Catholic and Protestant), Islam, Buddhism and Hinduism, took the initiative to campaign jointly for peace in 2000 when they began interfaith collaboration to work together for peace under the motto, 'Land of Peace'.

The main aim, he writes, is 'to ensure that peace prevails in Papua, irrespective of whether it remains an Indonesian province or becomes an independent state'. In other words, campaigning for peace must be acknowledged as being different from campaigning for political independence.

The well-argued pamphlet then proceeds to itemise the threats to peace in Papua, starting with a section titled: 'Military operations as the first resort'. Altogether twelve military operations are listed, starting with *Operasi Sadar* or *Operation Consciousness* in 1965 and ending with an operation in *Puncak Jaya* in 2004.

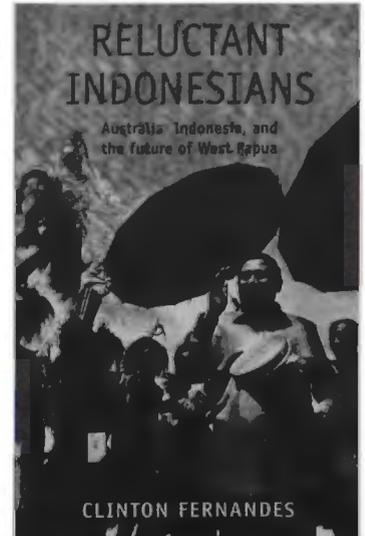
But Papuans have suffered many other indignities such as the exploitation of their natural resources; massive human rights violations, the malfunctioning judicial system, the culture of impunity, the marginalisation of the Papuan people, and neglect of health care including the inadequate response to the spread of HIV/AIDS, and the lack of decent education.

The central government is accused of leaving many issues unresolved, including the controversial 1969 Act of Free Choice. As for the law on special autonomy, the

religious leaders say that it has 'failed to improve the plight of Papuan communities'.

He draws attention to the composition of the population. In 1960, the population of 736,700 was entirely Papuan but forty-two years later, it is composed of 1.24 million Papuans and 1.14 million Indonesians. At this rate, within a few years, Indonesians will comprise the majority. All government and private offices are dominated by migrants, while Papuans lose out in competition in the markets. Because of the lack of health care facilities, many die of preventable diseases, while fifty per cent of children under five are malnourished.

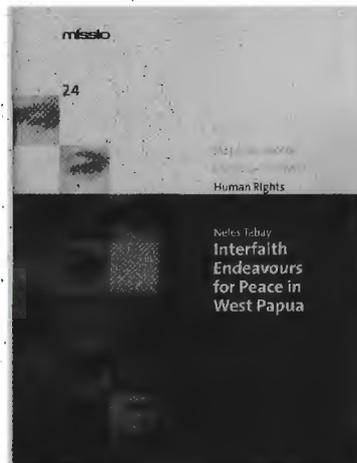
Packed with facts like this about the plight of the Papuan people, this short book is an indispensable read for activists and anyone wanting to know why Papuans are so unhappy about their present plight as Indonesian citizens.



*Reluctant Indonesians* by Clinton Fernandes is written primarily for an Australian audience and has no doubt already played a significant role in raising consciousness in that country about conditions in their neighbour to the north.

Drawing attention to the hypocrisy of Australia's position towards Indonesia over the years, Fernandes argues that three mantras are used by Canberra to pacify the Australian public regarding Australia's close relations with Indonesia. The first is that it promotes Australia's national interest, but ties with Indonesia are mainly with the military who pose perhaps the greatest obstacle to Indonesia's democratic transition so, he asks, why a close relationship with the Indonesian military is in Australia's national interest. The second mantra is 'to stop meddling in Indonesia's affairs'. Yet, over the years, Australian governments have pursued policies which have been clearly interventionist. The third mantra is to 'prevent disintegration, fragmentation, instability'. One argument used by Prime Minister John Howard not to support West Papuan independence was that 'the last thing Australia would want is a fragmenting of Indonesia'. Yet, during the days of regional conflicts in the 1950s, Australia was very much in favour of the fragmentation of Indonesia. Indeed, the headquarters of the Australia Department of Foreign Affairs and Trade is named after R.G. Casey by the present Foreign Minister Alexander Downer in 1996. Casey was responsible for Australia's participation in a massive military operation to break Indonesia part.

In a chapter called 'Meddling to Deadly Effect', the author points out that during the days of the army coup which brought Suharto to power in 1965, Radio Australia played an important role because of its high-signal strength and huge audience in Indonesia. The station was told to 'be on guard against giving information to the Indonesian people that would be withheld by the Army-controlled internal media'. The Australian ambassador in Jakarta worked to ensure that it gave 'prominent coverage' to reports of PKI involvement and Communist China complicity'.



The central chapters of the book provide a comprehensive account of West Papua's history from the Act of Free Choice in 1969, its experience as an Indonesian province and the contribution it makes to Indonesia's economic prosperity with its abundant natural resources.

A chapter devoted to West Papua's fate after Suharto briefly runs through subsequent policies. Under President Habibie the first (and as yet only) dialogue with a Team-of-100 was held. When the Team started off by saying that what Papuans want is independence, it left him in 'stunned silence' and ended the talks. President Abdurrahman Wahid, adopted a much more sympathetic approach, changing the name Irian Jaya to Papua and making a generous donation to the June 2000 musyawarah besar. He also consented to Papuans flying their flag as a 'cultural symbol'.

But the Papuan Spring under Wahid soon came to an end with Wahid's replacement by Megawati in July 2001. Four months later, the great Papuan leader, Theys Eluay was assassinated. The commander of the Indonesian army, General Ryamizard Ryacudu later described the convicted murderers as 'heroes because the person they killed was a rebel leader'.

Special Autonomy is analysed as a betrayal of what had been promised to the Papuans. Partition was imposed under Megawati and cynically called '*pemekaran*' an Indonesian word that means 'blossoming', which is nothing less than a euphemism for 'divide and rule'. Although Special Autonomy permits the flying of the West Papua flag as a symbol of cultural identity, two Papuans who did so in 2004 are now serving long prison terms. 'As long as Special Autonomy means a Jakarta-imposed caricature,' he writes, 'rather than a genuinely democratic institution, Australian support will conceal more than it reveals'.

In his final chapter which is modestly called 'A Way Forward', the author focuses in particular on empowerment of Papuans and the role of the military. As he points out, President Yudhoyono's policy of empowerment for the West Papuan people 'is certain to run afoul of the Indonesian military'. While we would argue that it is very difficult to make an accurate estimate of the number of troops now in West Papua, Fernandes quotes one estimate that puts the present military force in West Papua at 25,000. Given that the population of West Papua is now around 2.5 million (Papuans and Indonesian migrants), this means there is one security personnel for every one hundred people. This is higher than the ratio of coalition troops in Iraq. Indonesian soldiers enjoy impunity in West Papua (as indeed they do elsewhere in Indonesia), a situation confirmed all too accurately by the US State Department's March 2006 report which states that 'the Indonesian Armed Forces consider anyone killed by its forces in conflict areas to be an armed rebel. The government largely failed to hold soldiers and police accountable for such killings and other serious human rights abuses...'

Reluctant Indonesians is a hard-hitting and well documented book which makes it is a very valuable addition to the growing volume of books now available about West Papua.

Carmel Budiardjo

continued from page 18

## Passabe screening

TAPOL and others also plan to organise a public screening in London of the acclaimed film, Passabe, which tells how victims and perpetrators in the village of Passabe, on the border of the *Timor-Leste* enclave of Oecusse and Indonesian West Timor, attempt to come to terms with their horrific past. Contact Tapol for details of the screening or copies of the film are available from - [www.passabe.com](http://www.passabe.com).

*Chega!* is available online at [www.cavr-timorleste.org](http://www.cavr-timorleste.org). CD-Roms of the report and copies of the booklet, 'Introducing...*Chega!*' are available from TAPOL.

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