



VICTORIA UNIVERSITY
MELBOURNE AUSTRALIA

Tapol bulletin no, 168, September 2002

This is the Published version of the following publication

UNSPECIFIED (2002) Tapol bulletin no, 168, September 2002. Tapol bulletin (168). pp. 1-24. ISSN 1356-1154

The publisher's official version can be found at

Note that access to this version may require subscription.

Downloaded from VU Research Repository <https://vuir.vu.edu.au/25969/>



The Indonesia

Human Rights Campaign

TAPOL Bulletin No. 168

September 2002

Emergency continues to grip Aceh

Since July a political issue constantly on the front pages in Jakarta has been the likelihood that a civil or military emergency/martial law will be declared in Aceh. The idea was first floated by retired Lt. General Susilo Bambang Yudhoyono, the Coordinating Minister for Political and Security Affairs and soon became a major topic for the media.

However, all the talk about declaring a state of emergency in Aceh is beside the point because the Acehnese have been living in a state of emergency for decades. With the exception of a short interval of relative peace in 1999 and 2000, most parts of Aceh can be described as war zones. The death toll since the beginning of the year has risen to around fifteen people a day, most of them civilians. Clashes between the TNI (Indonesian armed forces) and/or POLRI (Indonesian Police) on the one hand and GAM (Free Aceh Movement) on the other are virtually daily occurrences.

The government's move to raise the issue of declaring an emergency in Aceh is more to do with the political situation in Jakarta where Cilangkap, the TNI headquarters, is increasingly calling the shots. The military leaders want to grab even more power than they already have. At the beginning of August, Major-General Djali Yusuf, the military commander of Iskandar Muda, the military command of Aceh, made a report to President Megawati, in which he spoke of the continuing violence in the region and accused GAM of great brutality. He also announced the creation of a special unit, *Satgas Rajawali* (Rajawali Special Unit), a combat unit trained and equipped for counter-insurgency and anti-guerrilla warfare. The Rajawali units include troops from the army (*Kopassus*), the navy (Marines), the air force (*Paskhasau*) and *Kostrad*, the army's strategic corps.

In response, President Megawati instructed Major-General Djali Yusuf to 'act decisively' against all those involved in acts of violence. From that moment on, all the focus of attention was about declaring an emergency situation in Aceh.

DOM and the emergency

Ever since the birth of the Indonesian Republic in 1945, the use of violence by Indonesian troops has been a regular feature.. The resurgence of rebel movements such as the Darul Islam and the RMS (South Maluku Republic) in the fifties was met by Jakarta with swift military action, always accompanied by great brutality.

After the resurgence of GAM in the late eighties, the dicta-

tor Suharto turned Aceh into a *DOM* (*Daerah Operasi Militer* or military operations zone), which gave the military free rein to do whatever they thought fit. In practice this meant special forces, notably *Kopassus*, the red berets combat unit, using their intelligence agents to extract information from villagers. According to official figures, the death toll during DOM, from 1989 till 1998, was at least one thousand; a similar number disappeared and thousands were left physically disabled, widowed or orphaned. After the fall of Suharto, DOM was lifted but in 2000 the military started to apply the same violent methods again. DOM had again become the reality though no one was calling it that. During the Wahid presidency several new constructions were initiated. A special autonomy law which renamed Aceh as *NAD* (*Nanggroe Aceh Darussalam*) was enacted by parliament but it has made little difference on the ground. In 2001 two presidential instructions or *Inpres* (*Instruksi*

ACEH

Emergency continues to grip Aceh p1
Rights violations continue unabated p4

MALUKU

Maluku is now a closed territory p7

WEST PAPUA

Problems mount in West Papua p9
Unexplained killings in Merauke p11
Is a zone of peace possible in West Papua? p12

WOMEN'S RIGHTS

Violence against women p14

JUSTICE

Indonesian justice in serious trouble p16

HUMAN RIGHTS

Will these generals ever be brought to trial ? p20
Appeal to support former *tapols* p24

EAST TIMOR

New revelations about about 1999 mayhem in Timor p22

BOOK REVIEW

Bitter Dawn by Irene Cristalis p23

Presiden) were issued to deal 'comprehensively' with the situation in Aceh but in practice only the security measures as prescribed by TNI/Polri were implemented. After becoming president in July last year, Megawati issued yet another Inpres this year which, like its predecessors, claims to be aimed at seeking a 'comprehensive' solution but all that has happened is that violence has increased significantly since the beginning of the year. The Inpres was due to expire on 31 July and this has been used as the justifica-



Lt. General Susilo Bambang Yudhoyono (right) arriving at the airport received by Governor Abdullah Puteh.

tion by the TNI to press for a stronger military solution.

It is more than obvious that the military wants something more than just an Inpres. Firstly, they want more troops in Aceh, and secondly, with their experiences in East Timor still fresh in their minds, they want to be given a legal umbrella that would protect them from facing charges of gross human rights abuses or crimes against humanity.

Despite the successes of the recent military campaign in Aceh, GAM guerrilla units are still present in large numbers in the countryside. Members of the security forces openly admit that it is very difficult to distinguish GAM people from the local population, thereby giving credence to the popularity of GAM among the population. The call for an increase in the number of troops is the army's way of dealing with this situation.

The demand for an emergency situation in Aceh coincided with the start of the ad hoc trials on East Timor, where a few highly-placed TNI officers are facing trial. [See separate article.] Although no Indonesian human rights activist is convinced that the generals responsible for the mayhem in East Timor will be duly punished, the trials are nevertheless a humiliation for the armed forces. No one denies that the ad hoc trials would never have happened without strong international pressure.

On the opening day of the first trial, top generals demonstratively sat in the first row of the public gallery and embraced their colleagues when they arrived in court as defendants. TNI headquarters, represented by spokesperson Major General Syafrie Syamsuddin, whose own hands are stained with East Timorese blood, made it clear that the armed forces do not accept the present situation. TNI basically wants absolute impunity in Aceh and don't care whether it is called a military emergency, a civilian emergency or whatever. The DOM situation introduced in 1989 by President Suharto gave TNI the kind of security they are now seeking.

The political process

The idea of declaring an emergency in Aceh created quite a stir in Indonesia. Outspoken NGOs were strongly against it while most public figures and political commentators warned against it. Some members of parliament said that the government had basically failed to handle the situation in Aceh properly and concluded that TNI/POLRI had failed to create a conducive situation for security for the Acehnese.

The bottom line regarding an emergency situation is that it will only worsen the situation; that it will increase violence while at the same time jeopardising the negotiations between GAM and the Indonesian government. In an attempt to sort things out, Coordinating Minister for Political and Security Affairs Susilo Bambang Yudhoyono (SBY) paid a brief visit to Aceh to consult different sectors of society. Yet the trip was hardly necessary because it was obvious that everyone in Aceh, even including the governor, Abdullah Puteh, known as a prominent member of the Jakarta elite, rejected the suggestion that an emergency should be declared.

There is a difference of opinion between political generals like SBY and the military top brass on Aceh. SBY is trying to maintain a balance between the negotiation strategy and the military strategy. During his brief visit to Aceh, civil society there used the opportunity to express total rejection of an emergency. Every day demonstrations took place in Banda Aceh and in a closed meeting with NGO representatives, a Position Paper by Acehnese NGOs was handed over expressing the view that the conflict should be resolved by just and democratic means while avoiding the military approach.

What SBY succeeded in doing, whether intentionally or otherwise, was to turn the issue into a major political issue. The very idea of declaring a military emergency gave Acehnese civil society across the entire political spectrum an opportunity to speak out, saying that dialogue is the best way to proceed. Articles and comments in the media drew attention to the fact that at the latest round of negotiations in Geneva in May/June, mutual agreement was reached that a new approach, called All Inclusive Dialogue (AID, original in English), should be pursued. Although the modalities of AID have not yet been worked out, the general assumption is that Acehnese civil society as a whole will take part, which means plural representation of society on both sides of the negotiations. Agreement was also reached on the need to have a cease fire.

Major western powers including the US and the UK have given clear signals to the government that negotiations is the way ahead. Washington gave the clearest signal by enhancing the role of the Herni Dunant Centre, which is facilitating the talks. A senior American diplomat, retired General Anthony Zinni, known for his mediating role in the Middle East conflict, was chosen by Washington to assist the HDC and was sent to Aceh in August. His task was apparently to examine the feasibility of securing a cease fire and how such an agreement would be monitored.

Overall TNI Strategy

The TNI general staff have made it clear in a number of statements that they reject negotiations. The generals argue that the talks have produced nothing and make it clear that they resent the very idea of the Jakarta government sitting round a table with 'separatists'. The army chief of staff,

General Ryamizard Ryacudu, has been the most forthright in presenting the army's logic: GAM is a separatist movement which wants to disrupt the unity of the state. Movements like this must be eradicated (*ditumpas habis*). [*Kompas*, 12 July 2002].

Some generals went even further and demanded an end to the HDC's role. These hard-liners include the chief of police in Aceh, Inspector General Yusuf Manggabarani and the military commander in Aceh, Major-General Djali Yusuf whose logic is that GAM is a 'terrorist' organisation. This means that the HDC is aiding an 'enemy of the state' and should be declared subversive.

But there are indications that all the fuss being made by TNI stalwarts about Aceh is part of a wider strategy to gain



Demonstration against the state emergency in Banda Aceh

a greater role at the heart of Indonesian politics again. Some military analysts argue that the Aceh conflict is being used by the TNI as a stepping stone back to power.

The Maluku conflict erupted in January 1999 while the reputation of the TNI was at its lowest ebb. TNI's involvement in starting and fostering the conflict is well known. The longer the Maluku conflict has continued, the more public opinion has shifted, from seeing the security forces as part of the problem to seeing it as part of the solution. The emergence of a strong military command in Ambon, *Kodam Pattimura*, headed by Major General Djoko Santoso, at present one of the toughest combat generals, is a clear victory for TNI. The agenda of the reform movement was to gradually downsize the territorial structure but instead of eradication, growth has been the answer by the TNI high command. [*See separate article on Maluku.*]

The same trend can be seen in Aceh. In February this year, despite a wave of protests, a new military command, *Kodam Iskandar Muda*, was established in Aceh, another major victory for TNI. But their demands went much further, demanding foolproof impunity for their military operations. Instead of being seen as the culprit, TNI is emerging as the 'guardian' of law and order in Aceh, or as the generals define it, the only force capable of guaranteeing the preservation of *NKRI* (*Negara Kesatuan Republik Indonesia*, the Unitary State of the Indonesian Republic).

Business bonanza

In economic terms, the conflicts in Maluku and Aceh have produced a bumper harvest for the army and the police. With the swift approval of parliament, the government allocated a generous budget increase for the TNI and POLRI, each getting an additional 1 trillion rupiahs (about US\$ 115 million). This was quite a feat, considering the economic problems still besetting the Indonesian economy, including a heavy domestic debt. The two territorial commands in Aceh and Maluku now have a tri-function: military, political and last but not least, an economic function.

The funding of the armed forces is usually described as 25 per cent against 75 per cent, the former being what they receive from the state budget while the latter is what they must find from other sources. In conflict areas like Maluku and Aceh, the figures are more extreme and are put at 10 to 90 per cent. The war economies in Maluku and Aceh involve security officers in practically every economic sector including a wide range of illegal activities such as illegal taxes, extortion, trafficking in women, prostitution, gambling and so on. In both places the military and police are also up to their necks in illegal logging, fishing and smuggling luxury goods into the country.

The TNI has a multiple agenda in Aceh. While the military top in Jakarta repeatedly promise to wipe out GAM, it is clear that many sections of the security forces are benefiting from the war economy and it is in their interest to keep the conflict going. The Aceh issue is also being used to blackmail the political elite in Jakarta, up to and including President Megawati, by insisting that they need all the manpower, equipment and money they can lay their hands on while enjoying impunity, allowing them to step up their brutality without fear of facing charges of human rights violations. *

continued from p 21.

The Indonesian chief of police of East Timor, Brig.General Timbun Silaen, who was in overall charge of security before and during the ballot, under the terms of the agreement reached between Indonesia and the United Nations, was acquitted. Five military and police officers who had been charged in connection with the massacre at the Suai church on 6 September 1999, when three priests and dozens of people taking refuge in the church were slaughtered, were all acquitted.

Altogether eighteen persons have been indicted before Indonesia's ad hoc human rights courts in connection with the killings and devastation that preceded and followed the ballot in East Timor on 30 August 1999. The most senior army officer to go on trial is Major-General Adam Damiri, who was military commander of the Udayana military command based in Bali which was in overall charge of the district military command in East Timor. The verdict in his trial is not expected for several weeks. *

[The editors apologise for the disjointed presentation of this report.]

Rights violations continue unabated

The huge presence of security forces is the major obstacle to regular and detailed reporting about rights violations in Aceh. Despite these difficulties, Acehnese NGOs as well as GAM have continued their monitoring about human rights violations in the regions. Daily reports continue to appear on the internet, a sign that serious efforts to report conditions in Aceh are a top priority.

The daily toll of civilian casualties in 2002 is creating its own negative dynamics. Instead of being properly covered in the Indonesian press, reporting about human rights violations has declined. The press in Indonesia is relatively free so the explanation as to why this massive tragedy is under-reported must lie elsewhere. There are probably several explanations but the main reason is saturation. Reporting about human rights violations in Aceh has lost its newsworthiness. It's just the same thing every day.

Another, more political reason is the public perception in Indonesia that the conflict in Aceh is a never-ending war between two armed forces, GAM and the TNI. Reporting in the Aceh press is slightly different because both sides can and do exert pressure on editors to publish their version of events and in particular, what they claim to be their own victories. The main daily, *Serambi Aceh*, regularly carries reports about clashes between TNI and GAM on the front page. Human rights groups abroad increasingly rely on email reports from a number of monitoring groups in Aceh.

17 August brings new pressure

With the approach of 17 August, Indonesia's national day, the Acehnese came under intense pressure to fly the national flag and make preparations for celebrations. Kontras, one of the leading human rights organisations in Aceh, reported that news about plans to hold an Aceh-wide strike on 17 August led to stricter regulations being introduced to obtain identity cards. People were also being prevented from purchasing more than a single day's supply of food.



TNI troops in Aceh, always on full alert.

The security forces were also meting out even swifter summary executions of persons taken into custody. The practice now becoming widespread is for persons taken into custody to be moved immediately to another place where they are heavily tortured and then put to death; the body is found on the following day. The many summary executions has made it even more difficult for human rights NGOs to conduct investigations of abuses.

Three women shot dead

SIRA reported on 2 August that a unit of fully armed Brimob, the police combat force, entered the village of Meunasah Blang Kandang, Muara Dua sub-district in North Aceh. According to a witness, the platoon was headed by Sergeant Syarifuddin, known for his brutality in previous killings of innocent civilians. The Brimob unit carried out house-to-house searches and opened fire in several houses, killing three women in front of their homes, while a fourth woman was shot in the shoulder. The names of the victims are:

1. Fatimah Hanafiah, 40 years
2. Kartini Abdul Wahab, 36 years
3. Fitridah Rasyid, 32 years

The injured woman, Mutia, 14 years old, was taken to hospital in Lhokseumawe for treatment. The police has so far said nothing about the operation in this village but the increasing number of skirmishes between AGAM and the security forces more often than not have serious consequences for villagers living nearby. North Aceh has been an area of conflict and a stronghold for AGAM and many villagers, especially in the Muara Dua subdistrict have been victims of grave harassment by the security forces.

The arrest of Reihan Diani

At the same time as demonstrations were taking place against declaring a state of emergency in Aceh, a demonstration took place in Banda Aceh on 13 July, to demand that the Megawati government be replaced by a people's government. The organisation leading the demonstration was Orpad (Organisasi Perempuan Aceh Demokratik, Acehnese Democratic Woman's Organisation). Seven activists of the organisation were arrested and taken to the police station. After interrogation, six were released but Reihan Diani, the chair of Orpad, was held and has remained in detention ever since. According to the police, she will face charges of insulting the head of state under Articles 134 and 137 of the Criminal Code, which makes her liable to a maximum penalty of six years.

It is not the first time that Orpad has been targeted by the security forces. In February this year they held a demonstration together with women stall-holders at the main

market in Banda Aceh. The security forces moved to stop the action and arrested one person. Two months later the office of Orpad was raided by unidentified persons. The office has been receiving threatening phone calls, calling them prostitutes and communists. Orpad has become one of the main targets in civil society in Aceh and international campaigning is needed to attract attention to the case of Reihan Diani.

Reihan's prison conditions are woeful. There is no bed in the police cell where she is being held and, according to Syarifah Murlina, her lawyer, Reihan's health has deteriorated. She is suffering from stomach pains and low blood pressure.

Protests and inquiries about the condition of Reihan should be made to the local police chief:

Kapolres AKBP Alfonds T.

Ph. 00 62 651 21636/21641 and Fax 00 62 651 41507

The murder of Muhammad Iqbal

Following a minor traffic accident between a student Muhammad Iqbal (20 years) who was riding a motorbike and Police Brigadier S, things quickly turned nasty. Iqbal, an economics student at Syiah Kuala University, tried to leave the scene but the officer fired a warning shot. Iqbal was frozen with fright and the policeman fired at his head, wounding him fatally. He died a few hours later in hospital. Violence seems to be the only way to resolve problems in present day Aceh.

Megawati downplays the need for action

In December last year, President Megawati made her infamous statement, assuring the security forces that they should not worry about committing infringements of human rights while they are in action.



Megawati in the clutches of the military (from RAKYAT MERDEKA, 15.07. 2002)

Now she has gone one step further, justifying the failure of the government and the judiciary to bring those responsible for past crimes against humanity to justice. In her address to the highest state assembly, the MPR, at its annual session in August, she said:

'In reality, to gather evidence of past crimes... is not a simple or easy thing to do.... Taking action without sufficient evidence, based on assumptions, ill-feeling, revenge or interest in bringing about disintegration of the nation and country will eventually produce new violations of justice, human rights and the due process of law.' [The Jakarta Post, 2 August 2002]

With such guidance from the top, no wonder nothing is being done to bring to justice those responsible for thousands of human rights violations in Aceh, going back to the days of DOM, and the many serious atrocities perpetrated since 2000.

'War against terrorism' overrides rights concerns

The US State Department has intervened in a lawsuit against Exxon, the world's biggest energy company. The company is accused of complicity in the murder, torture and rape of residents near the company's plant located in Aceh.

In a statement requested by the Washington court at the behest of the company, the State Department urged the court to dismiss the case, arguing that pursuit of the case would damage Washington's war against terrorism. The case is being brought by the International Labour Rights Fund, on behalf of eleven male and female Acehnese villagers whose relatives have been killed or who have themselves been victims in operations mounted by the security forces which are protecting the company.

In its letter to the court, the State Department said that 'Indonesia serves as a focal point for US initiatives in the ongoing war against Al Qaeda' adding that these efforts 'could be imperilled in numerous ways if Indonesia and its officials curtailed its co-operation in response to disrespect for its sovereign interests'. The letter also said that the lawsuit 'could also deter further US investment in extractive industries in Indonesia'. According to the New York Times (see article reproduced in the International Herald Tribune, 8 August 2002), the letter was a matter of contention between officials favouring a strong stance protecting human rights in Indonesia and those who wanted a strong commitment to the war on terror.

The State Department intervention has been strongly criticised by The Washington Post which said in an editorial [10 August] that the State's arguments 'are not convincing'. Recalling that the US administration had worked hard in 2000 to get oil firms to sign a human rights code, it asked: 'So why the argument in last week's letter that human rights obligations will unacceptably deter foreign investment?'

Human Rights Watch in Washington,

which is not a party to the lawsuit, accused the Bush administration of backtracking on the question of corporate responsibility. 'Corporate responsibility shouldn't stop at the water's edge,' said Kenneth Roth, executive director of Human Rights Watch. 'If the Bush administration is serious about promoting ethical business practices, it shouldn't be trying to stop this court case from going forward,' it said in a statement on 7 August. *

The Stavanger declaration

While politicians in Jakarta were discussing whether to declare a state of emergency in Aceh, in Stavanger, a remote Norwegian town, GAM, the Free Aceh Movement, held an historic three-day conference. Participants came from Aceh, several Asian and European countries, Australia and the US. Major political decisions were taken and the government was re-organised.

The conference decided to change the name used since 1976 from ASNLF (Aceh-Sumatra National Liberation Front) to Negara or Pemerintah Aceh (the Aceh State or Government). The military wing called AGAM (Angkatan Gerakan Aceh Merdeka, Forces of the Free Aceh Movement) is now called Tentara Negera Aceh or TNA. The term TNA is already being used in reporting but it may take time before Negara Aceh is commonly used. The name of the capital is changed back to Kutaraja, which was used since the 19th century. In the fifties, the central government changed the name to Banda Aceh.

The conference adopted a decision regarding the territory of Aceh, abandoning the claim to certain parts of Sumatra, which was based on treaties with the Dutch in 1873. The structure of the state is based on democratic principles and decisions were adopted regarding citizenship.

The chief of state or Wali Nanggroe, is Teungku Muhammad Hasan di Tiro and several ministers have been appointed: Teungku Malik Mahmood is the new prime minister and Teungku Zaini Abdullah is minister for foreign affairs concurrently minister of health. The department of information has been improved and the office in Sweden is now run by a director-general.

Diplomatic activities and international relations will be enhanced in Scandinavian countries, the European Union, North America, Australia and the South Pacific. *

continued from page 8

elements from both sides will continue to conduct acts of terror and attempts to provoke the population. Economic interests have also become a major reason why the extreme groups on both sides want to maintain the conflict.

Maluku seen from Jakarta

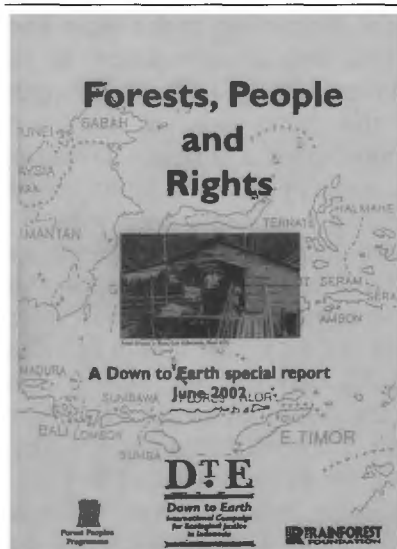
The situation in Jakarta remains unclear. President Megawati seems to have no interest in Malukan affairs. While she was vice-president under Wahid she was in charge of resolving the Maluku tragedy but failed woefully. The man in charge of Malukan affairs is retired Lt. General Susilo Bambang Yudhoyono (SBY), the Co-ordinating Minister for Politics and Security, a very ambitious man and a likely running mate of Megawati in the 2004 presidential election.

While SBY projects the acceptable face of Jakarta, the military simply want to rule over Maluku in their own way. It is not clear whether the hardliner wings of the military are willing to drop their political and logistic support for the militia groups and whether SBY and/or the TNI headquarters are willing or able to create a conducive situation in which civil society in Maluku is able to continue with their reconciliation activities. Experience during the past three years gives no grounds for optimism but there are hopeful signs that civil society is re-emerging in many parts of Maluku. *

continued from page 10

over his processed logs. In March, the village head of Yetti, Andrias Yombori, was also told he would be shot unless he handed over his timber. Another villager, Franz Putui, was actually shot at and had bullets whizzing above his head to make him surrender his logs. In June, five other villagers from Yetti were severely beaten and forced down onto their knees and told to eat soil, in order to force them to surrender their timber.

The ELS-HAM report contains the names of eleven young women all of whom were raped by members of an army battalion from Wonogiri, East Java, who were stationed in their village of Yuruf. *



NEW DTE REPORT ON FORESTS

Down to Earth's major new report, 'Forests, People and Rights', published June 2002, takes a comprehensive look at the ongoing crisis in Indonesia's forests and the continuing violation of forest peoples' rights. The three-part report outlines the state of the forests, discusses the legal framework which denies forest peoples their customary rights to forest lands and resources, documents the political economy of forest destruction under Suharto, and charts the development of large-scale plantations.

The report then examines changes in policy and practice during the post-Suharto period up to the present. It considers the influences of the International Financial Institutions such as the IMF and World Bank, regional autonomy and pressure from civil society organisations. 'Forests, People and Rights', then presents the case for community-based forest management as a positive alternative to 'timber-mining'. It highlights Indonesian organisations working in this area and includes short case studies of communities in Sumatra, Kalimantan, Sulawesi, Java and Lombok.

To order printed copies of the report (58 pages) send a cheque or money order for GBP 5.00 or USD 10.00 to: Down to Earth, 59 Athenlay Road, London SE15 3EN, England. Please add the equivalent of GBP2 if paying with a non-Sterling cheque. An RTF version of the report is available upon request. The report will also be posted on the DTE website at <http://dte.gn.apc.org/news.htm#forep>

Maluku is now a closed territory

It is conservatively estimated that at least 9,000 people have been killed and 400,000 have become refugees since January 1999 when the communal conflict between Muslims and Christians began in Maluku. In February 2002, a peace accord known as Malino II was signed. But it was a top-down accord and violence has since erupted in several places, notably the bloody attack on Soya in May, bomb attacks on the governor's office and most recently in the Ambon market place on 27 July.

The Malino II Accord was reached at a time of relative peace. People from the two communities had shown signs of war-fatigue and despite efforts to provoke conflicts, they remained localised and were more in the nature of elite conflicts, using extremist elements from both sides.

This relatively conducive situation was not the result of the Accord but had been present for many months. Efforts at a grassroots level to reconcile the two communities had started cautiously and at a higher level with an initiative known as Baku Bae. The Malino II Accord was defective because it made no attempt to involve the reconciliation efforts already underway. Important leaders from both communities took part in the Malino II conference but Jakarta sent several top ministers to control the discussions. Such high-flown peace conferences are well intentioned but fail to affect the reality on the ground. Agreement was reached on eleven points but there has been hardly any follow-up. Two of the commissions set up during Malino II have never got off the ground.



One of the dozens of camps of refugees scattered in many parts of East Indonesia. The government has so far done very little to provide a solution for this huge problem.

Impunity

One result of the Accord was the establishment of an independent team to investigate human rights violations in Maluku and probe the role of the different protagonists. The team was installed by a presidential decree on 6 June and is headed by retired Major-General I Wayan Karya, deputy to the Co-ordinating Minister for Security and Political Affairs.

There is a great deal of scepticism regarding this team as the investigation teams on other issues in Indonesia have achieved so little. Nine cases have been investigated since the fall of dictator Suharto, starting with an inquiry into the May 1998 riots, the Semanggi incidents in 1999 and most recently the investigation into the murder of Theys Eluay in West Papua. In addition, since the beginning of the Maluku tragedy not a single perpetrator has been convicted. The existence of militia groups on both sides is well known and their leaders are high-profile figures. The region has become increasingly lawless with the military and militia groups playing the dominant role.

One of the aims of the Maluku investigation team is to conduct an inquiry into the role of RMS (the Republik Maluku Selatan, South Maluku Republic) and groups related to this movement. Human rights campaigners like Orry Rachman from Kontras question this focus and insist that the team should concentrate on discovering why a small incident back in January 1999 could have sparked such a relentless sectarian conflict. The hard core of RMS activists in Maluku played no role of any significance in the

conflict. The RMS movement declared independence on 25 April 1950 and the government of the day took strong measures, sending many troops to Ambon. The military wing of RMS was defeated but it fought a guerrilla war till the mid-sixties. The military struggle ended with the capture of RMS leader Soumokil and the political wing continued to thrive in the Netherlands where many Malukans have been living since 1951. RMS presence on the ground in Maluku has been virtually non-existent until quite recently.

FKM and Laskar Jihad

Since June 2000 Maluku has been under a civilian emergency, the only region in Indonesia to fall under this category. Early in 2002 the authorities in Jakarta concluded that the security conditions has not improved and toyed with the idea of going one step further by declaring a military emergency. But things have been resolved somewhat differently; Maluku remains under a civilian emergency but Kodam Pattimura, the regional military command, has been upgraded and is under the command of Major General Djoko Santoso who was previously commander of the second division of Kostrad, the army's Strategic Command, Indonesia's best trained and most heavily equipped outfit. With the creation of Opsliham, (Operasi Pemulihan Keamanan, Operation to Restore Law and Order) as an umbrella, the military have assumed virtually unlimited

powers. Under these powers, the police force (which, in theory, is in charge of law and order) have been placed in a subordinate position. The military have closed the territory to outsiders and frequently conduct door-to-door searches.

It is now clear that Jakarta, especially after the Malino II agreement, has concocted a scenario behind the scenes. Two organisations, FKM (Front Kedaulatan Maluku, Maluku Sovereignty Forum) and Laskar Jihad (Jihad Warriors) have been selected as the main culprits. Two FKM leaders, Alex Manuputty and Semmy Weileruny, and the chairman of Laskar Jihad, Jafar Umar Thalib have been arrested and are expected to go on trial soon.

The FKM and Laskar Jihad have been chosen as scapegoats. They fit neatly into the Jakarta scenario as the main cause of the conflict. But Maluku watchers have recognised that this scenario as a sham. Neither of the organisations existed at the beginning of the conflict; it was only after a year that FKM came into existence while Laskar Jihad, primarily an organisation based in Java, started sending hundreds of so-called volunteers to Maluku in April 2000.

The FKM came into being as a small group of discontented intellectuals who became increasingly frustrated with the role of the security forces and militia groups in fanning the conflict while the central government watched on the sidelines. But FKM made a political switch and adopted the same position as RMS, based on what it claims is the legitimacy of the independence declaration in 1950. The FKM has become widely known in Indonesia, but mainly for negative reasons and has failed to win popular support. It is seen as a reincarnation of the RMS backed by Christians, giving radical Muslims a pretext to attack FKM/RMS as a Christian ploy to establish a separate republic.

Laskar Jihad arrived in Ambon in April 2000 for similar reasons, complaining of no action from the central government, no protection for the Muslim masses from Christian militias like Laskar Kristus. A few thousand volunteers are now active members of Laskar Jihad in Maluku. The majority are involved in social work while about 20 per cent are armed militias. Some well-known military hardliners like Djadja Suparman have supported Laskar Jihad and are responsible for its radical, nationalistic line. A nationalist Muslim movement is a new phenomenon in Indonesia and is an oxymoron.

FKM and Laskar Jihad are a highly combustible mix and reflect the extreme tendencies within the fractured Malukan civil society. It is no coincidence that the authorities are pinning the blame on both organisations as the main cause of the conflict.

Intra-military conflict

From the onset of the Maluku conflict, the role of the military and militia groups has been more than obvious. Analysts argue that the eruption of the Maluku conflict into a full-blown communal conflict is the master-stroke of some top army generals in Jakarta. The conflict erupted in Maluku at a time when the army's political influence was at its lowest point. The collapse of the Suharto regime and the use of brutality by the security forces against students had eroded the influence of the military. The eruption of violence in Maluku was a godsend for the military to prove their indispensability. Instead of being seen as part of the problem, the security forces became part of the solution.

This is only part of the story and part of the truth. The longer the communal conflict has continued, the more

complicated the contradictions have become. Military and police personnel increasingly took sides in the conflict. Christian soldiers joined the ranks of the Christian militia while Muslim soldiers joined the Muslim militia. A few hundred security officers from both the military and police, have gone AWOL and have deserted to one or other side.

Sometimes conflicts between units of the security forces erupt because of different strategies. On 14 May, there was a shoot-out between a platoon of Kopassus (army elite troops) and a team of Brimob, the police elite troops. Brimob forces were trying to arrest a notorious Christian militia leader, Berty Loupatty, who turned out to be a gang leader working as an informer for Kopassus. Two people from each side, were hospitalised with gunshot wounds. In the past three years, clashes between security forces have happened with such frequency that it has been impossible to hide the problem.

The longer the conflict in Maluku continues, the greater is the likelihood of armed conflicts occurring with the involvement of security officers on both sides. The economy of Maluku has basically become a war economy with members of the security forces playing the dominant role. Everywhere illegal tax and fees are levied. People who need to travel from one district to the other can only do so under the protection of the security forces. Illegal business like gambling, prostitution, illegal logging and drugs trafficking is thriving while the trade in small arms and ammunition has also become a source of income for the military.

A comprehensive solution?

It is not easy to find a quick solution to the conflict in Maluku. At the grassroots level there is a feeling of war-weariness and a genuine desire to end the hostilities between the two communities. Eruptions of violence are the work of extremist elements on both sides but have been contained, without retaliation from the other side. But at the same time the physical segregation of both communities has created alienation and a sense of distrust between the two communities.

The vicious attack on Soya came after the RMS anniversary on 25 April when the RMS flag was flown attached to balloons in several places in Ambon. Soya, a Christian bastion, is located on the slopes of a mountain and is not easily accessible for outsiders. Only professional soldiers like *Kopassus* combat soldiers would have been able to launch an attack, which is exactly what happened. Eyewitnesses say the attackers wore military fatigues and covered their faces. Twelve people were killed and dozens more were injured.

At an earlier stage in the conflict, the Christian community would have retaliated but a better understanding of the background of the attack calmed the community down. The recent release of Jafar Umar Thalib from prison to house arrest resulted in a huge bomb explosion in the market place of Ambon, one of the locations where Muslim traders have started setting up their stalls again for both communities.

While there is a better understanding of the nature of the conflict and a desire not to be provoked by hardliners, it is also true that bitterness and anger still linger on in both communities, fuelled by the losses in each community, the death of loved ones, husbands, mothers and children. It will take time to heal the wounds helped by the present conducive situation of willingness to reconcile. Extreme

continued on page 6

Problems mount in West Papua

The army have hijacked the Theys assassination case; they are treating it as an 'ordinary crime' and blocking further investigations. Human rights defenders are facing renewed threats for their legitimate activities while the huge influx of Laskar Jihad warriors into West Papua raises the prospect of inter-religious conflict being provoked. The police have meanwhile announced a new operation to clamp down on armed and unarmed 'separatists'.

The failure of the commission of inquiry - Komisi Penyelidikan Nasional KPN - set up in February by President Megawati to investigate the assassination of West Papua's foremost pro-independence leader, Theys Hiyo Eluay, lies in its refusal to acknowledge that the killing was politically motivated and that it was clearly a state crime. This was not unexpected considering that the KPN included military officers and was headed by a former senior police officer.

After reporting the results of the commission's investigations to the President, Kusparmono Irsan, the head of the KPN, declared that six low-ranking and middle-ranking military officers had been identified as suspects. The commission had been unable to discover any motive for the crime, he said, but had nevertheless concluded that it could not be described as a gross human rights violation under Law 26/2000 on Human Rights Courts. The commission's conclusion was that it was 'an ordinary crime'. The KPN also recommended that the investigations should now be handled by the military police. [*Jakarta Post*, 29 April 2002]

Investigations hijacked

In fact, the military police were conducting their own investigations even before the KPN had completed its work, a clear signal that it was the intention of the military all along to hijack the investigations. There is no gainsaying the fact that Kopassus officers were involved in the crime: this was positively established early on when the local police were conducting their own murder investigation. The army's strategy now was to limit the investigation to the perpetrators and ensure that the planning and motivation for the crime would remain hidden from view.

Theys Hiyo Eluay, the chair of the Papuan Presidium Council (PDP), was abducted on 10 November 2001, while on his way home from a reception at the Kopassus Tribuana base in Hamadi, near Jayapura, where he had been entertained as a special guest of the Kopassus commander, Lieutenant-Colonel Hartomo. Earlier in the day, the commander had gone out of his way to make sure that Theys would definitely attend the reception to be held that evening. Other PDP leaders had also been invited but decided not to attend. The victim's body was found on the following day in his abandoned car. A post mortem concluded that he died of strangulation.

His driver, Aristoteles Masoka, who managed to escape when the abduction occurred, made his way back to the Kopassus base, apparently intending to report what had happened. He has not been seen since, and is presumed dead. There is little doubt that he was killed at the base, thus eliminating the key witness to the crime.

With the military police now in control, it has been

announced that nine Kopassus officers will go on trial later this year before military tribunals and will be charged with 'taking a life' (Article 338 of the Criminal Code) for which the maximum penalty is fifteen years and with 'insubordination'. This will maintain the fiction that they acted on their own and were not under orders from anyone to kill West Papua's best-known pro-independence leader.

The nine suspects include Lieutenant-Colonel Hartomo, commander of the Kopassus base which Theys Eluay visited on the day of his abduction. He and two other middle-ranking officers, Major Doni Hutabarat and Captain Rianaldo, will be tried before the High Military Tribunal in Surabaya while the other six, all non-commissioned officers, will be tried before a military tribunal in Jayapura. The trial was originally due to commence in July, then postponed till



Theys Eluay on a happier occasion

August; a further postponement has been hinted at.

The results of the KPN and subsequent developments have been strongly condemned by West Papua's leading human rights organisations, ELS-HAM, Kontras and LBH, the Legal Aid Institute. The three NGOs, along with the secretariat of the Peace and Justice Commission of the Jayapura Diocese, issued a statement on 10 May strongly critical of the KPN's investigations and of its failure to investigate the roots of the crime. They called for the National Human Rights Commission - Komnas HAM - to set up a special team comprised of 'credible and professional people with the authority to bring into the open the full truth' about the abduction and killing of Theys Eluay and the disappearance of Aristoteles Masoka. They also proposed that the UN Rapporteur on Extra-judicial Killings and its Working Group on Enforced Disappearances should be given access to enable them to co-operate with these investigations.

The Rev Phil Erari, a West Papuan who was himself a member of the KPN, has revealed that his own team that was in charge of local investigations had come to the conclusion that the killing was 'a crime against humanity'.

He expressed his reservations about the commission's conclusions when its final report was being discussed. He said: 'It is difficult to expect that the military police, being a tool of the army, will adopt an independent position when investigating suspects who are members of the army'. [*Media Indonesia*, 8 May 2002]

Demands for a credible investigation into the killing of Theys Eluay continue to reverberate within civil society and have been voiced by leaders of the Papuan Presidium Council, church leaders and student activists. It has become a constant theme of demonstrations in West Papua. John Rumbiak of ELS-HAM said there was clear evidence that the killing was part of a secret operation to 'wipe out separatist leaders'. [*Asia-Pacific programme*, 1 May 2002]

The governor of West Papua, Jaap Solossa added his voice to these demands. He was quoted as saying that most Papuans are 'disappointed with the investigation's results ... because they know that it was a serious violation against human rights'. [*Jakarta Post*, 1 May 2002]

Whatever the results of the military trials, which will take the form of court-martials, it is clear that demands for a full investigation aimed at identifying the masterminds of the assassination and disappearance will continue to reverberate in West Papua.

Witnesses in danger

The protection of witnesses has become a major problem. Several witnesses have sought protection with ELS-HAM or the police, after receiving threats. Some witnesses who were asked to travel to Jakarta by the military police for questioning refused to go. One of these was Yeret Imowi who later faced an attempt on his life when a Kopassus soldier opened fire at close range when they happened to confront each other near a food stall. Fortunately, Imowi ducked in time and was able to flee the spot, unharmed. The soldier, First Sergeant Yani, was taken into custody after the incident.

Unknown persons also set fire to the tomb of Theys Eluay but local residents who saw the incident were able to extinguish the flames before too much damage had been done. This incident can be seen as an attempt to stir up unrest and provoke Papuans into seeking revenge. This was also certainly one reason why Theys Eluay was assassinated. In fact, although the crime has provoked widespread anger throughout West Papua, the response has been restrained.

Human rights activists targeted

There are strong indications that prominent pro-independence figures and human rights activists are being targeted by the security forces. John Rumbiak, co-ordinator of ELS-HAM has talked of 'a mission to exterminate human rights activists'. He himself and Johannes Bonay, the director of ELS-HAM, have themselves faced threats from the security forces several times during the past year.

On 22 June Yafet Yelemaken, a well-known tribal chief and Panel Member (local representative) of the Papuan Presidium Council in Wamena, died a painful death from poisoning. Yelemaken was still under town arrest, serving a sentence for allegedly 'inciting a riot' during the bloody events in Wamena on 6 October 2000. The fact is that he and the four other PDP leaders who were convicted had

been trying to calm tensions. [See *TAPOL Bulletin* No 161, March/April 2001]

Chief Yelemaken was a senior and highly-respected leader in the Baliem Valley who was a champion of West Papua's non-violent struggle for justice. He was also head of a tribal NGO, the Society for Highlands Survival. Two weeks before his death, he gave testimony at a meeting in Bali organised by the Indonesian environmental movement, which coincided with the UN preparatory meeting for the Johannesburg Earth Summit. There are strong grounds to suspect a political motive behind his tragic death.

Several human rights activists in Wamena have been subjected to threats and intimidation. Paulus Logho, 32, is head of Abenaho village and a volunteer monitoring the human rights situation for ELS-HAM. Late at night on 19 June, four police officers came to his house and told his wife they were looking for him because they want to buy some rice. When told they had come to 'the wrong house', the officers said they would go on searching for him.

Five days later, Yulius Nirigi was accosted by a Kopassus officer while he was watching a soccer match. The officer said he was looking for Luis Logho, who is one of ELS-HAM's contact persons in Wamena. The officer asked questions about the fact that Logho had visited the home of Yafet Yelemaken and joined the crowd of mourners gathered there. Yulius was also asked questions about the funeral of Yelemaken.

Another ELS-HAM volunteer in Wamena, Karel Wamafma, who works for the World Wide Fund, was told by a colleague that he and other activists were being watched by the Papua provincial police force. Reports were going round that these activists were regarded by the police as wanting to create a 'Laskar Kristen' (a Christian militia) to counter local militia forces and the Laskar Jihad who have been flooding into West Papua.

Corrupt army business activities coupled with abuses

Indonesian troops in many parts of West Papua are involved in business practices which are frequently accompanied by human rights abuses against people whose belongings are forcibly seized.

The practices are particularly widespread in the Jayapura regency where reports have been received of the widespread stealth of processed timber. The activities are justified on the grounds that funding for military personnel stationed in West Papua is far from adequate. What this means is that West Papuans are incurring heavy personal losses and suffering violations to pay for the unwelcome presence of security forces that are occupying their country.

According to a report from ELS-HAM received on 21 July, Infantry Battalion 126 from the North Sumatra Bukit Barisan division, which has been stationed in the Arso region, near the border with Papua New Guinea, since last October, is heavily involved in this business. Processed timber is being illegally seized from local land owners, without compensation.

As if this were not bad enough, the timber seizures are accompanied by acts of terror. In February this year, Markus Putui, from the village of Yetti was beaten with a rifle butt and told he would be shot if he refused to hand

continued on page 6

Unexplained killings in Merauke

Mystery has shrouded the death in September 2001 of Willem Onde, a local OPM commander in Merauke, together with a colleague. Investigations conducted this year by the Catholic Diocese in Merauke point to the involvement of Kopassus in his murder, just two months before Theys Eluay, the pro-independence leader was put to death by Kopassus officers. These revelations point to a systematic Kopassus intelligence operation directed against pro-independence West Papuans.

This is the story of a local OPM commander who thought he could make peace with the Indonesian military but who never relinquished his pro-independence loyalties. In the end, he fell victim to an intelligence operation by the army's masterly intel operators, Kopassus.

The name of Willem Onde, a local OPM (*Organisasi Papua Merdeka*) commander in the Merauke region first came to prominence when he took sixteen employees of a Korean logging company hostage in January 2001, on which occasion he was said to be 'working with military'. After the hostages were released following negotiations with the military, nothing more was heard until reports began to circulate that he and his assistant, John Tumin, had been found dead under suspicious circumstances in September 2001.

But now, the Peace and Justice Commission of the Merauke Diocese has published a detailed investigation of the events leading up to these deaths, in a report published on the authority of Archbishop of Merauke, Mgr Jacobus Duivenvoorde MSC, and endorsed by leaders of the Merauke Protestant churches.

The main events highlighted in this very detailed report commence with peace talks in May 1997 between Willem Onde and the local military commander, resulting in a local ceasefire. To the dismay of other OPM units in the region, Onde's men handed in dozens of weapons to the TNI after which Onde was quoted as saying he was now 'close to the TNI' in the interests of peace.

In January 2001, a group of men under Onde's command took sixteen employees of Korindo, a Korean timber company, hostage, including three Koreans. One of Onde's demands was for the withdrawal of Brimob troops from Merauke, following the shooting dead of eight Papuans while raising the Papuan flag in Merauke in December 2000. Rumours circulated at the time that this action had the backing of Kopassus. After two weeks the hostages were released. Brimob troops were not withdrawn but Onde's demand to be taken to Jakarta to meet top-level government officials was met.

Kopassus renews pressure on Onde

In May 2001, when the government was trying to win support for Special Autonomy status for West Papua, Onde met the Kopassus commander in West Papua, Lieutenant-Colonel Hartomo (*now the main suspect in the assassination of Theys Eluay - see separate article*) who asked him to arrange a meeting with the OPM commander in Merauke, Bernard Mawen and persuade him to speak out in favour of special autonomy. These efforts proved futile and in a letter dated 1 June 2001, a senior army intelligence officer from

Kopassus wrote to Onde (the text of the letter is quoted in full) saying that he would no longer enjoy their protection unless he agreed to 'return to the fold of the Motherland'. This was something that Onde had no intention of doing. Thereafter, Onde visited the Pacific island of Nauru at the time of the annual gathering there of the Pacific Islands Forum (though other Papuan representatives were denied visas). He used this occasion to circulate information about brutalities inflicted on the Papuan people by the TNI.

The last time Willem Onde and John Tumin were seen alive was on 10 September 2001 when they visited the director of the Korean timber company, Korindo. Later that day, witnesses reported seeing the abandoned motorbike on which the two men had been travelling, and items of their clothing. Witnesses are quoted as saying they saw Kopassus soldiers acting suspiciously and loitering in the area where the men had been seen, ordering a logging truck not to stop and asking others whether they had sighted John Tumin.

On 11 September, some children spotted a corpse floating in a river under a bridge. The corpse was pulled out of the river and found to be that of John Tumin. His body was covered with bruises and there were several bullet wounds, indicating that he had been tortured and shot. On 14 September, the national news agency, Antara, reported that Onde was thought to have been murdered because some of his belongings had been found, including his blood-stained hat. That evening, a second corpse was found in the river which was bound in a way as to prevent it from floating away. This was soon identified as Willem Onde. His body also bore distinct signs of having been tortured and shot. Ten days later, Theys Eluay, chair of the Papuan Presidium Council, asked the regional government in Jayapura for an explanation as to why Onde had been murdered.

The team of investigators points out that the bodies of the murdered men had been disposed of in such a way as to ensure their early detection, suggesting that one aim was to terrify local residents. The investigators also report many scare stories that circulated in the area at the time of the disappearance of the two men.

The investigators conclude by asking why the police and civil authorities have made no attempt to investigate the murder of Onde and Tumin. They also raise the possibility of a link between these murders and the murder of Theys Eluay two months later and point to similarities because both events can be linked to Kopassus. *

Is a zone of peace possible in West Papua?

While civil society groups have placed their hopes in creating a zone of peace in West Papua, thousands of members of Laskar Jihad have flooded into the province in the past year, amid protests from West Papuans that this could lead to inter-religious conflict. Meanwhile, the local police force has announced a new operation aimed at clamping down on all 'separatist' groups in West Papua. There are fears of a crackdown and moves to instigate conflict.

In July, the West Papua chief of police, Drs Made Mangku Pastika, announced that his force would be launching a new operation code-named Operasi Adil Matoa 2002. Matoa is the generic name for police operations in West Papua while adil means 'justice'. He said that the operation would be directed against 'separatists', unarmed as well as armed.

It is feared that such an operation will lead to many arrests. But the main objective is likely to be to incapacitate the Papuan Presidium Council which enjoys widespread support, especially since the assassination last November of its chairperson, Theys Hiyo Eluay. This can only provoke greater unrest and anger among the people.

This operation is being seen as a move by the police to assert its primary role in West Papua as the force for 'law and order'.

This does not mean that the operation will necessarily be any less brutal than what the army is capable of doing. Brimob, the elite force of the police, already has a reputation for great brutality in West Papua.

The police chief's announcement provoked a storm of protest with many fearing that the security forces were preparing for a crackdown on pro-independence activists and groups. The secretary general of the highly respected Traditional Council of Papua, Titus Hamadi, said such an operation could only result in new conflicts at a time when the general situation in Papua was relatively calm. Throwing his weight behind the idea of creating a zone of peace, he said the police operation would spread confusion over who might be targeted as 'separatists'. It could even include village heads or ordinary villagers.

He said the operation should be discussed at a meeting between the regional government, the regional assembly, the police chief and the regional military commander and the police should meanwhile suspend their operation. Another high profile figure to oppose the plan was John Ibo, chair of the regional assembly, who said that if the police want to end separatism, they should hold public forums to promote the idea of loyalty to the state. [Cendrawasih Pos, 23 and 24 July 2002]

Pieter Eli, the Kontras (Commission for the Disappeared and Victims of Violence) co-ordinator for West Papua, warned that such an operation could result in casualties. He accused the Megawati government of adopting the same policies as the Suharto New Order and said that the author-



Laskar Jihad is often described by analysts as a Frankenstein monster created by hardliners within TNI and POLRI, the Indonesian armed forces and police.

ities were more interested in preserving territorial integrity than protecting the population. This was because West Papua is so rich in natural resources. [Cendrawasih Pos, 18 July 2002]

Police chief explains

Stunned by the strength of opposition to his operation, the police chief warned people against making 'exaggerated' claims about the intentions of the police. He tried to assure people that they would not start arresting people. The aim, he said, is to make a proper, 'judicial' assessment of organisations like the Papuan Presidium Council: was it or was it not 'lawful', and if not, should it be allowed to exist or should it be banned? He said people were talking a lot about creating a 'zone of peace' but these very same people were holding illegal meetings, discussing plans to attack police command posts, and lobbying abroad for support for a referendum. Such things would be investigated and decisions would be taken on how to respond. This, he alleged, was the only way to create a 'zone of peace'. [Cendrawasih Pos, 25 July 2002]

A number of local police chiefs have said that they are ready to take part in the new operation and have already gathered data from previous operations.

Laskar Jihad poses a new threat

Since the beginning of 2000, Laskar Jihad warriors have helped to stoke up the bitter inter-religious conflict in Maluku. Their arrival in Maluku is widely known to have

the support of elements within the Indonesian armed forces. [See article on Maluku in this issue.] Even now, following the conclusion of an accord to restore peace between the Christian and Muslim communities, nothing has been done to remove these disruptive forces from Maluku.

Hence, reports about the arrival of Laskar Jihad members in West Papua has caused alarm among West Papuan activists. Laskar Jihad members have been arriving since 2000, initially in Sorong and then in other parts of West Papua. Towards the end of 2001, its notorious leader, Jafar Umar Thalib, made a visit to Sorong, and since then, the influx has steadily increased. Church and human rights activists in Sorong say that military training has been taking place, initially in isolated bush areas but more recently on the premises of a local mosque. They say that six Pakistani citizens are involved in these training sessions.

In March, twenty church leaders in Sorong issued a statement together with eight clan leaders and youth leaders, rejecting the presence of Laskar Jihad and drawing attention to the dissemination of inflammatory publications and videos alleging that Christians are responsible for 'separatist' movements and constitute a threat to Indonesia's territorial integrity. A Laskar Jihad bulletin issued in Sorong in January said it was 'waging war against Christians because of their support for separatist movements in various parts of Indonesia'.

According to the leading human rights organisation ELS-HAM, there are now around three thousand Laskar Jihad members in West Papua and they have set up a number of branches of an organisation called Communication Forum of Ahlu Sunnah Wal Jamaah in several cities, including Sorong, Fak-Fak, Jayapura, Timika, Nabire and Manokwari.

According to reports from Fak-Fak, small boats have been seen arriving since April, each bringing about ten Jihad members, apparently from Maluku. They have also set up communities in Arso, near Jayapura, which has been the location of large transmigration re-settlement areas for newcomers from Java. The Rev. John Barr of Australia's Uniting Church, said after a visit to West Papua in May, that he heard many accounts of Jihad training camps in Arso.

In addition to the spread of Laskar Jihad groups, the army has been actively promoting the establishment of pro-Jakarta militias known as Satgas Merah Putih (Red-and-White Task Force), whose members are recruited from newcomer Indonesian communities. This is a sinister reminder of what happened in East Timor during the months prior to the independence ballot in August 1999. ELS-HAM recently announced that it had obtained a copy of a military document, dated 8 April 2002 and signed by the commander of the Jayawijaya military command, which lists the names of eighty local farmers who are members of Satgas Merah Putih in the district, providing confirmation of the army's direct involvement with the militias.

All in all, these developments point to efforts by the security forces, the military as well as the police, to instigate trouble in West Papua, which casts a dark shadow over civil society's hopes of turning West Papua into a zone of peace. *

continuation from page 22

a state visit to Australia in July, said that he supported Indonesia's territorial integrity and would not give any support for movements pressing for independence. 'Of course we know what is (sic) human rights violations but in political terms, we respect the sovereignty and integrity of Indonesia.' Jose Ramos Horta, East Timor's foreign minis-



The two leaders of the Democratic Republic of East Timor, Prime Minister Mari Alkatiri (left) and President Xanana Gusmao.

ter, used even stronger language: 'No government in this country (East Timor) should ever be imprudent or foolish enough to offer sympathy or support for Papua or Aceh's quest for independence.' He added: 'They (the people of Aceh and West Papua) should accept Jakarta's autonomy offer - it is genuine.'

These positions were at variance with the views of Bishop Belo who, according to this report, has declared support for the people of Aceh and West Papua. [AAP Newsfeed, 11 July 2002]

Shortly after this visit to Australia, President Xanana Gusmao made a state visit to Indonesia. He had hoped that the visit to Indonesia would come first in his programme of foreign trips but arrangements for the visit to Jakarta were altered because of President Megawati's own sense of priorities. It is clear that the new government in Dili will do nothing that might antagonise its largest neighbour and hopes to build close political and economic ties with a country whose armed forces carried out a campaign of death and destruction during its 25 years of illegal occupation of East Timor. *

Violence against women in Indonesia

A report on Violence against Women in Indonesia submitted last year to the UN Committee against Torture (CAT) by the Geneva-based NGO, the World Organisation against Torture (OMCT), has been published as part of a compilation of ten country reports to the UN's main treaty monitoring bodies. The Indonesia report examines domestic violence, violence against women in the community and violence against women by the state.

In introducing the report, OMCT notes that 'the poor human rights situation and the climate of impunity...are especially harmful for women and girls. Women in particular have been targeted for torture and rape by the security forces in the regional conflicts in East Timor, Aceh and West Papua and they are also frequently subjected to violence in the domestic and community spheres.'

The report was submitted to CAT along with an alternative report on Indonesia's implementation of the Torture Convention prepared by OMCT in collaboration with TAPOL [see Supplement to *TAPOL Bulletin* No 164/165] and a report on the relationship between torture and the violation of economic, social and cultural rights.

The report forms part of an OMCT programme which focuses on the need for the integration of a gender perspective into the work of the UN's main human rights treaty monitoring bodies. Progress in meeting this need has been slow, particularly by CAT, according to OMCT research.

The compilation includes a useful 'gender-inclusive and gender-sensitive' interpretation of the definition of torture in Article 1 of the Torture Convention. Given that much violence against women takes place in private, this interpretation concentrates on State responsibility for the acts of private individuals. OMCT notes that a growing body of human rights law has recognised State responsibility for private acts when the State fails to exercise 'due diligence' in preventing or responding to such acts.

The status of women

In its general observations on the status of women in Indonesia, OMCT suggests that gender inequality is 'a direct consequence of cultural and traditional practices and gender-discriminatory legislation', which reinforce the subordinate position of women. As a result, women face discrimination in the fields of employment, education and political representation and their reproductive and sexual rights are frequently seriously violated.

In considering the status of women in the family, the report highlights the explicit discrimination in the Marriage Law of 1974, especially the different age requirement for marriage for men and women and the provisions regarding polygamy and divorce.

The report expresses concern about limitations on the laws on abortion and states that the lack of necessary health care for women contributes to the high maternal mortality rate.

Violence in the family

Violence occurring within the home takes the form of battering, verbal abuse, economic oppression, marital rape, incest, and female genital mutilation, says OMCT. NGOs

estimate that, for a variety of cultural, socio-economic and legal reasons, only 15% of domestic violence incidents are reported. Many women do not recognise the abuse they are suffering as a crime and the authorities are reluctant to regard domestic violence as anything other than a private matter.

Violence in the community

The report notes that crimes such as rape, sexual harassment and trafficking in women are dealt with under a section of the Penal Code on 'crimes against decency', suggesting that they are not considered to be in violation of a woman's personal rights and bodily integrity, but are rather regarded as crimes against a woman's 'honour'.

Sexual violence is one of the most under-reported crimes in Indonesia, and in areas of conflict, rape is often used as a weapon to undermine and degrade women from opposition groups. Many procedural and institutional obstacles confront women wishing to bring charges. There are also serious flaws in the Penal Code's definition of rape.

OMCT highlights its concern about the mass rape of ethnic Chinese women during the Jakarta riots of May 1998 which preceded the down fall of Suharto [see *TAPOL Bulletins* No 147, p. 11 and 148, p. 17]. A Joint Fact-Finding Team appointed by the Habibie government speculated that 'the riot was created as part of a political struggle in the elite' and mentioned by name Major-General Syafrie Syamsuddin who was promoted this year to official spokesperson of the armed forces, but no further action has since been taken and no charges brought. OMCT expresses its concern about the lack of protection for victims and human rights organisations working to bring justice to the victims of the 1998 riots.

This atrocity and others were highlighted in the report of the UN special rapporteur on violence against women following her mission to Indonesia and East Timor at the end of 1998.

Further concerns are the growing problems of trafficking in women and children and violence against women migrant workers. According to OMCT, Indonesia is a source, transit point and destination for women trafficked for the purposes of prostitution and forced labour. Prostitution is widespread and many prostitutes are under the age of 16 years.

Currently, around two million Indonesians, mostly women, work overseas. They are often subject to exploitation, abuse and torture and live in conditions similar to those of trafficked women.

The legislation in all these areas is inadequate, says OMCT. The Government has recently set up a committee to deal with and prevent trafficking, but it remains to be

seen how effective that will be [DPA, 19 July 2002].

Violence by the state

OMCT draws attention to widespread torture and ill-treatment of women in areas of conflict especially in the form of rape and sexual assaults.

It notes that in Aceh, rape is one of the methods used by the military as a weapon of war to terrorise civilians. Female family members are raped as a form of revenge or punishment or in order to extract information on the whereabouts of male relatives. However, the practice and expectation of impunity means that few crimes are reported to the authorities, let alone punished. The problem is similar in West Papua and other conflict areas.

In the case of East Timor, the report highlights the conclusion of Indonesia's Commission of Inquiry into Human Rights Violations in East Timor (KPP-HAM) that gross violations of human rights, including rape and sexual slavery, were perpetrated in East and West Timor in 1999 [see also *TAPOL Bulletin* No 157, pp.12-13]. It should be noted that none of the accused in the current ad hoc trials in Jakarta [see separate item] are charged with crimes of sexual violence. Indictments for crimes of sexual violence have, however, been issued in East Timor.

OMCT points out that while torture victims generally are confronted with major obstacles when dealing with complaint and redress, the victims of rape and other forms of sexual violence are even less likely to complain out of fear and shame arising from the social stigma attached to the victim and the personally violating nature of legal proceedings.

Conclusions

The report ends with a number of recommendations to the Indonesian Government aimed at addressing the concerns highlighted in the report. These include the development of a comprehensive policy for the elimination of domestic violence, public education campaigns aimed at changing patriarchal attitudes and customs preventing the enhancement of the status of women, the strengthening of legislation in particular areas and the investigation and prosecution of state officials suspected of torture and violence against women.

It is most unfortunate that this excellent report did not apparently convince CAT to pay more attention to the widespread incidence of torture and violence against women in Indonesia. The Committee touched on the problem by expressing its concern about 'allegations of inadequate protection against rape and other forms of sexual violence' and recommending that Indonesia should include in its next periodic report to the Committee statistical data disaggregated by gender, but the problem did not receive the attention it requires. The Committee will need to do much more before it can claim to have introduced a meaningful gender perspective into its work.

For a copy of the OMCT report, contact omct@omct.org.

journalists refused to leave. She managed, with another *continuation from page 23*

Dutch journalist, to make her way to the UNAMET compound where scores of East Timorese had taken refuge, inside the compound and in an adjacent building.

Having under-estimated the looming danger, UNAMET officials initially decided to comply when instructions to abandon the compound were received from New York, leaving the refugees and local UN officials to their fate. But a Canossian sister, Madre Esmeralda, harangued the officials after the vote. 'They voted, now you'll leave us like dogs?' This challenge persuaded political officers to tell UNAMET head, Ian Martin, that the decision was politically and morally wrong and to everyone's relief, the evacuation plan was abandoned.

As this drama was being played out, the three women journalists, two Dutch and one American, inside the compound, continued to file reports round the clock to the outside world. As Dili burned and most of the country was in ruins and as 250,000 East Timorese were herded onto trucks and boats and taken to West Timor, the UN Security Council was forced to wait till President Habibie in Jakarta took the decision to allow intervention by an international force. Even in the depths of such a crisis, the Security Council decided that a decision to send in foreign troops could not be taken without Jakarta's approval.

Bitter Dawn recounts the closing chapter of UNAMET's mission with careful attention to detail and coloured by the writer's own emotions and frustrations. For anyone wanting to know how it felt to live through these dramatic events, this is the book to read.

Carmel Budiardjo

New Publication:

Roots of violence in Indonesia

Contemporary violence in historical perspective

Colombijn, Freek and J.Thomas Lindblad (eds)

Jakarta, Sambas, Poso, the Moluccas, West Papua. These simple, geographical names have recently obtained strong strong associations with mass killing, just as Aceh and East Timor, where large-scale violence has flared up again. Lethal incidents between adjacent villages, or between a petty criminal and the crowd, take place throughout Indonesia. Indonesia is a violent country.

Many Indonesia-watchers, both scholars and journalists, explain the violence in terms of the loss of monopoly on the means of violence by the state since the beginning of the Reformasi in 1998. Others point at the omnipresent remnants of the New Order State (1966-1998), former President Suharto's clan or the army in particular, as the evil genius behind the present bloodshed.

ISBN 90 6718 188 9, EUR 27,50 (excl. postage), 348 pages
Order through: KITLV, PO Box 9515, 2300 RA Leiden,
the Netherlands or www.kitlv.nl

Indonesian justice in serious trouble

A UN legal expert severely criticised Indonesia's judicial system during an official mission to the country in July. The special rapporteur on the independence of judges and lawyers, Dato' Param Cumaraswamy, described the system as one of worst he had studied and said "I didn't realise the situation would be as bad as I have seen...". A recent series of high-profile cases have provided ample proof of a system in crisis.

Most observers agree that the persistent failure of the Indonesian authorities to bring the perpetrators of human rights violations to justice and widespread judicial corruption are the most serious concerns. They are indicative of a lack of political commitment to legal reform and a lack of determination to challenge the influence of the military and the rich and powerful.

East Timor trials

During his mission, Mr Cumaraswamy attended the landmark trials in Jakarta for crimes against humanity committed in East Timor. He will have observed a process which is a travesty of justice, more likely to entrench impunity than end it.

Although he will not publish his report until the next session of the UN Commission on Human Rights in April 2003, Mr Cumaraswamy has already expressed his concern about the trials, particularly the performance of the prosecutors. He questioned the absence of key witnesses and asked why prosecutors refused to take account of important evidence made available by the UN.

Referring to the absence of senior officers on trial, he said: 'We are concerned about whether there was any form of selectivism in the various people who are being brought before the court and why certain others were not produced. I think these are answers that ought to be given by the

authorities concerned when the time comes.' [Reuters, 20 July 2002].

A report by the respected International Crisis Group (ICG) in May criticised the limited mandate of the court, the weakness of the indictments and the way in which they have been presented by the prosecution to portray events in East Timor in 1999 as resulting from a civil conflict between two violent factions in which the Indonesian security forces were essentially bystanders.

Unless people such as Mr Cumaraswamy speak out, the international community, anxious for closure on East Timor, may claim that the Jakarta trials represent progress when in reality they are a denial of justice aimed at protecting senior officers and covering up the truth of what happened in East Timor.

Crimes against humanity are crimes of the most serious nature and there is a real danger that the court will return a few token convictions for what, on the basis of the indictments and evidence presented by the prosecution, amounts to little more than criminal negligence. The ICG warns that this trivialises the concept of crimes against humanity. It also raises questions about the fairness and impartiality of the proceedings.

In many of the cases, prosecution witnesses have given evidence more favourable to the defence than the prosecution, for example in blaming the violence on the alleged failings and bias of the UN. Prosecutors have been behaving more like defence than prosecution counsel in their conduct of the trials.

The case of Eurico Guterres

The case of militia leader, Eurico Guterres exemplifies the questionable conduct of the prosecution. Guterres is charged with the crimes against humanity of murder and assault in relation to an attack on the home of independence leader Manuel Carrascalao in Dili on 17 April 1999 in which 12 East Timorese were murdered.

Despite being recorded on film inciting thousands of militiamen to 'capture and kill if you need' independence supporters who had 'betrayed integration', Guterres is not charged with ordering, inciting or participating in the attack. He is charged only with command responsibility for his failure to control his subordinate militias.

Killing of Sander Thoenes

The decision by the Attorney General in June not to prosecute the alleged killers of the Dutch journalist, Sander Thoenes, was another victory for military



Former military commander in East Timor, Brig. General Tono Suratman on trial. It is doubtful justice will prevail.

impunity although following Dutch pressure the Attorney General's office has indicated that it may re-open the case.

Sander Thoenes was only one of hundreds killed in East Timor in 1999 and hundreds of thousands killed, tortured or imprisoned during the 23 years of Indonesia's military occupation, but as a result of investigations carried out by UN and Dutch officials, his murder is regarded as one of the best documented cases and a test case of Indonesia's seriousness in bringing the Indonesian military to trial. The Dutch investigation concluded that Mr Thoenes was shot in the back by members of Battalion 745 after he had been forced off a motorbike in Dili on 21 September 1999.

Claims by the Attorney General's office that there was insufficient evidence and that a key witness was unreliable were rejected by the Dutch and the UN.

Indonesia's reluctance to proceed with the case may be connected to the fact that it exposes the role of army officers in systematic abuse against civilians. Sander Thoenes was one of twelve civilians allegedly killed by Battalion 745 in three days in September 1999 during its withdrawal from East Timor.

The case was referred to in the Chairperson's Statement on East Timor made at this year's session of the UN Commission on Human Rights. (A statement from the Chair, a mechanism used to avoid passing a condemnatory resolution, is agreed in consultation with the country under scrutiny, which therefore undertakes to be bound by its contents.) The decision to close the case demonstrates that Indonesia does not regard itself bound by the Chairperson's Statement and cannot be trusted to fulfil its commitment in the Statement to bring to justice those responsible for other rights violations.

Victims of Suai and Liquica massacres denied justice

An important film, shown by the Sunday programme on Australia's Channel 9 in collaboration with the renowned filmmaker Max Stahl - *East Timor - Justice Denied?* - reveals how the victims of appalling violence are being denied justice by Indonesia and the international community.

The film raises disturbing questions about the extent to which political leaders and the UN are urging reconciliation at the expense of justice. It focuses on the massacre of dozens of men, women and children in the Suai Church compound on 6 September 1999 [see TAPOL Bulletin No. 161, p. 12] and the attack on the Liquica Church on 6 April 1999, when more than 50 people were brutally murdered. The film found killers living among the villagers they terrorised. One man admits having been present at a death-squad murder, yet the UN says it has no evidence he was even a militia member. The anger of local people at attempts to promote reconciliation above all else is apparent from this heartfelt response by a counsellor for women victims in Liquica, Filomena Barros Dos Rais:

'How can I be reconciled with one people who kill my husband, raped me, took all of these things and make me like an animal, how can I reconcile them? How can I reconcile with the people consider me as a mosquitoes? How can I reconcile? I want...I can give support for the reconciliation but the reconciliation must be with justice.'

Across the border in West Timor, militia killers are filmed living among refugees with apparent impunity. They include the militia leader Isidio Manek, suspected of killing the priest Father Hilario at the Suai Church. Manek, who is



The May 1998 riots and its investigation have ended in oblivion

also accused of kidnapping East Timorese teenager Juliana dos Santos as a war prize, was formerly included in a list of suspects compiled by Indonesia's Attorney General, but perversely omitted from the final list supposedly because he could not be found [AFP, 25 April 2001].

The film raises serious questions about the competence of UN investigations and highlights the case of a well full of bodies near Liquica, bulldozed over by the UN with several corpses apparently left abandoned at the bottom.

The serious crimes unit in East Timor is yet to issue an indictment in relation to the Suai massacre and the trials in Jakarta of men accused of command responsibility for the atrocities in Suai and Liquica will do little to expose the true nature of the orchestrated violence which took place.

The film reminds us how the destruction of East Timor was meticulously planned by the Indonesian military, repeating a chilling statement made by military commander Tono Suratman before the August 1999 ballot:

'If the pro-independence side wins, it's not going to just be the government of Indonesia that has to deal with what follows. The UN and Australia are also going to have to solve the problem and well, if this does happen, then there'll be no winners. Everything is going to be destroyed. East Timor won't exist as it does now. It'll be much worse than 23 years ago.'

Suratman was indicted by the Jakarta court on 4 July, but no further information is available about the charges against him.

West Papua

Despite being urged to do so by TAPOL, Mr Cumaraswamy did not visit West Papua or Aceh. If he had been to West Papua, he would have found a complete lack of faith in the administration of justice, exacerbated by the failure of the authorities to conduct a credible independent investigation into the assassination last November of the chairperson of the Papuan Presidium Council, Theys Eluay [see separate article].

Many other serious cases have remained unresolved. The well-publicised Abepura case has been stalled by the Attorney General's office for a year now. On 7 December 2000, a West Papuan student was shot dead and around 100 people were arrested following police raids on student hostels in Jayapura. Many of the detainees were tortured and

two died in police custody. In May 2001, a team headed by the National Commission on Human Rights (Komnas HAM) reported that members of the Police Mobile Brigade (Brimob) and the local police were responsible for gross violations of human rights, including extra-judicial executions and torture. It recommended that the case be investigated further by the Attorney General and the suspects be brought to trial in a human rights court [see TAPOL Bulletin No 162, p. 18]. The case has been with the Attorney General's office since August 2001 with no sign of progress.

In the second half of 2001, the population of the sub-district



of Wasior were subjected to a brutal series of abuses by Brimob. A longstanding dispute between local people and a logging company came to a climax when three company employees and five members of Brimob were killed. Units of Brimob sent in to hunt the killers undertook a 'Sweep and Crush' operation whose main victims were innocent villagers [see TAPOL Bulletin No 163, p. 23].

According to a local NGO, ELS-HAM, the operation resulted in at least ten summary executions, a number of disappearances and the burning of many homes. The Indonesian authorities have failed to respond to demands to investigate the human rights violations committed during the Brimob operations.

On 6 October 2000, thirteen Papuans were shot dead during police operations to take down symbolic Morning Star flags in the highland town of Wamena. Two dozen migrants were also killed in a frenzied response by local people provoked by the police. Twenty-two Papuans were then subjected to a catalogue of rights violations while in detention and on trial, including torture and other forms of ill-treatment. Another person died in police custody. The prisoners were scapegoated for what became known as the 'Bloody Wamena Incident' because of their political activities. They were found guilty of rebellion and other lesser offences. They are currently being detained under town arrest. One of them, Yafet Yelemaken, died an agonising death from poisoning earlier this year [See separate article]. No one has been brought to justice for the crimes commit-

ted by the security forces.

Aceh

The ending of impunity is key to resolving the conflict in Aceh. Opposition to rule from Jakarta has increased in line with the failure of the Government to prevent rights violations and address impunity. It is likely that many victims of human rights violations have been driven by their despair at the lack of justice to join the conflict on the side of the Free Aceh Movement (GAM).

Despite this, the Government persists in its pursuit of the military solution and is doing nothing to ensure the perpetrators of human rights violations are brought to justice.

In 1999, a Presidential Commission to Investigate Violence in Aceh concluded that 7,000 violations had occurred during and after the period from 1989 to 1998 when Aceh was a 'Military Operational Area' (DOM) and identified five particularly heinous crimes for investigation and prosecution [see TAPOL Bulletin No. 157, p. 2]. Subsequently, the trial of troops involved in the 'Bantaqiah massacre' in 1999, which involved the killing of a Muslim teacher and 56 of his pupils, resulted in the conviction of low-ranking troops, but the chief suspect, the intelligence chief alleged to have ordered the operation escaped justice [TAPOL Bulletin No. 158, p. 4]. The authorities were heavily criticised for holding the trial in a joint military-civilian *koneksitas* court, which was essentially a military tribunal. There has been no progress in any of the other cases.

In January 2001, Komnas HAM announced that it would establish a Commission of Inquiry to investigate the brutal killing of three humanitarian workers employed by Rehabilitation Action for Torture Victims (RATA) and a fourth person in December 2000 [TAPOL Bulletin No. 161, p. 4], but the investigation team was never set up. In March 2001, four civilian suspects escaped from police custody. Four military suspects were subsequently released because their detention orders expired.

In August 2001, 31 people were executed at the PT Bumi Flora plantation in East Aceh [TAPOL Bulletin No. 163, p. 1]. Evidence collected by local human rights monitors suggests military involvement. A Commission of Inquiry (KPP HAM Bumi Flora) has recently been set up by Komnas HAM, but only after international criticism of its failure to properly investigate the case.

The investigation into the torture and murder of the human rights lawyer, Jafar Siddiq Hamzah, in August 2000 [TAPOL Bulletin No. 159, p. 1], has produced nothing. Hundreds of other cases remain unresolved.

A serious obstacle to progress in criminal investigations is the intimidation and even "disappearance" of witnesses. When KPP HAM Bumi Flora started its inquiry in July 2002, only two out of a possible 17 witnesses turned up for questioning. Reports emerged of a student being forced by the military to confess that GAM was responsible for the killings.

A paper presented to Mr Cumaraswamy by a Coalition of Indonesian Human Rights NGOs - 'Impunity in Indonesia' - highlights the vulnerability of judges and lawyers to violence by the state and GAM. The paper lists numerous incidents of kidnappings, disappearances, killings, and intimidation of judges, legal counsel and prosecutors.

Tanjung Priok case lies dormant

An ad hoc human rights court for the Tanjung Priok case,

in which scores of people were killed or "disappeared" when the security forces opened fire on Muslim demonstrators in 1984, was established by former President Wahid in April 2001. Since then, the Attorney General's office has apparently buried the case. There are no signs of any indictments and, significantly, no international pressure on Indonesia to bring the perpetrators to justice.

Many people suspected that Parliament recommended the ad hoc court because it involved Muslim victims and was regarded as a form of compensation for the East Timor case, which involved Christian victims.

A month before the ad hoc court was established, the main military suspects, led by former Suharto vice-president and Jakarta military commander at the time of the massacre, Try Sutrisno, persuaded a number of victims and their relatives to agreed to an Islamic peace pact called an *Islah*. The agreement was intended to lead to the closure of the case. However, this form of reconciliation without justice was rejected by many of the victims and the Attorney General's office indicated that the pact would not stop further investigations.

The case is a further illustration of the inversion of the normal rules of justice whereby those responsible for the massacre remain free while the victims are punished. The incident unleashed a ferocious witch-hunt against Muslim activists and dozens were jailed. To this day, many complain that they are unemployable because companies will not hire anyone detained in connection with the incident.

[For a detailed account of the Tanjung Priok case, see *TAPOL Bulletin*, No. 159, Aug/Sept 2000, p. 22 and the *TAPOL* book **Indonesia: Muslims on trial**]

Leniency for Tommy Suharto

The case of Hutomo Mandala Putra, better known as Tommy Suharto, is remarkable for the fact that his conviction for murder and sentence to 15 years imprisonment on 26 July 2002 were regarded by many as a notable achievement for Indonesian justice.

In fact, the rich and powerful son of the former dictator got off extremely lightly. He was found guilty of ordering the murder of a judge who in 2000 had convicted him of fraud in relation to a land-swap deal. Those who carried out the murder were sentenced to life imprisonment. In a properly functioning legal system, the instigator of such a crime would expect to receive a sentence at least as harsh as the perpetrators.

Suharto was also found guilty of possessing illegal weapons and evading arrest at the end of a trial which received far more public attention in Indonesia than the concurrent East Timor trials.

Although the former playboy's profligate lifestyle and dubious business ventures will be curtailed by his incarceration, he is unlikely to suffer undue hardship. His special treatment in prison has reportedly included unhindered visits from his wife and family, daily consultations with his private secretary, personal bodyguards, and access to most creature comforts. Although he has decided not to appeal, there is concern that he will somehow be able to buy his way out of prison before he serves much of his sentence.

Corruption infects the whole system

It is an accepted fact that judicial corruption is endemic in Indonesia. A report by the watchdog Indonesian Corruption Watch (ICW) - *Lifting the Lid on the Judicial Mafia*:

Research into Patterns of Corruption within the Judiciary - published on 23 July 2002, shows that every law enforcement agent, ranging from investigators to lawyers, prosecutors, judges and jail wardens, is involved in corruption. It found that 'justice seekers have to pay during each stage of the administrative legal process before their cases can be heard in court'.

'The court mafia is systemic because it (corruption) and the legal system have almost become intertwined,' said the report. 'After years of letting corruption spread, it has become systemic.' [*Jakarta Post*, 23 July]

The problems have been highlighted by the recent decision by a Jakarta court to wind up the insurance firm, Manulife Indonesia, a subsidiary of the Canadian firm Manulife. The firm was declared bankrupt for not paying a 1999 dividend despite the fact that it was solvent. The Supreme Court overturned the decision and the judges have been suspended and are being investigated as possible bribery suspects.

During his mission, Mr Cumaraswamy said that President Megawati Sukarnoputri's government lacked the political will to root out corruption and implement reforms. 'It is something I feel should never have been allowed to come to this extent,' he said [*Reuters*, 20 July 2002].

Many believe that part of the problem lies in the fact that the Supreme Court, which supervises the judiciary, is largely unaccountable. A *Jakarta Post* editorial on 25 July 2002 noted that it is still run by people handpicked by Suharto. They are accountable to no one but themselves, it pointed out. 'Since most of the judges are the products of the repressive regime, they remain as corrupt, if not more so, than before,' it added.

'How much worse can it get?', the paper asked despairingly. Further information about the film **'East Timor-Justice Denied'** and a transcript can be found at http://sunday.ninensn.com.au/sunday/cover_stories/article_1097.asp

NEWS FLASH

Indonesia's ad hoc rights trials - a travesty of justice

Verdicts announced in the trials in Indonesia of seven military and police officers and civilian officials who were charged with crimes against humanity in East Timor during 1999 confirm that the trials are a worthless exercise in securing justice for the grave crimes perpetrated by the Indonesian security forces and their militia proxies.

Six of the seven defendants were acquitted, having been found 'not guilty' by the court. Only one of the accused, Abilio Osorio Soares, who was governor of East Timor at the time, was found guilty and sentenced to three years, although the prosecution had asked for a ten and a half year sentence. According to Indonesian law, the minimum sentence for the crimes for which he was tried and found guilty is ten years, which would appear to make this verdict unsustainable.

continued on p 21.

Will these generals ever be brought to trial?

In the closing years of Suharto's New Order, two atrocities stand out not only for their magnitude but for their political impact in hastening the downfall of the dictator. The attack on the headquarters of the PDI in July 1996 took place on Suharto's orders to destroy Megawati Sukarnoputri's position as leader of the party, while the shooting dead of four Trisakti University students in May 1998 was followed by riots which led to Suharto's decision to step down. Both cases have been under investigation for years: the question is, will those responsible ever come to trial?

On 27 July 1996, hundreds of men dressed in PDI shirts and backed by troops and police surrounded and attacked the headquarters of the Partai Demokrat Indonesia (PDI) in central Jakarta. The building was occupied by supporters of Megawati Sukarnoputri, the leader of the PDI, and had become the focus for free-speech forums. They were acting in defiance of a decision taken by a bogus PDI congress that had been held at the behest of Suharto to replace Megawati as leader by a Suharto puppet. [The PDI was subsequently renamed Partai Demokrat Indonesia - Perjuangan, the Indonesian Democratic Party of Struggle which is headed by President Megawati Sukarnoputri.]

because the military prevented access to the hospital where the wounded had been taken.

A national police team and then a joint team of the national police and the military police have been conducting investigations into the bloody incident for more than two years, but the process has dragged on because of the repeated refusal of the attorney-general's office to accept dossiers submitted by the team.

In July this year, it was announced that the investigation team had identified retired Lieutenant-General Sutiyo as one of several military suspects. Sutiyo was commander

of the Jakarta military command at the time. Relatives of those who died or who were injured have been frustrated by the length of time taken to bring the case to court.

Instead of being brought to justice, Sutiyo was appointed governor of Jakarta three years ago and has provoked many demonstrations because of his handling of the capital's affairs when severe floods hit the city earlier this year and the municipal government was accused of failing to take the necessary precautions to protect the capital against flooding or to take care of the victims.

Megawati backs Sutiyo

His involvement in the July 27 1996 attack on the PDI headquarters has made him a special target of protest. Yet, despite this man's record as governor and his role in the July 1996 bloody incident, he now enjoys the unstinting support of President Megawati in his bid to win a second term as governor of Jakarta. Sutiyo is known to have close business ties with Megawati's husband, Taufik

Kiemas. Her decision to back his nomination for the post has provoked anger within her own party.

Hundreds of people, most of them PDI-P members, gathered in Jakarta to commemorate the sixth anniversary of the attack on 27 July 2002 and used the occasion to condemn Megawati's support for Sutiyo. She herself let the occasion pass without any mention of what had happened on that fateful day, nor did she express support for the victims of the atrocity who had been acting in her name.

Another officer named as a suspect in this case is Major-



The rubble after the attacks on the PDI-P Headquarters

Rocks, petrol bombs and tear gas canisters were thrown into the building, overpowering the scores of people inside. The mob forced their way into the building and in the fighting that followed, scores of people were injured. According to reports at the time, five people inside the building were killed, twenty-three went missing, and nearly 150 people were injured. Most of those who escaped unharmed from the building were arrested and held for several weeks; many were seriously maltreated. Human rights observers said at the time that it was difficult to determine the real death toll

General Zacky Anwar Makarim who was head of BIA, the army's intelligence agency, in 1996. Makarim was also named as a likely suspect by the Indonesian investigation team into the horrendous events that wreaked havoc in East Timor before and after the ballot in August 1999. But he is not among the 18 persons now on trial in Jakarta. {See separate article.]

Trisakti and Semanggi cases unresolved

Students at Trisakti University, on the outskirts of Jakarta, and the parents of four students who were shot dead in the back when returning to the campus after a peaceful demonstration on 12 May 1998 have campaigned vigorously for years for the culprits to be brought to justice.

The Trisakti demonstration was part of a wave of student protest that had gathered momentum since the beginning of 1998. The killings sent shock waves across the country and students came out in even greater numbers, flying flags half-mast on their campuses. The day after the killings, anti-Chinese riots devastated several commercial centres in Jakarta; the army stood by as thousands of homes and shops were looted and destroyed. At least a thousand people died in the riots and scores of Chinese women were systematically gang-raped. An investigation into the causes of the riots and those responsible has come to nothing. With the country descending into chaos, Suharto cut short an overseas trip and a week later, announced his decision to resign.

Relentless demands for an investigation into the shooting by the parents of the four victims persuaded former President Abdurrahman Wahid's administration to bring the men who shot the students before a military court. But the court's decision was not seen as satisfactory as only low-ranking personnel, who were merely carrying out their superior's orders, were sent to jail.

Lasmiyati, the mother of one of the students, said that sentencing the troops did not solve the case because 'their superiors should be held responsible for the shootings and brought before the court first.'

In August 2001, the National Human Rights Commission (Komnas HAM) set up a special commission of inquiry known by its Indonesian initials as a KPP-HAM, to investigate the Trisakti incident, along with two other atrocities in which a number of students were killed, the Semanggi I and Semanggi II incidents (named after the Semanggi flyover where the incidents took place). Semanggi I occurred in November 1998 when hundreds of students gathered in protest against moves to impose emergency laws that would have given the military greater powers to 'quell unrest'. Security forces opened fire on the peaceful demonstration, killing thirteen students. Semanggi II occurred in September 1999 when students gathered in Jakarta to oppose moves to nominate President B.J. Habibie for a second term. One student was killed when troops opened fire.

In setting up the special commission, Komnas HAM was exercising its powers under Human Rights Courts Law 26/2000 for the investigation of possible crimes against humanity. It was clear from the start that these investigations would lead to charges of top-ranking army and police personnel who were responsible for the way in which the security forces behaved. The result has been that both the army and the police hierarchy have refused to allow retired or serving officers to be questioned by the commission.

The work of the KPP-HAM was seriously undermined

because the DPR, the Indonesian parliament, had conducted its own investigation into the incidents. The special parliamentary commission set up for this purpose came to the conclusion that the incidents were not serious human rights violations and any court cases should therefore be heard before a military tribunal. This has been used by a number of officers, including retired General Wiranto, who was armed forces commander at the time of the incidents, to refuse to respond to summonses from the KPP-HAM. The KPP-HAM then announced that they would use their powers of subpoena to force the officers to appear but the Supreme Court turned down a request to issue a finding to this effect.

Given the insuperable difficulties the commission faced in completing its investigations, the KPP-HAM wound up its work when its mandate expired. The head of the commission, Albert Hasibuan, said that they had reached the conclusion that one high-ranking army officer and two high-ranking police officers were thought to be involved at the strategic level, that eleven high- and middle-ranking officers were involved at the operation command level and thirty-six middle-ranking officers were involved at the field command level. [Jakarta Post, 22 March 2002]

'We conclude that the killings took place with the full involvement of the security officers who used their power as well as their weapons in an excessive way, for the sake of certain political interests,' Hasibuan said, when submitting the final report to the Komnas HAM.

After further deliberations by Komnas HAM, the documents were forwarded to the Attorney General's office for judicial investigations that should lead to formal indictments of the suspects.

There have been many student demonstrations calling for the case to be brought to court and for the men responsible to be made to account for the crimes. But the documents appeared to have been shelved by the Attorney-General's office and few people expect any significant move in this case in the foreseeable future. *

continued from p 19.

In a joint statement issued after the Soares verdict was announced on 14 August, TAPOL along with CAFOD, the Catholic aid agency, and CIIR, the Catholic Institute for International Relations, described the trials as 'a travesty of justice aimed at protecting senior Indonesian army officers and covering up the truth of what happened in East Timor'. They went on to say: '(T)he international community must live up to its responsibility for justice by setting up an international tribunal'. The three organisations also urged the international community to provide long-term support for serious crimes investigations and prosecutions in East Timor.

Human Rights Watch, commenting on the Soares verdict said: 'The court's action is a mockery of justice. The sentence amounts to little more than a slap on the wrist,' said Mike Jendrzeczyk, Washington director for Asia for Human Rights Watch. 'This signals that Indonesia is not serious about holding serious abusers accountable.'

continued on p 3.

New revelations about 1999 mayhem in Timor

Leaked intelligence documents reveal that the devastation wrought in East Timor in the months before and after the 1999 ballot were masterminded by a network of top army personnel many of whom hold key positions of power in Indonesia today. They remain beyond the reach of justice.

It is an obscene perversity that, as the first crimes against humanity trials in Jakarta reach their conclusion, and as the US moves closer towards re-engagement with the Indonesian military (TNI) as part of its 'war against terrorism', many of Indonesia's own practitioners of state terror, those who orchestrated the devastation of East Timor in 1999, are still in power or active politically, stifling reform and practising their dark arts in places such as Aceh and West Papua.

Indonesia is clearly to blame for not ensuring that senior generals are made to account for their crimes and for not acknowledging the truth of what happened in East Timor, but the international community bears the primary responsibility for allowing Indonesia to protect its own.

The evidence of a systematic campaign against the civilian population of East Timor, planned and directed at the highest level, is available in abundance, most notably in leaked Australian intelligence materials published in March this year in the Sydney Morning Herald.

Transcripts of intercepted messages between Indonesian officers who ran the campaign of violence and their militia proxies reveal a covert chain of command down from the then President Habibie's feared co-ordinating minister for politics and security, General Feisal Tanjung, a Kopassus

special forces veteran, to army generals and militias on the ground in East Timor. Little attention has so far been paid to Tanjung's pivotal role in the devastation of East Timor. In his retirement, he is still active in Indonesian party politics.

The intercepts show that a network of officers masterminded the campaign of violence and intimidation aimed at producing a vote against independence in the August 1999 ballot. When they failed in that objective, they organised the killing of hundreds of independence supporters, the forcible deportation of one-third of East Timor's population, and the destruction of three-quarters of the country's infrastructure.

Tanjung was ably assisted, according to the intercepts, by Habibie cabinet members, AM Hendropriyono (currently Indonesia's supreme intelligence chief and a member of Megawati's cabinet), and Yunus Yosfiah (implicated in the killing of five Western newsmen in Balibo, East Timor in 1975) as well as Major-General Sjafrie Sjamsuddin, now in the influential position of spokesperson of the armed forces.

The key officer running the militia in East Timor was Major-General Zacky Anwar Makarim who is still attached to TNI headquarters. He was named as a suspect in the Indonesian Commission of Inquiry into Human Rights Violations in East Timor (KPP-HAM), published in January 2000, but there is no sign of him facing prosecution.

Major-General Mahidin Simbolon, who gave his name to the notorious Mahidi militia group and referred to them as 'his crew', is now military commander of West Papua where it is widely feared that militias will replicate their role in East Timor.

Key elements of the Indonesian campaign included the dispatch to East Timor in February 1999 of special forces units code-named *Tribuana* and *Venus* to join undercover operations and the insertion of hit squads of special forces, code-named Kiper-9, to target independence supporters at the time of the arrival of INTERFET international troops in September 1999.

There is grave concern in Australia that the vital evidence contained in these intelligence intercepts has not been shared with UN or other investigators. Given the failure of accountability in Indonesia, it is absolutely essential that international justice takes its course and that Australia takes the lead in ensuring that the facts about the crimes against humanity committed in East Timor are fully exposed.

Dili's views on Aceh and West Papua

Many activists campaigning for Aceh and West Papua were disappointed to learn that leading personalities in the newly-established East Timorese government fully support Jakarta's position on Indonesia's territorial integrity and have urged the people of these territories to accept special autonomy as introduced by the Jakarta government.

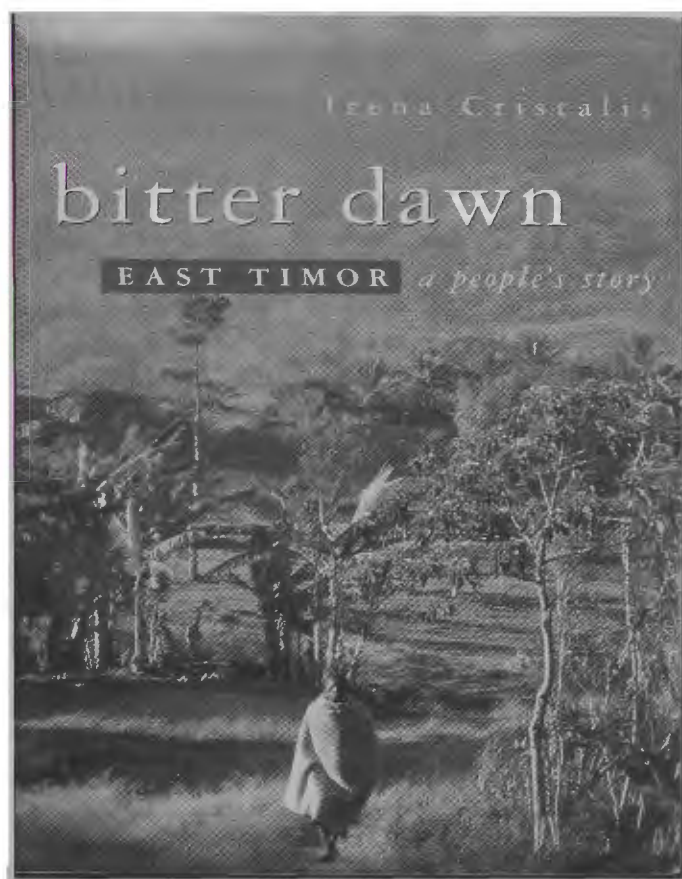
East Timor's president, Xanana Gusmao, speaking during

continued on page 13



General Faisal Tanjung appeared as a witness in the East Timor adhoc trials. Showing no remorse, he went onto the offensive and blamed the UN for the East Timor tragedy.

Bitter Dawn: East Timor, a People's Story
by Irene Cristalis, ZED Books, London, 2002



After three years of breathtaking changes, transforming it from a down-trodden, occupied country to the first newly-independent state of the 21st millennium, East Timor has become the subject of a flood of books, dissecting the fortunes and misfortunes of the country from many angles. It is a subject that casts a penetrating light in particular on the malicious efforts by the Indonesian military to counter the decision, taken in January 1999 by President B.J. Habibie to allow the East Timorese to decide for themselves whether they wanted to accept special autonomy or extricate themselves from their Indonesian tormentors.

Bitter Dawn can be counted as one of the best accounts of the tragic events that preceded and followed the ballot on 30 August 1999 when 80 per cent of the infrastructure was left in ruins and a quarter of the population was forced to abandon their homes to become refugees in West Timor. The prose is lucid, making this a highly readable book full of drama and sympathy for the victims of these terrible events.

Cristalis spent the year before the ballot in East Timor, travelling widely and using her journalistic skills to understand a people deeply traumatised by 23 years of Indonesian occupation and daring to hope that at last things would change. While her commitment to East Timor's cause is never in doubt, her frank and sometimes critical accounts of the people she met - local commanders of Falintil, the armed resistance, leaders of the Catholic church, human rights activists, militia fighters and ordinary people, as well as UN officials - leave the reader with a refreshing sense of diversity that challenges the often stereotype accounts of a people united around a common cause.

The book is studded with carefully crafted portraits of individuals trying to adjust to the situation, the euphoria that greeted the decision to hold a 'popular consultation', which was rapidly overtaken by fear and apprehension as army-backed militias took control in many parts of the country, compelling 100,000 East Timorese to flee their homes and become 'internally displaced people'. The turning point was the 6 April 1999 Liquica Church massacre which rammed home the message that churches could no longer be regarded as sanctuaries. The massacre was also intended, the author argues, to disrupt talks underway at the UN in New York to agree the modalities for the ballot. Her account of a visit to Liquica to attend mass on the Sunday after the massacre vividly portrays the depth of the fear gripping the population. Even with Bishop Belo there to take the mass, congregants held back in fear and trickled very slowly into the church. This was the first time, Belo later said, that he had ever turned up to an empty church.

Eleven days later, the home of Manuel Carrascalao in Dili, where dozens of Timorese were taking refuge, was attacked by Aitarak militia under Eurico Guterres (whose trial is now underway in Jakarta). This was intended to convey the message that 'turncoats' like Carrascalao who had switched from supporting integration with Indonesia to supporting independence were in the sights of the killers.

One of her constant companions was Antero Bendito da Silva, head of the East Timor Students Council which had responded to the reformasi demonstrations in Indonesia that drove Suharto from power in May 1998 by mounting a nationwide 'open forum' campaign. But Antero was so obsessed with thinking about conflict resolution and designing future education projects for the Timorese that he often seemed blissfully unaware of the chaos and danger surrounding him and needed to be rescued many times.

Another character, Mana Lou, an irrepressible 'secular nun', is fondly portrayed. She pursues her own brand of grassroots Catholicism, dedicated to trying to restore people's sense of self-esteem and identity which, she says, is what faith is all about. This put her at loggerheads with Bishop Belo on the one hand and Falintil leaders on the other. Called by some the 'Joan of Arc' of East Timor, she tried to persuade militia members of the folly of their ways while organising food and medicine for the thousands of 'internally displaced people' (IDPs) around Liquica.

Another fascinating character who pops up frequently is a Falintil commander known as L7, a flamboyant guerrilla, fond of delivering speeches, of being the centre of attention and a heavy drinker, when supplies were available. Yet with all that, he was the proud head of a Catholic youth organisation, Sagrada Familia (Sacred Family) that claimed (justifiably, she was told) to have a membership of 60,000.

The author is no faint-heart. She visited some of the most dangerous places in the country as the ballot drew near. A constant theme is her puzzlement at the failure of the staff of the UN mission, UNAMET, to take seriously the threats of the militia, on behalf of their paymasters, to plunge the country into chaos, should the vote swing heavily in favour of independence. When East Timor descended into chaos and mayhem erupted just before the ballot results were due to be announced, hundreds of foreign and Indonesian journalists fled the country in the face of constant harassment. The intention was clear - to ensure that the coming events would not get reported. But the author and several other

continued on page 15

Appeal to support former *tapols*

We have been asked to publish the following appeal by Lembaga, which was set up to support former political prisoners. This is one of several organisations working for former political prisoners in Indonesia, devoted specifically to the needs of prisoners taken into custody in 1965/1966.

During the Suharto military regime which lasted over 30 years, massacres, arbitrary detentions and kidnappings were commonplace in Indonesia. The worst period was 1965-1966 when about 1 million people were killed, and about 1.8 million people arbitrarily detained without trial, in prisons and detention camps controlled by the military or police.

Thanks to international pressure, the political prisoners have all been released, though in many cases after more than 10 years imprisonment. Many were in poor health, many were aged. Some had lost all their property through illegal confiscation by the military.

The detainees came from all walks of life, the military, civil servants, teachers, trade union leaders, and women's, peasants and students organisations. Most were detained because of their alleged links with, or sympathy for, the Indonesian Communist Party (PKI), or because of false accusations.

The situation today

The political prisoners suffered from all kinds of ill-treatment and many worked as forced labourers. Tens of millions of family members were also victims of systematic state terrorism and psychological persecution for more than 30 years and many are still traumatised.

Even today, ex-political prisoners suffer from administrative restrictions introduced under Suharto, which deprive them of their civil rights. Former government civilian and military employees, sacked during the Suharto regime, receive no pensions or salaries. Those who are still able to work are not allowed to work. Many receive no medical help and live in extreme poverty. They are treated as second-class citizens or pariahs. Even now, there are instances of political and psychological persecution by remnants of the military regime and some fundamentalist Muslim groups.

In order to defend their fundamental rights as human beings and as citizens, ex-political prisoners have created an organisation. The Institute of Advocacy for the Rehabilitation of Victims of the New Order" (Lembaga Perjuangan Rehabilitasi Korban Rezim Orde Baru) called LEMBAGA, a non-governmental organisation, was launched on 16 January 2000 in Jakarta, and is now established in Java, Sumatra, Kalimantan, Sulawesi, Bali, Maluku. Its members come from various ethnic groups and religions.

The aims of LEMBAGA are to urge the Indonesian government to abolish all remaining repressive regulations and decrees applied to ex-political prisoners and other victims of the Suharto regime and to restore their civil rights. In co-operation with other democratic forces, LEMBAGA will struggle against the remnants of the inhuman policies of the military regime of Suharto. Together with other national and international organisations, LEMBAGA aims to promote a democratic struggle for peaceful reform in political,

economic and social life in Indonesia.

LEMBAGA needs the help and actions of solidarity of other organisations abroad:

- We would like, with other Indonesian organisations, to launch a world-wide campaign about the human rights of the tens of millions of ex-political prisoners and their families
- To work in contact with other organisations in different countries.
- We would like your solidarity in making known our aims to international public opinion
- We need your moral and material/financial support to achieve our aims in the difficult political, economic and social environment of Indonesia today.

Postal address: LEMBAGA, Jalan Raya Bogor Km 22 No 31, Jakarta Timur 13830, phone 62-21- 8400309 E-mail: patria@semarang.wasantara.net.id

SUBSCRIPTION RATES

Annual rates (six issues)	UK	Europe & overseas (air only)
Individuals	£18.00	£18.00
Unwaged	£9.00	£ 9.00
Institutions	£25.00	£25.00

Girocheques and Eurocheques are welcome.
TAPOL's Giro account No. 33 338 3281

Please NO Australian, Canadian or US personal cheques to UK

Australian subscribers may pay in A\$ to:

TAPOL (Australia)

PO Box 121, Clifton Hill, Vic 3068

Rates for Individuals A\$45, Unwaged A\$22, Institutions A\$80

Dutch subscribers may pay in Euros to:

S.L. Liem

Binnenkadijk 267, 1018 ZG Amsterdam

Postbank 4637291

Rates for Individuals E 25, Unwaged E 12,50, Institutions E 36,50

Kindly state the payment is for TAPOL subscription

Canadian and US subscribers may pay in C\$ or US\$ to:

TAPOL (Canada)

PO Box 562, Station P, Toronto M5S 2T1

Rate for individuals \$35, Unwaged \$18, Institutions \$70

All other subscriptions and all correspondence to:
TAPOL, 111 Northwood Road, Thornton Heath, Surrey CR7 8HW,
England, Tel: 020 8771 2904, Fax: 020 8653 0322,
email: tapol@gn.apc.org, website: http://tapol.gn.apc.org

**PLEASE NOTE: DONATIONS AND STANDING ORDERS
ARE ALWAYS WELCOME**