

Protesting coal impacts
at Bumi EGM: see page 15



DTE

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for Ecological Justice
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Bintuni Bay communities want accountability at Tangguh

Communities have criticised the lack of transparency and unfulfilled promises at the giant Tangguh gas installation operated by UK-based energy multinational BP in Papua Barat.

At a recent three-day workshop in Bintuni, Papua Barat, communities affected by the Tangguh gas operation demanded that BP and the Indonesian government listen to their concerns and enable them to have a say over their lives, their livelihoods and the future of Bintuni Bay.

During his state visit to the UK in November 2012, Indonesia's President Susilo Bambang Yudhoyono received an honorary knighthood from the Queen in recognition of

closer ties between the two countries. The President also signed a string of agreements on trade, defence and education while in the UK. Most notable amongst these was a deal worth US\$12.1 billion to expand production at BP's gas extraction and liquefied natural gas (LNG) processing operations in Bintuni Bay, Papua Barat province (see box for more details).¹

More recently, President SBY was wined and dined by another European

government and another agreement relating to natural resource exploitation in Papua Barat province was signed. German industrial giant Ferrostaal is to build a US\$ 2 billion petrochemical processing plant in Bintuni Bay, using Tangguh gas as feedstock.² Last year, an initial agreement to develop a petrochemical plant in Bintuni Bay was signed with LG of South Korea.³

Developing the oil and gas sector in Papua Barat is part of Indonesia's Masterplan for the Acceleration and Expansion of Indonesia Economic Development, (MP3EI) - a central government initiative which has drawn criticism for all but ignoring social and environmental sustainability and climate

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Participants working on a list of recommendations to submit to BP, at November 2012 workshop, Bintuni. (Photo: Mnuikwar)

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change concerns.⁴ In Papua Barat at least, it appears that MP3EI is gathering pace.

Local communities whose customary lands and resources are targeted for such schemes are struggling to comprehend what is happening to their region and to get their voices heard. They have seen outsiders exploit the local timber resources for many years now, but this latest wave of exploitation appears to be on a different scale entirely.

Voicing concerns

Community concerns about Tangguh were raised at a three-day workshop held in the small town of Bintuni, Papua Barat, from November 21st-23rd, 2012. The workshop was titled "Managing natural resources in a just way and respecting the rights of indigenous communities under Special Autonomy". Given the context of increasing resource exploitation in Bintuni Bay, it was not surprising that local community representatives approached the workshop with some scepticism. It was clear that participants were fed up with hearing about promises and initiatives that lead nowhere except to pave the way for more incursions into their lives.

The workshop was built around a discussion with the communities living in Bintuni Bay of DTE's report *Tangguh, BP and International Standards*.⁵ BP's gas extraction and liquefaction project is located on the southern shore of the Bay, while Bintuni, the closest town, is on the northern shore. However, it was clear from the start that the communities' overriding priority was to make the most of an opportunity to meet and discuss the impacts of this project and other developments affecting them. On the final day of the workshop, the discussion was extended to include BP staff and local government representatives.

The Manokwari-based human rights organisation LP3BH and the Papua Barat NGO Advocacy Network were the lead workshop organisers, while facilitation was shared between LP3BH, a Bintuni community organisation called Bin Madag Hom, and DTE.

The sessions were attended by around 70 community representatives from villages and representatives of local women's, inter-faith and youth groups from the North and South shore communities, all of whom have been affected by the Tangguh development. It was the first workshop of its kind to be organised by NGOs for these communities, in which participants could speak openly, on an equal footing with company and government representatives.

On the first day, participants shared their experiences of living with Tangguh. "We used to live in relative harmony before Tangguh came", said one participant. "Since the project came, our lives have changed. People have become envious of each other,

especially between the North and South communities, between those who get better facilities and those who don't."

The communities also said they were not happy about outsiders getting good jobs at the project while the local people only get menial, casual work. The impact on access to fishing grounds was a serious concern and, for some communities on the south shore, the dislocation they felt by being displaced by BP's LNG processing plant.⁶ Behind all this, was an awareness that the lives of people living in Bintuni Bay were changing due to forces beyond their control, and that these changes would lead to a future that showed no sign of bringing an improved standard of living. As an example of this, participants cited the lack of electricity in Bintuni District, which had been one of the promises made to communities.

On the second day, there was a discussion of the content of DTE's report - a compilation of the social, human rights and environmental commitments made by the Tangguh project. The majority of participants were not aware of the key BP documents setting out the social and environmental standards for the Tangguh project development, presented by DTE. Communities had given their opinions to the company - mostly their wishes to improve their living conditions - during the *Amdal* (Environmental Impact Assessment) process at the start of the project, and had been waiting to see their aspirations fulfilled.

Participants were also interested to learn about BP's global operations and the profit the company makes. The stark contrast between the earning power of the company and the standard of living of the local people

Expansion at Tangguh

The expansion of BP Tangguh, which was formally agreed in London, involves building a third 'production train' which is planned to be fully operational by 2018. This will increase the production capacity at the Tangguh plant by 3.8 million tonnes of LNG per annum to a total of 11.4 mtpa. As part of the deal for this third train, a significant proportion of the gas will go to the domestic market in Indonesia via the state electricity company PT. PLN as well as feeding the proposed petrochemical plant (see main text).

BP is the operator of the Tangguh project and owns a 37.16% stake in it.⁷ BP's partners are Japan's MI Berau BV, which holds a 16.3% stake; China's CNOOC Ltd. (13.9%), Japan's Nippon Oil Exploration (Berau) Ltd., (12.23%), Japan's KG Berau/KG Wiriagar (10%), LNG Japan Corporation (7.35%) and Australia-based Talisman (3.06%).⁸

who have been exposed to this 'partial modernity' by the company, added to their sense of unfair treatment.

At the request of the local communities and Papuan CSOs organising the workshop, the final day included a meeting with representatives from BP and the local government planning department (Bappeda). The discussion was very frank and community participants were openly critical both of BP's record and that of Bappeda. This gave an indication of the strength of feeling generated by the unequal relationship between local communities and the powerful institutions and business exploiting the natural resources of Bintuni Bay.

The workshop resulted in a series of recommendations to BP and local government (see box, next page).

The dialogue process between community and BP representatives established during the workshop was taken further at a TIAP (Tangguh Independent Advisory Panel) meeting held in Jakarta a couple of weeks after the workshop. The workshop recommendations were formally presented both to BP and the local government representative, as well as being conveyed to the TIAP panel by representatives of LP3BH.

Will BP listen?

It is clear from the community concerns raised at the workshop that over the life of Tangguh so far BP has not been able to adequately address the impacts of its current operations in Bintuni Bay. Now it is expanding Tangguh and this is likely to bring even bigger impacts. Concerns have been repeatedly raised by civil society in Papua, Indonesia and internationally and now local communities have conveyed their own concerns directly to the company and local government.

In the last few years, BP has been forced to acknowledge negative impacts of its operations in other parts of the world: following the Deepwater Horizon explosion and oil spill disaster in the USA, BP currently estimates US\$ 42 billion in clean-up and compensation costs.⁹ It remains to be seen how BP will respond to community demands for accountability in Papua Barat.

For more background on Tangguh see: *DTE* 89-90, November 2011

Notes:

1. See: *The Jakarta Globe*, Nov 2, 2012. 'Indonesia and Britain ink deals on trade, defence, education.' <http://www.thejakartaglobe.com/home/indonesia-and-britain-ink-deals-on-trade-defence-education/553799>
2. This was a Letter of Intent, or initial agreement. See: *The Jakarta Globe*, Mar 6, 2013. 'Ferrosaal to build US\$2b plant In

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The following document was drafted at the Bintuni workshop by community participants and handed to BP and the local government representative on the final day.

Recommendations

The Forum from the workshop "Managing natural resources in a just way and respecting the rights of indigenous communities under Special Autonomy" which was held in Bintuni Bay, Papua Barat on 21-23 November 2012, at the Steenkool Hotel, makes the following recommendations to the Bintuni Bay Regional Government and BP Tangguh:

To the Bintuni Bay regional government:

1. There needs to be transparency and a pro-people approach by the executive and legislative branches of the regional government.
2. There needs to be openness and transparency on the part of the Regional Government (executive and legislative) about the activities of BP Tangguh which relate to the distribution of oil and gas revenues to the indigenous communities.
3. The Regional Government should encourage the adoption of regional legislation on the distribution of oil and gas revenues as a matter of urgency.
4. The Regional Government must form a Regional Information Commission.

To BP Tangguh:

1. This forum requests that BP Tangguh reviews its AMDAL (Environmental Impact Assessment).
2. To date, the non-physical aspects of development undertaken by BP Tangguh covering education, health and home economics (family-based economic activities) has not fulfilled what was promised. BP Tangguh should immediately step up the community development programme.
3. This forum requests that the Government and BP Tangguh Management bring BP Tangguh President (William Lin) to meet directly with the seven indigenous communities in Bintuni Bay District; alternatively, that the government and BP Tangguh facilitates the seven communities to meet directly with the BP Tangguh President in the UK.
4. We expect BP Tangguh to conduct workshops like this one every year in Bintuni Bay District.
5. The company must openly provide information to the indigenous communities, the wider community and the government on every policy decision it makes regarding exploration.

Bintuni, 23 November 2012.

Translated by DTE, March 2013



BP and Bappeda representatives at the community workshop (left and centre), with facilitator from Bin Madag Hom speaking (right). (Photo: Mnuqwar)



Community participant from Gemapuan (a women's CSO) reads out the recommendations to BP and local government representatives on the final day of the November workshop in Bintuni, Papua Barat. (Photo: Mnuqwar)

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W.Papua'

<http://www.thejakartaglobe.com/business/ferrostaal-to-build-2b-plant-in-w-papua/577270>, and <http://investing.businessweek.com/research/stocks/private/snapshot.asp?privcapId=875008>.

3. See 'Big Plans for Papua' in DTE 91-92, May 2012 at <http://www.downtoearth-indonesia.org/story/big-plans-papua>.
4. 'Big Plans for Papua', as above.
5. See <http://www.downtoearth-indonesia.org/story/tangguh-bp-and-international-standards>.
6. The development of the Tangguh project involved the relocation of a whole village to make way for the LNG processing plant. BP built a new resettlement village for the displaced community which was officially 'opened' in 2004. See *Tangguh, BP and International Standards*, April 2011, at <http://www.downtoearth-indonesia.org/story/tangguh-bp-and-international-standards>
7. See: *The Financial Times*, Nov 1, 2012. 'BP wins approval for Tangguh expansion'.
8. See *The Jakarta Post*, 7/Sep/2012, 'BP to sell 40% of third LNG train's output to PLN', <http://www.thejakartapost.com/news/2012/09/07/bp-sell-40-third-lng-train-s-output-pln.html>
9. See: *The Guardian*, Feb 22, 2013. 'BP and government lawyers prepare for battle over environmental cost of spill.' ♦

Call to save Indonesia's remaining forests

As the end of the two-year moratorium on clearing primary forests and peatlands draws near, the fate of Indonesia's forests and forest-dwelling peoples is once again in the spotlight.

Thirty seven Indonesian civil society organisations, including indigenous peoples' organisations, national and regional NGOs called on their government to take urgent action to save the country's remaining forests in January. The CSO Coalition for Saving Indonesian Forests and Global Climate offered a stinging critique of the current moratorium on the issuing of new permits to exploit primary forests and peatlands. They now want it to be strengthened and extended. They also want Indonesia's REDD+ National Strategy, published in June last year, to be fully implemented to respect the rights of indigenous peoples and local communities.

The call for action comes as President Susilo Bambang Yudhoyono's government finds itself under intense but conflicting pressure to protect the forests on the one hand, and to open them up for more large-scale commercial exploitation - including mining, energy, food and infrastructure projects - on the other. The palm oil developers and other business groups in favour of pushing ahead with the MP3EI (Masterplan for the Acceleration and Expansion of Indonesia Economic Development, announced in 2011),¹ are lining up with allies in powerful government ministries to make more land available to develop their projects. At the same time, Indonesia's international climate change mitigation commitments² oblige it to protect forests in order reduce emissions from deforestation and peatland degradation. REDD+ schemes like the \$1 billion deal with Norway signed in 2010, required Indonesia to make measurable cuts in carbon emissions from forests against projected 'business as usual' levels.

The current moratorium, which has only weeks left to run, is a key part of Indonesia's agreement with Norway. When it was launched in May 2011, the moratorium received a luke-warm welcome from CSOs who pointed to numerous loopholes allowing companies to continue clearing forests for plantations and other projects.³

In 2012, a year after the Moratorium was declared, a group of twelve



Photo by DTE

CSOs called for a "performance-based Moratorium" with a set of pre-defined conditions against which any significant change could be measured. They stated that the Moratorium should not be limited by time, but should be determined by the attainment of its forest management sustainability targets, including the fulfilment of environmental and social safeguards.⁴ This demand for a performance-based moratorium has been repeated in the latest call from an expanded Coalition of CSOs.

The full Coalition statement is available at:

<http://www.downtoearth-indonesia.org/sites/downtoearth-indonesia.org/files/Call%20to%20save%20forests-final.pdf>.

Moratorium: the verdict so far

The Coalition statement draws attention to the huge problems that face forest governance reformers in Indonesia. Deforestation is continuing despite the moratorium, while its effectiveness has been diminished by its limited two-year duration, the lack of proper legal status in the state forest zone, and the fact that less than half of Indonesia's provinces have finalised spatial plans for their regions.⁵ Local governments are undermining the moratorium by reclassifying areas of forest as non-forest so they can be excluded from the moratorium and opened up for development.

Last year, local politicians seeking to reduce the central government's control of forest lands, succeeded in their appeal to the Constitutional Court to restrict the application of the Forestry Law. The court decided to redefine 'forests' as areas that have

been both 'denoted and gazetted' as such (instead of 'denoted or gazetted'), thereby placing in doubt the status of some 110,000,000 ha of Indonesia that had previously been administered as State Forest Areas but never gazetted. The decision results from an appeal by provincial and district level authorities who are seeking greater power over land allocation decisions (the main way they fund their election campaigns and enrich themselves). If such areas are defined as outside 'forests', then there is a big risk - if not immediately then in the medium term - that these areas could be handed out to agribusiness investors, leading to a massive acceleration of forest loss and takeover of forest peoples' lands.⁶

Meanwhile, the moratorium has been seriously weakened by intensive lobbying from industry and other ministries: there are exemptions for the exploitation of energy resources like coal.

In some instances, the area covered by the moratorium has been adjusted to accommodate damaging large-scale projects which will do nothing to reduce emissions from deforestation. In Papua, for example, the area allocated for agribusiness under the giant Merauke Integrated Food and Energy Estate (MIFEE) scheme, was excluded from the Moratorium.⁷ Elsewhere, businesses have carried on clearing forests regardless of whether they fall under the moratorium or not, most notoriously in the case of palm oil plantation developer PT Kallista Alam in Aceh.⁸

Kuntoro Mangkusubroto, head of the President's Delivery Unit for Development Monitoring and Oversight (UKP4), is nevertheless upbeat about the moratorium results. UKP4 is overseeing the all-important process of monitoring and refining the moratorium map. According to Kuntoro, the moratorium has achieved a lot, though it is "still not perfect".⁹

Both Kuntoro and the forestry ministry agree that the Moratorium should be extended. This idea is opposed by the agriculture minister who says the ban is unnecessary and should be replaced by stricter criteria for issuing licences for palm oil plantations.¹⁰

'Degraded land'

Indonesia's secretary general at the forestry ministry, Hadi Daryanto, has also suggested that oil palm should continue expanding in areas of degraded forest land extending to almost 24 million hectares, rather than using more primary forests. This well-worn 'degraded land' argument is now widely seen as invalid because it suggests that the land is of little value or use, whereas in fact it is very likely to be claimed and used by indigenous peoples and/or local communities. As

Accessible maps

One positive aspect of the moratorium is the fact that the maps showing the moratorium areas are being made available to the public online, as part of the government's 'One Map' policy. This policy has, in turn, provided Indonesia's indigenous peoples alliance, AMAN, a platform to publicise its own initiative to map of indigenous territory and publicly request that these are included in the official maps.¹⁴

The portal giving access to a variety of maps, including the moratorium maps, is at <http://maps.ina-sdi.or.id/home/index.html>, with a list of available maps available under 'galeri'. However, when DTE tried to access some of the maps mid-February many of the map layers were not accessible and there was not an obvious means of accessing information about, say, mining and oil & gas concessions. This information is also not accessible via the most obvious place - the Energy and Mineral Resources Ministry website. In contrast, there is a whole wealth of maps publicly available via the Forestry Ministry's website at www.webgis.dephut.go.id, including archives at <http://www.dephut.go.id/index.php?q=node/59> as well as the moratorium maps in all four versions.

highlighted in the 2011 Bali Declaration on Human Rights and Agribusiness in SE Asia:

While many land development programmes and policies focus on areas considered to be "empty", "marginal" or "degraded", States should recognize that there are few areas truly unoccupied or unclaimed, and that frequently land classified as such is in fact subject to long-standing rights of use, access and management based on custom. Failure to recognize such rights will deprive local communities and indigenous peoples of key resources on which their wealth and livelihoods depend.¹¹

In fact Hadi Daryanto acknowledges the difficulty by recognising that oil palm companies "don't want degraded land because normally people are there, and to remove them is expensive."¹² Kuntoro Mangkusubroto, on other hand, says more palm oil can be produced without extending the amount of land under cultivation. "You can increase productivity", he told *Reuters* in January.¹³ This approach is also reflected in the REDD+ National Strategy published by Kuntoro's REDD+ Task Force in June 2012.

Notes

1. See 'Big Plans for Papua' in DTE 91-92, May 2012, <http://www.downtoearth-indonesia.org/story/big-plans-papua>. The

MP3EI document is available online in English at <http://www.depkeu.go.id/ind/others/bakohumas/bakohumaskemenko/PDFCompleteToPrint%2824Mei%29.pdf> and in Indonesian at http://www.depkeu.go.id/ind/others/bakohumas/bakohumaskemenko/MP3EI_revisi-complete_%2820mei11%29.pdf.

2. As reiterated in Indonesia's REDD+ National Strategy, Indonesia is committed to reducing emissions by 26 percent from the 'Business as Usual' development scenario by 2020 through utilization of its own funds and without sacrificing development in other sectors, or by 41 percent with international assistance. See <http://www.satgasreddplus.org/download/150612.REDD+.National.Strategy.Indonesia.pdf>. For more background, see DTE 84, March 2010, <http://www.downtoearth-indonesia.org/story/indonesia-packages-tree-plantation-expansion-emissions-reduction-strategy>
3. See 'REDD in Indonesia - an update', DTE 89-90, May 2011 at <http://www.downtoearth-indonesia.org/story/redd-indonesia-update>
4. See <http://huma.or.id/wp-content/uploads/2012/09/Moratorium-Berbasis-Capaian-Mei-2012.pdf>
5. Information about progress with passing regional regulations on spatial plans at provincial and district level is at <http://www.penataanruang.net/>
6. Marcus Colchester (pers. comm. February 2013).
7. See also separate articles pages 9 and 12.
8. This company cleared forests in Aceh's Tripa peat swamp and, following a legal challenge by WALHI, had its licence revoked in September last year (see <http://www.redd-monitor.org/2012/09/07/indonesian-court-revokes-oil-palm-concession-in-tripa-peat-swamp/>). According to UKP4's Heru Prasetyo, the company never had sufficient legal basis to operate in the disputed area (see <http://www.redd-monitor.org/2012/09/20/interview-with-kuntoro-mangkusubroto/>). PT Kallista Alam's three concession areas can be viewed at http://news.mongabay.com/2012/0321-aceh_vs_wahli.html. The 'new' concession area marked on that map is the one which was at first included as off-limits in the first moratorium map, then excluded from the revised map (revision 1) released in December 2011 (see <http://www.redd-monitor.org/2012/03/28/the-tripa-peatswamp-in-aceh-is-ablaze-despite-the-moratorium/>). It is included again in the 2nd and 3rd revision maps (compare map 0519 in revision 1 with revisions 2 and 3 from the links on the moratorium map access page at <http://webgis.dephut.go.id/>.)
9. See 'Top Indonesia Official Throws Weight Behind Keeping Forest Clearing Ban', *Reuters* 18/Jan/2013, <http://www.reuters.com/article/2013/01/18/indonesia-forests-kuntoro-idUSL4N0AN2j620130118>

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CSOs call for REDD+ National Strategy to be implemented

Indonesian CSOs are calling for the country's REDD+ National Strategy, published in June last year, to be fully implemented to respect the rights of indigenous peoples and local communities.¹

In a January statement, the Coalition for Saving Indonesian Forests and Global Climate, which includes the indigenous peoples' alliance AMAN, Forests Watch Indonesia, HuMA, ICEL, KPSHK, Sawit Watch and Greenpeace, stated that the National Strategy:

"...was prepared with an aim to improve Indonesian forest governance fundamentally and comprehensively. The preparation process was relatively transparent and has involved relevant stakeholders. It acknowledges that currently Indonesian forest governance is facing acute problems, which require extraordinary solutions, aside from 'business as usual' measures..."²

Along with the moratorium on clearing primary forests and peatland signed in May 2011, the REDD+ National Strategy is one of the agreed outcomes set out in the Letter of Intent (LoI) that Indonesia signed with Norway in May 2010 as part of a USD 1 billion REDD+ deal. In addition to the moratorium, the first 'preparatory phase' of the agreement, included:

- ♦ setting up a National REDD+ Agency (to be prepared by a REDD+ Task Force) to be fully operational by the end of 2011
- ♦ setting up an independent Monitoring, Reporting and Verification (MRV) Institution
- ♦ setting up an interim financing instrument to handle the preparatory phase
- ♦ developing a REDD+ National Strategy, into a national action plan,³ and which "proposes methods for implementing FPIC and equitable benefit-sharing"
- ♦ selecting a pilot province for REDD+.⁴

The deadline for setting up the National REDD+ Agency has now been missed by more than one year. The long delay plus the apparent deprioritising of the REDD+ National Strategy (*Stranas REDD+*), published in June last year, is now causing concern among CSOs in the Coalition.

CSOs involved in consultations to develop the REDD+ National Strategy have pushed to ensure that it contains much of the language of reform they would like to see adopted in the forestry and other natural resource sectors. They are alarmed that the hard-won gains in the REDD+ National Strategy could be lost if it is deprioritised.

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Land tenure reform, FPIC and human rights protections in the REDD+ strategy

Indonesia's REDD+ National Strategy is a 40 page document prepared by the Indonesian REDD+ Task Force and published in June 2012. It has the long term goal of ensuring that Indonesia's forests become a net carbon sink by 2030. The medium term goal is to achieve the 26-41% reduction in the country's emissions over projected business as usual levels by 2020. The short term goal (2012-2014) is to improve institutions, governance, spatial plans, and the investment climate to fulfil Indonesia's commitment to reduce greenhouse gas emissions while maintaining economic growth.

The Strategy sets out its human rights agenda as early as page five, under one of the five principles, where, under the principle of fairness, it states that:

"REDD+ is implemented on the basis of the principles of equality for all and human rights protection in forest management, including for women and communities vulnerable to socio-economic and environmental change."(p.5)

It also provides for participation by civil society in the REDD+ Agency, whose members will include community groups, indigenous peoples' organisations and CSOs as well as industry, academic institutions and representatives of government ministries and institutions (p.11).

Under the heading 'Land Tenure Reform', the Strategy states that people have a constitutional right to certainty over boundaries and management rights for natural resources. "Land tenure reform is an important prerequisite to create the conditions required for successful implementation of REDD+." It then sets out that this will be pursued through:

1. Instruction by the Government to the Home Affairs Ministry and the National Land Agency to implement a survey of land occupied by indigenous peoples and other communities.

2. Support the National Land Agency to resolve land tenure disputes using existing statutory out-of-court settlement mechanisms.
3. Harmonization and revision of natural resources management regulations and policies to ensure the principle and processes of Free, Prior, and Informed Consent (FPIC) are internalized in the issuance of all permits for the exploitation of natural resources (p.18).

Under the 'Conflict Resolution' heading in a section on the Moratorium, there are more commitments on human rights. The steps to be taken on conflict resolution are:

- a. Involve local communities in all processes, from planning to implementation and evaluation, throughout the new permit moratorium period;
- b. Formulate alternative models for natural resource related conflict resolution based on the fulfilment of human rights as stipulated in international human rights conventions and national legal instruments that have adopted human rights principles;
- c. Effectively take advantage of every opportunity to resolve conflicts through the application of local customs and practices, along with establishing a conflict resolution team with representatives from various sectors and independent parties;
- d. Formulate regulations that require non-government institutions (including Forest Management Units run by State-Owned Enterprises) to formulate standard operational procedures which incorporate principles of inclusiveness through FPIC and other human rights standards. (p.20-21)

There is also encouraging text on sustainability under the 'Strategic Programs' section. Implicitly this challenges land use policies as currently practised and which promote mega-projects like MIFEE⁷ in

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Papua. Under a heading, 'Implementation of an Economy Based on Sustainable Natural Resources Management' the REDD+ Strategy states it is:

"based on best practices in the management of land for farming, plantations, silviculture and mining. The application of best practice principles is meant to increase the productivity of land without increasing emissions or the risk of other environmental damage, while ensuring adequate benefits from the exploitation of natural resources without expanding the size of cultivated areas." (p.22)

There is also some attention to gender perspectives in the Strategy, included in a section about changing work paradigms and culture. Here, gender sensitivity is listed as one of five principles to be addressed (p.25).

A substantial section on safeguards (financial, social and environmental), states that social safeguards need to be designed specifically to protect and benefit vulnerable groups including indigenous peoples, local communities and women (p.29).

Free, Prior and Informed Consent (FPIC)

Under the 'Stakeholder Participation' section, there are several paragraphs under on implementing FPIC principles.

"The National REDD+ Agency is to implement and apply in all REDD+ programs and projects. The purpose of this approach is to ensure fairness and accountability for indigenous peoples and local communities whose lives and rights will be affected by REDD+ activities." (p.27).

The section sets out seven principles for implementing FPIC as follows:

1. The application of this protocol involves consultation with the relevant indigenous peoples, local communities, and other members of the public affected by the implementation of REDD+ programs/projects/activities;
2. Consultation is carried out without force, intimidation, manipulation, or pressure in any form to seek the consent of indigenous peoples and local communities who are potentially affected by REDD+ programs/projects/ activities;
3. Effective and fully participative consultation involves indigenous and local communities in every step and process that affects them either directly or indirectly. The participation of indigenous peoples can be done through their traditional authorities, or through representative organizations selected on

the basis of traditional systems adhered to by the given indigenous community.

4. Consultation aims to achieve broad consensus or the specific agreement of the indigenous and local communities potentially affected. There are various forms of agreement: tentative agreement, temporary agreement, partial agreement, agreement with specific stipulations, agreement with other options, and full agreement; all of which are decided upon by the concerned public through legal mechanisms, indigenous law practices, or local traditions and habits;
5. Consultation is based on complete, balanced, honest, unbiased, and easily understood information concerning the alternatives and choices existing for the public within the implementation of REDD+ activities, along with the consequences of each alternative choice. This information is meant to create leeway for broad consensus, with all parties having access to existing opportunities;
6. Consultation with the public must be done within an adequate frame of time before permits are legalized or activities commenced, and must be done respectfully with adherence to all stipulations and time considerations required within the consultation process;
7. The FPIC consultation process is the beginning of ongoing or regular communication between members of the community and the would-be implementers of REDD+ activities. There must be agreement on the manner of public consultations, its protocols and mechanisms, including those for complaints and conflict resolution relating to each stage of REDD+ activities.

There is, however, no mention of the right to withhold consent as an option for indigenous peoples or communities.⁸

Legal reforms required for REDD+ and the TAP MPR IX, 2001

Another potential strength of the Strategy is its reference to a key piece of legislation passed by Indonesia's highest legislative body, the People's Consultative Assembly (MPR), in 2001. The Assembly's decree (TAP MPR IX, 2001, on Agrarian Renewal and Natural Resources) was intended to prepare the ground for the reform of all sectoral laws affecting land and natural resources management. Over a decade later, this decree has still not been implemented, but recently TAP MPR IX/2001 has been brought back onto the table in government discussions about land and land reform.⁹

TAP MPR IX, 2001 is highlighted twice in the REDD+ National Strategy document, once under a section about reviewing and strengthening policies and regulations. Here, the Strategy sets out the REDD+ Agency's mandate to establish a 'climate-friendly' legal framework. This, it says, will function as a more detailed manifestation of TAP MPR IX, 2001.

"The legal framework thus formulated will then function as the basis for evaluation, harmonization, and implementation of the various strategies for policy strengthening. These steps toward the review and perfecting of policies and regulations include, but are not limited to, the revision of regulations on Forestry and Spatial Planning. In this way, the implementation of REDD+ and overall improvements to forest and land use governance will have a solid legal basis." (p.17)

Second, under the 'Legal Basis' heading of a chapter about directing the implementation of the REDD+ National Strategy, the documents states:

"The National Strategy has been formulated to function as an integral part of the existing legal framework. However, to ensure its implementation, it is necessary to undertake reform of the existing legal framework so that it becomes stronger, clearer, and harmonized with forest and peatland resource management. Such a sustainable legal framework for the handling of climate change issues may be based on an interpretation of People's Consultative Assembly Decree concerning the Reform of Agricultural and Natural Resource Management (No. IX/MPR/2001). The REDD+ Agency will coordinate within the scope of this legal framework." (p.39)



(continued from page 6)

One indication that this is happening, they say, is the fact that the Strategy has been afforded only weak legal status, through a decree issued by the head of the REDD+ Task Force⁵ whereas it should have been issued as a Presidential Regulation at the very least. Another indication is the fact that the National Strategy can't be implemented because the President has not yet signed a draft regulation to establish the National REDD+ Agency, despite having received it in October 2012. The life of the Task Force has now been extended until the Agency has been established, with a new deadline of June 2013.⁶

A continuing debate

The call to implement the REDD+ National Strategy by the Coalition for Saving Indonesian Forests and Global Climate is a reflection of a strategic approach that many CSOs have adopted toward the question of REDD+. They fully recognise that REDD+ is accompanied by huge risks both in terms of impacts on people and forests as well as on the broader level of climate justice. They are clear too that the REDD+ National Strategy is far from perfect. As highlighted in a forthcoming analysis by HuMa,¹⁰ the obstacles to achieving the much-needed reforms identified in the Strategy are formidable. On top of the question of legal hierarchy, or lack of legal clout, the Strategy shifts the task of initiating the legal reforms to the yet-to-be-created REDD+ Agency, thus delaying any progress until that agency is created. While waiting for this to happen, says HuMa, conflicts over land and resources are growing in number, including in those areas which may be included under REDD+ schemes in future.

Another problem identified by HuMa is the fact that the Strategy draws its authority from laws - including the 1999 Forestry Law¹¹ - that it has identified as being in need of reform, which in turn makes the strategy's own legal basis shaky. Also, the Strategy has failed to take on board last year's decision by the Constitutional Court to restrict the application of the Forestry Law. The change requires the forestry ministry to go through four stages when determining an area as part of the state forest zone, whereas previously it merely had to 'designate' an area as forest. The new ruling means that forests could be at even greater risk of being grabbed by developers than they were before, but it also provides an opportunity to introduce the reforms that the National REDD+ Strategy says are needed. Either way, the Strategy should be based on current law, not the previous version.

Civil society involvement in the preparations to introduce REDD+ policies and programmes in Indonesia has at the very

least succeeded in underlining the urgent need for thoroughgoing reform in the way the country's natural resources are governed and managed. This need for reform, and the need make the recognition of human rights part of the policy framework for REDD+ is now being acknowledged in an official government strategy.

Meanwhile the effectiveness of REDD+ pilot schemes themselves is also increasingly in doubt. Although some significant areas of forest have been allocated to such schemes, their effectiveness has been widely questioned. There is little evidence that deforestation has slowed inside these set-asides. There is even less evidence that such schemes have slowed deforestation outside of them. REDD+ pilots have yet to lead to local communities securing tenurial rights and control of their lands and forests.

Furthermore, in view of the stalemate at the UNFCCC and the unlikelihood of the emergence of a cap-and-trade global market in 'forest carbon', international donors are increasingly worried that whatever forest set-asides are achieved under the national REDD+ programme are unlikely to be sustained without a continuing stream of financial rewards to investors and scheme operators. 'We are concerned that REDD+ pilots schemes are just unsustainable enclaves that have little connection to, or influence on, wider land use plans. Without urgent action to secure local peoples' control of such areas, these schemes will just fizzle out when the donors leave' says Marcus Colchester of the UK-based Forest Peoples Programme.

Thanks to Bernadinus Steni from HuMa, www.huma.or.id, and Marcus Colchester and Patrick Anderson of FPP www.forestpeoples.org who offered advice on this article.

Notes

1. The National REDD+ Strategy is available in English at <http://www.satgasreddplus.org/download/150612.REDD+.National.Strategy.Indonesia.pdf> and in Indonesian at <http://www.satgasreddplus.org/download/180612.Strategi.Nasional.REDD+.pdf>.
2. See *Saving Indonesia's Remaining Forests Can No Longer be Delayed* by the Coalition for Saving Indonesian Forests and Global Climate, 28/Jan/2013 at [http://downtoearth-indonesia.org/sites/downtoearth-indonesia.org/files/Call to save forests-final.pdf](http://downtoearth-indonesia.org/sites/downtoearth-indonesia.org/files/Call%20to%20save%20forests-final.pdf).
3. Draft 3 of the National Action Plan is available in Indonesian at http://www.satgasreddplus.org/download/Draft_3_RAN_REDD+_12Des2012.pdf.
4. See DTE 89-90, November 2011 for more background, http://www.downtoearth-indonesia.org/story/redd-indonesia-update#_edn3

5. SK Ketua Satgas REDD+ No. 02/SATGAS REDD PLUS/09/2012 tentang Strategi Nasional REDD+
6. See statements made by representatives of Greenpeace Indonesia and HuMa at a press conference in Jakarta 28 January 2013, reported in Kompas 29/Jan/2013, <http://nasional.kompas.com/read/2013/01/29/03045698/stranas.redd.terancam.sia-sia>
7. See information on <http://www.downtoearth-indonesia.org/campaign/mifee>
8. For fuller information on and discussion on FPIC principles and their application see Forest Peoples Programme at <http://www.forestpeoples.org/guiding-principles/free-prior-and-informed-consent-fpic>.
9. See DTE 93-94, 'Policies and practice: favouring big business over communities' December 2012, for more background, <http://www.downtoearth-indonesia.org/story/policies-and-practice-favouring-big-business-over-communities>
10. *Nasib Tenure dalam STRANAS REDD+*, Perkumpulan HuMa, forthcoming.
11. See Daemeter Consulting: 'Constitutional Court Decision on Indonesia's Forest Zone Could Lay Groundwork for Sustainable Low Emissions Development' at <http://www.daemeter.org/news/constitutional-court-decision-on-indonesias-forest-zone-could-lay-groundwork-for-sustainable-low-emissions-development/> and also separate article on page 4 for more background on the Constitutional Court's decision and its implications. ♦



(continued from page 5)

10. 'Indonesia's Forestry Ministry Seeks Moratorium Extension', *Reuters*, 14/Jan/2013, <http://uk.reuters.com/article/2013/01/14/indonesia-forest-idUKL4N0AJ13520130114>
11. See DTE 93-94, December 2012 at <http://www.downtoearth-indonesia.org/story/international-landgrabbing-picture-update>, and for the full Bali Declaration, <http://www.forestpeoples.org/sites/fpp/files/publication/2011/12/final-bali-declaration-adopted-1-dec-2011.pdf>
12. 'Indonesia's Forestry Ministry...' *Reuters* 14/Jan/13 as above.
13. See 'Top Indonesia Official.', *Reuters*, 18/Jan/2013 as above.
14. See 'recent moves' section in 'policies and practice: favouring big business over communities', DTE 93-94, December 2012 at <http://www.downtoearth-indonesia.org/story/policies-and-practice-favouring-big-business-over-communities>. ♦

Government reduces Papua's forest zone

Indonesia's forestry minister has signed a decree to change the extent and function of the area officially classified as forest in Papua province.

The move will see changes to more than six million hectares, including areas targeted by agribusinesses in the Merauke Integrated Food and Energy Estate (MIFEE) development zone in the southern part of Papua.¹

The forestry minister's decree (number 458, 2012, signed in August last year) will withdraw forest status from 376,385 hectares, change the forest function in 5,736,830 hectares and bring 45,258 hectares of non-forest land into the forest estate.² This means that the net loss to the forest zone amounts to 331,127 hectares.

The decree follows requests for the changes from Papua's governor to bring the region's forest status into line with the provincial spatial plan which is currently being finalised. However the forestry minister did not approve one of the changes requested by the governor, deciding instead to keep the status of an area of 285,344 hectares on Dolok Island in the western part of Merauke as 'conversion forest' (see map). As stated in decree 458, this was done in order to create "investment opportunities for non-forest development" (it is not clear what change the governor had requested for this area).

Part of Dolok is covered by a 200,000 hectare concession, according to the MIFEE investment plan issued by former district head and MIFEE promoter Johannes Gebze. The concession was held by PT Anugrah Rejeki Nusantara, a company which was bought in 2011 by the giant oil palm producer and trader Wilmar.³ The permit was later relocated to Animha district, according to the campaign group, awasMIFEE.⁴

Indonesia's forest classification system divides forests into conservation, protection and production forests, the last group consisting of production forests that can be exploited for timber while remaining as forests, as well as conversion forests, which can be cleared for non-forest use such as food and energy crop plantations.

In the list of changes set out in decree 458, the largest area of forest to be taken out of the forest zone, was previously classified as conversion forest (232,297 hectares) and some of this is likely to have been deforested already. However, some 9,662 hectares of conservation forest, 44,532 hectares of protection forest, 39,468 hectares of limited production forest and 50,426 hectares of production forest has also been taken out.

The majority of the changes relating to forest function will be viewed as more



The pink areas on the map are classified as conversion forest - forest for conversion to other uses. Dolok fills the bottom left hand part of the map.

Map source: <http://musnanda.files.wordpress.com/2012/11/3308.pdf>

positive by conservationists: 634,601 hectares of production forest is reclassified as protection forest, and 1,274,174 hectares of conversion forest is now limited production forest. On the other hand, a total of 151,151 hectares of production forests (including limited production forests) is now conversion forest. (The full list of changes is listed in table format in the decree).

Indigenous rights left out of the picture

For areas of forest being converted to non-forest uses, the decree recommends that the Papua governor "gives or strengthens the rights over forests being changed to non-forest, where these areas have become places in which local communities live and farm, so that there is certainty in those areas."

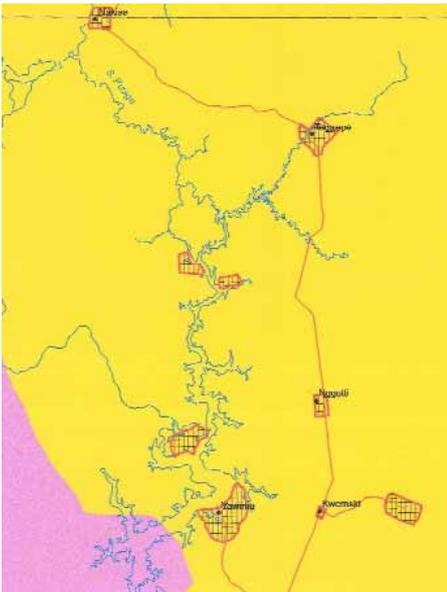
Accordingly, on the maps accompanying the decree (see example map), small areas around villages have been taken out of the forest zone - a move which appears to ignore the fact that customary lands extend over areas far beyond the areas occupied by buildings and cultivated plots.

Customary areas often include large areas of forest used for hunting, gathering food and other forest products as well as forests containing sacred sites. The fact that no reference to customary land is made at all in this decree underlines the lack of progress towards recognising the customary rights of indigenous Papuans over their land and resources.

The lack of recognition for indigenous rights over land and resources has prompted Papuan civil society organisations to launch their "Save People and Livelihoods in the Land of Papua" campaign (see also page 12). It has also prompted international criticism of Indonesia - at last year's UN review of the country's human rights situation⁵ and from the UN Committee on the Elimination of Racial Discrimination (CERD).⁶

Conflicting maps

The forestry maps accompanying decree 458, do not accord with the Indonesia's moratorium map for Papua. Now in its 3rd revision the moratorium map shows areas



The cross-hatched areas around these villages in Merauke district have been taken out of the forest zone. The yellow area is classified as production forest.

subject to the two-year moratorium on clearing primary forests and peatland, announced in May 2011.⁷ As the end of the two-year period draws near, it remains to be seen how the new Papua map will fit with the attempt by the President's UKP4

development delivery unit to create a single map that can be used for all development decision-making,⁸ and how far Papua's provincial government can assert its ownership of the regional development agenda. What isn't at all clear is how far the local community voices will be heard in areas which are targeted for agribusiness development or which are already being cleared, such as MIFEE. As reports from the MIFEE project area continue to make clear, the rights of indigenous Papuans are being swept aside as companies rush to grab land for large-scale plantations for food and energy crops aimed at domestic and export markets, destroying the sources of food and livelihood that have nurtured the indigenous Malind and Anim communities for generations.

Notes

1. It is not clear how this decree relates to the 2012 ruling by Indonesia's Constitutional Court, which requires that forests must be gazetted (*ditetapkan*) and not as previously "designated/denoted (*ditunjukkan*) or gazetted" in order to gain legal status as part of the State Forest Zone. See Daemeter Consulting: 'Constitutional Court Decision on Indonesia's Forest Zone Could Lay Groundwork for Sustainable Low Emissions Development' at <http://www.daemeter.org/news/constitut>

ional-court-decision-on-indonesias-forest-zone-could-lay-groundwork-for-sustainable-low-emissions-development/ and also separate article on page 4 for more background on the Constitutional Court's decision and its implications.

2. The decree (without the maps) is online at http://www.dephut.go.id/apl/uploads/SK.458_2012_PerubahanPeruntukanKH_Papua_.pdf The maps are available from <http://musnanda.wordpress.com/2012/11/20/sk-menhut-no-458-mengenai-perubahan-peruntukan-kawasan-hutan-papua/>
3. See awasMIFEE, 'MIFEE ploughs on, despite hitting rocky ground', at https://awasmifee.potager.org/?page_id=62, and Reuters, 26/May/2011 at <http://www.reuters.com/finance/stocks/WLIL.SI/key-developments/article/2331149>. For more background on Wilmar, see <http://www.downtoearth-indonesia.org/story/how-much-land>
4. See <https://awasmifee.potager.org/?p=293>
5. See 'separate article, page 12.
6. See <http://www.downtoearth-indonesia.org/campaign/mifee> for more background.
7. See also separate article page 12.
8. See <http://www.downtoearth-indonesia.org/story/indonesia-s-one-map-policy>. ♦



(continued from page 11)

corporations, the manipulation of policies and the use of the security forces to push these through; and the unfair way in which the Indonesian government resolves agrarian and natural resources-related conflict, by siding with corporations.

As a result, the number of indigenous Papuans is in decline, due to "the systematic loss of life", says FKP PK. Indigenous peoples in Papua and Kalimantan are being sidelined due to population invasions (through the government's transmigration programme and migrant job-seekers); women and children are being most affected by socio-economic, cultural and political disruption and there are frequent inter-community conflicts as well as conflicts between the communities and the government (security forces) and between communities and investors. "Communities' efforts to defend their rights are viewed as actions obstructing development" and they are criminalised when they oppose the theft of their land. Natural disasters - droughts, floods, haze from forests fires, crop pest outbreaks - have resulted from clearing land, while large-scale investment is threatening the forests and fields that communities

depend on for their food, and they are losing their livelihood sources. "Traditional values, knowledge and culture are being pushed aside because there is no place for these in the model of development being pursued by the Indonesian Government."

The FKP PK letter ends by urging the Catholic Church to:

- ♦ Continue to speak out against injustices in economic investment practices;
- ♦ Encourage policy makers at national or provincial level to review or halt policies that work against the people of Papua and Kalimantan;
- ♦ Urge government leaders at national or provincial level, the judiciary, security forces and investors: **to stop practices which violate basic human rights and which deprive people of their livelihoods by force, and to start a fair process based on justice and truth;**⁵
- ♦ Ensure that all Church organisations: the commissions, the parish priests, prayer leaders, religious orders, Catholic education institutions, and other groups share the same concern and join this struggle.

Notes

1. The full letter is available in Indonesian at <http://www.mirifica.net/artDetail.php?aid=7778>
2. FKP PK consists of the Justice and Peace Secretariats (SKP) of the various dioceses in Papua, the Justice and Peace Commissions (KKP) of the various dioceses in Kalimantan, the Franciscan Secretariat in Papua for Justice, Peace and the Integrity of Creation (SKPKC), the JPIC Missionaries of the Sacred Heart in Indonesia and the Indonesian Bishop's Conference's Commission for Justice, Peace and Migrant workers pastoral care.
3. Letter from Forum Keadilan dan Perdamaian Papua - Kalimantan, 24 October, 2012. Full letter available online at <http://www.caritas.org.au/docs/walkasone/re-covering-the-rights-to-life-of-the-indigenous-peoples-of-papua-and-kalimantan.docx?sfvrsn=4>.
4. For more background on MP3EI see DTE 91-92, May 2012 at <http://www.downtoearth-indonesia.org/story/big-plans-papua>
5. Emphasis as in original document (this version is slightly abridged). ♦

Indonesian Bishops call for environmental justice

Indonesia's Catholic Church leaders have expressed concern about the over-exploitation of natural resources and the resulting social conflict and marginalisation of vulnerable communities.

Short-termism in politics and the denial of environmental justice makes matters worse, say Indonesia's Catholic bishops, calling on politicians, business and the Christian community to take steps to protect resources, livelihoods and the right to life of current and future generations.

The environment was the major theme of the annual Indonesian Catholic Bishops conference which was held in Jakarta from 5-15th November 2012. The pastoral letter issued on the final day of the conference, is titled "Involvement of the Church in preserving the integrity of creation". It reminds Catholics that, if used responsibly, there are enough natural resources for the needs of everyone - irrespective of race, religion and social status - for current and future generations. "Nature should be treated justly, and managed and cultivated with full respect and responsibility." Instead, say the bishops, it has been exploited with greed and carelessness without regard for the common good, by the irresponsible felling of forests and clearing of land for plantations and mines. The letter continues:

*"The environment has been damaged, there are natural disasters, social conflict arises, there is no longer access to natural resources, and local communities and indigenous peoples, women and children are marginalised. This situation is made worse by policies which are based on the political interests of the moment and short-term thinking which denies environmental justice. The results include the accumulation of waste, pollution of the rivers and seas, the air and the land, and the depletion of natural resources which causes large-scale harm to the environment."*¹

The Catholic Church, say the bishops, has long shown concern for environmental problems. In Indonesia, concern was previously expressed through its 2005 pastoral letter, and the Church is continuing to make many efforts in education, advocacy and negotiations to overcome environmental destruction.

The letter uses the term 'eco-pastoral' (*ekopastoral*) to describe the combined care for humanity and the environment. The bishops appeal to all Catholics to work together and with others involved in efforts to protect the environment to raise awareness and preserve the integrity



Photo by DTE

of creation. The letter concludes with specific messages for politicians, businesspeople and the wider Christian community, as follows:

- ♦ To all Christians: Christians should develop a new way of living, of living in harmony with nature, based on an awareness of and care for the environment. This is a part of the manifestation of faith and preaching, in the form of action to restore the integrity of creation. To do this, we need joint efforts, for example recycling rubbish, saving electricity and water, planting trees, movements to promote ecological concerns and persuasive legal advocacy on the right to life, sustainability and the environment. Educational institutions in particular are expected to play a major role in the movement to raise awareness of environmental problems and the importance of local wisdom.
- Indigenous population decline, resource destruction and abuse highlighted in appeal for Church action in Papua and Kalimantan**
- The Bishops will have been aware of the strength of feeling on the urgent need for environmental justice among the Catholic community in Papua and Kalimantan in advance of the conference in November. The previous month, the Catholic Justice and Peace Forum for Papua and Kalimantan (FKP PK)² wrote to the Bishops to urge the church take action to support local efforts to protect community livelihoods, natural resources and human rights in Papua and Kalimantan.³ "It is not enough for the Church just to care", it said.
- The FKP PK letter describes the situation for people and environment in Papua and Kalimantan as being 'in disarray'. Exploitation of natural resources, it says, is being facilitated by the MP3EI economic masterplan,⁴ government policies which ignore the ties between indigenous peoples and their land, and the conversion of land for large-scale projects which is damaging community assets and destroying sources of livelihood. "In effect it destroys life". Other factors contributing to the destruction of communities and the environment in the two regions include investments which will benefit only a small number of people or
- ♦ To our brothers and sisters who are in public policy-making positions: policies concerning the use of natural resources and regional spatial planning should bring greater prosperity for communities and preserve the environment. Laws that deny community interests need to be reviewed and there needs to be tighter control on their implementation.
 - ♦ To our brothers and sisters who work in the business world: the use of natural resources should not just be for economic advantage, but also for social benefit: local communities' right to life should still be fulfilled and the availability of natural resources for future generations should still be guaranteed. Moreover, productive businesses by poor, marginalised communities, especially indigenous peoples, peasants and fisherfolk, and those who are vulnerable to climate change and natural disasters, need more support.

Landgrabbing

MIFEE-affected communities want their land back

A round-up of recent material about communities affected by the Merauke Integrated Food & Energy Estate (MIFEE) project in Papua.

Indigenous communities living along the Bian and Maro Rivers in Merauke, southern Papua, have demanded the return of their customary lands taken for the Merauke Integrated Food and Energy Estate (MIFEE) mega-project. A set of demands issued after four days of community discussions in December 2012 also called for the revoking of location permits covering their customary land and for the companies involved to restore the damage done and pay compensation to affected communities.

A key component of the government's unwieldy MP3EI economic masterplan for Papua, MIFEE was officially launched in 2010 amid concerns over human rights, environmental and social impacts. The project involves the conversion of indigenous land, including forests and peatlands, into plantations growing food, energy and other crops and is expected to prompt an influx of migrant workers to meet the sharply increased demand for labour.

Describing the current situation along the Bian and Maro Rivers, a document outlining the communities' demands says that river water has been contaminated, killing fish, turtles and other water animals. It can no longer be used for drinking, cooking and bathing by the communities. Children bathing



MIFEE campaign poster: "Hands off Malind indigenous land"

in the river and swamp waters have developed skin, digestion and respiratory problems, and now community members must walk many miles to get clean water.

Meanwhile, the destruction of customary forests has meant sources of food - including animals and sago - are becoming scarcer as are forest products needed for medicines, clothes and customary equipment.

The communities accuse the companies of failing to provide information about the land policies and permits affecting their land and failing to involve the local indigenous community organisation or many of the land right-holders in the consultation process - only engaging clan leaders and people whose land had already been cleared for development.

In addition, the communities have been misled over the status of the land leased to the companies. They were told by companies and local government that they would get their land back, but have discovered that after the 35 year lease period ends, the land will instead revert to the state - a situation to which they strongly object.¹

A press release issued by Sawit Watch and SKP KAME² adds that the Bian and Maro River community lands have been cleared by oil palm companies by burning, which has polluted the water in the rivers and swamps, damaged or wiped out cultural sites

Intimidation

To secure logging areas in Merauke Regency, several companies are using the services of Indonesian state security forces.

"And that's been kept secret, and we want to let people know that. They are involved from the moment when plans are first presented to the people right up until the development starts in the field", said Paustinus Ndiken, the Secretary of Malind Bian Customary People's Association in Jayapura.

According to him, the involvement of security forces personnel has meant that it has been easier for the companies to persuade people to surrender their land.

"There have been times when they have also been there asking the people to give their land over to the companies, a prominent

community member was once even beaten up while the company was presenting its plans. The situation was tense at that moment, I don't know why, and then a customary leader was suddenly struck by a member of the security forces", he stated.

He added that the people didn't agree with police or military intervention in the process of discussions to transfer land rights. "If they want to keep the area secure, fair enough, but don't get involved in this process - that's the business of customary landowners, the government and the companies and no-one else", he said.

Extract from State Security Forces are still backing up companies in Merauke, Source: <http://www.aldp-papua.com/?p=8037>, translated by awasMIFEE - see <https://awasmifee.potager.org/>.

and caused irreparable damage to the natural environment. These two organisations back the community demands for restoration, compensation and the return of community lands, but also call on the Indonesian government to immediately respond to the UN Committee on the Elimination of Racial Discrimination, which has raised concerns about the MIFEE project.³

Six oil palm plantations have currently begun operations on indigenous Malind Anim land in Merauke, according to Sawit Watch and SKP KAME: PT Dongin Prabhawa (Korindo Group⁴), PT Bio Inti Agrindo (Korindo Group), PT Central Cipta Murdaya (CCM), PT Agriprima Cipta Persada, PT Hardaya Sawit Papua and PT Berkas Citra Abadi (Korindo Group).

There has been controversy about the official status of the land, and specifically why this region of Papua was excluded from Indonesia's two-year moratorium on clearing primary forests and peatland, announced in May 2011.⁵ Asked by REDD-Monitor's Chris Lang why this was the case, senior government official Heru Prasetyo explained that land that had previously been classified as peatland (which would be included in the moratorium) was not as extensive as had been thought.⁶ Heru Prasetyo is Deputy 1 UKP4,⁷ and a member of the government's REDD+ Task Force.

The moratorium map has been revised three times so far - all versions can be viewed on the Forestry Department's website at <http://webgis.dephut.go.id/>. From the maps covering the MIFEE area, the reduction in the area considered to be peatland is very clear when the first and revised maps are compared (see, for example, Map 3408 in the first moratorium map at <http://appgis.dephut.go.id/appgis/moratorium/PAPUA-3408.jpg> and in the most recent (3rd revision) map at http://appgis.dephut.go.id/appgis/moratorium_rev3/PAPUA-3408.jpg. These maps, with peatland areas coloured pink/orange, are copied below.

Government statements have also indicated that MIFEE is being downscaled - from over a million hectares in extent (as set out, for example, in the MP3EI economic masterplan for Indonesia⁸) to around one fifth of that size. According to Heru Prasetyo, who gave the figure of 220,000 hectares in September last year, this is due to a review of what is feasible, and takes into account areas that need to be protected (including indigenous peoples' sacred lands).⁹

However it is evident that serious social, environmental and human rights impacts are continuing whatever the project's official extent. Recent media reports of a visit to Papua's capital Jayapura by representatives of the local indigenous peoples' association

and other people affected by MIFEE, compiled and translated by the campaign group awasMIFEE, provides evidence from the ground. They report broken promises about the facilities or compensation the companies said they would provide, as well as the concerns over the future ownership of the land, pollution and the related health and livelihood impacts. Coercive behaviour by the military is another part of the picture (see box, page 12), along with wages that are too low to provide for daily needs paid to villagers who have handed over their lands.

MIFEE material online

See <https://awasmifee.potager.org/> for more reports and links.

Land Grabbing for Food and Biofuel, Merauke Integrated Food and Energy Estate (MIFEE) Case Study, by Aliansi Gerakan Reforma Agraria (AGRA) and Pesticide Action Network Asia and the Pacific (PAN AP), April 2012, <http://www.panap.net/en/fs/post/food-sovereignty-wfd-2012/1289>

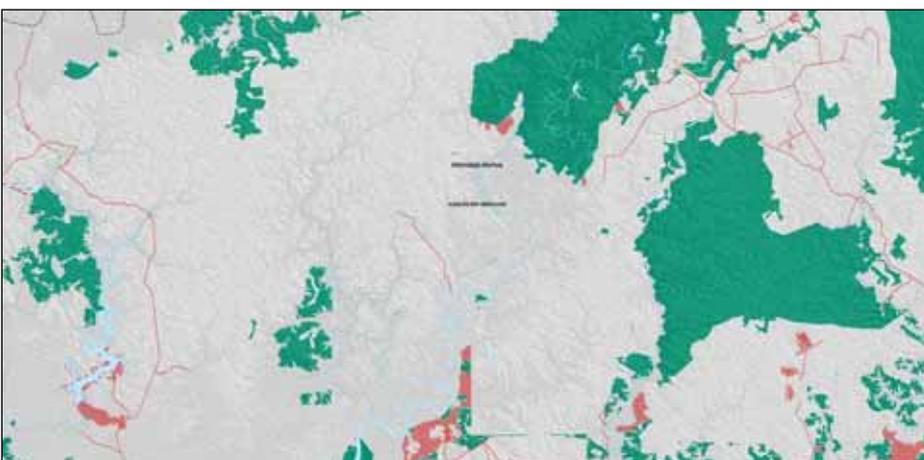
'Destroying Local Livelihoods With Miffee' by Brooke Nolan, *Jakarta Globe*, January 20, 2012, <http://www.thejakartaglobe.com/corporate-news/destroying-local-livelihoods-with-miffee/566402>

A new video produced by Gekko Studio, Pusaka and SKP-KAME ***Mama Malind su Hilang (Our land is gone)*** conveys the deep sense of loss felt by local people from Zanegi Village, Merauke, whose lands are being cleared in the MIFEE area. The Malind Anim are hunter gatherers who rely on the forest for their livelihoods. The Indonesian company, Medco, is clearing thousands of hectares of forest, planning to convert 169,000 hectares of land to industrial tree plantations. Based on interviews with community members and featuring an interview with the Catholic Archbishop of Merauke, the film shows how the loss of their forests has affected the lives and livelihoods of the Malind Anim. One interviewee - a casual labourer working for Medco - speaks about how he was beaten and shot at by members of the security forces after he had become angry with a Medco foreman and shouted at him. See Gekko website for this and other Gekko videos.

This video follows ***Ironic Survival***, a film about the MIFEE project by Papuan Voices, an empowerment and film production project. See <http://www.papuanvoices.net/>



A section of the first moratorium map in Papua with shaded areas indicating off-limits areas.



Same section, third version of moratorium map, with reduced shaded areas.

Papua-wide call

Papuans have repeated calls for a stop to destructive investment projects at a broader regional level. In September, Papuan indigenous men and women's leaders and NGOs from seven indigenous regions in Papua called on Indonesia to "immediately stop all activities and new investment licences for natural resources exploitation which are destructive and which harm the indigenous peoples of Papua, Indonesia and the world." The call was made in a declaration signed by 22 representatives attending the second congress to "Save People and Livelihoods in the Land of Papua" which was held in Manokwari in September 2012. In the declaration, the participants, who included Malind indigenous leaders Maria Nemo and Paulus Samkakai stated that the suffering endured by the Papuan people for 43 years¹⁰ was caused not only by the annexation of their political rights, but also by the systematic denial of their basic rights over their natural resources, above and below ground, in the seas and air. They also affirmed their support for an honest, open and fair dialogue with the Indonesian government, mediated by a neutral third party.¹¹

UPR - Indonesia rejects UN MIFEE recommendations

September 2012 also saw a disappointing response from Indonesia to UN recommendations on MIFEE and Papua. The occasion was the follow-up meeting to the June 2012 session of the Universal Periodic Review - a process which reviews the human rights record of all 192 UN member states once every four years. Here, members of the UPR Working Group made recommendations to invite UN Special Rapporteurs on Human Rights, Indigenous Peoples' Rights and the Right to Food to visit Papua.¹²

Ten Indonesian and international civil society organisations, including Down to Earth, had highlighted concerns about human rights, natural resources management and climate change in Indonesia, in a submission to the UPR. Specifically on MIFEE, this CSO submission had also called on the Government of Indonesia to invite the UN Special Rapporteur on the Right to Food and the Special Rapporteur on indigenous peoples' rights to visit the MIFEE project area in Merauke.¹³

Indonesia was obliged to give its response to the UPR Working Group at the follow-up session in September. Here, the recommendation was again made to invite the Special Rapporteurs on the Right to Food and the Rights of Indigenous Peoples. However this recommendation was rejected

by Indonesia.¹⁴ Recommendations accepted by Indonesia did include one to invite the Special Rapporteur on Freedom of Expression. This visit was due to go ahead in mid-January 2013, but has been delayed due to restrictions set by the Indonesian government which would prevent the Rapporteur visiting prisoners in Jayapura and Ambon.¹⁵

Notes

1. *Demands and Aspiration of Indigenous Peoples of River (Kali) Ban - River (Kali) Maro, Papua, Merauke*, 18 December 2012, signed by 23 indigenous community members from Baidub, Boha, Bupul, Erambu, Kindiki, Kweel, Muting, Pachas, Poo and Tanas villages. The land status problem identified by the communities is one shared by other indigenous communities across Indonesia, who find that their land rights have been extinguished by the government's land leasing regime.
2. Sawit Watch / SKP Press Release [no date]. The release has been translated and posted on the awasMIFEE website - see <https://awasmiffee.potager.org/?p=302>.
3. See <http://www.forestpeoples.org/sites/fpp/files/publication/2012/02/2012-cerd-80th-session-ua-update-final.pdf> and <http://www.downtoearth-indonesia.org/story/indonesia-taken-task-over-mifee> for more background.
4. AwasMIFEE note: PT Bio Inti Agrindo was actually bought by Daewoo International in 2011, and still belongs to that company as far as we know.
5. See <http://www.downtoearth-indonesia.org/story/redd-indonesia-update-for-background>.
6. See 'Interview with Kuntoro Mangkusubroto..', as above at http://www.redd-monitor.org/2012/09/20/interview-with-kuntoro-mangkusubroto/?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+Redd-monitor+%28REDD-Monitor%29.
7. UKP4 is the President's Delivery Unit for Development Monitoring and Oversight, led by Kuntoro Mangkusubroto. It is also leading the development of Indonesia's One Map Policy - see <http://www.downtoearth-indonesia.org/story/indonesia-s-one-map-policy>
8. See DTE 92-93 'Big Plans for Papua' at <http://www.downtoearth-indonesia.org/story/big-plans-papua>
9. See, for example, 'Interview with Kuntoro Mangkusubroto, head of Indonesia's REDD+ Task Force: We are starting a new programme, a new paradigm, a new concept, a new way of seeing things' Chris Lang, 20th September 2012 at http://www.redd-monitor.org/2012/09/20/interview-with-kuntoro-mangkusubroto/?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+Redd-monitor+%28REDD-Monitor%29

10. Forty three years ago a so-called 'Act of Free Choice' controlled by Indonesia determined that Papua should become part of the Indonesian Republic.
11. *Deklarasi Kongres II Selamatkan Manusia dan Sumber-Sumber Penghidupan di Tanah Papua*, 29th September 2012.
12. See http://www.upr-info.org/IMG/pdf/a_hrc_wg.6_13_1.5_indonesia.pdf.
13. See DTE website for more details at <http://www.downtoearth-indonesia.org/story/ngos-urge-indonesia-heed-mifee-moratorium-call>
14. Recommendation 109.15, see http://www.upr-info.org/IMG/pdf/a_hrc_21_7_indonesia_e.pdf. For a list of recommendations rejected and accepted by Indonesia see http://www.upr-info.org/IMG/pdf/recommendations_to_indonesia_2012.pdf.
15. See report by the US-based NGO, the West Papua Advocacy Team, in *West Papua Media Alerts*, Press Release, January 13, 2013.♦



(Photo: DTE)

mining

Bumi board continues to ignore concerns about coal impacts in Indonesia

A report from Bumi plc's February shareholder meeting in London.

Shareholders from Down to Earth, London Mining Network and War on Want attended Bumi plc's meeting in London in February to question the company about the devastating impacts of its coal-mining operations in Kalimantan.

Bumi plc was listed on the London Stock Exchange in 2011 despite criticism about its operations in Indonesia. The social, environmental, human rights and health impacts of massive-scale open-cast mining are blighting the lives of communities in Kalimantan as Indonesia's 'coal rush' continues.

Indonesia's coal mega-mine, Kaltim Prima, is controlled by PT Bumi Resources, the Indonesian company which in turn is 29% owned by London-listed Bumi plc. It produces over 40 million tonnes of coal per year, which is exported mainly to markets in China and India. Meanwhile, villagers living near the mine have a long experience of forced evictions, livelihood loss, pollution, strikes and company collusion with State security forces.

Coal, the dirtiest of the fossil fuels, is also contributing to global climate change, bringing a further layer of disruption to the lives of poor communities in Kalimantan as well as the wider population.

Jointly operated by BP and Rio Tinto in the past, the mine renewed its UK links in 2010 when British financier Nat Rothschild struck a deal with Indonesia's powerful Bakrie family to bring large-scale Indonesian coal mining to the London Stock Exchange, through a back-door deal avoiding the scrutiny of normal listing requirements for new companies.

The UK government has been widely criticised for allowing Bumi plc to list on the London Stock Exchange, despite the involvement of the Bakries in corruption, malpractice scandals and a long history of social and environmental impacts on local communities. These include a brutal attack against striking workers at the KPC mine in March last year and association with the Sidoarjo mudflow disaster, which killed 14 people and forced 30,000 people from their homes.



Shareholders gather at the Bumi plc EGM in London (Photo: DTE)

Now the Bumi deal has gone sour. In the run-up to the EGM, it appeared that all sides in this internal conflict were looking to do anything it takes to win control of the company, from public relations dirty tricks and hidden shareholder alliances to recruiting new backers regardless of their ethical and business records.

Inadequate response

At the February EGM, the Bumi board failed again to adequately respond to concerns raised about the real impacts of the company's coal mining operations in Indonesia.

Patrick Kane of War on Want asked the board what assurances it could give to respond to the negative impacts of Bumi plc's mining operations in Indonesia, such as environmental and social destruction and labour issues raised at the previous Annual General Meeting. He commented that given the dismissive reception given at the previous meeting, there was little faith that these issues would be seriously confronted and resolved.

Scott Merilees, Bumi's chief financial officer, praised the operations and CSR record of Berau coal (84.7% owned by Bumi

plc). In response to this, Andrew Hickman of DTE questioned the board as to the continued lack of transparency in the company's reporting and financial affairs.

Sir Julian Horn-Smith, the meeting's chair, attempted to distance the company from these allegations by saying that they related exclusively to PT Bumi Resources, which was only partly owned by Bumi plc. However, Nat Rothschild, the deposed founding shareholder at the heart of the company's internal disputes, interrupted proceedings to point out that Samin Tan, the Bumi plc chairman was also the chairman of Bumi Resources Minerals, with an entitlement to appoint four directors to the board of PT Bumi Resources. Andrew Hickman restated the transparency question, asking when the board of Bumi plc would provide this clarity and whether shareholders could have any confidence that any future board would do any better.

Again Scott Merilees extolled the virtues of the company's operations: how labour relations were untarnished, how Indonesian mining regulation was exemplary, how Berau coal has won plaudits for its corporate social responsibility record. He went on to describe examples of the benefits that Berau had brought to local communities, mentioning a small business owner from whom he bought a pint of milk when he visited the mine once, who had previously been a mine employee. He mentioned support the company had given to local communities, such as helping to set up palm oil plantations. In response, Andrew Hickman commented that the board's ignorance of the labour dispute at the KPC mine,¹ where Indonesian security forces were used to violently suppress a strike, was shocking in a London-listed mining company. Even by the standards of other mining companies, Bumi's record fell below the line of acceptability. Maybe it was time for UK regulators to intervene, he said.

(continued next page)

DTE calls on UK to stop subsidising oil palm for electricity generation

DTE has written to the UK government calling for palm oil and other 'bioliquids' to be excluded from UK's renewable electricity generation incentive scheme.

We reminded the UK Energy and Climate Change Secretary Ed Davey that the development of oil palm plantations is recognised as the main driver of deforestation and biodiversity loss in Indonesia and that agrofuels which require vast areas of land to grow increase the risk of food crises and exacerbate land-grabbing conflicts across the world.

Read the full letter at <http://www.downtoearth-indonesia.org/story/dte-calls-uk-drop-palm-oil-electricity-subsidies>.

(continued from previous page)

Nat Rothschild failed in his attempt to replace the current board of Bumi plc and to rejoin the board himself as executive director. But he did succeed in his attempt to remove two of the directors, including Bakrie ally Nalin Rathod; and one of his proposed additions, diplomat Richard Gozney (former British ambassador to Indonesia), will join the Board.

This is evidence of the scale of the revolt against the current leadership of the company. As *Reuters* put it, the vote "moves attention to the next step in ending one of London's messiest corporate battles - the divorce with the Bakries and separating out part-owned Bumi Resources, which the Bakries had brought into the company." Indonesia's powerful Bakrie family is involved in a wealth of businesses in Indonesia including mining, oil and gas, property and plantations as well as national politics.

For further background on Bumi see:

- ♦ 'Drama at Bumi misses the point', LMN, February 14th, 2013
- ♦ 'In the shadow of the scandals surrounding Bumi plc, proposed ethics and human rights amendment to Financial Services Bill 'blocked'' Press release by War on Want, London Mining Network and Down to Earth, October 16, 2012
- ♦ 'Bumi's lesson: FSA light-tough approach does not work' Press release: Down to

Earth, London Mining Network and War on Want, 2 October 2012.

- ♦ 'Bumi falls at first hurdle' DTE briefing, 14th June, 2012
- ♦ 'Coal giant questioned over deaths, abuse, corruption at first EGM', Press Release by DTE, London Mining Network and War on Want. 14th June 2012.
- ♦ 'An Indonesian company on the London Stock Exchange' DTE 91-92, May 2012

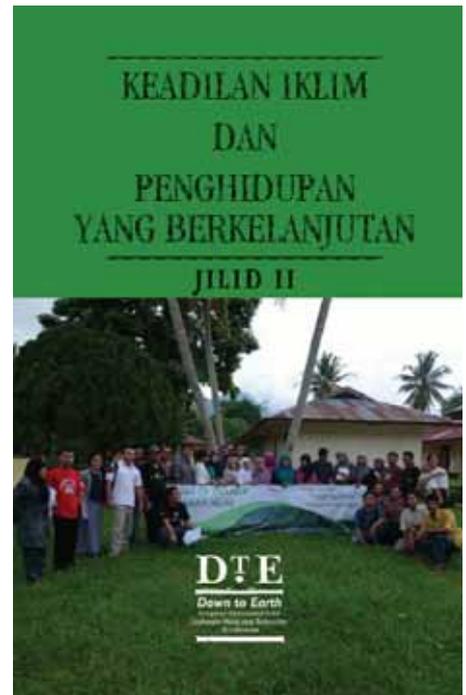
For further background on KPC and coal-mining in Indonesia see:

- ♦ 'Indonesia's coal: local impacts - global links' DTE 85-86, August 2010.

All available on DTE's website at www.downtoearth-indonesia.org/

Notes:

1. Also operated by Bumi Resources - see <http://www.downtoearth-indonesia.org/story/bumi-plc-meets-today-london-sort-out-ownership-feud>, DTE Press Release, 21/Feb/2013.
2. See 'Rothschild defeated in Bumi showdown', *Reuters*, 21/Feb/2013 at <http://uk.reuters.com/article/2013/02/21/uk-bumi-vote-idUKBRE91K0G920130221>.
3. See An Indonesian company on the London Stock Exchange DTE 91-92, May 2012, and How much land? Snapshots of corporate control over land in Indonesia, DTE 93-94, December 2012 for more background. ♦



DTE's Indonesian language compilation of articles on climate justice and sustainable development, **Keadilan Iklim dan Penghidupan yang Berkelanjutan**, published September 2012, is available now.

To order copies contact dte@gn.apc.org.

The online version is at: <http://www.downtoearth-indonesia.org/id/story/buku-terbaru-dte-keadilan-iklim-dan-penghidupan-yang-berkelanjutan-jilid-ii>



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