



global witness

The background of the entire page is a photograph showing the silhouettes of two armed soldiers against a clear blue sky. The soldier in the foreground is larger and stands with a rifle slung over his shoulder. The second soldier is smaller and stands slightly behind and to the right, also holding a rifle. The overall tone is somber and authoritative.

**PAYING FOR PROTECTION**  
The Freeport mine and the  
Indonesian security forces

A report by Global Witness July 2005

## Contents

<b>Paying for Protection: an overview</b> . . . . .	3
<b>Soeharto's Indonesia</b> . . . . .	7
<b>Freeport in Papua</b> . . . . .	9
<b>“False and irrelevant” versus “almost hysterical denial”:</b>	
<b>Freeport and the investors</b> . . . . .	12
<b>Box: The ambush of August 2002</b> . . . . .	16
<b>The “Freeport Army”</b> . . . . .	18
<b>Box: What Freeport McMoRan said ... and didn't say</b> . . . . .	19
<b>General Simbolon's dinner money</b> . . . . .	21
<b>Box: Mahidin Simbolon in East Timor and Papua</b> . . . . .	23
<b>Paying for what exactly?</b> . . . . .	27
From individuals to institutions? . . . . .	28
Building better communities . . . . .	28
Paying for police deployments? . . . . .	29
<b>Conclusion</b> . . . . .	30
<b>Box: Transparency of corporate payments in Indonesia</b> . . . . .	30
<b>Box: What Rio Tinto said ... and didn't say</b> . . . . .	33
<b>References</b> . . . . .	35

Global Witness wishes to thank Yayasan HAK, a human rights organisation of Timor Leste, for its help with parts of this report.

Cover photo: Beawiharta/Reuters/Corbis

Global Witness investigates and exposes the role of natural resource exploitation in funding conflict and corruption. Using first-hand documentary evidence from field investigations and undercover operations, we name and shame those exploiting disorder and state failure. We lobby at the highest levels for a joined-up international approach to manage natural resources transparently and equitably. We have no political affiliation and are non-partisan everywhere we work. Global Witness was co-nominated for the 2003 Nobel Peace Prize for our work on conflict diamonds.

## Paying for Protection: an overview

Global Witness has long been concerned by the lack of transparency in payments by oil and mining companies to many governments around the world, because lack of transparency can often hide corruption and other governance problems.

There is a particular need for transparency in conflict regions, where state security forces may expect an extractive company to pay for protection against rebels or disgruntled local communities. The rule of law is typically weak or non-existent in conflict zones and in many cases, these same security forces may be corrupt or implicated in human rights abuses. As a result, suspicions may arise that a company is complicit in corruption or human rights abuses, or being extorted by parties to the conflict. Without full transparency there is no way for the public, including the company's own shareholders, to judge whether or not a company is behaving in a lawful and ethical way.

One prominent mining company which has faced controversy for its relationship with state security forces in a conflict zone is Freeport McMoRan Copper & Gold Inc. This US company controls a gigantic mine in Indonesia which contains the largest gold reserves and the second largest copper reserves in the world. The Grasberg mine in Indonesia's eastern region of Papua, formerly known as Irian Jaya, is run by a local subsidiary called PT Freeport Indonesia which is 90.64% owned by Freeport McMoRan and 9.36% owned by the Indonesian government. Freeport Indonesia has a joint venture with Rio Tinto, the global mining giant, which itself owned a minority shareholding in Freeport McMoRan until 2004. Indonesians, observers and company staff commonly refer to the US parent and the local subsidiary interchangeably as "Freeport".

Freeport's mining operations have been guarded since the 1970s by the Indonesian military, which has been fighting during this time to suppress a rebellion for Papuan independence. The Indonesian military has a history of atrocities against civilians and is known to have been involved in corruption and illegal business activities, as have the police. For this reason, there has long been controversy over the close relationship between the mine and the government security forces which guard it.

This controversy grew after 31st August 2002, when gunmen ambushed a party of teachers working for Freeport Indonesia and killed two Americans and an Indonesian, and wounded another eleven people. A Papuan man, Anthonius Wamang,

has been indicted by a US court for his part in the killings.<sup>1</sup> Wamang, who appears to be in hiding, has claimed both to be a Papuan rebel and a business partner of Indonesian soldiers.<sup>2</sup> Although the Indonesian authorities have blamed the killings on Papuan rebels, the case remains unsolved and various observers, including Indonesian police officers and US officials, have voiced suspicions that members of the security forces may have been involved (see box: *The ambush of August 2002*, page 16).

### Freeport, the investors and the Indonesian military

After the August 2002 killings, two New York City pension funds with shares in Freeport McMoRan called on the company to provide more information about its relationship with the Indonesian military. It had been known for some time that Freeport made payments towards the cost of military and police protection for the mine, but almost no information had been disclosed about these payments. The New York City pension funds cited a news report which suggested the August 2002 ambush was part of an attempt by soldiers to extort more money from Freeport and said: "The characterisation of these payments as extortion raises the additional concern of whether such payments violate the Foreign Corrupt Practices Act."<sup>3</sup>



Scouting for business opportunities, not just enemies.

Credit: Panos Pictures/Tim A. Hetherington

The pension funds voiced their concern that: “transnational corporations operating in countries with repressive governments, ethnic conflict, weak rule of law, endemic corruption or poor labour or environmental standards face serious risks to their reputation and share value if they are seen to be responsible for, or complicit in, human rights violations.”<sup>4</sup>

In a series of letters to US regulators, Freeport McMoRan denied any suggestion of extortion or corrupt payments and dismissed aspects of the New York City pension funds’ position as “irrelevant and false”,<sup>5</sup> while the latter criticised the company’s “almost hysterical denial” of any wrongdoing.<sup>6</sup> Freeport McMoRan did not report to shareholders on its dealings with the Indonesian military, as the pension funds had asked. The company did take a step towards transparency which it had not taken before, however, when it disclosed in early 2003 that its Indonesian subsidiary had paid US\$4.7 million in 2001 and US\$5.6 million in 2002 for “support costs for government-provided security.”<sup>7</sup>

Freeport McMoRan said these payments went towards the cost of infrastructure, food, travel, administrative costs and community assistance programmes run by the Indonesian military and police.<sup>8</sup> Similar disclosures have been repeated annually since March 2003 in Freeport McMoRan’s public filings to the US Securities and Exchange Commission (SEC), which regulates the provision of information by companies to investors.

By disclosing these payments in its filings to the SEC, Freeport McMoRan has accepted that they are material to investors – that is, investors need information about the payments to form a true picture of the company’s management, financial position and business prospects. The New York City pension funds were not satisfied, however, and continued to raise concerns in 2004 and 2005 about the relationship with the military and the financial and reputational risks it might pose for the company.

### **Troubling new information**

Global Witness can reveal that the pension funds were right to keep asking. The public disclosures by Freeport McMoRan to date have omitted troubling details of the relationship between its subsidiary and the Indonesian security forces. Most disturbingly, Global Witness has learned that between May 2001 and March 2003, a series of payments totalling US\$247,705 appear to have been made by Freeport Indonesia to an Indonesian general named Mahidin Simbolon.

Except for two small payments in 2003, all this money appears to have gone to Simbolon himself, not to the Indonesian government. It is troubling that money appears to have been paid directly to an individual public official and not to an institution of the government for which he worked, and a further source of concern is Simbolon’s controversial military career (see below). Freeport Indonesia also appears to have paid another US\$25,000 in total to third-party suppliers for costs incurred by Simbolon (for details of these payments, see pages 21–22).

Indonesia is a developing country where official salaries are low by Western standards. In mid-2000, the basic pay for a major-general was said to be US\$200 a month, though an officer serving in Papua would also receive hardship allowances.<sup>9</sup> In short, it appears that Freeport was paying Simbolon a monthly sum, allegedly for food alone, which was likely to be several times his official salary, as well as the larger one-off payments.

Global Witness contacted Simbolon, who is now Indonesia’s Army Inspector-General, and asked him to comment on payments that Freeport Indonesia appears to have made to him and other officers. He replied: “As far as I know there’s been nothing like that from Freeport [Indonesia]. There’s none.” He said that soldiers guarding the Freeport mine received money for food, but the money went “directly to the soldiers” and he had not received any such payment.<sup>10</sup>

Any payment to the Indonesian security forces by a private company should be the subject of extensive due diligence by the company concerned because the military and the police have a bad reputation for corruption and human rights abuses. For historical reasons, the security forces have raised a large part of their operating costs not from the state but from their own business interests: some of these business interests are legal but others include extortion, prostitution and gambling, smuggling and illegal logging of Indonesia’s rainforests.

### **Mahidin Simbolon and East Timor**

With Simbolon the question of due diligence is particularly acute because of his military record. He is a veteran of the Indonesian special forces, which had been used by the Soeharto dictatorship (1966–1998) to crush dissent, and he held command positions in Indonesian-occupied East Timor in the 1990s at a time when torture of prisoners was routine, according to human rights groups.<sup>11</sup> His men also trained local militiamen in East Timor, including a militia leader



later convicted for crimes against humanity. In 1999 he was described as one of Indonesia's "most experienced officers in covert operations."<sup>12</sup>

In 1999, Simbolon was chief of staff in the Indonesian military command whose troops devastated East Timor that year, in alliance with the militias, in a failed attempt to stop the country becoming independent through a United Nations referendum. The violence took place in full view of the international community and the world's media and led to at least 1,200 civilian deaths. East Timorese leaders accused Simbolon at the time of being a prime mover in the violence. Press reports in the public domain have alleged an association between Simbolon and Timorese militia leaders whose men committed murders and other violent crimes in 1999. Simbolon told Global Witness that these reports were baseless and that he was acquainted with these militia leaders, as he was with Timorese independence leaders, but he did not have a relationship with them (see box: *Mahidin Simbolon in East Timor and Papua*, page 23).<sup>13</sup>

Simbolon has not been charged by any law enforcement authority with any crime in relation to the events of 1999 in East Timor. However, Indonesia's efforts to prosecute military officers for these events have been widely condemned as inadequate, and Indonesia has not co-operated with parallel investigations in East Timor itself. Simbolon has also not been charged in connection with the murder of Papua's most prominent politician, Theys Eluay, in November 2001. Indonesian soldiers, including a special forces colonel, were convicted for this murder.

Simbolon has said that he did not know about his men's plans to kill Eluay.

Although Freeport McMoRan cannot be considered responsible for Simbolon's activities and associations in East Timor, it can be said that he arrived in Papua with an enormous question mark over his record. This makes it even more troubling that Freeport Indonesia appears to have made large payments to him.

### Unanswered questions

Global Witness has learned of numerous other payments that Freeport Indonesia appears to have made to individual military and police officers, rather than to government institutions. These payments were typically between US\$200 and US\$3,000, though some were as large as US\$60,000. Dozens of officers in Papua, from the rank of general downwards, appear to have received payments from Freeport Indonesia. After April 2003, Freeport Indonesia appears to have stopped making payments to individual soldiers and policemen, making payments only to institutions of the Indonesian government. Global Witness has asked Freeport McMoRan if there was any form of audit, inspection or review after August 2002 which caused Freeport Indonesia to revise its system for making payments. The company declined to reply.

Concerned by suggestions in the press that the company might have been the target of extortion by Indonesian soldiers, the New York City pension funds have repeatedly asked Freeport McMoRan to review its relationship with



The largest gold deposit in the world and plenty of copper too. Credit: Panos Pictures/Rob Huibers

the military. It is evident, from the fact that the pension funds have raised this issue with the company during each of the last three years, that they are not satisfied with its answers to date.

Global Witness has asked Freeport McMoRan to explain the legal basis of its payments to the military and police and to explain how they have been authorised, disbursed and accounted for, now and in the past. Global Witness has also asked Freeport McMoRan to explain what audit and oversight measures have been in place to make sure that payments are not misappropriated or diverted for purposes other than the legitimate security needs of the company, such as the financing of military operations against the Papuan independence movement. The question of oversight is vital because without control over where the money ends up, the various labels used by Freeport McMoRan to describe its payments in its public declarations would appear to have little real meaning.

Freeport McMoRan has been given ample opportunity to respond to questions from Global Witness, but has provided only general answers which assert that the company has oversight and compliance measures in place, without describing these measures in any detail or demonstrating how they work in practice (see box: *What Freeport McMoRan said ... and didn't say*, page 19). In the light of the findings of this report, and given the company's continuing reluctance to fully explain its financial relationship with the Indonesian security forces, Global Witness believes that this relationship should now be investigated by the US authorities with reference to the US Foreign Corrupt Practices Act and other relevant laws, and by the Indonesian authorities with reference to Indonesian laws that regulate payments by private companies to public officials.

### **Time for transparency in conflict zones**

The problems posed by extractive industry investment in conflict zones are not limited to Indonesia. An assessment in March 2005 listed 70 countries where there is conflict or risk of conflict: at least 30 of these countries have significant oil, gas or mining industries.<sup>14</sup> In all these countries, companies need to be fully transparent about their payments to security forces and to make payments only where the law clearly requires it. This also means that companies should not pay any armed group which is not legally constituted, for example rebel groups.

There is a wider issue about how companies can avoid complicity, intended or unintended, in the human rights abuses and other crimes which may occur in conflict

zones where they operate. This issue should be central to the work of the future Special Representative of the UN Secretary General on Business and Human Rights, a post whose creation was under discussion at the UN at the time this report went to press.

Without transparency, there is no way for the people of conflict-afflicted regions to be sure that companies profiting from their natural resources are not doing so at the expense of human rights and good governance. It is also the only way for shareholders to be sure that a company is managing its risks in a way which does not worsen the conflict or create dangers to its own security and freedom to operate.

Transparency is unlikely to be achieved through purely voluntary commitments from companies themselves, because of the risk that some companies will choose not to volunteer, or will make a rhetorical commitment to openness without providing full information, as Freeport McMoRan appears to have done.

The extractive industries, their investors and the governments of countries that regulate their activities should therefore require full and audited disclosure of payments by extractive companies to security forces in countries where there is armed conflict, or a risk of it. Extractive companies should not make any payment at all to an armed group in a conflict zone unless there is an unambiguous legal requirement to do so.

Extractive companies routinely claim that they are not complicit in the crimes which they see committed around them in conflict zones. As a demonstration of the truth of that claim, and as a vital safeguard to protect themselves from being dragged into complicity, companies should fully disclose all their payments to state security forces and allow them to be independently audited.

Global Witness recommends that:

1. The financial relationship between Freeport McMoRan, Freeport Indonesia and the Indonesian military and police should be investigated by law enforcement authorities in the United States and Indonesia.
2. All payments by extractive companies to state security forces in the world's conflict zones should be publicly declared in full and independently audited.
3. No extractive company should make any payment to any armed group in a conflict zone unless that payment is explicitly required by law.



## Soeharto's Indonesia



Indonesia's special forces, with their trademark red berets, served as enforcers for the Soeharto regime.

Credit: TEMPO/Arie Basuki

Many factors that shape the conditions of extractive investment in Indonesia's conflict zones can be traced back to the era of President Soeharto, who ruled from 1966 to 1998. The Soeharto era saw a high degree of corruption within the state and the use of massive violence as a political tool. Soeharto's troops led the killing of several hundred thousand leftists in the 1960s and committed atrocities in conflict regions, notably East Timor, where as many as 250,000 people are thought to have died during an Indonesian occupation that began in 1975 and ended in 1999, a year after the dictator's fall.<sup>15</sup> Thousands more people have died in the regions of Papua and Aceh, where rebellions continue to this day.

Soeharto tops Transparency International's list of rulers who have stolen from their own people, which estimates that he looted between US\$15–35 billion of public money.<sup>16</sup> He was never prosecuted in Indonesia for any crime committed during his presidency and has lived out his retirement at his home in Jakarta.

Systemic corruption within state institutions, including the military and the police, is an enduring legacy of the Soeharto era in Indonesia. Even in the *Reformasi* (reform) era that followed Soeharto's fall from power, Indonesia has regularly ranked near the bottom of Transparency International's Corruption Perceptions Index, meaning that the country is still seen as one of the most corrupt in the world.

The World Bank, accused of turning a blind eye to Soeharto's corruption, has since made the fight against corruption a central theme of its work in Indonesia. The Bank noted in 2004 that: "the achievements of the past few years continue to be clouded by widespread concerns about governance and corruption across Indonesian society. The high hopes that the *Reformasi* movement would break the hold of the vested interests and the corruption, collusion, and nepotism that characterized the later years of the Soeharto era have not been realized. Few have been held to account for the theft of public resources."<sup>17</sup>

The Soeharto regime treated resource-rich parts of Indonesia as sources of wealth to be exploited. Local dissent was crushed by the military, whose tactics included “manipulation of competing elites, blackmail, threats, extortion, kidnapping, counterfeiting, employment of hoodlums, incitement of violence and murder.”<sup>18</sup>

The result of this approach was rebellion in Papua at the eastern end of the Indonesian archipelago and Aceh at its western end. It was also applied, and failed, in East Timor, which is now the independent state of Timor Leste.

The military has played a less prominent role in Indonesian domestic politics since the end of the Soeharto era and has refrained from interfering in the democratic process, but its record on human rights is still problematic. Killings of civilians and other serious abuses continue to be reported from Papua and Aceh and few officers have been brought to account for crimes committed by troops. The Indonesian police, particularly the paramilitary Mobile Brigade (Brimob), also have a poor reputation on human rights.

The military’s weak accountability also applies to its finances. The military historically raised most of its costs from business activities, rather than from the national budget, and has its own commercial empire. Some money has come from legitimate companies owned by the military but soldiers have also been involved in criminal activities such as illegal logging, smuggling, drug trading and extortion.

The same problem is found in the police, which was part of the military until 1999, and both institutions have a serious problem with internal corruption. In order to make the military’s finances more accountable to the public, the Indonesian government now plans to take over some of its businesses and put them under civilian control. There have also been moves to transfer the primary responsibility for protecting vital national assets, including oil and mining sites, from the military to the police.

Papua and Aceh are rich in minerals and timber and the efforts of the security forces to uphold Indonesian

sovereignty in both regions have become intertwined with the business interests of the military and police. In February 2005, an investigation by two campaigning organisations revealed that soldiers and other state officials have been colluding in a massive racket that exports illegally-logged timber from Papua to China. The report by the Environmental Investigation Agency and Telapak found that “companies involved in timber theft in Papua are aided every step of the way by officials from the military, police and forestry department, as long as the requisite bribe is paid ... The military are involved in every aspect of illegal logging in Papua.”<sup>19</sup>

Post-Soeharto governments have recognised that local resentments about the exploitation of natural resources are a part of the rebellions in Papua and Aceh, and have tried to resolve these conflicts by offering the two regions more autonomy and a larger share of the revenues from natural resources. These efforts have struggled to date and clashes between soldiers and local guerrillas continued in Aceh even after its devastation in the December 2004 tsunami disaster.

There is also sporadic violence in Papua, whose strategic importance in the eyes of the Indonesian military appears to be growing. The military announced in March 2005 that it plans to reinforce its garrison in Papua by another 15,000 troops over the next four years.<sup>20</sup>

The single most valuable asset in Papua from a revenue perspective is the Freeport mine, which generated US\$2.347 billion in taxes and royalties for Indonesia between 1992 and 2003.<sup>21</sup> A new natural gas project, called Tangguh LNG and run by the oil company BP, will also become a major source of income some time after 2010.

Thus, a company in Freeport’s situation operates in Papua against a backdrop of political instability, corruption and violence that is often linked to control over natural resource revenues. For this reason, the company’s own activities and associations have been a cause for concern for some of its own shareholders, as well as local Papuans and human rights groups. As this report will show, there are indeed reasons for concern.



## Freeport in Papua

Freeport McMoRan Copper & Gold Inc, originally known as Freeport Sulphur, is a company based in the American city of New Orleans. As of December 2004, it directly owned 81.28% of Freeport Indonesia, the subsidiary which runs the mine in Papua, and indirectly owned another 9.36% of Freeport Indonesia via a local company called Indocopper Investama. The remaining shares are owned by the Indonesian government. Local people, foreign observers and company officials commonly refer to the US parent company and its local subsidiary interchangeably as “Freeport”.

Rio Tinto, the global mining conglomerate, bought a shareholding in Freeport McMoRan in 1995. In March 2004, when these shares amounted to an 11.9% stake, Rio Tinto sold the shares back to Freeport McMoRan. However, Rio Tinto still has a joint venture with Freeport Indonesia which entitles it to a share of profits from the Grasberg mine.

Freeport first explored the western half of New Guinea, then a Dutch colony, in 1960. Indonesia took over the region two years later, annexed it in 1969 and later renamed it Irian Jaya, though the region has since been renamed Papua. The arrival of the company led to a three-way culture clash between the ethnic Melanesians of

Papua, the Western executives of Freeport and the ethnic Malay culture of the Indonesian heartland.

Exports of copper from the Freeport mine began in late 1972.<sup>22</sup> The area around the mine had little contact with the outside world before the arrival of Freeport and from the early days there were tensions between the company and local people over such issues as land rights and what local people saw as the company’s failure to share its wealth of material goods with them, in line with local custom. Freeport executive George Mealey has written that: “when mining began in 1973, a series of protests [by local people] made it clear that the company had a problem on its hands.” Freeport agreed in 1974 to build schools, clinics and other buildings, and to find homes and jobs for local people.<sup>23</sup> Another view came from a visitor to the mine in the mid-1970s who commented: “Freeport’s lack of policy in dealing with the local people can only be summed up as: if we ignore them, perhaps they’ll go away.”<sup>24</sup>

The mine has been guarded since the early 1970s by Indonesian troops, whose often brutal behaviour exacerbated local resentment against the company. In 1977, there was a revolt against Indonesian rule across Papua’s central highlands. During this revolt, rebels cut the key



Freeport connected a remote region to the wider world, but not on local people’s terms.

pipeline carrying copper slurry from the Freeport mine. The military retaliated with air raids on local communities and a human rights group cited a company employee as saying that troops at the mine had fired mortars at a nearby village and “any native who is seen is shot dead on the spot.”<sup>25</sup> Freeport’s Mealey does not mention civilian deaths but he noted in his book that: “In the swift retaliation by the Indonesian military, most of the 17 new buildings Freeport had constructed for the [local people] were destroyed, and some of the squatter camps were burned.”<sup>26</sup>

In 1989, Freeport began to dig the vast Grasberg copper and gold deposit, which turned it from a modest producer of metals into the operator of one of the world’s most lucrative mines. The expansion created economic growth round the mine and made Freeport Indonesia the biggest corporate taxpayer in the country. It also attracted tens of thousands of economic migrants who settled around the town of Timika, creating a diverse and unruly community where rioting between rival ethnic groups has claimed dozens of lives since the 1990s.

The Soeharto regime made little effort to provide public services in the region, despite its fast-expanding population, and Freeport ended up paying for roads, housing, health facilities and other public goods including schools, business training for local people and programmes to eradicate malaria. These things would almost certainly not have existed if Freeport had not provided them. The company also spent large sums on facilities for its own staff and visitors, including a Sheraton hotel in Timika and an exclusive, eco-friendly company town called Kuala Kencana. The expansion of the mine led to environmental pollution, caused by Freeport’s practice of dumping mine waste in rivers, which gave rise to growing criticism from local communities and non-governmental organisations both in Indonesia and abroad.

The huge wealth of Grasberg drew the attention of the ruling elite in Jakarta. From the early 1990s, according to a 1998 article in the Wall Street Journal, company officials found themselves under pressure to cut Soeharto’s family and friends into business deals. Freeport McMoRan helped Soeharto allies to buy shares in the mine and some of its support services by guaranteeing bank loans to them. Between 1991 and 1997, Freeport McMoRan guaranteed US\$673 million in such loans and provided at least US\$61.6 million in further financing which later had to be written off by the company.<sup>27</sup> During this period, Freeport McMoRan’s chief executive James Moffett played golf with Soeharto and became friends with members of his inner circle.<sup>28</sup>

Freeport McMoRan has argued that it had little choice but to deal with people close to the dictator, who dominated the Indonesian economy at the time.<sup>29</sup> After Soeharto’s fall, these dealings led to allegations of complicity in what Indonesians call KKN, which is short for *korupsi, kolusi, nepotisme* (corruption, collusion and nepotism). In November 1998, Moffett was questioned for nine hours by Indonesian prosecutors in response to some of these allegations. Moffett reportedly told the press: “There’s no KKN in Freeport Indonesia.”<sup>30</sup> No charges were brought.

Freeport McMoRan declined to provide specific answers to questions from Global Witness about these events or to a request for comment on the Wall Street Journal article of 1998 (see box: *What Freeport McMoRan said ... and didn’t say*, page 19).

While the Grasberg mine expanded, the conflict in Papua continued. In October 1994, the killing of a Papuan employee of Freeport by unknown gunmen led to a military crackdown in the area. Over six months, as many as 37 Papuans were killed by troops or disappeared.<sup>31</sup> Freeport Indonesia’s private security guards were accused by human rights activists of complicity in killings, torture and other abuses during this period. Freeport says: “where allegations of human rights abuses have arisen in our area of operations, we have supported every legitimate investigation – none of which has found any wrongdoing on the part of the company or our personnel” (see box: *What Freeport McMoRan said ... and didn’t say*, page 19).

Freeport worked to improve its relations with local Papuan communities and was negotiating with community leaders about the creation of a local development fund when riots broke out in Timika in March 1996. While there seems to have been a strong sense of grievance amongst local Papuans, it has also been suggested that the riots were fomented by the military so as to signal to Freeport that it could not operate safely without military protection.<sup>32</sup> After the riots, Freeport agreed to make regular payments to the military and police. A spokesman for Freeport Indonesia told the press in 2003 that the company had in fact been making payments to the military since the 1970s and the new agreement in 1996 merely made this arrangement more comprehensive.<sup>33</sup>

For a long time, there was little public information on these payments. A 2000 report by an Australia-based academic called Lesley McCulloch, citing unnamed Freeport employees as its sources, stated that the military initially demanded US\$100 million from the company in 1996 but settled for US\$35 million for a new base and



yearly payments of US\$11 million thereafter. McCulloch wrote that: “The [Grasberg mine] is viewed by the military as a lucrative business venture from which they have ‘demanded’ – quite successfully – a ‘share’ of the profits.” She added: “As a result the barracks, equipment and vehicles in that area are much better than elsewhere, as are the private bank balances of certain individuals who allegedly siphon off up to one third of the total for themselves and their subordinates.”<sup>34</sup>

Freeport McMoRan has confirmed that it spent US\$35 million over several years for “the construction of separate housing and offices to accommodate government security personnel.”<sup>35</sup> As for the annual payments, Freeport McMoRan has disclosed a figure of US\$4.7–5.9 million per year for the years 2001–2003 in its filings to the Securities and Exchange Commission in the United States (see below).<sup>36</sup> Global Witness asked Freeport McMoRan to comment on McCulloch’s assertions. The company declined to respond (see box: *What Freeport McMoRan said ... and didn’t say*, page 19).

Despite a heavy military and police presence, there have been unexplained violent attacks against Freeport Indonesia staff. In October 2001, two employees were wounded in a shooting incident. In May 2002, armed men broke into company offices in the town of Kuala Kencana and tried to shoot a security guard.<sup>37</sup>

In early 2002, there were discussions amongst Freeport officials about increasing the transparency of the company’s relationship with the Indonesian security forces. The Reverend David Lowry, formerly the Vice-President for Social and Community Relations at Freeport McMoRan, told Global Witness in June 2005 that: “[the discussion] was a good number of months prior to 31st August. I believe it was in the springtime that it was first being talked of.” Lowry says he was not personally involved in administering the relationship with the security forces.<sup>38</sup>

The date of 31st August 2002 is significant because it was on this day that gunmen ambushed a party of teachers working for Freeport Indonesia near the mine. Three people were killed – Americans Rick Spier and Edwin Burgon and Indonesian Bambang Riwanto – and 11 others were wounded. These killings drew international attention to Freeport’s dealings with the Indonesian security forces and the investigation into the ambush has become an important factor in the diplomatic relationship between the United States and Indonesia (see box: *The ambush of August 2002*, page 16).



Grasberg has been a magnet for wealth-seekers.

Credit: Panos Pictures/Rob Huibers



## “False and irrelevant” versus “almost hysterical denial”: Freeport and the investors

The ambush of August 2002 fuelled concerns amongst some investors about the relationship between Freeport and the Indonesian military. Two US pension funds with shares in Freeport McMoRan – the New York City Employees Retirement System and the New York City Teachers Retirement System – drew up a proposal to be put to the vote at the company’s next annual general meeting, which was to take place in May 2003.

The proposal voiced the pension funds’ concern that: “transnational corporations operating in countries with repressive governments, ethnic conflict, weak rule of law, endemic corruption or poor labour or environmental standards face serious risks to their reputation and share value if they are seen to be responsible for, or complicit in, human rights violations.”<sup>39</sup> The proposal also said: “there have been numerous reports of human rights abuses against the indigenous population [of Papua] by the Indonesian military in connection with security operations conducted on behalf of Freeport McMoRan” and “company personnel have been among the victims of violent attack.” It also noted that company personnel had been accused in the past of human rights violations.<sup>40</sup>

The proposal called upon Freeport McMoRan to take two steps. The first was for tight internal controls to ensure that any human rights abuses would be properly reported. The second was for the Board of Directors to report to shareholders on the implementation of Freeport’s human rights policies overseas. This report “should include information concerning the human rights impact of the company’s on-going security relationship with the Indonesian military.”<sup>41</sup>

On 3rd January 2003, Freeport McMoRan’s lawyers wrote to the Securities and Exchange Commission (SEC), whose task it is to ensure that companies publish certain information so that investors can make informed investment decisions about them. The letter said that Freeport did not plan to put the proposal of the New York City pension funds to its other shareholders. It argued that Freeport had already answered the concerns about human rights that were raised in the proposal by adopting a strict human rights policy and spreading it amongst company staff. It also noted that Freeport had appointed Judge Gabrielle Kirk McDonald, a former head of the International Criminal Tribunal for the former Yugoslavia, as a special counsel on human rights, and signed up to a

US-UK initiative for oil and mining companies called the Voluntary Principles on Security and Human Rights (see Conclusion, page 30).<sup>42</sup>

In answer to the pension funds’ call for more information on the relationship with the Indonesian military, Freeport’s lawyers answered: “The company issues an annual Economic, Social and Environmental Report and will issue a similar report in 2003.”<sup>43</sup>

This report, also referred to as the Sustainable Development Report, is a short and glossy annual publication illustrated with photographs of smiling Papuans, which discusses Freeport’s “continuous effort to stay on the path of sustainable development.”<sup>44</sup> The 2001 Economic, Social and Environmental Report did not mention payments for military and police protection but it did say that Freeport had built “decent housing and support facilities” for the security forces. Judge McDonald was quoted in this report as saying that “security personnel who live in poor conditions without recreation and without a sense of community with people in the local area would be more apt to violate their human rights and eventually to commit human rights abuses against them.” She added that there had been virtually no human rights abuses in Freeport’s contract area since these actions were taken.<sup>45</sup>

Freeport also sent the New York City pension funds, represented by the City of New York Office of the Comptroller, the draft of a document which lies at the heart of any discussion about Freeport and the Indonesian security forces. This was a declaration about Freeport’s security costs in Indonesia which contained details that had previously not been published by the company. As far as Global Witness is aware, the draft was first sent to the New York City pension funds on 27th January 2003.<sup>46</sup> It then appeared in the prospectus for a debt offering by the company in February 2003.<sup>47</sup>

In March 2003, the declaration was included in Freeport McMoRan’s 10-K filing for the previous year. This is a public document sent by companies each year to the SEC, to give investors an overview of their business and financial condition. The 10-K filing for 2002 stated that Freeport Indonesia had paid US\$4.7 million in “support costs for government-provided security” in 2001 and US\$5.6 million in 2002. These payments covered: “various

infrastructure and other costs, such as food and dining hall costs, housing, fuel, travel, vehicle repairs, allowances to cover incidental and administrative costs, and community assistance programs conducted by the military/police.” Freeport Indonesia paid another US\$900,000 over these two years for associated infrastructure.<sup>48</sup>

No such declaration had appeared in Freeport McMoRan’s 10-K filings for either 2000 or 2001, so the filing for 2002 appeared to represent a significant increase in transparency. A company spokesman told an industry publication, American Metal Market, that the information “was actually a section of the Sustainable Development Report that we put out every week [sic], and wasn’t due to be printed for at least

another week or ten days. We got a request from shareholders asking us to discuss our human rights policy, and we responded to the SEC asking to omit the shareholder request from our proxy. They ruled in our favor, but in the exchange of letters the shareholders also requested more information about our relationship with the Indonesian military.”<sup>49</sup>

The New York City pension funds were not satisfied, however. On 27th February 2003, having seen the draft declaration by Freeport McMoRan, the Office of the Comptroller wrote to the SEC again. The letter agreed that Freeport had shown it was implementing its human rights policy but argued that the company had not done enough to meet the request for more information

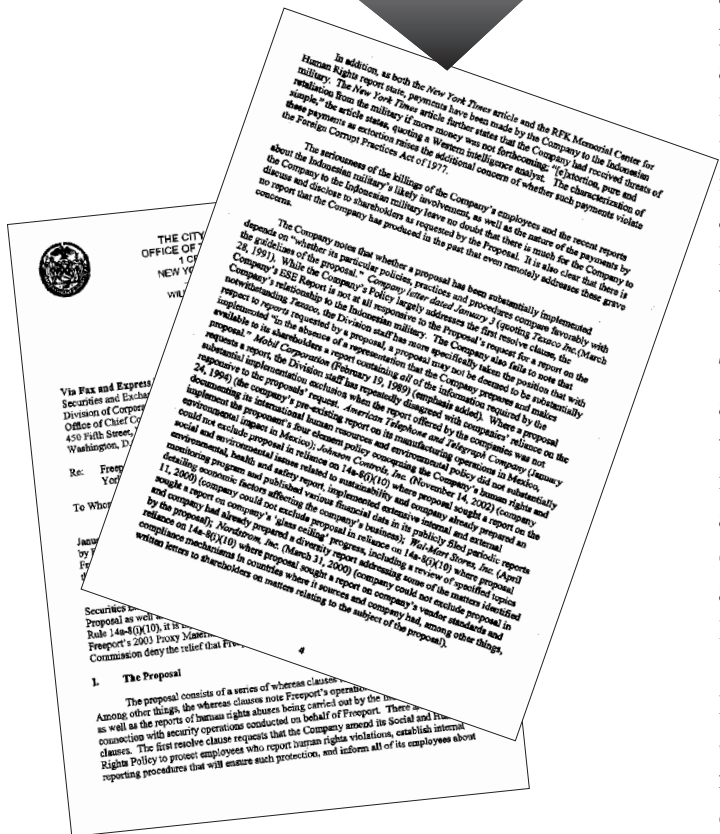
about the relationship with the Indonesian military. As grounds for its concern, the letter cited a report by the United Nations Committee against Torture and two reports by human rights organisations, all alleging that Indonesian troops had been responsible for human rights abuses.<sup>50</sup>

**In addition, as both the *New York Times* article and the RFK Memorial Center for Human Rights report state, payments have been made by the Company to the Indonesian military. The *New York Times* article further states that the Company had received threats of retaliation from the military if more money was not forthcoming; “[e]xtortion, pure and simple,” the article states, quoting a Western intelligence analyst. The characterization of these payments as extortion raises the additional concern of whether such payments violate the Foreign Corrupt Practices Act of 1977.**

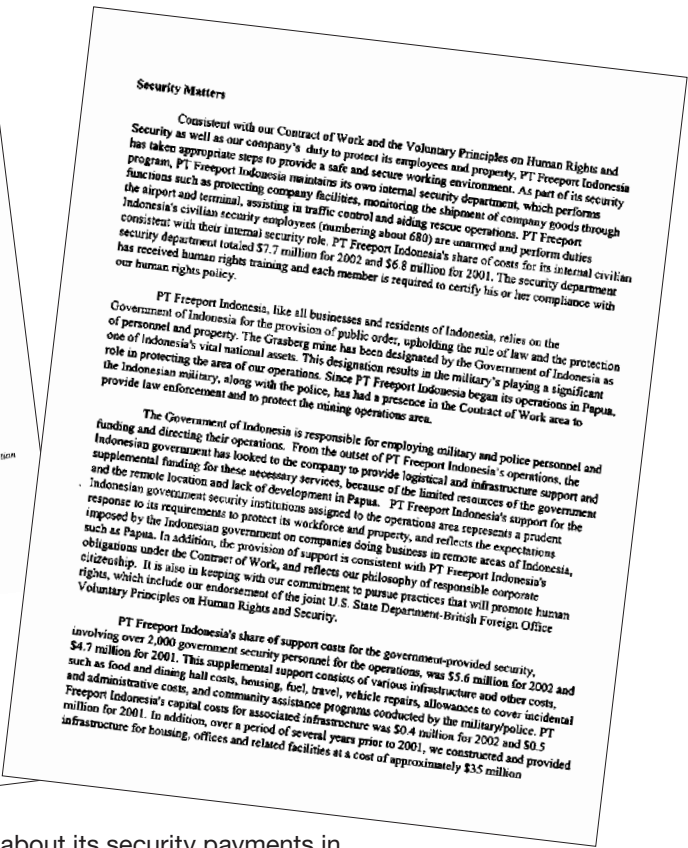
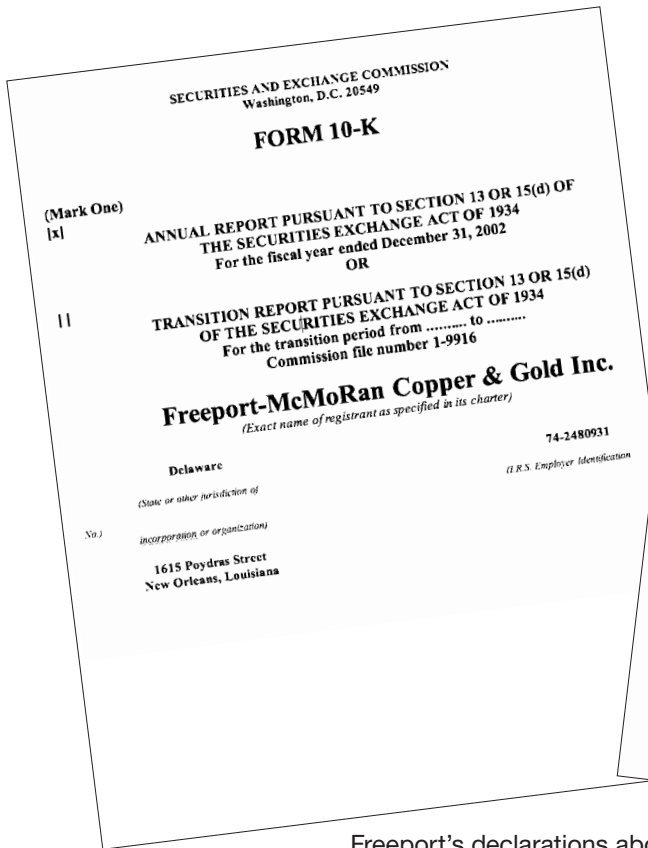
The shareholders’ letter noted several articles in the US press which reported suspicions of a link between the ambush of August 2002 and the Indonesian military (see page 16). In particular, the letter cited a New York Times article from 30th January 2003 entitled “US links Indonesian troops to death of two Americans”. This article reported that US officials believed the military to be involved in the ambush. It suggested the motive for the attack was related to payments made for security by Freeport Indonesia. The day after this article was published, the US Embassy in Jakarta issued a public denial of it.

The shareholders’ letter noted: “The New York Times article further states that the company had received threats of retaliation from the military if more money was not forthcoming; “[e]xtortion, pure and simple,” the article states, quoting a Western intelligence analyst. The characterisation of these payments as extortion raises the additional concern of whether such payments violate the Foreign Corrupt Practices Act of 1977.”<sup>51</sup>

Replying on 3rd March 2003, Freeport’s lawyers sent the SEC a strongly-worded critique of the New York City pension funds, describing legal precedents mentioned in their letter of 27th February as “misapplied”, their claims as “false and irrelevant” and their call for more information on Freeport’s dealings with the Indonesian military as “without merit”. This letter added: “Not satisfied with repeating the



Shareholders concern about “extortion” and the Foreign Corrupt Practices Act.



Freeport's declarations about its security payments in Indonesia leave many questions unanswered.

unfounded and generally discredited assertions of others, the Proponent [i.e. the New York City pension funds] adds to the public speculation its "concern" that unsubstantiated reports of "extortion" by the military could suggest that the company may be engaged in violations of the US Foreign Corrupt Practices Act (FCPA).<sup>52</sup>

Freeport's lawyers went on to describe the company's ethics and business conduct policy and stated that employees received regular training on these issues. They added that company policy was annually certified and reported on to the board, and that the company "periodically reviews, in consultation with outside legal advisers and special FCPA counsel, its policies and procedures for government-provided security support to ensure that the company continues to meet the applicable legal requirements. The company is confident that its activities are not in violation of the FCPA."<sup>53</sup>

The Office of the Comptroller wrote back to the SEC the next day, 4th March 2003, that: "the company's dismissal of reports by reputable news and human rights organisations and its almost hysterical denial of wrongdoing miss the point. Without attributing any blame to the company, this issue has generated enough media attention and raised enough questions to be a legitimate and serious concern to those who own the company."<sup>54</sup>

The Office of the Comptroller was also scathing about the declaration of Freeport's security costs in Indonesia, which the company had sent in confidence to the New York City pension funds before publishing it in the 10-K filing of March 2003. "Now that the company has essentially put the document in the public domain, it is obvious to anyone who reads it that it ... is not responsive to the proposal's request for a review and a report by the Board of Directors. It does not deal at all with the allegations of human rights abuses by the Indonesian military and what impact, if any, it has on the company."<sup>55</sup>

The letter concluded: "The Funds believe that the magnitude of the problems faced by the company as a result of its ties to the Indonesian military (as evidenced by this most recent tragic attack on the company's employees) makes the report take on such a significance that the proposal can't be deemed substantially implemented since the issue has not been addressed by the company to date."<sup>56</sup>

The SEC, however, agreed with Freeport McMoRan. Its Division of Corporation Finance wrote to the company on 5th March 2003 that: "There appears to be some basis for your view that Freeport McMoRan may exclude the proposal."<sup>80</sup> The proposal was not put to the vote at the 2003 annual general meeting two months later.



Freeport McMoRan has gone on to make similar declarations in all its 10-K filings since 2002. For the year 2003 it declared that: “Freeport Indonesia’s share of support costs for the government-provided security, involving over 2,300 Indonesian government security personnel currently located in the general area of our operations, was US\$5.9 million.” For the year 2004, the equivalent figure was US\$6.9 million.

The company has also declared costs for Freeport Indonesia’s in-house security department, which has several hundred unarmed personnel. According to the 10-K filings, the cost of running this department has almost doubled from US\$6.8 million in 2001 to US\$12.3 million in 2004. Global Witness asked Freeport McMoRan whether or not any payments to the government security forces came out of this budget, and whether or not any serving military or police officers were employed by the Freeport Indonesia security department. Freeport McMoRan declined to reply to this question.

The New York City pension funds tabled a new proposal at Freeport McMoRan’s annual general meeting in May 2004 which called on it to suspend payments to the Indonesian military and police until the Indonesian government cooperated fully with the investigation into the August 2002 murders. This time, the proposal was put to shareholders. Freeport McMoRan chief executive Richard Adkerson told the meeting that: “the management and Board believe that the stockholder proposal mischaracterizes the company’s relationships with Indonesian security institutions and suggests actions that would undermine the company’s relationship with the Indonesian government and the security of the company’s operations.” The proposal did not pass.<sup>57</sup>

The New York City pension funds tabled another proposal for the next annual general meeting in May 2005. This returned to the theme of the 2003 resolution, calling on Freeport McMoRan to review its policy on payments to the Indonesian security forces and report to shareholders on this review by September 2005. Once again, this proposal was not passed by shareholders.<sup>58</sup>

In summary, the deaths of three company employees in August 2002 led some shareholders in Freeport McMoRan to become concerned enough about the company’s relationship with the Indonesian military to raise the issue in three consecutive years. These shareholders cited press reports which alleged that the killings might be linked to “extortion” of Freeport by soldiers and raised their concerns, in the light of these reports, that the

company’s payments to the military might be considered to violate the Foreign Corrupt Practices Act.

In response, Freeport McMoRan has denied the allegations of extortion and corruption, listed the various policies and processes it has put in place to prevent violations of the FCPA and published more detailed information about its payments for government-provided security in Indonesia. These public declarations by Freeport McMoRan have been presented by the company’s lawyers, in their letters to the SEC, as part of the evidence that the company has met the concerns raised by the shareholders.

The problem, as this report can reveal, is what Freeport McMoRan has not disclosed.



Freeport McMoRan Chairman James R. Moffett in 1998.  
Credit: TEMPO/Robin Ong

## The ambush of August 2002

On 31st August 2002, a party of teachers from the Freeport company town of Tembagapura were driving home from a picnic in the rainforest when they were ambushed by gunmen. Three people were killed in the shooting: Americans Rick Spier and Edwin Burgon and Bambang Riwanto, an Indonesian. Eleven other people were wounded before the retreat of the gunmen, who were described by survivors as Papuans dressed in assorted military clothing.

The question of who planned and carried out the ambush has affected US-Indonesian diplomatic relations and fed a long-running controversy about the relationship between Freeport and the Indonesian security forces. Observers quickly noted that the gunmen had been able to carry out the ambush even though its site was close to two army posts. The military blamed the rebel Free Papua Movement (OPM).<sup>1</sup> A Papuan human rights group named the Institute for Human Rights Study and Advocacy (Elsham) said local OPM commander Kelly Kwalik had threatened earlier in August to attack Freeport, but called off his threat at the urging of Papuan civil society groups. Elsham blamed the military.<sup>2</sup>

Then a preliminary report of the Indonesian police investigation into the ambush was leaked in draft form to the media. This document, since entered into the records of the US Congress, has been an enduring source of controversy because it stated: "There is a strong possibility that the Tembagapura case was perpetrated by the members of the Indonesian National Army. However, it still needs to be investigated further."<sup>3</sup>

The police report noted that the supply-starved OPM rarely used so much ammunition in its attacks and noted the jealousy of soldiers at the higher pay of Freeport staff. It also referred to the corpse of a Papuan man found near the scene. Soldiers claimed to have shot this man because he was one of the ambushers, but an autopsy found that he had been killed a day earlier than the soldiers claimed and that he had a serious medical condition (swollen testicles caused by elephantiasis) which meant he could not have taken part in the ambush. The police suggested his corpse had been planted at the scene.

The core of the police report was the testimony of a Papuan informer called Decky Murib, who worked with the Kopassus special forces. Murib alleged he had been in the same area that day with a Kopassus officer identified in the

report as "First Lieutenant Markus", later named in the local press as Captain Margus Arifin, and a team of special forces soldiers. The police did not allege that these soldiers carried out the ambush but speculated that they planned to kill Murib and frame him as one of the ambushers.

The police chief in Papua, I. Made Pastika, left to head the successful investigation into the Bali terrorist bombings of October 2002. His deputy, who had publicly accused soldiers of staging the ambush, was moved to a desk job in Jakarta. Elsham, the human rights group, was sued by the military for defamation and its office in Jakarta was ransacked by unidentified thugs. Decky Murib went on the run and later retracted his testimony, saying he had been put up to it by Elsham.<sup>4</sup> A joint military-police investigation found no evidence to support Murib's claims. A senior official was reported as saying Captain Arifin had been in another part of Indonesia at the time.<sup>5</sup> The police themselves later backed away from their initial conclusion, declaring that OPM rebels, not the Indonesian military, were to blame for the ambush.

A series of international press articles reported, however, that US officials suspected the Indonesian military to be involved in the ambush. In November 2002, a "source close to the US Embassy" in Jakarta told Australia's Sydney Morning Herald that: "[US officials] know the killing of the two Americans was initiated by Kopassus but they sit on the information because it hurts their larger interests."<sup>6</sup> In the same month the Washington Post alleged that senior Indonesian officers had prior knowledge of the attack, though the newspaper later retracted this allegation.<sup>7</sup>

In January 2003, the New York Times reported a "senior Administration official" as saying: "There is no question that there was military involvement. There is no question it was premeditated." This story also quoted a "Western intelligence analyst" as saying he believed that the motive for the ambush was "extortion, pure and simple."<sup>8</sup> The US Embassy in Jakarta denied this story and said the US government had "not come to any conclusions" on the case.<sup>9</sup> The denial did not stop the New York Times from repeating its assertions a week later.<sup>10</sup>

In March 2003, Matthew P. Daley, the Deputy Assistant Secretary at the State Department's Bureau of East Asian and Pacific Affairs, told the US Senate that: "while the preponderance of evidence appears to indicate that elements of the Indonesian Army were responsible for the crime, we cannot make any definitive judgments until the

investigative process is complete.” In June 2005, Global Witness contacted Daley, who is no longer with the US government, and asked what his current view was. He said: “The main change from two years ago is that we did have an FBI investigation ... We’ve had meaningful co-operation with the FBI and it remains an open case.”<sup>11</sup>

The Federal Bureau of Investigation had begun its investigation in January 2003 but a perceived failure to co-operate by the Indonesian side prompted the US Congress to maintain curbs on US military aid to Indonesia. Congressman Joel Hefley brought an amendment to this effect in June 2003 which noted that: “Not surprisingly, the Indonesian military has exonerated itself. American investigative teams, including the FBI, have not been able to complete their investigations mainly due to the Indonesian military’s refusal to co-operate and its tampering of evidence.”<sup>12</sup>

In March 2004, the Associated Press reported that US officials believed the ambush to have been ordered by local Indonesian military commanders. The report quoted a “senior US official familiar with the investigation” as saying: “It’s no longer a question of who did it. It’s only a question of how high up this went within the chain of command.”<sup>13</sup> The report added: “Privately, US officials say little doubt remains about who was responsible for the attack.” The US Embassy in Jakarta apparently denied this story.<sup>14</sup>

The next big development was in June 2004 when a US Grand Jury indicted a Papuan named Anthonius Wamang “and others, known and unknown to the Grand Jury” for the murders of Rick Spier and Edwin Burgon and the attempted murders of eight other Americans.<sup>15</sup> Wamang has not been arrested and his location remains unknown but he has given an interview to an Australian news channel in which he described himself as a member of the OPM rebel group. He admitted taking part in the ambush because he thought the passengers were Indonesian soldiers, who often use Freeport vehicles, and said that in taking part in the attack, he had defied the orders of OPM leader Kelly Kwalik. In the same interview, Wamang admitted that he had done business with Indonesian soldiers and used the money to buy ammunition.<sup>16</sup>

In February 2005, US Secretary of State Condoleeza Rice determined that Indonesia had co-operated fully enough with the FBI for curbs on US military training to be lifted. In May 2005 Rice’s deputy, Robert Zoellick, told reporters during a visit to Indonesia that: “the original suspicion was TNI [the Indonesian military] but the investigation... doesn’t point in the direction of TNI. Instead it points – Wamang was on Australian TV for goodness sakes ... I mean and I don’t think he’s connected to TNI for anything anybody can tell.”<sup>17</sup>

In itself, the fact that Wamang is Papuan does not prove or disprove the possibility that members of the Indonesian security forces were involved in the ambush. As events in East Timor have shown, the latter have used local paramilitaries in the past to carry out “deniable” covert operations. It is not always clear, however, what degree of control the military and police leaderships have over their subordinates in the field. It is also possible that Wamang is telling the truth, had no connection to the Indonesian security forces at the time of the ambush and took part in it for reasons unrelated to them. The truth is unlikely to be established unless Wamang receives a fair and open trial.

Nearly three years after the fatal ambush of August 2002, it is still not clear who planned the killings, who carried them out and why. Until these questions are resolved, another vital question cannot be answered: have the Indonesian military and police actually provided security for Freeport, or insecurity?



Police on guard after the ambush of August 2002. Credit: AP/Charles Manuel Komaling



## The “Freeport Army”

Global Witness asked Freeport McMoRan whether the payments for security were actually required by Indonesian law or the terms of its contract. The company replied: “At the [Indonesian] government’s request, we provide financial support to ensure that the Indonesian government’s security personnel (military and police) have the necessary and appropriate resources to provide security for our operations.”

Freeport McMoRan also said: “Pursuant to the [Indonesian] government’s declaration that our company’s mining operations are a Vital National Object, the Indonesian military and police provide security for our mining operations in a remote and logistically challenging area. Security is essential to the continuing safety of our workforce and their families and for the protection of our facilities. There is no alternative to our reliance on the Indonesian military and police in this regard.”

Rio Tinto has put things differently in a statement on its website which states that: “The [Indonesian] government looks to Freeport to provide logistical and infrastructure support and supplemental funding for its security services. Rio Tinto believes such payments are legally required and legitimate.”<sup>59</sup> Global Witness asked Rio Tinto to identify the law that this “legal requirement” is based on. The company declined to reply to this question.

The Indonesian military offered yet another view of these payments after they were publicly declared by Freeport McMoRan in March 2003. The armed forces commander, General Endriartono Sutarto, was asked by local reporters whether the payments from Freeport Indonesia would continue. Sutarto reportedly replied: “I don’t know, just ask Freeport. We don’t compel Freeport to do that [make payments]. It’s up to Freeport whether to carry on or not ... We can’t give more money to those [soldiers] who are serving there, so if someone with good intentions wants to help, why not?”<sup>60</sup> This report suggests that the military regarded these payments as a voluntary gesture of goodwill from Freeport. Global Witness wrote to General Sutarto in June 2005 and asked him to confirm that these had been his views at the time. The general has not yet replied to this letter.

In short, Freeport McMoRan says the payments are “requested” by the Indonesian government. Rio Tinto says they are “legally required”. The Indonesian military commander has reportedly said they are “help” from

“someone with good intentions.” This lack of clarity is mystifying.

The reaction in Indonesia to the disclosures by Freeport McMoRan in March 2003 showed that, far from being seen as the fulfilment of a legal or contractual obligation, the payments were controversial. Indonesian reformists saw them as evidence that their nation’s armed forces, known as the TNI (an abbreviation of the Indonesian words for “Indonesian National Army”) were at risk of falling under the influence of a private company. The Jakarta Post, a liberal newspaper, remarked that: “for US\$5.6 million a year, soldiers deployed around Freeport may as well call themselves the Freeport Army ... Because this practice is condoned, you are just one step away from turning this affair into a racket. This makes TNI not all that different from the *preman* [thugs] who run most of the protection rackets in the country. Worse still, it raises the question about where TNI loyalty lies: with the people and the state, or with the financiers?”<sup>61</sup>

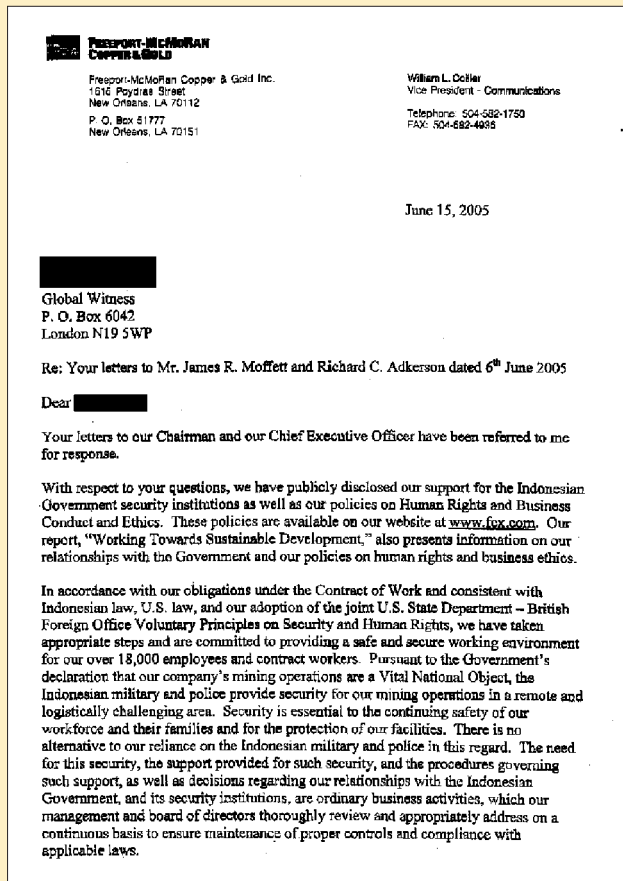
A similar point was made by the late Munir Said Thalib, one of Indonesia’s most famous human rights activists, who was quoted as saying that senior officers appeared unable to control what their subordinates were doing. “The TNI has degraded into a bunch of paramilitar[ies] paid to protect Freeport’s interest.”<sup>62</sup> Munir was murdered in September 2004. An official fact-finding team reportedly concluded in June 2005 that Indonesia’s state intelligence agency “is believed to have been involved in a conspiracy to murder” him.<sup>63</sup> There is no evidence of a link with Papua.

The response of the Indonesian military leadership to the news from Freeport was extensively covered in the local media in March 2003. The media coverage portrays a common theme in the military’s response: the payments were limited to small amounts for limited purposes and went straight to soldiers serving in Papua, not to military leaders. It is clear that senior officers were sensitive about the suggestion that the Indonesian armed forces might be in the pay of a foreign company.

The initial reaction of the TNI commander, General Endriartono Sutarto, as quoted by Indonesia’s official Antara news agency on 14th March 2003, was to say: “If the report is true, we will seek clarification on it because as far as I know, our troops receive only pocket money and food allowances.”<sup>64</sup> On 20th March 2003, as noted earlier,

## What Freeport McMoRan said...

In June 2005, Global Witness asked Freeport McMoRan 73 detailed questions about its relationship with the Indonesian security forces. The company replied as follows:



The Indonesian Government – not our company – is responsible for employing its security personnel and directing their operations. At the Government's request, we provide financial support to ensure that the Indonesian Government's security personnel (the military and police) have the necessary and appropriate resources to provide security for our operations. We note that the Voluntary Principles on Security and Human Rights expressly recognize that companies "may be required or expected to contribute to, or otherwise reimburse, the costs of protecting company facilities and personnel borne by public security."

We condemn human rights violations in any form. We have a longstanding commitment to the protection of human rights and have been vigorous in enacting and enforcing our human rights policy. Our policy, which was initially adopted in 1999, commits us to conducting our operations in a manner consistent with the Universal Declaration of Human Rights. The implementation of our human rights policy is monitored by Judge Gabrielle Kirk McDonald, former President of the International Criminal Tribunal for the former Yugoslavia, who serves as Special Counsel on Human Rights to our company and as a member of our board of directors. When allegations of human rights abuses have arisen in our area of operations, we have supported every legitimate investigation – none of which has found any wrongdoing on the part of the company or our personnel.

We have fully supported and cooperated with the Indonesian Government and the FBI in their investigations of the August 2002 attacks. In June 2004, the U.S. Justice Department indicted Anthonius Warnang, identified in the indictment as an operational commander in the Free Papua Movement (OPM), for leading the group that perpetrated the August 2002 attacks. We will continue to cooperate and support these investigations and hope that the identified perpetrator and others involved in the incident will be apprehended and prosecuted for their crimes. We believe that any questions you may have related to the incident are more appropriately addressed to the government authorities investigating the incident.

Finally, we note our disagreement with the mischaracterizations that certain parties have sought to bestow on our company referred to in your letters, especially the unfounded allegations made by Ms. Denise Leith in her writings. Additionally, the absence of specific comment in this letter on our part with respect to any assertion set forth in your letters should not be construed as reflecting our agreement with any such assertion.

As indicated above, information related to our programs, policies and procedures on human rights, support for the government security institutions and business ethics can be found in our public disclosures on our website, [www.fx.com](http://www.fx.com). For your convenience, I have enclosed a copy of our 2004 Working Towards Sustainable Development Report, "Making the Commitment," with the appropriate sections marked. This report also

includes information on the comprehensive array of educational, medical care, public health, training, employment, land rights, social and economic development programs we support for the benefit of the Papuans in our operations area.

Sincerely,

WLC/uj  
Enclosure

Enclosure:  
"Making the Commitment," 2004 Working Towards Sustainable Development Report

## ... and didn't say.

Global Witness is disappointed and concerned that Freeport McMoRan declined to answer in a substantive way almost all of the questions put to it. Amongst other issues, the company did not explain:

- Who its payments for military and police protection are actually paid to.
- Why payments appear to have been made to individuals, not just to government institutions.
- How the company knows that its payments have not been misappropriated by the recipients.
- How the company knows that its payments have not been used to pay for military operations against the Papuan independence movement.
- How the company has made sure that its payments do not benefit people suspected of involvement or complicity in human rights abuses.

Sutarto told reporters the military had never ordered Freeport to make the payments and it was up to the company whether or not it wanted to continue them. According to several media reports, Sutarto said the payments were for accommodation, repair of equipment and “*uang saku*” (pocket money) for soldiers whose pay was not enough to meet their daily needs in Papua. According to Antara, Sutarto added: “As such, the allegations that the TNI has received security fees from Freeport Indonesia ... have obviously missed the mark.”<sup>65</sup>

Sutarto was asked by journalists to confirm the total amount of money paid to the military by Freeport. One media outlet quoted him as replying: “Ask Freeport, because we’ve never seen the money. That money goes directly to the soldiers and we’ve never stipulated an amount of money.”<sup>66</sup> Global Witness wrote to Sutarto and asked him to confirm that these had been his views in March 2003. The general has not yet replied.

Also in March 2003 the army chief of staff, General Ryamizard Ryacudu, had been quoted by another local newspaper as saying: “As far as I know, my soldiers only receive 125,000 rupiah [then about US\$13] a month. Maybe their food is free too. That’s it. I don’t know about this question of money. I’ve never been given a single cent.”<sup>67</sup> Ryacudu was also quoted as saying: “There are various rumours being thrown around by groups which are clearly enemies of the state, such as [rumours about] the shooting of foreigners at Timika. The latest is that TNI is said to have received a very large sum of money from Freeport in Timika. This is slander and vulgar rumour which is being spread to discredit the TNI, so as to form an opinion at home and especially abroad that TNI is fatally at fault.”<sup>68</sup>

The comment about “the shooting of foreigners” almost certainly refers to press reports suggesting military involvement in the killings of the three teachers in August 2002, since there had been no other shootings of foreigners in Timika for several years previously. Global Witness wrote to Ryacudu and asked him to comment on these quotations. The general has not yet replied to this letter.

Indonesian journalists also raised questions about the payments with Major-General Mahidin Simbolon, the Indonesian military commander in Papua. Two newspapers quoted Simbolon as saying that his men received 125,000 rupiah [roughly US\$13] a month each, the same figure as that cited by Ryacudu.

One of these newspapers reported that journalists asked Simbolon to confirm the figure of 50 billion rupiah, which was roughly equivalent to the US\$5.6 million which Freeport McMoRan had disclosed in the United States. The newspaper quoted Simbolon as replying: “If I got that money, I would divide it up amongst you journalists. I would also build a hotel as accommodation for the soldiers. You’ve seen yourselves the condition of my men’s housing. If there were that much money, how could I have the heart not to use it to build housing for my soldiers?”<sup>69</sup> Simbolon also told Global Witness in June 2005 that Freeport Indonesia made payments for food to soldiers guarding the mine, but that he himself had not received any money from the company.<sup>70</sup>

It does not appear that Sutarto or Ryacudu received payments from Freeport and there is no reason to believe that their comments to the press in March 2003 were not an accurate account of what they believed at that time. Mahidin Simbolon is another story altogether.



Fuelling the “Freeport Army”. The company says it paid for soldiers’ food and lodging, but where did the money actually go?

Credit: Koran Tempo/Budi Yanto



## General Simbolon's dinner money



Major-General Mahidin Simbolon.

Credit: TEMPO/Bagus Indahono

Major-General Mahidin Simbolon was a veteran of the Kopassus special forces, who served as enforcers for the Soeharto regime. Members of Kopassus have long been associated with murder, torture and other abuses of civilians in Indonesia's conflict zones. Global Witness does not suggest that Simbolon personally committed such abuses (see box: *Mahidin Simbolon in East Timor and Papua*, page 23).

Simbolon served in Indonesian-occupied East Timor several times. In the mid-1990s, men under his command were training local militiamen there to combat supporters of independence. In 1999, he was serving as chief of staff of the Indonesian military command which ran the troops in East Timor. During 1999, troops and militiamen carried out a campaign of mass killings and terror in an attempt to stop East Timor seceding from Indonesia. The campaign failed, but not before it had cost at least 1,200 Timorese lives and left much of the country in ruins.

Timorese leaders accused Simbolon of being a prime mover in this campaign of violence but, unlike some other Indonesian officers named by these leaders, Simbolon has not been indicted in any country in relation to the events of 1999. He told Global Witness in June 2005 that he did know militia leaders, but also knew independence figures like Xanana Gusmao, whom he captured in the early 1990s and who is now president of East Timor, now called Timor Leste.

In January 2001, Simbolon arrived in Papua to head the Indonesian military command there. There is no reason to hold Freeport responsible for anything Simbolon might have done prior to his association with the company, but the information in the public domain in 2001 was sufficient to make clear that he was a controversial officer with a gigantic question mark over his associations and activities in East Timor, and that a company entering into any kind of relationship with him should exercise extreme caution.

Global Witness has learned, however, of a series of payments between May 2001 and March 2003, totalling US\$247,705, that appear to have been made by Freeport Indonesia to Simbolon. The payments are as follows:

- A payment worth US\$47,568 in May 2001, described by Freeport Indonesia as being for an army hospital in Jayapura;
- A payment worth US\$64,655 in May 2002, described as being for a military project;
- A payment worth US\$10,000 in July 2002, described as being for an anniversary party for the Trikora military command;
- A payment worth US\$67,682 in December 2002, described as being for a humanitarian project;

- Monthly payments worth a total of US\$57,800 between June 2001 and March 2003. The July 2001 payment was described as being for security services and those for January to March 2003 were described as being for administrative costs. All the other monthly payments were described as being for food costs.

With the exception of two monthly payments in 2003, it appears that the recipient of these payments was not the Indonesian government but Mahidin Simbolon himself. Freeport Indonesia appears to have paid another US\$25,000 to third parties for costs incurred by the general and Mrs Simbolon, including US\$7,000 for hotel costs and more than US\$16,000 in other costs, much of which appears to have been for travel.

Global Witness wrote to Freeport McMoRan noting that payments appear to have been made to Simbolon by Freeport Indonesia, and asked the US company to explain. The company declined to answer this question. Global Witness also contacted Simbolon, who is now Indonesia’s Army Inspector-General, and asked him to comment on payments that appear to have been made to him. He replied: “As far as I know there’s been nothing like that from Freeport [Indonesia]. There’s none.” Simbolon said soldiers guarding the Freeport mine received money for food, but the money went

“directly to the soldiers” and he had not received any such payment.

Global Witness also wrote to the Indonesian armed forces commander, General Sutarto, and asked him to comment on payments to Simbolon and other officers named in this report. At the time this report went to press, General Sutarto had not replied.

Indonesia is a developing country where average living standards and salaries are much lower than the industrialised world. The basic pay for a major-general was roughly US\$200 a month in mid-2000, though for an officer serving in Papua this figure would be boosted by hardship allowances.<sup>71</sup> Thus, Simbolon appears to have received a monthly payment from Freeport Indonesia, allegedly for food alone, which was likely to be much greater than his basic pay from his own government, and he appears to have received even larger sums for other purposes.

Freeport Indonesia has made many payments to Indonesian government institutions over the years, such as the Trikora military command. Why then, in a country notorious for corruption, does it appear that the company paid nearly a quarter of a million dollars to a senior public official rather than to the government institution he worked for, particularly an official with such a controversial record?



Simbolon and other officers often stayed at the Timika Sheraton. Freeport appears to have picked up the bills.

Credit: Philip Game



## Mahidin Simbolon in East Timor and Papua

Mahidin Simbolon graduated from Indonesia's military academy in 1974.<sup>1</sup> He spent much of his career with Kopassus, the Indonesian special forces, including several stints in East Timor where, in 1992, he took part in the capture of Timorese guerrilla leader Jose Alexandre "Xanana" Gusmao.<sup>2</sup> The latter survived a long jail sentence to become President of an independent East Timor, now known as Timor Leste.

Indonesian rule in East Timor was characterised by the use of terror tactics against supporters of independence, including mass killings, torture, rape and the deployment of local paramilitaries against other Timorese. Officers from Kopassus and military intelligence played a prominent role in the occupation. Between 1995 and 1997, Simbolon headed the local military command in East Timor, Korem 164. Amnesty International noted that: "torture and ill-treatment of political detainees in East Timor is routine," in a report published in January 1996 which cited allegations of prisoners being tortured by military intelligence personnel of the Korem 164.<sup>3</sup> The Amnesty report did not mention Simbolon in this context.

The Korem 164 also oversaw the training of a local paramilitary group called Gada Paksi. Ostensibly a job-creation scheme for young Timorese men, Gada Paksi was actually a source of street muscle for the military to



Street thug Eurico Guterres became a Timorese militia commander. His men left a trail of bodies behind them in 1999. Credit: TEMPO/Robin Ong

deploy against supporters of independence and a forerunner of the militias that terrorised East Timor during 1999. The Indonesian military has frequently recruited such militia groups from the local population in conflict zones, though it typically depicts them as volunteers who have come forward to defend their communities, rather than as paid auxiliaries. Unlike some other Timorese militia groups, Gada Paksi was not a combat unit and not routinely trusted with guns.

Global Witness has obtained a copy of a routine Indonesian military report on Gada Paksi's activities in the week of 19–24th February, 1996. The report describes the employment status of the group's 399 members and recommends more effort by the military in finding them work opportunities. The report is addressed to a Kopassus major by a Kopassus captain. Its letterhead makes clear that the officers are serving with the Korem 164, which was then under the command of Simbolon. There is also a list of Gada Paksi members. The first name on the list is "Eurico Quterres". This appears to be Eurico Guterres, a street thug who is known to have led Gada Paksi and later became internationally notorious as a militia leader (see below).

In 1998, after Simbolon had left East Timor, President Soeharto fell from power. His successor, B.J. Habibie, unexpectedly offered the East Timorese a referendum on whether they wanted to remain part of Indonesia or become independent. The Indonesian military and their local allies set out to ensure the Timorese voted the right way. They used the militias to terrorise the population into voting for continued union with Indonesia, even as United Nations staff in the territory were preparing for the ballot.

The military organised and led the militia, provided them with weapons, finance, transport and training and deployed troops to join or support militia raids. The police were also involved in militia activity, or allowed it to proceed unhindered. Despite months of killings and terror, the referendum took place on 30th August 1999 and the result was a huge majority for independence from Indonesia. The military and militias took revenge by laying waste to the towns and forcing hundreds of thousands of people into temporary exile in neighbouring West Timor. In total, at least 1,200 civilians are thought to have been killed in these events by soldiers and militiamen.<sup>4</sup>

During 1999, Simbolon was a Brigadier-General based in Bali. He served as chief of staff of the Udayana Military

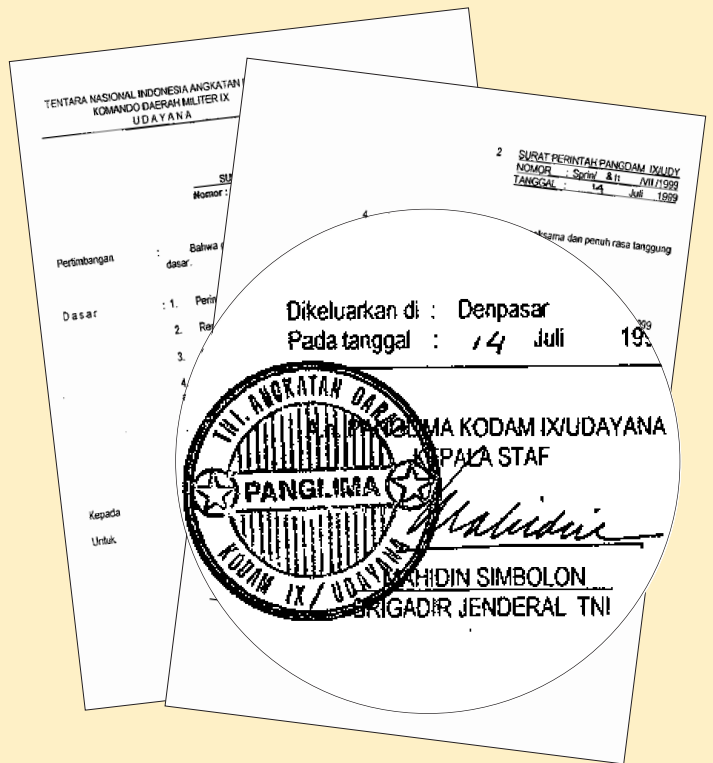


Regional Command, which had its headquarters in Bali but also commanded the troops in East Timor. The head of this command was Simbolon's immediate superior, Major-General Adam Damiri. Global Witness has copies of orders signed by Simbolon in Damiri's name. These orders establish that Simbolon was in the Indonesian military chain of command from Bali to East Timor but they do not prove any direct connection to the militias or personally implicate him in human rights abuses. These documents were provided to Global Witness by Yayasan HAK, a human rights organisation in East Timor.

By this time, a swaggering manner and bloodthirsty speeches had made Eurico Guterres into the public face of the Timorese militias. Another militia leader to attract notoriety was Cancio de Carvalho, who told foreign journalists in early 1999 that his men had killed several civilians, including a pregnant woman.<sup>5</sup> The name of Cancio's militia was *Mati Hidup Demi Integrasi*, or Live or Die for Integration, abbreviated to Mahidi. According to the Sydney Morning Herald newspaper, Australian intelligence intercepted a phone call on 14th February 1999 between Eurico Guterres and a soldier from Kopassus. Guterres mentioned that a member of Mahidi had been hurt. The soldier replied: "We know that Simbolon is concerned that one of his crew is injured."<sup>6</sup>

Asked by Global Witness to comment on his links with Timorese militia leaders, specifically de Carvalho and Guterres, Simbolon said: "There's no relationship but I know them, yes. I know the Timorese. I know Xanana too: it was me who caught him and he's still alive, isn't he?" Asked about the report in the Sydney Morning Herald which suggested that the militia's name was a homage to him, Simbolon responded by asking what the basis of this report was and said: "That's just talk without foundation, without proof ... They were called Mahidi, Mati Hidup Demi Integrasi. It has nothing to do with my name, Mahidin."<sup>7</sup>

On 6th August 1999, as violence mounted in East Timor in the run-up to the UN referendum, independence leader Gusmao told Portuguese television: "The international community must know better that there are Indonesian military people who do not want the [referendum] process. All the plans they have made since the beginning of the violence were to prevent the process and they will continue to prevent it. Zacky Anwar [Makarim] ... Adam Damiri and Simbolon, who are in Bali ... they must be removed from their posts." Gusmao also named another six lower-ranking officers, all of whom were serving in East Timor at the time.<sup>8</sup>



Order signed by Simbolon in 1999 for the movement of soldiers to East Timor prior to the August referendum on independence. It shows his position in the military chain of command. Credit: Courtesy of Yayasan HAK

Another Timorese leader who made similar comments at this time was Jose Ramos-Horta, who had jointly won the Nobel Peace Prize three years earlier and is now the foreign minister of Timor Leste. He was quoted by the press on 5th August 1999 as naming Makarim, Damiri, Simbolon and another officer and saying: "These four are the ones most directly responsible for the killings in East Timor by the army and militias."<sup>9</sup>

Zacky Anwar Makarim was a senior intelligence officer who, like Simbolon, had served in East Timor and knew Gusmao personally. The Far Eastern Economic Review reported in September 1999 that: "Diplomats shake their heads when they note that [Makarim] and Brigadier-General Mahidin Simbolon, two of the men most intimately involved in East Timor in recent months, are also the army's most experienced officers in covert operations." The magazine added: "Predictably, it wasn't long before Gusmao and Western diplomatic sources were blaming Zacky, Simbolon – another special forces-trained intelligence officer and the current chief of staff of the regional command covering East Timor – and at least five local commanders ... for a campaign of terror that has triggered an international outcry and come close to undermining the August 30th referendum."<sup>10</sup>

After the referendum, Indonesian troops and the militias began attacking people and property in East Timor. After intense diplomatic pressure and front-page coverage in the world press, the Indonesian government allowed a multinational force to move into East Timor, bringing an end to the violence. By this time, the Indonesian army had deported hundreds of thousands of civilians to neighbouring West Timor, where they languished for some time in refugee camps controlled by the militias. Jane's Intelligence Review reported in November 2000 that Simbolon "has been identified by Western intelligence sources as the main link between the Indonesian Army and the East Timorese militias."<sup>11</sup>

Not a single Indonesian military officer has been convicted by an Indonesian court for crimes in East Timor in 1999. Damiri was convicted for failing to prevent human rights abuses by his men, but the conviction was overturned on appeal. Neither Simbolon or Makarim were charged with any crime in Indonesia. The only prominent Timorese militia leader to be convicted in Indonesia was Eurico Guterres and his sentence was cut on appeal from ten years to five. Guterres went to Timika near the Freeport mine in 2003, while his case was still on appeal, and announced plans for a militia to fight the Papuan independence movement. These plans were reportedly blocked by the police.<sup>12</sup>

The US government said on 11th August 2004, after Indonesia's appeal court had finally overturned the last guilty verdicts, that: "We are dismayed by this decision, and we are profoundly disappointed with the performance and record of the Indonesian ad hoc tribunal ... We think that the overall process was seriously flawed and lacked credibility."<sup>13</sup>

A team of legal experts appointed by the UN Secretary-General Kofi Annan concluded that: "There was little commitment to an effective prosecution process, which was marred by numerous lacunae in the conduct of investigations, protection of witnesses and victims, presentation of relevant evidence, lack of professionalism and ethics and rigorous pursuit of truth and accountability of those responsible." The panel recommended that Indonesia should prosecute soldiers and militiamen within six months, under international supervision or, alternatively, the cases should be referred to the International Criminal Court in the Hague.

Damiri and Makarim were separately indicted for crimes against humanity by the UN Serious Crimes Unit in Dili, in a joint indictment with the East Timorese authorities: these crimes included murder, deportation or forcible transfer of population and persecution.<sup>14</sup> Indonesia has refused to hand any military officer over for prosecution in East Timor.<sup>15</sup> Simbolon has not been indicted in East Timor.



East Timor's Mahidi militia in 1999. Mahidin Simbolon says: "It has nothing to do with my name."

Credit: Panos Pictures/Jan Banning

An independent expert's report, commissioned by the Office of the UN High Commissioner for Human Rights, named 12 serving or former senior officers of the Indonesian army whom it said were "responsible for devising and co-ordinating the overall policy that called for the mobilisation of the militias and the use of violence against civilians." The report stated that these officers: "were very likely involved in such planning, and should at a minimum be the subject of further criminal investigations." The 12 names include Simbolon as well as Damiri and Makarim. The report argued that these officers not only had command responsibility for crimes committed by soldiers in East Timor but also had individual responsibility, defined as committing, ordering, inducing, aiding or otherwise contributing to the commission of a serious crime.<sup>16</sup>

This report was not in the public domain at the time when Simbolon moved to Papua. However, there was sufficient other evidence in the public domain in early 2001, at the time when Simbolon appears to have started receiving payments from Freeport Indonesia, to raise serious concerns about his activities and associations with events in East Timor two years earlier.

### **Simbolon in Papua**

Simbolon's posting to Papua began in January 2001. At this time, the most prominent politician in Papua was Theys Eluay, who headed a mass movement for independence through non-violent means called the Presidium of the Papuan Council. Eluay was kidnapped on 10th November 2001, on his way home from a ceremony at a Kopassus base, and suffocated to death by his attackers. His driver disappeared.

The murder of such a prominent politician sent shockwaves through Papua and drew international attention. Simbolon reportedly said that: "Theys died with no indications of having been beaten, shot or murdered but because of illness, namely heart complications." Asked if Kopassus was involved in his death, Simbolon reportedly added: "That would be the same as fouling one's own nest". Other observers suggested that Eluay had fallen victim to a feud amongst Papuans.<sup>17</sup>

Then an Indonesian police investigation revealed that the murderers were indeed members of Kopassus. Colonel Hartomo, the commander of the Kopassus taskforce in Papua, and three lower-ranking soldiers were convicted and given jail terms of up to three and a half years for their parts in the murder.<sup>18</sup> As the senior military officer in Papua, Simbolon was in command of Hartomo and the

other soldiers. However, he was not charged or prosecuted in connection with this case. Simbolon was quoted in March 2002 as saying: "These troops are certainly under my command, but if some Kopassus members were involved in Theys' murder, that is not my responsibility."<sup>19</sup>

Global Witness asked Simbolon in June 2005 how it was possible that soldiers under his command could have planned and carried out the assassination of Eluay without his knowing. Simbolon replied by likening the relationship between himself and his subordinates to that of a father to his children: "What if you have a child and it does something beyond its father's knowledge, how about that?"<sup>20</sup>

Simbolon remained in command in Papua as controversy spread in the wake of the August 2002 ambush. Six months later, in February 2003, the military decided to transfer him out of Papua and he left in March. This transfer was described as a routine reshuffle but the Associated Press quoted an unnamed senior military official as saying the general was being replaced because of "ongoing problems in Papua."<sup>21</sup> However, Simbolon later became Inspector-General of the Army, one of the highest-ranking posts in the army headquarters: as of June 2005, he was serving in this position.



Papuan leader Theys Eluay, murdered by soldiers in 2001. Credit: TEMPO/Rully Kesuma



## Paying for what exactly?

Global Witness has asked Freeport McMoRan to explain how payments to the security forces have been authorised and disbursed, how these payments are accounted for and what audit and oversight measures have been in place to make sure money is not misappropriated or diverted for purposes other than the company's legitimate security needs, such as the financing of military operations against the Papuan independence movement. The company did not provide specific replies to any of these questions, other than to say that its board and management "thoroughly review and appropriately address on a continuous basis" its support to the military and police "to ensure maintenance of proper controls and compliance with applicable laws" (see box: *What Freeport McMoRan said ... and didn't say*, page 19).

Freeport McMoRan has also declined to answer the most obvious question about these payments: where does the money actually go? Global Witness has learned that some of it appears to have gone to military and police units or headquarters and some to third parties, such as hotels and catering companies, to pay costs incurred by the military and police. Many senior officers appear to have received significant sums, though not as much as appears to have gone to Simbolon. Freeport Indonesia also appears to have made payments in kind for supplies, including petrol, and has provided the military and police with all-terrain vehicles and air transport.

Payments appear to have gone to Indonesian military commands across Papua, not just to the troops round the mine. Some payments appear to have gone to the Military Regional Command, which is based nearly 500 kilometres away in the town of Jayapura. This command is in charge of all troops in Papua and therefore, military operations against the Papuan independence movement. Its official designation is Kodam XVII/Trikora. The next level down the military hierarchy in Papua which appears to have received payments is a Military Resort Command (Korem 171), based in the town of Sorong about 800 kilometres northwest of the mine. This command covers a swathe of western Papua, including Freeport's concession area. The immediate area round the mine is covered by a subordinate command, the Military District Command (Kodim 1710), which also appears to have received payments. The police have a similar command structure, though they appear to have received less money than the army.

As well as these three levels of the military command structure, Freeport Indonesia also appears to have made

payments to the units which make up the garrison of its concession area. This garrison has typically consisted of one or more infantry battalions, a special forces team from Kopassus and assorted other units, sometimes including armoured and engineer troops, plus personnel from the navy and air force. There is also a force of Brimob paramilitary police, who are armed with automatic weapons and often deployed in the front lines of Indonesia's conflict zones, and the regular police.

Besides the direct payments, Freeport Indonesia also appears to have paid third parties for costs incurred by the security forces, such as air fares, vehicle maintenance and hotel bills and the costs of running a barracks built by the company for the military. These payments would appear to be consistent with Freeport McMoRan's declarations in its 10-K filings to the US Securities and Exchange Commission that Freeport Indonesia pays for food and dining hall costs, housing and travel for the military and police. Freeport Indonesia also appears to have paid third parties for travel and lodging costs incurred by some officers' wives and families and picked up the tab for a wide range of miscellaneous expenses like the cost of military ceremonies and parties, assorted equipment and supplies.

Until mid-2003, many separate payments appear to have been made to the military and police. Some of these payments were worth up to US\$60,000 each, though most of them were between US\$200 and US\$3,000. Some payments appear to have been made to government institutions such as the Trikora Command or a particular army unit. Others appear to have been made to individual officers in the military or police. In any given year until mid-2003, numerous officers from the rank of general down to sergeant appear to have received such payments. After mid-2003, Freeport Indonesia appears to have stopped making payments to individual officers (see below).

From 2000 onwards, a growing number of payments appear to have been made to individual officers, not to government institutions. In February 2000, for example, a certain army major appears to have received two payments, one of US\$13,054 and the other US\$1,714, the first payment described by Freeport Indonesia as being for food costs and the second as a security service fee. In the same month, security service fees also appear to have been paid to the Trikora Command (US\$2,285), the district military commander (US\$1,344) and the resort military command at Sorong (US\$1,143).

Payments were increasingly described by Freeport as food costs rather than as security service fees. In February 2002, for example, a payment of US\$12,213 appears to have been made to Colonel Togap Gultom, the district commander in Timika, while an aide to Simbolon appears to have received US\$1,712 for the same month. It appears that in this and other cases, monthly payments took place that were continued for a year or more and were supplemented by occasional one-off payments.

Officers of lower rank appear to have received smaller payments, though there seem to have been some exceptions. In the year to March 2002 for example, Freeport Indonesia appears to have made payments, totalling US\$46,000 and described mostly as food costs, to Captain Margus Arifin. This would be a relatively large amount, larger than the total sums that appear to have been received by some more senior officers.

Another officer who appears to have made extensive use of Freeport's support was Colonel Mangasa Saragih, who served as Assistant for Intelligence at the Trikora command and later as head of the military region at Sorong. From his arrival in Sorong until the end of 2002, Saragih appears to have received payments from Freeport Indonesia of US\$40,000 for food costs and US\$4,400 for security fees. Payments also appear to have been made on his behalf to third parties, including travel costs of more than US\$4,000 and hotel bills of nearly US\$18,000 for the colonel and people travelling with him, including Mrs Saragih. Global Witness contacted Saragih, who is now head of military security at the Freeport mine, with the intention of seeking comment from him. Saragih told Global Witness to contact him via military headquarters in Jakarta.<sup>72</sup>

As noted earlier, Global Witness had in fact written to Indonesia's armed forces commander, General Endriartono Sutarto, with questions that included a request for comment on payments that appear to have been made to Colonel Saragih and all the other officers named in this report. There has been no reply to this letter.

### **From individuals to institutions?**

In early 2003, Freeport Indonesia appears to have started to change its arrangements for paying the security forces. Payments appear to have been increasingly described as cost of living or support payments, rather than as food costs or security fees. An example is Colonel Gultom, the military district commander. It appears that Gultom had received money from the company in 2002 for food costs but in

January 2003 he appears to have received two payments totalling just under US\$17,000, one for cost of living and one for administrative support. In February 2003, he appears to have received a monthly support payment of US\$14,300.

In March and April 2003, as Freeport McMoRan was making its disclosures to the Securities and Exchange Commission in the United States, the arrangements appear to have changed again. It appears that payments to officers were made indirectly via their local military headquarters, rather than directly to them. Payments appear to have been directed to Simbolon via the provincial military command, for example, and payments to Gultom appear to have been directed to him via the district military command. The same thing also appears to have happened with payments to Colonel Saragih.

It appears that payments made after April 2003 did not go to individual officers. At this point, Freeport Indonesia appears to have been paying about US\$16,000 a month for an infantry battalion; another US\$16,000 a month to the military district command; US\$13–15,000 a month for a Brimob police battalion, nearly US\$19,000 a month to the local police and another US\$22,000 a month to a security task force guarding the company.

This pattern raises questions. Why do so many payments appear to have been made to individuals in the military and police, rather than to government institutions, and why does the system for making these payments appear to have changed in mid-2003? Global Witness asked Freeport McMoRan whether or not, after August 2002, there was any audit, inspection or other form of review which caused Freeport Indonesia to change its manner of making payments for security. The company did not reply to this question.

### **Building better communities**

Freeport McMoRan has declared to the US Securities and Exchange Commission that Freeport Indonesia's security budget includes payments for community development programmes, without providing a breakdown of these payments or further explaining them. It is public knowledge that the TNI runs community development programmes in order to foster its image as a people's military, working for the good of Indonesian society. What is not clear is what these payments have to do with Freeport McMoRan's stated commitment to "provide a safe and secure working environment for our 18,000 employees and contract workers" (see box: *What Freeport McMoRan said ... and didn't say*, page 19). Global Witness asked the company to clarify this issue but the company declined to do so.

Global Witness has learned that between April 1999 and December 2002, Freeport Indonesia appears to have paid US\$342,000 to the military for community programmes. This includes the US\$68,000 that appears to have been paid directly to Simbolon in November 2002 and noted earlier in this report, for what was described as a humanitarian project. The rest of the money appears to have been paid to staff officers at the Trikora command. Similar payments appear to have been made to the police. Global Witness asked Freeport McMoRan to provide evidence that the military and police had spent this money on actual community projects around the mine. The company declined to do so.



Riot police on guard in Papua. Credit: TEMPO/Rully Kesuma

### Paying for police deployments?

Freeport Indonesia appears to have paid on occasion for police reinforcements to fly into Timika to control the periodic bouts of rioting between rival ethnic groups in the town, which have claimed dozens of lives in the last decade. In September 1999, Freeport appears to have paid US\$45,725 to an air transport company for a charter flight to transport Brimob paramilitary police. There was rioting in Timika on the last day of September and the first day of October 1999 between ethnic Papuans and migrants from other parts of Indonesia, in which 14 people were reportedly killed.<sup>73</sup> Global Witness does not suggest that Freeport Indonesia was in any way responsible for these riots, only that the company appears to have helped to pay the cost to the Indonesian authorities of coping with them.

Freeport was reportedly reluctant to be associated with military airlifts, however. During a Papuan rebel raid on the highland town of Ilaga in October 2001, Simbolon reportedly complained that Freeport would not let its own helicopters be used to ferry reinforcements, though Freeport pilots were willing to escort the army's own helicopter. To explain this reluctance, Simbolon referred to an incident five years earlier.<sup>74</sup> In this incident, the Indonesian military had controversially used a helicopter with Red Cross markings to launch a bloody surprise attack on Papuan rebels holding local and foreign hostages. It should be noted that Freeport Indonesia has also provided air transport for humanitarian purposes, such as the airlift of supplies to regions hit by natural disasters.

There was more trouble at Timika in 2003 when the Indonesian government decided to revive a long-defunct policy that would split the province of Papua into three separate provinces. This redrawing of administrative boundaries, intended to create a new province of Central Irian Jaya which included the Freeport area, was seen by the independence movement as an attempt to set Papuans against each other. Local leaders who had worked with the Indonesians spoke out for the new province while Tom Beanal, the Papuan independence leader, was against it.<sup>75</sup>

In August 2003, riots broke out in Timika between supporters and opponents of the new province in which seven people died. The police reportedly announced on 28th August 2003 that they were sending two companies of Brimob riot police to contain the riots and search for five people, including employees of the Interior Ministry and the State Intelligence Agency, who had come from outside Papua and were suspected of stirring up the riots.<sup>76</sup> Global Witness has learned that Freeport appears to have paid the cost of bringing these policemen to Timika.

In short, Freeport appears to have helped to pay for the police to cope with a riot which seems to have had no direct impact on the company itself and was suspected by the police themselves to have been fomented by people working for other Indonesian government agencies. Although there is no suggestion that Freeport was involved in the riots, this incident suggests the difficulty of drawing a clear dividing line between the company's legitimate security needs and the wider priorities of the security forces in Papua.



## Conclusion

Freeport McMoRan disclosed very little information about its subsidiary's financial dealings with the Indonesian security forces prior to the fatal ambush of August 2002, though company officials are said to have discussed the possibility of doing so. Since the ambush and following the concern from some shareholders which it aroused, the company has disclosed more information. However, the company has not revealed details which raise troubling questions about the relationship with the security forces.

Freeport McMoRan had a close relationship with President Soeharto during his time in power and its financial dealings with Soeharto's officials had come under public scrutiny in the late 1990s, after the dictator's fall. Freeport McMoRan was not charged with any offence but there is no doubt the company knew that any payments made by its subsidiary to public officials in Indonesia might attract suspicions of corruption or extortion. There is also no doubt that Freeport McMoRan was aware of the appalling human rights record of the Indonesian military, which has included numerous killings by soldiers near the mine, the most extensively documented of which were in 1994–95.

Given this background, it is reasonable to expect that Freeport McMoRan and its subsidiary would have taken extensive steps to avoid any measures that might lead to the company being accused of complicity in corruption or human rights abuses. Why, then, does it appear that large sums were paid not to institutions of the Indonesian government but to individual military and police officers? Given the clear risk that payments might be misappropriated or diverted for other purposes, such as the financing of counter-insurgency operations, what steps did Freeport take to ensure that money was actually used for the purposes declared to the public? And why does it appear that Freeport Indonesia stopped making payments to individual officers in mid-2003?

Beyond these questions which apply to the Indonesian military and police in general, there is a specific question that applies to Mahidin Simbolon because of the nature of his military record and the scrutiny that had already been given to it by the international press and human rights groups at the time when he came to Papua. This was an officer who was the military commander of East Timor at a time when torture by soldiers was prevalent, who is known to have been chief of staff of the regional military command whose troops committed crimes against

## Transparency of corporate payments in Indonesia

A first step that Indonesia could take to address the resentments created by the oil and mining industries in its conflict regions is to implement the principles of the Extractive Industries Transparency Initiative. The EITI is a global initiative, launched by the British government in June 2003 and now involving numerous countries (including Nigeria, Azerbaijan, Timor Leste and others) and leading multinational companies which operate in Indonesia, including BP and ExxonMobil. It promotes the public disclosure of revenue flows from extractive companies to governments, with audit and oversight mechanisms, so citizens can be confident that these revenues are not being misappropriated.

Indonesia could draw on the EITI to create its own reform programme for disclosing revenue flows from industry to the central government and flows from the government back to the regions that produce the resources. This might help to allay the resentment in Aceh and Papua that local



Outsiders are taking Papua's resources, leaving little for local people. Transparency would help.

people have benefited little from resource extraction, a resentment which has fuelled the conflicts in both places.

However, Indonesia's joining EITI would not resolve the specific concerns raised by this report. By EITI standards Freeport McMoRan is already relatively transparent, in that it does disclose the total value of tax and other payments to the Indonesian government, and has disclosed the total value of payments to the security forces. The problem, as this report has shown, is finding out what the disclosures actually mean.

Indonesia is planning to make the finances of the military and police more transparent and accountable to the public. This reform would be highly welcome, as armies and police forces in a democracy should not have access to off-budget sources of funds which are not subject to civilian control. Reform may take time, however. In the meantime, Indonesia could pass a law, regulation or decree requiring that all payments by companies to the military and police should be fully disclosed and independently audited.

Recent events are showing that extractive companies in Indonesia's conflict zones can be more transparent in their dealings with the security forces, and can move away from the old model of having large military or police garrisons at project sites. BP, the oil company, has agreed with the Indonesian authorities on a set of security arrangements for its Tangguh LNG gas project in western Papua, which should be more transparent and restrict the role of the military and police in providing day-to-day security.

BP has agreed with the government that no soldiers will be based at the Tangguh LNG site and only a small number of police. BP has said it will make some payments for the security forces' transport and living costs: these will be in line with government expenditure tables and paid to Badan Pelaksana Migas, the agency which regulates the oil and gas industry, not directly to the security forces. BP has pledged to publish all such payments.<sup>1</sup> BP should also agree that all these payments be independently audited and the results of the audit disclosed to the public in full, to show that money is not being misused. BP is setting a new standard and must expect to be tested against it.

The security of the Tangguh LNG site will initially be the responsibility of the Indonesian police and rest largely on

arrangements between the project and local communities, with soldiers only being sent in if a security problem arises which cannot be contained by project staff and the police. BP says the police presence in the wider Bintuni Bay area, where the project is located, will expand from 34 policemen to about 90 as building goes on, and the eight or nine soldiers already based in the nearby town of Babo will not be reinforced.<sup>2</sup> If these plans are carried out, the security presence around Tangguh LNG would be very much smaller than that round the Freeport mine.

As of mid-2005, construction work on Tangguh LNG had not yet started, so BP's security arrangements remain untested. Some observers worry that the military might overrule these arrangements or even engineer unrest at the project site, in order to justify basing a garrison there and asking the company for security payments.

The military presence in the wider area around Tangguh LNG is likely to increase: the army announced in March 2005 that it plans to base another 15,000 soldiers in Papua over the next four years, and 5,000 of these troops will be based in Sorong, which is about 300 kilometres from the project. An army spokesman said in March 2005 that the deployment "is not a cheap project and it will have to be carried out in accordance with our budget."<sup>3</sup>

Even if BP can avoid the military becoming entangled in the project, the Indonesian police also have a reputation for corruption and human rights abuses which means the absence of soldiers does not mean an absence of risk. Human rights campaigners have noted that the Indonesian police chief in Papua with whom BP signed a security agreement in April 2004, Timbul Silaen, was the police chief in East Timor in 1999 and has been indicted there for crimes against humanity.<sup>4</sup>

What BP's experience does seem to suggest, at least in theory, is that in an Indonesia which is becoming more open and democratic, there is no reason to stick with old security practices which have caused great suspicion and done little good for companies' own reputations. Indonesia's military and police should receive their funding from their own government through the national budget, not from private enterprise, because this is the only way to ensure that their finances are accountable to the Indonesian public. Until that change has taken place, private companies that make payments to the Indonesian security forces should be required by law or regulation to publish in full what they pay.

humanity in East Timor, whose immediate superior at that time has been indicted for crimes against humanity, and who is alleged by several sources to have associated with Timorese militia leaders, although he himself denies that this association was more than an acquaintance.

It is true that Simbolon had not been charged with any offence. It is also true, however, that Indonesia's attempts to prosecute military personnel for crimes against humanity in East Timor cannot be regarded as credible because they have not led to the conviction of any military officer and have been condemned as flawed by, amongst others, the United States and a panel of legal experts appointed by the United Nations. Given this background, why does it appear that large payments were made by Freeport Indonesia not just to individual public officials, but to an official with such a troubling track record?

The financial relationship between Freeport and the Indonesian military became a particular concern to some shareholders because of the fatal ambush of 31st August 2002 which claimed the lives of two Americans and one Indonesian. Suspicions of involvement in the ambush by Indonesian security personnel remain unproven but cannot be automatically dismissed, given the military's history of using paramilitaries for deniable covert operations against civilians and the widespread involvement of military and police personnel in corruption and illegal business activity. These suspicions need to be thoroughly and objectively investigated by the US and Indonesian authorities.

This issue is material to investors in Freeport McMoRan because, without knowing the truth, it is impossible for investors to form a complete picture of the relationship between the company and the Indonesian government, to understand the true position of its subsidiary in Papua or to assess how well or badly the company has mitigated its security risks. Furthermore, Indonesian citizens in Papua and elsewhere have a right to know about any dealings their public officials may have had with a private foreign company, and to be sure that all such dealings were within the law.

Global Witness has offered Freeport McMoRan the opportunity to comment on the issues raised by this report. The company has replied in general terms, in a way that leaves unanswered almost all the specific questions raised by Global Witness. Rio Tinto has also declined to explain in more detail its role in the security relationship.

The time has now come for the law enforcement authorities in the United States and Indonesia to investigate the relationship between Freeport McMoRan, its subsidiary and the Indonesian military and police. In the case of payments that appear to have been made to Mahidin Simbolon and other officers, rather than to institutions of the Indonesian state, the investigation should examine these payments in the light of the US Foreign Corrupt Practices Act and Indonesian laws that regulate payments to public officials.

### **Transparency in conflict zones: a global concern**

The problems posed by extractive investment in conflict zones are not limited to Indonesia. An assessment in March 2005 listed 70 countries where there is conflict or risk of conflict: at least 30 of these countries have significant oil, gas or mining industries.<sup>77</sup> A number of multinational companies have faced criticisms over their relationships with security forces or other armed groups.

The most recent was AngloGold Ashanti. This South African company, controlled by the global mining conglomerate Anglo American, admitted that it had "messed up" in the Democratic Republic of Congo after Human Rights Watch published a report in June 2005 revealing that the company had made payments to, and provided transport and logistical support for, a rebel group which has committed massacres and other serious violations of human rights. AngloGold Ashanti at first denied any financial support to the rebels, but later admitted that it had paid about US\$9,000, most of it "under protest and duress".<sup>78</sup> The company's chief executive, Bobby Godsell, said in June 2005 that: "If it comes to the judgement that our people can only stay there by payment of bribes, then we will withdraw. Going forward, we will not give financial support."<sup>79</sup>

People living in regions where armed conflict is taking place have a right to be assured that companies operating in their territory are not inadvertently exacerbating the conflict through their actions. Investors are increasingly concerned that companies manage their risks properly, both to avoid reputational damage and to avoid worsening the local situation in a way which may afflict the company's own operations. Neighbouring countries and the international community also have an interest in seeing that conflicts are quickly resolved because it is they who may have to cope with the consequences: if natural resource extraction is a factor in the conflict then it too needs to be addressed if the conflict is to be solved. Full transparency from companies about their dealings with parties to the



conflict is one way to start meeting the concerns of all these groups.

Failure to be transparent, and to install proper safeguards, may encourage a culture of graft and rent-seeking around companies that might well prefer not to pay bribes. A company can become complicit in a crime, in regions where the rule of law is absent, by virtue of what it knew or should have known, not just what it did or did not do. The question of complicity by business in human rights abuses will be central to the work of the new UN Secretary-General's Special Representative on Business and Human Rights (a post in discussion as of mid-2005): full transparency by companies will not in itself solve the problem of complicity, but it is an essential component of any solution.

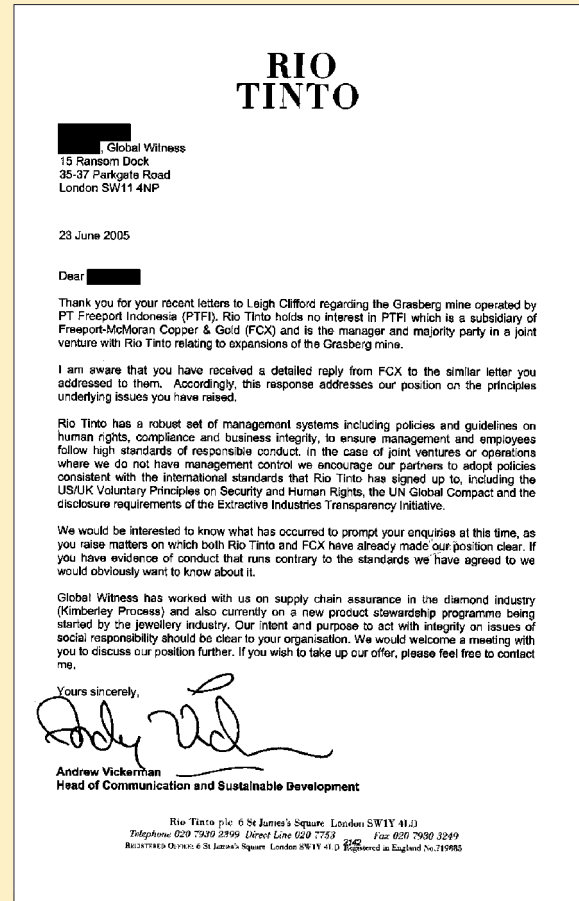
The question of payments by extractive companies in conflict zones around the world is covered by an initiative called the Voluntary Principles on Security and Human Rights, launched in 2001 and sponsored by the US and British governments. Freeport McMoRan and Rio Tinto have repeatedly cited their endorsement of the Voluntary Principles in various public documents, including their responses to Global Witness on issues raised in this report. Other extractive companies which have endorsed the initiative and operate in Indonesia include BP and ExxonMobil.

The Voluntary Principles set guidelines for extractive companies on managing the human rights impacts of their operations but these guidelines are actually quite weak and unspecific on the questions raised by this report. They state that companies should "consult regularly" with host governments and local communities about their security arrangements, explain their policies on ethical conduct and human rights and "express their desire" that state security forces do their job in a way consistent with these policies. Companies should also "encourage" governments to publish details of their security arrangements, "subject to any overriding safety and security concerns," and are expected to "recognize a commitment to act in a manner consistent with the laws of the countries within which they are present". Companies should "use their influence" to promote the principle that "individuals credibly implicated in human rights abuses should not provide security services for companies."

Thus, it seems that a company can endorse the Voluntary Principles, and draw the reputational benefits, without providing any information to the public about any payments that it makes to armed parties to a conflict.

## What Rio Tinto said ...

Global Witness asked Rio Tinto 75 detailed questions about the relationship between Freeport and the Indonesian security forces and Rio Tinto's role in this relationship. Rio Tinto was a minority shareholder in Freeport McMoRan until 2004, with a seat on its board, and is also a joint-venture partner of Freeport Indonesia. Here is the reply:



## ... and didn't say.

However, Rio Tinto did not explain:

- Whether or not the company has been responsible for a share of Freeport Indonesia's payments for military and police protection.
- The role of Rio Tinto executives, if any, in deciding and overseeing these payments.
- Why the company has stated that the payments are "legally required" when comments by Indonesia's military commander appear to suggest otherwise.

There is no provision for independent oversight of such payments and there appears to be no formal mechanism for ensuring that companies which endorse the Voluntary Principles actually apply them.



Poor people in regions like Papua have a right to know that companies are spreading wealth, not conflict.

Even if the Voluntary Principles were amended to ensure that companies did disclose a meaningful level of detail about their payments, there is still an inherent problem with non-binding processes: governments or companies which do not wish to be bound by them can simply decline to take part, or can take part on a rhetorical level without being compelled to implement them. And since voluntary agreements do not have legal force, companies can also claim to support the principle of transparency while pointing to the laws of countries where they operate – in relation to commercial confidentiality or national security, for example – as a reason not to actually publish more information.

It is clear that corporate payments in conflict zones are material to investors, meaning that investors cannot form a true picture of a company without knowing what the company is paying to whom, for what purpose and under what oversight. It is equally clear that people living in those conflict zones should be able to find out about these payments. To get around the problems of the voluntary approach, and to ensure that all extractive companies in conflict zones are under equal obligation to disclose their payments related to security, there may be no alternative but to require such reporting by law in countries where those companies are based and where they operate, or through binding rules with a global reach, like international accounting standards.

In conflict regions where the law is weak and people may be murdered, raped or tortured on a regular basis, there is no excuse for companies to conceal any aspect of their payments to any party to the conflict.

## References

- <sup>1</sup> United States District Court for the District of Columbia. 16th June 2004. Grand Jury indictment of Anthonius Wamang.
- <sup>2</sup> ABC Foreign Correspondent. 1st September 2004. West Papua – ambushed. (Transcript).
- <sup>3</sup> Shareholder proposal by New York City Employees Retirement System and New York City Teachers Retirement System for annual general meeting of May 2003.
- <sup>4</sup> *Ibid.*
- <sup>5</sup> Jones, Walker, Waechter, Poitevent, Carrere and Denegre LLP. 3rd March 2003. Letter to the US Securities and Exchange Commission.
- <sup>6</sup> The City of New York. Office of the Comptroller. 4th March 2003. Letter to the US Securities and Exchange Commission.
- <sup>7</sup> Freeport McMoRan Copper & Gold Inc. 10-K filing to the Securities and Exchange Commission for the fiscal year ended 31st December 2002.
- <sup>8</sup> *Ibid.*
- <sup>9</sup> International Crisis Group. Indonesia: Keeping the military under control. Jakarta/Brussels, 5th September 2000. Page 16.
- <sup>10</sup> Global Witness telephone interview with Simbolon. 26th June 2005.
- <sup>11</sup> Amnesty International. The September and October 1995 riots: arbitrary detention and torture. London, January 1996.
- <sup>12</sup> Far Eastern Economic Review. 2nd September 1999. East Timor is about to vote: so is Indonesia's military letting go?
- <sup>13</sup> Global Witness telephone interview with Simbolon. 26th June 2005.
- <sup>14</sup> International Crisis Group. 1st March 2005. Crisiswatch No 19.
- <sup>15</sup> CIA World Factbook. East Timor.
- <sup>16</sup> Transparency International. 25th March 2004. Plundering politicians and bribing multinationals undermine economic development, says TI.
- <sup>17</sup> World Bank. Indonesia Country Assistance Strategy 2004-2007.
- <sup>18</sup> International Crisis Group. 20th December 2004. Indonesia: rethinking internal security strategy. Page 2.
- <sup>19</sup> Environmental Investigation Agency/Telapak. The last frontier: illegal logging in Papua and China's massive timber theft. London/Jakarta, February 2005. Page 7.
- <sup>20</sup> Jakarta Post. 19th March 2005. Army to station an extra division in Papua.
- <sup>21</sup> Freeport McMoRan Copper & Gold Inc. 2003 annual report. Page 12.
- <sup>22</sup> George A. Mealey, Grasberg, Mining the richest and most remote deposit of copper and gold in the world in the mountains of Irian Jaya, Indonesia. Freeport McMoran Copper & Gold Inc, 1996. Page 299.
- <sup>23</sup> *Ibid.* Page 304
- <sup>24</sup> Robin Osborne. Indonesia's secret war: the guerrilla struggle in Irian Jaya. Sydney, 1985. Page 120.
- <sup>25</sup> Tapol. West Papua: the obliteration of a people. Tapol. 1983. Pages 38-40.
- <sup>26</sup> George A. Mealey, Grasberg, Mining the richest and most remote deposit of copper and gold in the world in the mountains of Irian Jaya, Indonesia. Freeport McMoran Copper & Gold Inc, 1996. Page 306.
- <sup>27</sup> Freeport McMoRan Copper & Gold. 2003 annual report. Page 48. Note 2.
- <sup>28</sup> Wall Street Journal. 29th September 1998. Hand in glove: how Suharto's circle, mining firm, did so well together.
- <sup>29</sup> Denise Leith. The politics of power: Freeport in Suharto's Indonesia. University of Hawaii Press, 2003. Page 68.
- <sup>30</sup> Agence France Presse. 5th November 1998. US miner chairman denies allegations of corruption in Freeport Indonesia.
- <sup>31</sup> International Crisis Group. Resources and conflict in Papua. Jakarta/Brussels, 13th September 2002. Page 19.
- <sup>32</sup> *Ibid.* Page 19. Also Denise Leith. The politics of power: Freeport in Suharto's Indonesia. University of Hawaii Press, 2003. Page 243.
- <sup>33</sup> Jakarta Post. 16th March 2003. Freeport confirms allowances for military, police in Papua.
- <sup>34</sup> Lesley McCulloch. Trifungsi: the role of the Indonesian military in business. Paper delivered to the International Conference on Soldiers in Business. Jakarta, 17-19 October 2000.
- <sup>35</sup> Freeport McMoRan Copper & Gold Inc. Provision of Security. From web version of 2002 Working Towards Sustainable Development report at www.fcx.com.
- <sup>36</sup> Freeport McMoRan Copper & Gold Inc. 10-K filing to the Securities and Exchange Commission for the year ending 31st December 2002.
- <sup>37</sup> This event was reported via the Internet and confirmed at the time by a source close to Freeport.
- <sup>38</sup> Global Witness telephone interviews with Reverend Lowry. June 2005.
- <sup>39</sup> Shareholder proposal by New York City Employees Retirement System and New York City Teachers Retirement System.
- <sup>40</sup> *Ibid.*
- <sup>41</sup> *Ibid.*
- <sup>42</sup> Jones, Walker, Waechter, Poitevent, Carrere and Denegre LLP. 3rd January 2003. Letter to US Securities and Exchange Commission.
- <sup>43</sup> *Ibid.*
- <sup>44</sup> Freeport McMoRan Copper & Gold Inc. Working towards sustainable development. 2001 Economic, Social and Environmental Report. Page 1.
- <sup>45</sup> *Ibid.* Page 8.
- <sup>46</sup> Jones, Walker, Waechter, Poitevent, Carrere and Denegre LLP. 3rd March 2003. Letter to the US Securities and Exchange Commission. Page 2.
- <sup>47</sup> Freeport McMoRan Copper & Gold Inc. 6th February 2003. Offering Memorandum for 7% convertible senior notes due 2011. Security Matters.
- <sup>48</sup> Freeport McMoRan Copper & Gold Inc. 10-K filing to the Securities and Exchange Commission for the fiscal year ended 31st December 2002.
- <sup>49</sup> American Metal Market. 18th March 2003. Freeport admits paying military for protection.
- <sup>50</sup> The City of New York. Office of the Comptroller. 27th February 2003. Letter to the US Securities and Exchange Commission.
- <sup>51</sup> *Ibid.*
- <sup>52</sup> Jones, Walker, Waechter, Poitevent, Carrere and Denegre LLP. Letter to the US Securities and Exchange Commission. 3rd March 2003.
- <sup>53</sup> *Ibid.*
- <sup>54</sup> The City of New York. Office of the Comptroller. 4th March 2003. Letter to the US Securities and Exchange Commission.
- <sup>55</sup> *Ibid.*
- <sup>56</sup> *Ibid.*
- <sup>57</sup> Freeport McMoRan Copper & Gold Inc. Report on the Annual Meeting of Stockholders of Freeport-McMoRan Copper & Gold Inc, held on 6th May 2004. At www.fcx.com.
- <sup>58</sup> Freeport McMoRan Copper & Gold Inc. Report on the annual meeting of stockholders of Freeport-McMoRan Copper & Gold Inc, held on 5th May 2005. At www.fcx.com.
- <sup>59</sup> Rio Tinto. 1st December 2004. Grasberg. Statement at www.riotinto.com/media
- <sup>60</sup> Detikcom. 20th March 2003. Panglima: TNI tak perintahkan Freeport beri dana keamanan.
- <sup>61</sup> Jakarta Post. 20 March 2003. TNI's Credibility.
- <sup>62</sup> Koran Tempo. Freeport Hires TNI.
- <sup>63</sup> Jakarta Post. 23rd June 2005. BIN involved in killing Munir: team.
- <sup>64</sup> Antara News Agency. 14th March 2003 TNI to ask clarification from Freeport Indonesia.
- <sup>65</sup> Antara News Agency. 20th March 2003. Investors not obliged to pay "security fees" to Indonesian military, commander says.
- <sup>66</sup> Detikcom. 20th March 2003. Panglima: TNI tak perintahkan Freeport beri dana keamanan.
- <sup>67</sup> Sinar Harapan. 18th March 2003. KSAD: Pasukan TNI tidak ditarik dari PT Freeport.
- <sup>68</sup> *Ibid.*
- <sup>69</sup> Sinar Harapan. 3rd March 2003. Pangdam Trikora: Freeport agar terbuka soal dana kepada TNI.
- <sup>70</sup> Global Witness telephone interview with Simbolon. 26th June 2005.
- <sup>71</sup> International Crisis Group. Indonesia: Keeping the military under control. Jakarta/Brussels, 5th September 2000. Page 16.
- <sup>72</sup> Global Witness telephone interview with Saragih. June 2005.
- <sup>73</sup> Agence France Presse. 1st October 1999. Irian Jaya clashes leave 14 dead.
- <sup>74</sup> Jakarta Post. 1st October 2001. Military moves to retake Ilaqa from separatists.
- <sup>75</sup> International Crisis Group. Dividing Papua: How Not to Do It. Jakarta/Brussels, 9th April 2004. Page 12.
- <sup>76</sup> Kompas. 28th August 2003. Pemekaran wilayah di provinsi Papua ditunda.
- <sup>77</sup> International Crisis Group. 1st March 2005. Crisiswatch No 19.
- <sup>78</sup> Human Rights Watch. The Curse of Gold. New York, 2nd June 2005.
- <sup>79</sup> Mail and Guardian. 2nd June 2005. Anglo "nessed up" in the DRC.
- <sup>80</sup> Securities and Exchange Commission. 5th March 2003. Response of the Office of Chief Counsel Division of Corporation Finance.

### References for box: The ambush of August 2002

- <sup>1</sup> Jakarta Post. 5th September 2002. TNI spokesman names leader of Freeport attack.
- <sup>2</sup> Institute for Human Rights Study and Advocacy (Elsham). What's wrong with Freeport's security policy? Elsham, 21st October 2002.
- <sup>3</sup> Congressman Joel Hefley of Colorado. Extensions of Remarks. 16th March 2004. Prevent Indonesia from receiving IMET funding in fiscal year 2004.
- <sup>4</sup> Jakarta Post. 2nd April 2004. Key witness in Freeport changes story.
- <sup>5</sup> Suara Pembaruan. 10th January 2003. Tim Gabungan TNI dan Polri: anggota TNI tidak terlibat penembakan di Timika.
- <sup>6</sup> Sydney Morning Herald. 2nd November 2002. Kopassus accused of Freeport ambush.
- <sup>7</sup> Washington Post. 27th February 2003. Involvement of Indonesian military. Post Corrects Nov. 3 Report on Freeport Mine Ambush.
- <sup>8</sup> New York Times. 30th January 2003. US links Indonesian troops to deaths of two Americans.
- <sup>9</sup> US Embassy Jakarta. Press release. 31st January 2003.
- <sup>10</sup> New York Times. 5th February 2003. Soldier strangled Papua separatist.
- <sup>11</sup> Global Witness telephone interview with Daley. June 2005
- <sup>12</sup> Congressman Joel Hefley of Colorado. 15th July 2003. Statement of the Honorable Joel Hefley. Amendment to HR 1950.
- <sup>13</sup> Associated Press. 4th March 2004. Indonesian officials suspected in attack.
- <sup>14</sup> Global Witness telephone interview with Slobodan Lekic of AP. June 2005.
- <sup>15</sup> United States District Court for the District of Columbia. Grand Jury indictment of Anthonius Wamang. 16th June 2004.
- <sup>16</sup> ABC Foreign Correspondent. 1st September 2004. West Papua – ambushed. Transcript.
- <sup>17</sup> US State Department. Press roundtable in Indonesia. 7th May 2005.

### References for box: Mahidin Simbolon in East Timor and Papua

- <sup>1</sup> Tempo Magazine. 28th November 1997. Will Maj-Gen Prabowo become chief of the army strategic command reserve? Translated by FBIS news service.
- <sup>2</sup> Tapol. 16th June 1999. The dismissal and indictment of TNI officers for human rights violations in East Timor.
- <sup>3</sup> Amnesty International. January 1996. The September and October 1995 riots: arbitrary detention and torture.
- <sup>4</sup> Unpublished report by independent expert commissioned by Office of the United Nations High Commissioner for Human Rights. East Timor 1999. Crimes Against Humanity. Page 40.
- <sup>5</sup> Australian Broadcasting Corporation. 15th March 1999. Four Corners. A Licence to Kill. Transcript.
- <sup>6</sup> Sydney Morning Herald. 14 March 2002. Silence over a crime against humanity.
- <sup>7</sup> Global Witness telephone interview with Simbolon. 26th June 2005.
- <sup>8</sup> Radiotelevisao Portuguesa. 6th August 1999. Interview with Xanana Gusmao.
- <sup>9</sup> Agence France Presse. 5th August 1999. E. Timorese seeks international arrest warrants for Indonesia generals. NB. This report wrongly identifies Simbolon as a colonel. He was in fact a brigadier-general.
- <sup>10</sup> Far Eastern Economic Review. 2nd September 1999. East Timor is about to vote: so is Indonesia's military letting go?
- <sup>11</sup> Jane's Intelligence Review. 1st November 2000. East Timor: can it stand alone?
- <sup>12</sup> Media Indonesia. 4th December 2003. Aparat hentikan kegiatan Guterres di Timika.
- <sup>13</sup> US State Department. 9th August 2004. Daily Press Briefing. Transcript.
- <sup>14</sup> District Court of Dili before the Special Panel for Serious Crimes. 24th February 2003. Indictment against Wiranto, Zacky Anwar Makarim, Kiki Syahnakri, Adam Rachmat Damiri, Suhartono Suratman, Mohammad Noer Muis, Yayat Sudrajat and Abilio Jose Osorio Soares.
- <sup>15</sup> Human Rights Watch. 7th August 2004. Indonesia: courts sanction impunity for East Timor abuses.
- <sup>16</sup> Unpublished report by independent expert commissioned by Office of the United Nations High Commissioner for Human Rights. East Timor 1999: Crimes against humanity. Page 252.
- <sup>17</sup> Detikcom. 12th November 2001. Indonesia: Police, military differ over cause of Papuan figure's death. Translated by FBIS news service.
- <sup>18</sup> ABC Radio Australia news. 21st April 2003. Soldiers jailed for murder of Papuan activist.
- <sup>19</sup> Tempo Interactive. 30th March 2002. Trikora Military Chief Denies Any Responsibility in They's Murder.
- <sup>20</sup> Global Witness telephone interview with Simbolon. 26th June 2005.
- <sup>21</sup> Laksamana.net. 4th February 2003. Papua military chief loses job after murders.

### References for box: Transparency of corporate payments in Indonesia

- <sup>1</sup> Letter from BP to Global Witness. 25th February 2005.
- <sup>2</sup> *Ibid.*
- <sup>3</sup> Jakarta Post. 19th March 2005. Army to station extra division in Papua.
- <sup>4</sup> Tapol. 20th June 2005. BP denounced for security pact with East Timor crimes suspect.





**global witness**

Global Witness Publishing Inc.  
8th floor, 1120 19th Street NW  
Washington DC 20036

e-mail: [oil@globalwitness.org](mailto:oil@globalwitness.org)

<http://www.globalwitness.org>

ISBN 0-9753582-8-6

©Global Witness Publishing Inc. 2005.