

DTE

Down to Earth International Campaign for Ecological Justice in Indonesia

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Business, human rights and climate in the UK-Indonesia relationship

How the UK government's push for trade and investment risks making things worse for hard-pressed communities.

This month DTE and AMAN wrote an open letter to Indonesian President Susilo Bambang Yudhoyono and British Prime Minister David Cameron, calling for immediate practical action to restore to Indonesia's indigenous peoples their rights over their customary forests, as required by last year's landmark Constitutional Court decision.¹

We called for a review of UK government policy towards Indonesia so that conflicting policies on investment and development cooperation are amended to support the rights of indigenous peoples.

The UK government has six priority areas, as presented for public consumption on the website <https://www.gov.uk/government/world/indonesia>: supporting British nationals in Indonesia; promoting human rights in Indonesia;

safeguarding Britain's national security from Indonesia; working with the Association of Southeast Asian Nations; addressing climate change and supporting Indonesia to achieve low carbon growth; and improving business with Indonesia. It is this last priority that is overriding the others and in particular conflicting with the human rights and climate change agendas. This imbalance and these contradictions need to be addressed.

There is a major problem with Britain's approach to Indonesia: on the one hand the UK government presents itself as a champion of human rights and tackling climate change, on the other a supporter of business with Indonesia. There are not enough cross-cutting safeguards. This means that British government agencies are promoting investment by British companies in

infrastructure development, and natural resources-based industries, which have negative impacts on community rights and livelihoods as well as greenhouse gas emission levels. The UK government's "Improving business with Indonesia" webpage says that the business sectors which offer particularly good opportunities for UK companies include infrastructure, defence and security, consumer goods, energy, education, low-carbon solutions and financial services. Brochures produced by the UKTI do identify opportunities in low carbon, green buildings, and renewable energy industries, but they simultaneously highlight infrastructure, oil and gas, mining, and agribusiness as sectors with particular potential for British companies.

(continued next page)



Coal mining destroying forests near Maruwai, Central Kalimantan. (See video from DTE/WDM visit: <https://www.wdm.org.uk/exposed-how-our-banks-finance-climate-change>) (Photo: DTE)

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In the UKTI brochure 'Doing Business in Indonesia: A British Business Perspective', for example, the regional manager of design and engineering consultancy Scott Wilson advises, "There are opportunities in niche technologies and various infrastructure projects, such as coal transportation systems, mass transit and power generating schemes. There is a massive requirement for infrastructure projects in Indonesia and opportunities could rival those of Brazil, Russia, India and China."²

These are all sectors which involve appropriating land, using heavy machinery to clear away forest, farmland and anything else in the way, and/or extracting the natural wealth it contains. These sectors are also strongly associated with conflict, human rights violations, and environmental destruction, and increased emissions of greenhouse gases from forest and peatland destruction. In the case of fossil-fuel related business, the climate impacts extend into the future with the eventual burning of those fuels on top of emissions from extraction, processing and shipping.

This kind of primary industrial development features prominently in the Indonesian government's economic masterplan for 2025 - known as the MP3EI - which has drawn strong criticism for ignoring the rights and interests of millions of people - including indigenous peoples and local communities, living in target areas (see box).

British companies investing in these sectors in Indonesia have a long history of

association with serious social, environmental and climate impacts - DTE has regularly raised concerns with extractive sector companies Rio Tinto, BP, BHP-Billiton, and more recently Bumi Plc,³ as part of our campaign to hold companies to account for their impacts in Indonesia.⁴ Currently, the London Mining Network (of which DTE is a founder member) is calling for more oversight of companies listing on the London Stock Exchange, as part of a broader campaign for corporate accountability by mining companies based in London (see separate item).

Business, business, business...

The balance between the competing priorities in Britain's policy towards Indonesia has shifted since David Cameron's Coalition government came to power in 2010. Doing more business with Indonesia has moved up the priority list since Indonesia was identified as one of 17 priority high-growth markets⁴ and part of the overall plan to boost Britain's economic growth through exporting more. Currently, Britain and Indonesia have less than a 1% share of each other's market, with Britain ranked 20th largest exporter to Indonesia.⁵ By contrast, Britain is one of Indonesia's biggest foreign investors, ranking fifth in 2013 (see box). This relationship is being nurtured by repeated official visits. Britain's foreign minister visited Indonesia in January this year, the Minister for Trade and Investment and the Minister of Defence both

UK trade and investment in Indonesia

Britain is already one of the biggest investors in Indonesia, and the current government is encouraging UK companies to invest more. It is also supporting UK exporters to sell more goods and services to what it recognises as a fast-growing market.

In April 2012 the Prime Minister and President Yudhoyono announced a commitment to double trade (goods & services) by 2015 to £4.4 billion. According to figures provided by Indonesia's Bank Indonesia, UK direct investment flows to Indonesia between 2004 and 2013 amounted to USD 6.458 billion.¹

Britain was the EU's biggest investor in Indonesia during that period, and in global terms, fourth biggest investor in Indonesia, behind Japan, Singapore, and the USA.² In 2013, the UK was Indonesia's fifth largest investor (USD 926 million), according to the Bank's data, with South Korea narrowly surpassing British investment that year.³

Brochures aimed at encouraging British businesses to develop trade links with Indonesia highlight the burgeoning markets as well as natural resources and low-cost labour. Sectors including energy, mining, infrastructure and agribusiness are identified as being of particular interest to British investors.

Globally, in 2012-13, the FCO and UKTI spent £420 million to promote UK economic growth through supporting UK exporters, via their network of offices overseas. <http://www.nao.org.uk/wp-content/uploads/2014/10/10258-001-FCO-and-UKTI-Book.pdf>

Notes:

1. Net investment flow figures given by the UK's Office for National Statistics differ somewhat from the Bank Indonesia figures, see http://www.ons.gov.uk/ons/dcp171778_343719.pdf
2. See table: V33: Investasi Langsung di Indonesia Menurut Negara Asal, accessible via <http://www.bi.go.id/id/statistik/seki/terkini/eks-ternal/Contents/Default.aspx>, accessed 25/Feb/2014.
3. See table: V33: Investasi Langsung di Indonesia Menurut Negara Asal, accessible via <http://www.bi.go.id/id/statistik/seki/terkini/eks-ternal/Contents/Default.aspx>, accessed 25/Feb/2014.



Coal mining as far as the eye can see, KPC / Bumi Resources mine, East Kalimantan: an abandoned stump is all that remains of the rainforest. (DTE)

visited Indonesia at different times in 2013. This was preceded by the visit of the Prime Minister, and David Cameron, visited in April of 2012, accompanied by 30 'business leaders'. Cameron (when he was criticised by rights organisations for calling for Britain to sell more arms there⁷), but apart from this relatively little attention has been paid to this 'race for business' in Indonesia.⁸ President Susilo Bambang Yudhoyono was invited to pay a sState made a return visit to Britain later that year, where he was given an honorary knighthood by the Queen (and also, in turn, greeted by human rights and environmental protesters).⁹ His visit included a meeting with BP executives at which Cameron announced the expansion of the BP-operated Tangguh gas project, the huge, high-impact gas extraction and liquefaction project developed on indigenous peoples' land in Bintuni Bay, West Papua. "This agreement on a £7.5bn development is great news for BP, one of the largest foreign investors in Indonesia. It's a huge boost to the UK's growing trade and investment in Indonesia's emerging market," said Cameron.¹⁰

The special attention to Indonesia as a priority market means that boosting business with Indonesia gets enhanced resources in terms of staff, services and funding. The British government agency 'UK Trade & Investment Indonesia' helps UK-based companies to access business opportunities in Indonesia, offering information, contacts, advice and in-market support, according to the uk.gov website. It also helps with trade missions from UK to Indonesia and vice versa; and works with Cameron's Trade Envoy for Indonesia, Richard Graham, to identify new opportunities to support British business seeking to enter the Indonesian market. Bilateral trade talks were started in 2011 aimed at improving market access, with the third round of these scheduled in November 2013; a business-led "Vision 2030 Group" is being established to report to both trade ministers on aspirations for the bilateral trade and investment relationship in 2030 and the action required to get there.¹¹ On the regional level, there is also an 'Asia Task Force' which aims to "bring together experts from industry, education and government to focus on boosting British exports to, and investment in, Asian countries." It meets twice a year to discuss what it can practically do to help achieve this aim.¹²

Conflicting UK government priorities in East Kalimantan

One of the services provided for the business community is provided by the Foreign & Commonwealth Office (FCO), which issues Country Updates about Indonesia. October 2013's Update, *Indonesia: Land, Coal, People and Power in East Kalimantan*, makes disturbing reading because it neatly captures the conflict

between business, human rights and climate change priorities. The report follows a visit to East Kalimantan by the Jakarta Embassy's Deputy Head of Mission and a team from the UK-funded Climate Change Unit (CCU). It is frank about the impacts of the province's huge coal industry.

"Open cast mines circle the city, even abutting major roads. During the Embassy's meeting with provincial administrators, the team saw massive coal barges passing along the Mahakam River every couple of minutes."

It describes the impact on people:

"As with many resource economies, local populations have struggled to benefit from the boom. Barely 5% of East Kalimantan's population is employed in the extractive sector... The indigenous Dayak population remains marginalised, struggling with recognition of traditional land rights, whilst the descendants of original Javanese migrant farmers have been squeezed. The team met one village that was surrounded by mines (owned by the current and previous mayors). With their permanent water supply cut off, and little prospect of land rehabilitation, villagers described how neighbours and families had been pitted against each other."

It also mentions the unintended impacts of Indonesia's decentralisation programme:

"Decentralisation has fostered local accountability and may promote a new generation of reformist national leaders. But devolved decision-making on issues such as forestry and mining permits has also incentivised corruption and poor decision-making."

Then it points out the inconsistencies in the local and national government approach to resources use:

"[East Kalimantan] Governor Awang has made sustainable development a priority, reinforcing President Yudhoyono's four year moratorium on new forest concessions and mining permits. A provincial green strategy is in place; earlier this year he announced a one year ban on forest destruction. Awang is cooperating closely with the Presidential Delivery Unit. But Awang and Yudhoyono's partnership illustrates the contradictory forces a[t] play. Until April this year, Awang was facing corruption charges for decisions he took as the regional leader overseeing the KPC mine.¹³ And both he and Yudhoyono are promoting major infrastructure projects in the province; a 6m hectare palm oil development was recently announced."

After detailing the huge economic, environmental, land, governance and climate challenges, and the problems faced by UK investors (which include BP, Rio Tinto, Churchill and the ill-fated Bumi Resources¹⁴), the FCO report explains how the CCU's 4-

year project is aimed at supporting "improved governance of land use, land use change and forestry in Indonesia, including in East Kalimantan."

"Working with Yudhoyono's delivery unit,¹⁵ the provincial administration and local civil society organisations, the project aims to improve compliance and accountability in the granting and environment of permits for logging, oil palm plantations and mining industries, through transparency of local budgets, effective freedom of information laws and support for anti-corruption initiatives."¹⁶

This just about makes sense for a climate change unit - if the general idea of the improved compliance and accountability is to prevent more licences being issued, since this would help limit the damage to forests, and therefore the climate, in an area of rampant coal mining and associated infrastructure development.

(continued on page 6)

UK NGOs push for transparency in new UK fund to tackle deforestation drivers

A group of UK-based NGOs, including Forest Peoples Programme, FERN, Greenpeace, Environmental Investigation Agency and Global Witness are calling on the government to finalise plans for a long-awaited new Forest and Climate Change (FCC) programme through a consultative and collaborative process with an accountable mechanism for disbursing funds under the UK International Climate Fund (ICF). In July last year, they made several recommendations to improve the design of the FCC, including that it should

- ♦ support community systems of forest governance, and recognise the role of forest peoples as key rights holders and economic actors*, and
- ♦ act on evidence of the effectiveness of secure community tenure in stemming forest loss and in delivering multiple benefits for local livelihoods and forest peoples including women.

See: www.forestpeoples.org for all the NGO recommendations and on the ICF. (Source: UK government to refine proposals for bilateral deforestation and climate fund. 1/Oct/2013)

*In March 2014, an international workshop on deforestation and forest peoples' rights in Palangkaraya, Central Kalimantan issued a declaration on this: <http://www.forestpeoples.org/topics/climate-forests/news/2014/03/palangka-rama-declaration-deforestation-and-rights-forest-people>

A growing consensus on the need to move away from investment in coal?

In November 2013, Britain announced a new policy to no longer put public money into the financing of coal-fired power generation in developing countries. "It is completely illogical for countries such as the UK and the US to be decarbonising our energy sectors while paying for coal-fired power plants to be built in other countries. It undermines global efforts to prevent dangerous climate change and stores up a future financial time bomb for those countries [where they are built]," said Britain's energy secretary, Ed Davey at last year's intergovernmental climate talks in Warsaw.

However, since 2007, the UK has provided about \$500m (£310m) to coal projects, mostly through its share in development banks such as the World Bank, according to figures collated by the US Natural Resource Defense Council (NRDC). The US has provided nearly \$9bn over the same period, Germany about \$6bn and Japan nearly \$20bn. A survey by the US NGO Environmental Defense, found that in 2009 Indonesia was the highest recipient of public funds (including World Bank Group funds) for coal-fired power stations.¹

The UK government's move, which follows similar announcements by the USA and the World Bank, has been welcomed, but also criticised for not going far enough. This is because the funding ban doesn't include export guarantee finance, which is continuing to underwrite companies involved in coal mining (the latest export credit agreement was with a company supplying coal mining equipment to Siberia).² Despite the World Bank announcement in July 2013 that it would limit coal lending to 'rare circumstances', it continues to back (to the tune of US\$33.9 million) a government guarantee for the construction of the Central Java Power Project, which is due to be one of the biggest coal-fired power plants in Southeast Asia.³

Recently, the British NGO, the World Development Movement (WDM) welcomed the government step, but is now calling for the British government to take action to curb UK private financing for coal.

"Current government policy on coal finance is inconsistent. Ending public funding of overseas coal without taking any action on private funding is unlikely to have a transformative impact because public funding for coal only makes up a tiny proportion of the billions of pounds that flow into the industry every year from the private sector. The UK government has put about £330m of public money into coal-fired power stations and coal mining since 2007, while UK banks have put £12bn of private money into coal mining alone

since 2005. That means that UK banks have put in at least 27 times more money per year into coal than the UK government."

*"Around the world, in countries such as Indonesia and Colombia, coal mining is destroying agricultural land, polluting water supplies and displacing whole villages. It is the private banking sector, not public funding, that is financing this boom in coal."*⁴

Last year, following a joint visit to Kalimantan by WDM and DTE, a WDM report revealed that, since 2009, UK banks have lent more for Indonesian coal than banks from any other country in the world.⁵ Previously in 2012, together with the London Mining Network, and conscious of the fuelling effect of the London financial markets, DTE called for stricter regulation of mining companies listed on the London Stock Market, highlighting the case of Bumi plc.⁶ More and more, coal mining companies, such as Bumi, are losing their legitimacy even in the eyes of the investment community. At the same time, civil society organisations are increasingly calling on the UK government to act to reduce UK investment in coal, impose green credit controls, require mandatory reporting of financed carbon emissions and ensure tighter criteria and regulation of companies listed on the London Stock Exchange. (See also separate article on LMN's submission to the UK parliamentary enquiry on the extractives industry).⁷

In recent months, a series of reports have been published focusing on investment and the economics of the Indonesian coal industry, highlighting many of the inconsistencies mentioned here. Increasingly, investors themselves are waking up to these realities, the true costs and, most importantly, the impacts of the mining operations themselves.⁸

Notes

1. See Environmental Defense, www.edf.org/documents/9584_coal-plants-spreadsheet.xls and 'UK-Indonesia coal connections' in DTE's special edition newsletter (no 85-86, August 2010) <http://www.downtoearth-indonesia.org/story/uk-indonesia-coal-connections>.
2. See <http://oneworld.org/2013/11/20/british-coal-pledge-not-worth-the-paper-its-written-on/>, the Export Finance UK 2012-2013 report is at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/207721/ecgd-ukef-annual-report-and-accounts-2012-to-2013.pdf. UK Export finance for companies selling goods to Indonesia in the period were for products sold to the Indonesian police

(bomb disposal equipment), the Ministry of Defence (Intelligence equipment) and pollution control equipment for a South Korean engineering and construction company (GS E&C Corp).

3. See: <http://priceofoil.org/2013/09/25/world-bank-accelerating-coal-development-indonesia/>. There is also an Indonesian language version of this report, as well as a petition and campaign to stop this project going ahead: <http://forcechange.com/65628/protect-indonesia-from-environmentally-damaging-coal-plant/comment-page-1/#comment-479991>
See also: http://www.huffingtonpost.com/2013/09/25/world-bank-coal_n_3986125.html?utm_hp_ref=climate-change
4. Curbing UK private financing of coal, MP briefing, January 2014. WDM http://www.wdm.org.uk/sites/default/files/Mp%20briefing%20on%20coal%20jan%202014_0.pdf
5. Scrivener A J (2013), Banking while Borneo Burns: How the UK financial sector is bankrolling Indonesia's fossil fuel boom. World Development Movement. September 2013. www.wdm.org.uk/sites/default/files/banking_while_borneo_burns.pdf
6. <http://londonminingnetwork.org/2012/09/report-calls-for-stricter-regulation-of-uk-mining-companies-2/>
7. WDM briefing as above. http://www.wdm.org.uk/sites/default/files/Mp%20briefing%20on%20coal%20jan%202014_0.pdf
8. Banktrack report on Banks investment in coal: http://www.banktrack.org/download/banking_on_coal/banking_on_coal_4_67_6.pdf
Greenpeace report on the effect of the coal industry on the Indonesian economy (in Indonesian & English): <http://www.greenpeace.org/seasia/id/press/reports/Bagaimana-pertambangan-batubara-melukai-perekonomian-Indonesia/>



MP3EI, the Kalimantan coal railway and UK coal interests

Kalimantan's coal-rush, so devastating for communities, farmland, forests, peatlands and climate, will intensify dramatically if Indonesia's "MP3EI" economic masterplan is implemented. MP3EI is the national-level plan, published by the Coordinating Ministry For Economic Affairs in 2011, aimed at speeding up development in Indonesia.¹

The plan divides the archipelago into 6 main target 'corridors', each with a differing economic focus. Kalimantan has been designated a 'Center for Production and Processing of National Mining and Energy Reserves', and the general strategy for the coal industry is "to encourage the extraction of large coal deposits located in inland Kalimantan, accessible with adequate infrastructure and supported by proper regulations while maintaining environmental sustainability."²

This 'adequate infrastructure' involves building dedicated railways to transport coal from coal-rich areas such as Murung Raya district in Central Kalimantan - location of BHP Billiton's planned Indomet coal project - to rivers or ports on the coast. It means opening up previously inaccessible areas for large-scale exploitation, enabling coal mining companies to shift coal far quicker and at much lower cost than they could by road. The MP3EI cites data on 2009 coal production suggesting that production will increase 6.7-fold if infrastructure improvements are applied in Central Kalimantan alone (see figure, copied from MP3EI).

The railway projects listed in the MP3EI document are from Central Kalimantan to East Kalimantan - Puruk Cahu - Tanjung Isuy (203 km) and Puruk Cahu - Bangkuang (185 km), both in Central Kalimantan), with both projects due to start in 2015.

More recent plans put forward by the National Development Planning Board in 2012 include extending the Puruk Cahu - Bangkuang project to Lupak Dalam (on Central Kalimantan's coast) in order to "help the province transport more coal" (20 million tonnes annually).³ The Transportation Ministry's railway director has outlined 10 railway projects in Kalimantan, all part of the Trans Kalimantan Railway Masterplan, and needing total investment of around IDR 600 trillion (US\$62.4 billion). Russia's state company Russian Railways is building a coal railway in East Kalimantan, with a second phase of the project planned to connect East and Central Kalimantan (mentioned above). A separate coal railway project linking Muara Wahau to Lubuk Tutung Port in East Kalimantan, would be built by Middle East

Coal Holdings of the United Arab Emirates, he said.⁴

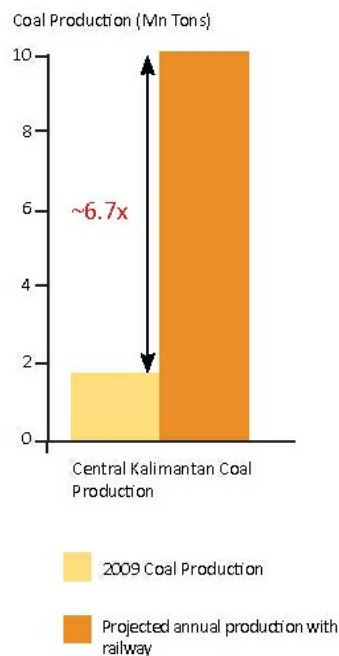
These projects, and the severe negative impacts they will bring are a matter of growing concern for affected communities and CSOs defending their interests. A coalition of twelve organisations is opposing the Central Kalimantan project, saying it will lead to ecological destruction.⁵ Nordin, executive director of one of the groups, Save Our Borneo, called for the planned project to be cancelled, saying it will lead to "massive exploitation of natural resources in Central Kalimantan and will not guarantee energy justice for the people."⁶ In East Kalimantan, the mining advocacy network Jatam Kaltim also opposes these railway projects, which, it says, will benefit foreign investors while doing nothing for communities. On a broader level, Indonesian CSOs are voicing serious concerns about the impacts of the MP3EI across the country, pointing out that its focus on large-scale projects will worsen conflicts over land and resources. MP3EI projects are being driven forward, they say, while the government fails to take action to protect

communities on the ground, and, in the case of indigenous peoples, fails to implement the Constitutional Court's decision which takes indigenous peoples' customary forests out of state control (see separate article).

British-based coal mining companies, such as BHP Billiton, are very likely to benefit from the railway projects, even if they don't want to be too publicly associated with initiatives that will trigger a lot more coal exploitation in Kalimantan with severe impacts for local communities.⁷ At the company's most recent London AGM, DTE challenged the company's board on this question. BHP Billiton Chairman Jac Nasser said the company was not progressing investigation or development of railway facilities. However he avoided giving any public undertaking *not* to mine and *not* to use the railway.⁸

It is somewhat ironic that BHP Billiton - one of the world's biggest exporters of coal - feels the need to downplay the significance of the Kalimantan railway project at its AGM, while British public funds are being used to highlight investment opportunities in just this kind of infrastructure development, as well as other sectors closely associated with depriving communities of lands and resources. It is a further demonstration of just how unjoined-up are British priorities on climate change, human rights and business in Indonesia.

Addition of Infrastructure likely to boost production



Bar chart from MP3EI document (page 102), predicting the increase in coal production once the Central Kalimantan coal railway is built.

Notes

1. See Big Plans for Papua, DTE 91-92, May 2012, <http://www.downtoearth-indonesia.org/story/big-plans-papua>. English language version of MP3EI see: http://www.slideshare.net/Luluk_Uliyah/pdf-mp3ei#
2. MP3EI (English version), 2011, page 102.
3. Central Kalimantan's \$2.8bn coal railway to kick off early next year", Jakarta Post 14/Nov/2012
4. Central Kalimantan's \$2.8bn coal railway to kick off early next year", Jakarta Post 14/Nov/2012
5. English version of civil society alliance statement see: <http://www.minesandcommunities.org/article.php?a=12455>
6. 'Coal railway could cause 'ecological disaster' in Indonesian Borneo, warn environmentalists', Diana Parker, Mongabay, 30/Sep/13.
7. For an overall account of UK private sector involvement in coal mining in Kalimantan, see: <http://www.theguardian.com/global-development/2013/oct/30/coal-mining-uk-profits-indonesia>
8. See LMN report on BHP Billiton AGM, London, 5/Nov/2013, at <http://www.downtoearth-indonesia.org/story/lmn-report-bhp-billiton-agm-london> ♦

(continued from page 3)

As the report goes on, the conflict of interests within UK policy towards Indonesia becomes increasingly apparent:

"In the meantime, we continue to encourage UK companies - historically slow to venture to Indonesia, let alone the hinterland - to benefit from the infrastructure and other opportunities that places such as East Kalimantan offer. Devolution has given rise to a complex picture at the local level in terms of land tenure and decision-making. But the pace of growth and a new raft of mega infrastructure projects (including an international container port in Balikpapan, several new regional airports, and a new port and industrial zone in Maloy) hold real opportunity for British investors."

This prompts several questions: Is the FCO trying to encourage more UK investment in a part of Indonesia where companies like Rio Tinto, BP and Bumi have done so much damage to climate and community livelihoods already? Is it telling investors not to worry too much about the corruption risks because the CCU is helping to smooth the way for you with its governance improvement programme? Is supporting UK investment in infrastructure projects in Indonesia's "hinterland" likely to fit with the aims of the Climate Change Unit to "support people in remote communities to have choice and control over their own development and to hold decision makers to account"?¹⁷

It is clear then, that there are contradictory forces at play in UK policy towards Indonesia. These need urgent attention so that the dominant business priority of the current UK government is subjected to greater scrutiny and tighter safeguards. These need to fully recognize and protect the human rights of vulnerable communities living in areas targeted for investment, in line with Britain's international human rights treaty obligations. Safeguards are also needed to ensure British interventions in Indonesia reduce greenhouse gas emissions, not increase them.

Notes

1. The letter was sent to Cameron and SBY as co-chairs of the 27-member High Level Panel of Eminent Persons on the Post-2015 Development Agenda, set up by UN Secretary-General Ban Ki-moon to advise on the global development framework beyond 2015, the target date for the Millennium Development Goals (MDGs). See <http://www.downtoearth-indonesia.org/story/sby-and-cameron-co-chairs-high-level-panel-post-2015-development-agenda-time-protect-indigenous>
2. UKTI, Doing Business in Indonesia: a UK Business Perspective, July 2010, page 23, downloadable from <http://www.ukti.gov.uk/export/countries/asiapacific/southeastasia/indonesia/doingbusiness.html>, accessed 25/Feb/2014. See also UKTI Doing Business in Indonesia, November 2010, downloadable from the same site, which provides more details of opportunities in several sectors including, railway (including for the mining sector), power generation, oil & gas and mining, as well as renewable energies.
3. Now renamed 'Asia Resource Minerals' in an attempt to distance itself from the scandals engulfing the company.
4. See coal campaign on DTE website for more information. <http://www.downtoearth-indonesia.org/campaign/coal>
5. See UK Trade and Investment "Indonesia" webpage at <http://www.ukti.gov.uk/export/countries/asiapacific/southeastasia/indonesia.html>, accessed 25/Feb/2014
6. Improving business with Indonesia, UK government, <https://www.gov.uk/government/priority/improving-business-with-indonesia>, accessed 25/Feb/2014.
7. See 'David Cameron calls for UK arms sales to Indonesia, The Guardian 11/Apr/2012, <http://www.theguardian.com/politics/2012/apr/11/david-cameron-trade-mission-indonesia>. For more background on UK arms sales to Indonesia and the link to Indonesia's external debt, see DTE 64, 2005 at <http://www.downtoearth-indonesia.org/story/indonesias-odious-arms-debt-uk>
8. "I am determined to do everything I can to ensure that Britain succeeds in the global race and to link British business up to the world's fastest-growing economies...." Prime Minister David Cameron, February 2013. See: <http://www.tvetuk.org/wp-content/uploads/UKTI-High-growth-and-emerging-markets-bulletin-April-2013.pdf>. See

- also: <http://www.bbc.co.uk/news/uk-politics-20304800>
9. See 'Demonstration to mark visit of SBY to UK', DTE, <http://www.downtoearth-indonesia.org/story/demonstration-mark-visit-president-sby-uk>
 10. Indonesian Government Approves Plan of Further Development for Expansion of Tangguh LNG, BP, 31/Oct/2012. <http://www.bp.com/en/global/corporate/press/press-releases/indonesian-government-approves-plan-of-further-development-for-expansion-of-tangguh-lng.html>. For more information on the Tangguh project and community perspectives, see <http://www.downtoearth-indonesia.org/campaign/bp-tangguh>
 11. Improving business with Indonesia, UK government, <https://www.gov.uk/government/priority/improving-business-with-indonesia>, accessed 25/Feb/2014. More information on the serviced offered is listed on page 27 of the Brochure Doing Business in Indonesia: a UK Business Perspective, July 2010, one of two PDF format guides downloadable from <http://www.ukti.gov.uk/export/countries/asiapacific/southeastasia/indonesia/doingbusiness.html>
 12. See <http://www.ukti.gov.uk/export/countries/asiapacific/southeastasia/indonesia/asiataskforce.html>, accessed 25/Feb/2014
 13. As we have documented, UK companies have played a key role in developing and managing this highly destructive mine. See DTE 85-86, August 2010, for more background. <http://www.downtoearth-indonesia.org/story/corruption-collusion-and-nepotism>
 14. See DTE website for more background.
 15. The President's Delivery Unit for Development Monitoring and Oversight, also known as UKP4, is led by Kuntoro Mangkusubroto. It is also leading the development of Indonesia's One Map Policy - see DTE 93-94, December 2012. <http://www.downtoearth-indonesia.org/story/indonesia-s-one-map-policy>
 16. See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266570/Indonesia-summary2.pdf for the UKCCU operational plan.
 17. DFID, Summary of DFID's work in Indonesia 2011-2015, June 2013, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266570/Indonesia-summary2.pdf

Coal barge, Mahakam River, 2013 (DTE)



Forestry Ministry reluctant to relinquish control over forests

Last year's ruling on customary forests by Indonesia's Constitutional Court was celebrated by indigenous peoples across Indonesia. Ten months on, what progress has been made on implementing the decision?

Last May's ruling by Indonesia's Constitutional Court (MK35/2012¹) resulted in *hutan adat* (customary forests) no longer being categorised as *hutan negara* (state forests). Instead they become *hutan hak* (forests subject to rights) the second of two categories of forest listed in Article 6 of the 1999 Forestry Law. This means *hutan adat*, while still subject to the jurisdiction of the Ministry of Forestry, are now considered to be areas where the communities may have stronger rights to lands and to manage resources - reversing a situation which has persisted for decades and which has seen the systematic abuse of indigenous peoples' right to own and manage their forests, throughout Indonesia.

Given the immense political power and wealth-generation potential which flow from de facto control over the vast area classified as Indonesia's *kawasan hutan* (Forest Zone), it isn't surprising that the Forestry Ministry has been reluctant to hand back the forests to indigenous peoples.

Some key legal questions have arisen in the months following MK35, as the Forestry Ministry passes new regulations apparently aimed at curbing the effect of the Constitutional Court's decision. Generally, the Forestry Ministry's response to MK35 seems to be one of containment, aimed at limiting indigenous peoples' scope to reclaim their forests. It appears to be aimed at maintaining a grip over as much of the Forest Zone as possible - an area which makes up almost 70% of Indonesia's land area. This involves:

- ♦ asserting state control over the whole of the Forest Zone and ignoring the existence of the category of forests that isn't directly controlled by the state: 'forests subject to rights' (*hutan hak*) (see table);
- ♦ setting up obstacles to make it difficult for indigenous peoples to claim their rights over their forests, and asserting that the Forestry Ministry remains in charge of their forests until claims can be backed up legally;
- ♦ ignoring another important change in the law, which results from a separate ruling by Indonesia's Constitutional Court (45/2011) and which undermines the Forestry Ministry's claim over the majority of the Forest Zone.



Forestry Minister Zulkifli Hasan interviewed for the HuMa film. (Photo: screengrab from video on <http://huma.or.id/publikasi/film-hutan-adat-paska-putusan-mk-35.html>)

Key Forestry Ministry outputs since MK35/2012 include:

♦ **Forestry Ministry Circular (Surat Edaran) SE1/Menhut II/2013, 16th July 2013.**

This Circular was addressed to all provincial governors, and district/municipal heads, plus heads of region level forestry services, informing them about the MK35 changes, and asserting Forestry Ministry control over decisions affecting indigenous peoples' customary forests.

Referring to amended article 5 (3) of the 1999 Forestry Law, the Circular asserts that it is the Forestry Minister who determines customary forest status; and

determining the status of customary forests requires the legal recognition of the existence of the indigenous people through a regional regulation (*Perda*).

The Circular also reiterates the Constitutional Court's consideration that if an indigenous people is no longer in existence, then the forest management right will revert to the Government, and the customary forest status changes to state forest.

- ♦ **Statements by Forestry Minister in HuMa film (posted online October 1st)** <http://huma.or.id/publikasi/film-hutan-adat-paska-putusan-mk-35.html> Forestry Minister Zulkifli Hasan who is

Kawasan Hutan - Forest Zone - pre MK35/2012	
Hutan Negara - state forests - includes hutan adat - customary forests	Hutan Hak - forests subject to rights
Kawasan Hutan - Forest zone - post MK35/2012	
Hutan Negara - state forests	Hutan hak - forest subject to rights - includes hutan adat - customary forests

interviewed in this film by Jakarta-based civil society organisation HuMa, says there is "no problem with MK35" as long as the customary forests are proposed and legalised by regional regulations (*Perda*). It should be clear who the community members are, he says and, once the *Perda* is passed, "we can take these lands out of the forest zone." However, then he adds that it will be a long, difficult and costly process and mentions that using the "village forest" system (*hutan desa*) will be much easier. *Hutan desa*, he explains, still belong to the state, but can be managed by indigenous peoples.

♦ Forestry Ministry regulation 62/2013 (Nov 2013).

This regulation is the Ministry's initial legal response to MK35/2012 and has drawn fierce criticism and opposition from civil society, including indigenous peoples.

Regulation 62/2013 sets out changes to a previous regulation (No.44/2012) on the Establishment of the Forest Zone (*Pengukuhan Kawasan Hutan*), which sets out the rules for, and stages involved in, gazetting (legally determining) the Forest Zone.

The regulation was analysed by Bernadinus Steni (HuMa) and Yance Arizona (Epsitema Institute) in a December 2013 paper.² In January 2014, AMAN issued a press release and statement calling for the regulation's withdrawal.³

Steni and Arizona point out that Regulation 62/2013 ignores another decision of the Constitutional Court (MK 45/PUU-IX/2011) which negates the Forestry Ministry's claim over most of what has been "denoted" as the Forest Zone.⁴ This is relevant because the regulation states that written and non-written proof of rights over the land should predate the denoting of the Forest Zone (carried out around 1982). Non-written proof, which applies in most cases of indigenous peoples' claims, consists of "dwellings, and public and social facilities, based on their historical existence." Where these non-written proofs existed after the denoting of the Forest Zone, additional criteria apply: they must have been determined in a regional regulation (*Perda*); and noted in Village or Subdistrict statistics; and consist of more than 10 households living in at least 10 houses.

This sets up many more hoops for indigenous peoples to jump through to reclaim their forests. The requirements presents serious difficulties for indigenous communities still occupying their customary territories, let alone for communities who have been evicted from their forests, whose villages have been destroyed, or for disparate communities who live in groups of ten or less families.

Steni and Arizona's analysis also highlights the confusion by the Ministry of

AMAN's review of 2013

AMAN has provided a useful overview of legal issues concerning indigenous peoples in 2013, including post-MK35 developments. It also summarises progress on mapping indigenous territories and provides information about conflicts involving indigenous peoples.⁷ The review includes an update on the Draft Law on the Recognition and Protection of Indigenous Peoples, which AMAN wants to see passed during SBY's last months as President and before the parliamentary elections this year.

New Law on Villages

A new Law on Villages (Law No.6/2014) provides additional scope for the recognition of indigenous peoples and their rights to manage their own affairs at village level.⁸ It provides both opportunities and challenges for indigenous peoples, according to AMAN.⁹

In October last year, a civil society workshop on harmonizing this law (still in draft at the time) with the Bill on Indigenous Peoples' Rights and the draft Land Law, produced a legal opinion for the Indonesian Parliament. The legal opinion highlighted contradictions among the bills that would lead to difficulties in implementation in customary forest areas.¹⁰

Forestry between the terms "Forest Zone" and "state forests". MK35/2012 takes customary forests out of state forests, not out of the Forest Zone, argue Steni and Arizona, but Regulation 62 states that customary forests are to be taken out of the Forest Zone (this also fits with the view expressed by Minister Zulkifli in the HuMa film). It is a further indication that the Forestry Ministry wants to stick to the old practice of treating the whole Forest Zone as under the control of the state, instead of allowing space for two categories of forests (*hutan hak* as well as *hutan negara*).

At the end of their analysis Steni and Arizona ask a more basic question: is it really necessary to set up such a complex procedure in order to recognise the rights of communities who have so long been marginalised? What about the government's role, mandated by the constitution, to give especial protection for marginal groups? Why is the Forestry Ministry making it so difficult for indigenous peoples? What hope is there for communities who have already lost their lands?

AMAN's analysis of Regulation 62/2013 further highlights its deficiencies. In a statement calling for the withdrawal of the regulation, AMAN accuses an "arrogant" government of blatantly twisting MK35/2012. AMAN calls on President SBY to take action

to implement MK35/2012, to take the necessary steps to prevent violence against indigenous peoples demanding the rights to their territories, including customary forests, and to withdraw Regulation 62/2013. AMAN also wants the Forestry Ministry and other state agencies to issue guidance for implementing MK35/2012, and is calling on regional governments to immediately prepare regional regulations (*Perda*) to recognise and protect indigenous peoples.

♦ Another controversial regulation of 2013: P.32/Menhut-II/2013 regarding the Macro Plan to Consolidate the Forest Zone, 5th July 2013

This "macro plan" for forests covering two decades (2013-2032) is controversial in the post-MK35/2012 period, because, once again, it appears to be based on state control of all the Forest Zone, thus ignoring the "forests subject to rights" (*hutan hak*) component of the Forest Zone.

A series of maps attached to the Plan includes one map indicating the location of indigenous peoples in the Forest Zone. (Somewhat bizarrely indigenous locations are marked with mini Indonesian flags.) This has caused consternation as it indicates an apparently random scattering of very few areas of customary forests, without indicating numbers of people involved, boundaries of forests areas, or where the information has come from.

♦ Highly controversial too is Law No. 18 of August 2013 on the Prevention and Eradication of Forest Degradation (UUP3H).

Indonesian CSOs have objected to this law not least because it ignores MK35/2012 and can be used to criminalise indigenous peoples.⁵ AMAN has reported that the law has already been used to forcibly evict 380 members of the Semende Banding Agung indigenous community in Bengkulu province, Sumatra, from an area designated a National Park.⁶

Notes:

1. The Court decision is dated according to the year the case was submitted (2012), not when the decision was issued (2013).
2. *Analisa Hukum atas Permenhut No 62 Tahun 2013*, Dec 18, 2013, Bernadinus Steni & Yance Arizona.
3. http://www.aman.or.id/2014/01/22/rilis-pers-permenhut-p-62-melanggar-putusan-mk35/#.UuFG7_unzGg
4. See http://www.mahkamahkonstitusi.go.id/putusan/putusan_sidang_45%20PUU%202011-TELAH%20BACA.pdf. This is a significant change because it means that the forest zone can only be legally established once all four stages have been carried out (denoting the area, setting the boundaries, mapping and gazetting), rather than just once the first stage

(continued on page 12)

Election politics 2014 and natural resources management

How green are the elections? Do Indonesia's voters care about ecological justice? We take a very brief look...

The environment is a marginal issue not worthy of any attention. This is the perception evident from the election campaigns of parliamentary candidates, almost all of which are failing to focus on the environment.

A study by WALHI (Friends of the Earth Indonesia) shows that less than 7% of Indonesian parliamentary candidates have made commitments on environmental issues.¹ This is despite the fact that it is an important issue for the public. A joint survey by WWF Indonesia and LP3ES (Institute for Institute for Social Economic Research Education and Information) found that 95.7% of respondents considered that environmental issues are serious and need to be dealt with by future members of parliament.²

Indonesia's parliamentary elections are on 9th April, with the first round of Presidential elections due on 9th July 2014.

Natural Resources Management and Disasters

There are close connections between disasters like floods, fires and landslides and the way natural resources are managed in Indonesia. The allocation of forests for commercial forestry, including logging, timber plantations, and for large-scale commercial plantations like oil palm and sugarcane; plus the clearing of forests for mining, is at the root of the deforestation that triggers such disasters. To make things worse for the poor, whose lives and livelihoods are most affected in disaster-prone areas, the climate impacts of deforestation and peatland clearing are increasing the likelihood of many of the severe weather events that are causing the damage.

In 1997-98, Indonesia experienced the world's worst forest fires, centred on Kalimantan and Sumatra. An estimated 1.1 million hectares of peatland was burned in Kalimantan alone during that period.³ Fires are burning in the region once again, following close behind the disastrous "haze" of 2013.⁴

In last year's fires in Sumatra, especially Riau, fires hotspots were mostly located in timber plantation concessions belonging to the giant pulp and paper conglomerates APP and APRIL.⁵ Oil palm plantations are frequently the site of fires too: Riau also hosts Indonesia's most extensive oil palm plantations amounting to 3 million hectares of Indonesia's total 13 million hectares of oil palm plantations.⁶



Election campaign flags and posters adorn a wall in Bogor (DTE)

Natural Resources Management and Corruption

In the run-up to elections, forests and mineral wealth and plantation land always become commodities which are traded for political campaign funds, votes and influence, whether this is at regional level for district head, mayor or governor, or at national level for parliament or president. According to Indonesian Corruption Watch (ICW), the forestry sector and other natural resources are truly fertile ground for securing political funding, for corruption and for getting rich quick.⁷

As of 2013, there were around seven cases of corruption in the forestry sector in the process of being dealt with, or already completed, by the Corruption Eradication Commission (KPK).⁸ Almost all these perpetrators of corruption occupied positions of power.⁹ Corruption in this sector not only leads to disasters which harm communities, but also bring losses to the state. A study by ICW into state losses in the forestry sector found that in the 2011-2012 period, these losses reached IDR691 trillion (around USD606 million).¹⁰

Voting clean and pro-environment

For some, it seems there is no hope for a change in forestry and natural resources politics in Indonesia, unless environmental activists enter the political arena themselves.

Several environmental and indigenous activists have started to do this by putting themselves forward as potential members of the legislature for the coming period. These include Berry N Furqan, the previous National Director of WALHI, Mahir Takaka, ex Deputy of AMAN, Ridha Saleh, ex Deputy of WALHI and former member of the National Human Rights Commission.

Meanwhile, the Indigenous Peoples Alliance of the Archipelago (AMAN) has signed contracts with 180 parliamentary candidates. These candidates have made a commitment to fighting for AMAN's campaign for the recognition and protection of indigenous peoples' rights.¹¹ In South Sumatra, environmental activists have made a public pledge to support candidates who are campaigning for environmental policies.¹²

It remains to be seen how these pro-environment and pro-rights candidates fare in the elections and, if they are successful, how far they will be able to make headway on ecological justice after the vote.

Notes:

1. Walhi Institute and Eksekutif Nasional Walhi. *Hasil Studi Kualitas Calon Legislatif DPR-RI Pro Lingkungan Hidup 2014-2019*
2. WWF and LP3ES. *Survey Persepsi Masyarakat Terhadap Isu Lingkungan dan Preferensi Partai Politik*. 2014.
3. http://www.cifor.org/publications/pdf_files/OccPapers/OP-038i.pdf
4. <http://www.theguardian.com/environment/2014/mar/14/fires-indonesia-highest-levels-2012-haze-emergency>
5. *Riau Headline*. 21 June 2013. 'Berikut Penyebab Kebakaran Hutan dan Lahan di Riau'. riauheadline.com/view/Lingkungan/799/Berikut-Penyebab-Kebakaran-Hutan-dan-Lahan-di-Riau.html
6. Sawit Watch
7. ICW. *Korupsi Kehutanan dan Korupsi Politik*. 2014.
8. Ibid.
9. <http://kasuskorupsi.wordpress.com/2010/08/12/kasus-kasus-korupsi-di-sektor-kehutanan/>
10. *Meratationline.com*. 28 Oktober 2013. 'Pengamat: Korupsi di sektor kehutanan maha dahsyat.'
11. *Tempo*. 13 Januari 2014. 'Aliansi Masyarakat Adat Kontrak 180 Caleg'. <http://pemilu.tempo.co/read/news/2014/01/13/269544441/Aliansi-Masyarakat-Adat-Kontrak-180-Caleg>
12. *Detik.com*. 22 Juli 2013. 'Aktifis Lingkungan Hidup di Sumsel siap Dukung Caleg yang Go Green'. Websites such as www.jariungu.com, <http://www.checkyourcandidates.org/>, and <http://bersih2014.net/id/content/daftar-caleg-bersih-2014-serta-cv> are providing information about candidates. ♦

Peasants' long fight to roll back palm oil land grab in Indonesia

Guest article by GRAIN. This article was first published in January 2014 on GRAIN's website www.grain.org

Sudarmin Paliba stands on a hillside, looking down through row upon row of oil palm trees. "This is where we had our fruit trees, and at the bottom we grew paddy rice," he says.

One morning in 1994, Sudarmin and other farmers from the Buol District of Central Sulawesi, Indonesia, were walking to their farms when they came upon a team of workers, guarded by soldiers, chopping down trees in the surrounding forests.

They were told that a road was being built. But soon they came to understand that this was just the beginning of a much larger operation. All of their customary lands and forests had been signed away without their knowledge or consent to one of Indonesia's richest and most powerful families for the creation of a massive 22,000 ha palm oil plantation.

Over the next three years, the farmlands and forests used by over 6,500 families were destroyed. Sudarmin and his fellow villagers stood in front of trucks and attached themselves to trees, but with the military backing the operation, there was little that they could do.

Today, their former farms and forests are blanketed by an endless monoculture of oil palms belonging to the PT Hardaya Inti Plantations company, owned by business magnate and political insider Murdaya Widyawimarta and his wife Siti Hartati Cakra Murdaya through their holding company, the Cipta Cakra Murdaya Group.

Wave of land grabs

Sulawesi is one of the main targets of the breathtaking expansion of oil palm plantations in Indonesia. Since 2005, the area under oil palm in the country has nearly doubled, and now covers 8.2 million hectares, about a third of all of Indonesia's arable land. With little land left for expansion on the island of Sumatra, where production was traditionally concentrated, companies are turning to the islands of Kalimantan, Sulawesi, and Papua. Several of Indonesia's largest palm oil producers are even expanding to the Philippines and West Africa.

This expansion is fuelled by growing global demand for cheap vegetable oil for food processing and biofuels. But it's also a result of brutal inequality. The main players in the country's palm oil industry are cronies of former President Soeharto. They are now using their accumulated treasure chests and political connections to grab the lands of the country's most marginalised communities,



View of the PT Hardaya Inti Plantations oil palm concession in Buol, Central Sulawesi, Indonesia (Photo: Pietro Paolini/Terra Project)

often in collusion with foreign agribusiness companies and banks, many of them based in Singapore and Malaysia.

A company with friends in high places

PT Hardaya Inti Plantations took over the Buol lands during the final years of Soeharto's reign. The company's owners, Murdaya Widyawimarta and Siti Hartati Cakra Murdaya, made their fortunes through lucrative procurement contracts with Soeharto's government, before diversifying into hotels, plantations and even shoe factories supplying companies like Nike and Lacoste.

When the Soeharto dictatorship collapsed in 1998, they both moved more directly into politics, solidifying connections that run all the way up to the current President Susilo Bambang Yudhoyono. The other main shareholders of Pt Hardaya Inti Plantations are also big political players, notably the Minister of Women's Empowerment and Child Protection, Linda Armalia Sari and the son of the former chief of the National Intelligence Agency, Ronny Narpatisuta Hendropriono.

Broken promises

Despite the powerful forces ranged against them, the villagers of Buol District were determined to get their lands back. A series of road blockades and other protest actions forced Pt Hardaya to negotiate a compromise agreement in May 2000, under which the

company agreed to provide around 4,900 ha of land to compensate displaced villagers and to establish an outgrower programme - known in Indonesia as plasma farming - where the company would prepare and plant 2 ha of oil palms for each family and purchase the harvest at an agreed upon price.

But just one month later, the company denied having made the agreement and instead offered only to run an outgrower programme on 15,000 ha outside of the concession area, on lands that the provincial government would have to identify.

It was a painful setback for the villagers. Depleted from years of struggle and without any support for their cause from the government, their protests petered out and the company was able to move forward with its operations.

From bad to worse

The situation for the villagers deteriorated in the years that followed. The company discovered that much of the land it had acquired was not productive, and so it began expanding outside of its concession area. Official maps show how the company encroached on several thousand hectares of lands, primarily on lands reserved for families that moved to the area under a Soeharto programme to resettle landless peasants from other parts of the country.

The deforestation and planting of oil palms along river banks and on hillsides both within and outside the concession caused severe soil erosion, with much of the soil ending up in the fast flowing Buol river.

"We used to get three floods per year on our paddy fields," says Yahyah, a peasant who moved downstream from the plantations in the mid-90s after his village was destroyed to make way for the concession. "Now we get floods six to eight times a month, and the flooding has destroyed our rice production."

The company's promised outgrower programme has barely materialised. So far, just 400 ha have been allocated for the programme, and most of these lands have gone to the local politicians that supported the company. Paraman Yunus, a farmer involved in the outgrower programme, says that monthly payments by the company only amount to around \$40 anyway.

"The company keeps us in the dark about the price calculations," says Paraman. "And most of the revenue goes to pay off debts that we owe to the company for the initial costs of preparing the lands."

Working conditions on the plantation are abysmal. There are over 3,000 people working on the plantation, many of whom lost their lands to the company. They live in dilapidated camps and are paid according to the amount they harvest.

Hamsi is one of these workers, living with his wife and children in a cramped room in one of the work camps on the plantation. He and his wife have been working long, hard weeks here for the past 13 years.

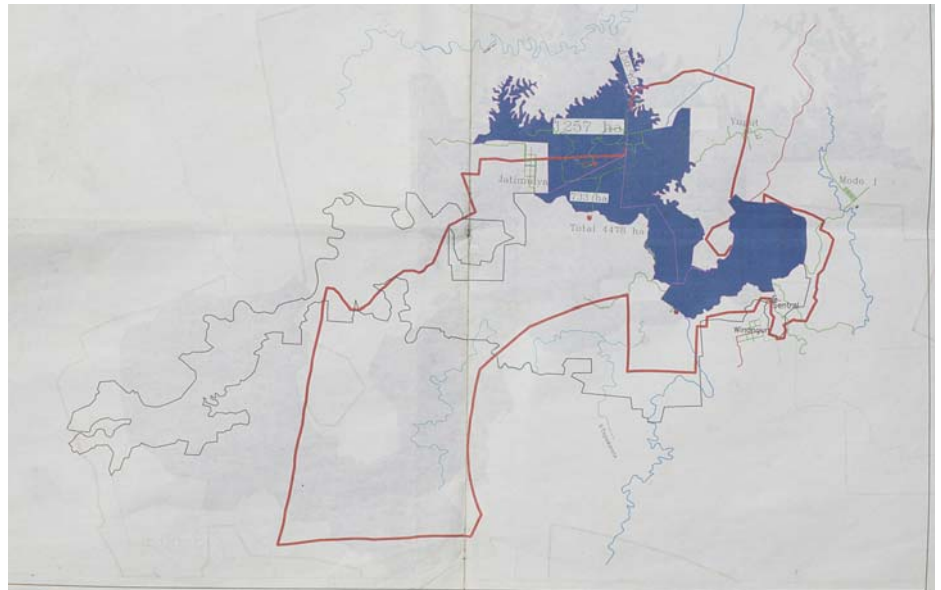
"No matter how hard we work, we are always in debt," says Hamsi.

It is not only the meagre wages paid by the company that keep its workers poor. The company constantly makes deductions for all kinds of expenses - from the electricity and water they use in their homes, to the tools and safety equipment that they need for work. By the end of each month, Hamsi says, there's no money left.

Hamsi's wife, like other women workers in the plantation, is responsible for spraying pesticides. One of the pesticides used extensively in the plantation is Gramaxone (paraquat), an herbicide that is banned in over 30 countries due to its severe impacts on human health. She says she was not provided with training or protective equipment by the company, and that she sprayed pesticides throughout her pregnancies and soon after child birth, as she could not afford to take unpaid days off from work.

Renewed resistance

In 2012, the leaders of three of the villages that were destroyed by the plantation established contact with the national peasants' movement AGRA. By then, the plantation workers had also formed a union and had begun pushing for better working conditions. Together they decided to take up the fight against the company once again under the banner of Forum Tani Buol.



Map of the land concession given to PT Hardaya Inti Plantations. The concession is marked with a clear (red) line. The dark area (in blue) is the 4,900 ha that the villagers are demanding be returned to them (Photo: Pietro Paolini/Terra Project).

In October 2012 they sent a delegation of leaders to Jakarta to meet with the National Human Rights Commission and to negotiate with the company at its head offices. They then organised a road blockade and occupied the mayor's office. In each case, the government and company officials responded with promises to pursue a settlement of the land conflict based on the original May 2000 agreement. But nothing materialised.

Frustrated with the lack of action, peasants and workers took over the company's processing factory in March 2013. The government sent in the military to

remove them, but not before they managed to wrest another promise from the government to impose a resolution.

Despite the years of failed promises, the villagers are optimistic that they are close to getting their lands back. They say that the local government is finally taking their side, and they now have a government sanctioned task force and the National Human Rights Commission backing their claims. The company's owners are also in a weakened position. Siti Hartati Cakra Murdaya is currently serving a 2.5 year jail sentence for bribing a Buol official for permits to expand the company's plantation on lands outside of the concession area.

The villagers are even starting to discuss what they will do with the lands once they get them back. They are in agreement that the lands should be managed collectively and not through individual ownership and they recognise that they have little choice but to keep producing palm oil until the current trees are fully mature and can be replaced by other crops.

The problem, however, is that the company is not acquiescing. Last year, it failed to show up for a meeting with the villagers organised by the local government, and there is understandable fear that the company might leverage its deep connections within the government and the army to derail a resolution once again.



Abdulah Rahman, leader of the union of workers on the PT Hardaya Inti Plantations oil palm plantations in Buol, Central Sulawesi. Rahman was laid off by the company immediately after he led a delegation of workers and peasants to the National Human Rights Commission in Jakarta in 2012 (Photo: Pietro Paolini/Terra Project).

A lesson about land grabs for palm oil

The experiences of the communities in Buol shows how the profound impacts of oil palm plantations on local communities get worse over time. The meagre benefits that a plantation provides, whether in jobs or through outgrower programmes, are no substitute for the loss of access to and

control over lands and water that communities use to ensure their food needs and livelihoods.

"We used to get all the food we needed out of one cropping season," says Samisar Abu, a mother of three who lost her family's farm lands to PT Hardaya Inti Plantation. "My parents earned enough from farming to pay our school fees, but now I cannot do the same for my children."

Over the 20 years that the Buol villagers have struggled to get their lands back and improve working conditions on the plantations, they have seen little but empty words from the company and the government. The only real gains they have made in their struggle have come from direct actions. They were able to force progress in negotiations only through road blocks and occupations. The risk with such actions, however, is violent repression. If this last round of actions fails to secure lands for the villagers, the conflict is bound to escalate.

It is in this context that international solidarity and monitoring of the situation is critical. The villagers are keen to bring more international exposure to their case. They say that one of the ways in which people can provide support is by signing a petition that they will be sending to PT Hardaya Inti Plantation.

They also believe that it is crucial for them to have a more detailed map of the area that clarifies land use prior to and after the plantation, and they are looking for support to help finance this work.



Workers of PT Hardaya Inti Plantations living at the company's worker residence within its plantation, Buol, Central Sulawesi, Indonesia (Photo: Pietro Paolini/Terra Project)

Petition

The community have appealed for national and international support to put pressure on PT HIP and the Buol district head.

See: http://www.grain.org/bulletin_board/entries/4870-petition-for-the-struggle-of-buol-farmers-forum-against-land-grabbing-by-pt-hardaya-inti-plantations

The villagers can be contacted through AGRA: agra_indonesia_agraindonesia12@gmail.com ♦

(Continued from page 13)

with little mention of how it will address them. Of particular concern regarding the promotion of biomass and 'advanced biofuels' is the issue of sustainability on a large scale. The EU's existing environmental sustainability criteria are poor and policies almost completely exclude reference to social impacts of biofuels and biomass on producer countries. Only radically improved and legally binding sustainability criteria, with penalties for non-compliance, stand a chance of controlling any environmental or social damage caused by high demand for biomass

and biofuels. If transport targets in the RED are scrapped, upholding effective sustainability criteria for biofuels will be challenging if not impossible.

All eyes on decision-makers

The EC's headline targets for the 2030 energy and climate vision appear ambitious - but the framework behind them has significant weaknesses. The onus is now on EU member states to strengthen the framework post-2020, without losing focus on the immediate priority to fix problems with current biofuels policy. It is essential that those with the

authority to make the necessary changes are reminded of their responsibilities to do so.

1. For more information see DTE's article: EU Energy Council fails to agree on restrictions to bad biofuels - 12th December 2013 at <http://tinyurl.com/l1l3kra>.
2. The Fuel Quality Directive (FQD) sets rules for the quality of the fuel used in European vehicles. In particular, it dictates a mandatory 6% reduction in the greenhouse gas intensity of fuels by 2020 (under Article 7a). To reach this 6% reduction, Member States are relying on blending petrol and diesel with agrofuels. ♦

(continued from page 8)

has been carried out, as previously. The difference between the area that has been denoted and the area that has been fully gazetted is huge: according to official data, just 21.07 million hectares, or 16.3% of what the Forestry Ministry has denoted as forests (in total 130.68 million hectares) has been fully gazetted. MK45/2011 results from an appeal by provincial and district level authorities seeking greater power over land allocation decisions. When such areas are defined as being outside the forest zone, there is a big risk - if not immediately then in the medium term - that these areas could be handed out to agribusiness

investors, leading to a massive acceleration of forest loss and takeover of forest peoples' lands. (See also DTE 95, March 2013 at <http://www.downtoearth-indonesia.org/story/indonesian-csos-call-save-indonesia-s-remaining-forests>). However, ignoring MK45, as the Ministry appears to be doing with Regulation 62/2013, can also be seen as damaging for indigenous peoples' rights in that it allows the Forestry Ministry to retain its control over the Forest Zone while setting up obstacles for the recognition indigenous peoples.

5. Joint Press Statement: The Ratification Of Bill On The Efforts To Eliminate Deforestation, <http://www.kpa.or.id/?p=2182&lang=en>

6. See '2013 in Review Indigenous Peoples' Alliance of the Archipelago', <http://www.aman.or.id/2014/02/28/2013-in-review-indigenous-peoples-alliance-of-the-archipelago-aliansi-masyarakat-adat-nusantara-aman/#.UxRBis6guEE>
7. '2013 in Review Indigenous Peoples' Alliance of the Archipelago', as above.
8. 'Ruang Masyarakat Hukum Adat Dalam Undang-Undang Desa', *EkspresNEWS.com*, 11/Feb/2014, <http://ekspresnews.com/masyarakat-hukum-adat-dalam-ruang-undang-undang-desa/>
9. See '2013 in Review Indigenous Peoples' Alliance of the Archipelago', as above.
10. *RRI Quarterly News*, Oct-Dec 2013. ♦

biofuels

Biofuels gridlock continues into 2014

Indecision and uncertainty on EU biofuels policy persists, as communities in Indonesia continue to suffer the impacts of oil palm expansion.

2013 ended with biofuels policy trapped in a gridlock of indecision.¹ The European Council failed to agree on the measures presented to them by the European Parliament in September, aimed at addressing the negative impacts of indirect land use change (ILUC) and land-based biofuels. Several months into 2014 and the European Parliament's proposals are gathering dust on the parliamentary shelves. While decision-makers continue to deliberate, it's business as usual on biofuels and the damage this causes to people, the environment and the climate.

A vision for Europe's post 2020 Climate and Energy Framework

Meanwhile, the focus on renewable energies has turned to the future - post 2020. In January this year, the European Commission (EC) released a report which sketches out its vision for the European Union's (EU) climate and energy framework for 2020-2030. The commission's proposal reflected demands from the biofuels industry and several EU Member States, for a 'simplified' EU climate framework post-2020.

The EU's current climate and energy framework (which ends in 2020) requires member states to achieve specific targets to reduce emissions and increase their share of renewable energy, particularly in transport. If agreed, existing sub-targets for transport and energy will be dropped under the new '2030' framework. Instead, the EU will set a single renewable energy goal of 27% and a single target to cut carbon by 40% by 2030 (compared to 1990 levels), which will apply to the European Union as a whole without any specific or binding targets for individual member states.

The new framework would allow flexibility for governments to choose the most cost effective means of cutting emissions - but what happens to those members states which fail to pull their weight in introducing more renewable energy? In place of the national binding targets, the 2030 framework encourages new 'regional approaches', which support better consultation and coordination of national and regional energy policies between neighbouring countries as a strategy for achieving energy and climate targets.

It remains unclear precisely how this new style of governance will ensure that governments are held accountable for their



Palm oil fruit

renewable energy contributions - especially considering the lack of binding targets or legal capacity to impose penalties. A certain amount of flexibility can be positive for allowing governments the freedom to tailor their own renewable energy paths. However, history has shown that compulsory targets at the national level are important for instigating action and for holding governments accountable for delivering on their promises. So will the lack of legal targets for member states allow emissions, particularly from transport, to slip through the net, post 2020? Could Europe then fail to reach its 2030 unified emissions targets as a result? How can Europe provide certainty that the Union will achieve its targets without the ability to measure or assess this at the member state level?

These are just some of the questions being raised as the European Union member states enter into debate on the EC's proposal. The pressure is now on to reach an agreement for the new 2030 framework before the 2015 International Climate Negotiations in Paris.

What does this mean for biofuels?

Debates over what should be regarded as genuinely 'renewable' energy have dogged climate discussions for years - and none more so than the debate around biofuels. The EC's new framework proposes some positive changes, including an end to public support (subsidies) for food-crop based biofuels beyond 2020. Dropping the 10% sub-target for renewable energy in transport will most likely bring an end to the biofuels mandates currently imposed on member states. Biofuels mandates have driven the increasing demand

for land-based feedstocks, such as palm oil from Indonesia, resulting in devastating impacts on community livelihoods, forests and peatlands.

So does the new climate and energy framework present a reason to celebrate on biofuels? Not quite. By proposing that sub-targets are dropped from the 2030 goals, the EC is removing incentives for governments to pursue biofuels, which could lead to a phase out of 1st generation biofuels such as palm oil - indeed a positive step. But even if biofuel mandates are scrapped, the Renewable Energy Directive (RED), which originally set the biofuels targets and stimulated the market, has created a thirst for biofuels in Europe, which is unlikely to go away. If oil prices rise high enough, member states could consider biofuels as a viable contribution to their domestic renewable energy mix, even without the support of EU subsidies. The danger is that under the 'national target-free' 2030 framework, the EU will have little legislative control over how governments contribute to the Union's headline targets on renewable energy and emission reductions - including the quantity (and quality) of any biofuels they may use. To add to civil society concerns, the new framework fails to set a 2030 target on energy efficiency and proposes to scrap the Fuel Quality Directive (FQD), which sets a legal target of 6% on the greenhouse gas intensity of fuels. The FQD is essential for ensuring that only the most efficient and highest carbon saving biofuels are used so losing the FQD opens the doors for governments to use less sustainable fuels with little legislative grounds for recourse.

Biomass on the menu

The EC's report recognises the limitations of 1st generation biofuels as a renewable fuel in Europe, as well as the issues associated with ILUC. Energy and climate plans for 2030 will promote the use of advanced biofuels to replace 1st generation biofuels and to decarbonise certain transport sectors. The report also states that ambitious renewables targets will require a strong increase in the use of biomass - both domestic and imports - and encourages "An improved biomass policy...necessary to maximize the resource efficient use of biomass in order to deliver robust and verifiable greenhouse gas savings".

The EC admits to the challenges and limitations in delivering this vision, but

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extractives

Tighten up human rights & environment rules for mining companies, British MPs told

On March 4th, London Mining Network (LMN) and other NGOs gave evidence to the UK Parliament's Business and Skills Committee, as part of the Committee's inquiry into the extractive industries sector. LMN made a convincing case for stricter regulation, based on the experience of communities directly affected by UK-based companies around the world.

The London Mining Network, World Development Movement and other NGOs have repeated their calls for tougher regulation of extractive industry companies listing on the London Stock Exchange. They want new requirements for companies to meet standards on human rights, environment and climate before listing in London, and to meet much higher transparency standards. The government should institute increased monitoring of extractive company behaviour, with clear sanctions for those companies who fail to abide by these regulations.

The Business Innovation and Skills Parliamentary Select Committee in London heard evidence from four NGO representatives – London Mining Network (LMN), World Development Movement (WDM), Christian Aid and WWF-UK - as part of their enquiry into the extractive industries sector.¹

The enquiry was prompted in large part by the scandal surrounding Bumi plc,² the coal company riven by boardroom disputes between its Indonesian and British directors. The company has seen its share price slump, its shares temporarily suspended, and is the subject of ongoing investigations for corruption. An attempted “divorce” between the Indonesian and UK parts of Bumi plc is still unresolved, due to continuing disputes over costs, legal issues and debt.

Bumi plc's major assets are investments in coal mines, including the huge KPC coal mine in East Kalimantan which has a long record of negative social, environmental and human rights impacts on local communities. DTE has repeatedly brought these impacts to the attention of the company and the wider public in the UK and Indonesia, arguing that community interests should not be drowned out by boardroom clashes.³

MPs questioned the NGO representatives for one and a half hours about the written evidence they had submitted in advance. LMN's submission argued that the operations of UK-listed and UK-funded mining companies are causing



Richard Solly of LMN gives evidence to MPs in parliamentary committee session in London. (image: screengrab from official video)



Submitting evidence: representatives from WDM, WWF-UK, Christian Aid and London Mining Network (LMN) at the Houses of Parliament, London, March 2014.

severe damage and creating a legacy of bitterness. “Neither engagement with mining companies nor voluntary initiatives such as EITI are in themselves sufficient to hold mining companies accountable: stricter regulation is necessary.”

LMN is recommending that either the Financial Conduct Authority or some other statutory body be given the power, responsibility, funding and institutional capacity to enforce good conduct on all UK-listed extractives companies, including those trading on the London Stock Exchange's Alternative Investment Market. “This must extend beyond matters of financial concern to shareholders and include compliance with human rights, social and environmental standards.”⁴

Supplementary material was sent after a meeting between DTE, JATAM (the Indonesian Mining Advocacy Network), LMN and members of the Parliamentary Committee in November last year, following a speaking and lobby tour by the Coordinator of JATAM and a representative of Indigenous communities in Colombia affected by the activities of BHP Billiton.⁵

In the committee's March session, MPs were interested to know why so many NGOs were working on the extractives industry, what their views were about engaging with extractive companies, how far it was damaging or otherwise to British interests that London is a centre for the extractives industry companies, and what was the most effective way of getting companies to improve their practices.

They asked about measures introduced by other Stock exchanges (such as the Hong Kong and Johannesburg Stock exchanges) to impose human rights, social and environmental standards.

The NGOs argued that it is damaging as well as embarrassing for Britain to continue allowing companies with appalling human rights, social and environmental records to be listed on the London Stock Exchange. They should be compelled by law to publish much fuller information about all

the impacts of their operations, said Richard Solly of LMN. These should include a requirement to report not only on jobs created, but also the number of jobs destroyed.

UK-listed companies should be legally required to note in their corporate reports all findings of non-compliance with IFC and OECD standards, he said, and of UK and non-UK regulations concerning biodiversity and environmental protection, as well as convictions in UK and non-UK courts.

The UK's Financial Conduct Authority should also ensure that UK-listed companies recognise and respect international human rights and environmental standards to which the UK is a signatory, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the UN Declaration on the Rights of Indigenous Peoples and the Convention on Biological Diversity. Companies should be required to implement the highest environmental, social, cultural, labour, and health and safety standards.

London as extractives centre also brings a high financial risk, argued WDM's Alex Scrivener: if the "carbon bubble" or heavy reliance on investment in carbon

"Companies should be compelled by law to report on all the impacts of their operations, including not only reporting the number of jobs created, but also the number of jobs destroyed."

intensive industries bursts amid moves to decarbonise the UK economy, we could be again thrown into financial crisis.

Throughout the hearing, repeated reference was made to the particular situation in Indonesia with regard to the extractive industry. Reference was made to companies such as BHP Billiton, Rio Tinto (including the Grasberg mine), Bumi and other companies. At the close of the meeting, WDM referred to the "gutting" by the coal mining industry of one particular province in Indonesia (East Kalimantan).⁶

The next stage of the committee's enquiry is a visit to South Africa to view extractives industry practices there. After that, the committee will publish its report and recommendations to the UK government.

Only then will it become evident how far this cross-party committee of MPs

have taken on board the urgent need for reforms and what specifically they are recommending to remedy the situation.

See also 'LMN tells Parliamentary Committee to tighten regulation on mining companies' on the LMN blog.

Notes:

1. The video is available at <http://www.downtoearth-indonesia.org/story/call-reform-video-ngos-giving-evidence-uk-parliamentary-select-committee-inquiry-extractive-in>.
2. In an attempt to rebrand and cleanse Bumi's image, the company has now been renamed 'Asia Resource Minerals'.
3. See DTE reports about Bumi at <http://www.downtoearth-indonesia.org/campaign/coal>
4. Available at <http://www.downtoearth-indonesia.org/sites/downtoearth-indonesia.org/files/LMN-evidence-psc.pdf>
5. Attached to <http://www.downtoearth-indonesia.org/story/tighten-human-rights-environment-rules-mining-companies-british-mps-told>
6. See 'New report and films on UK-Kalimantan coal connections', September 2013. <http://www.downtoearth-indonesia.org/story/new-report-and-films-uk-kalimantan-coal-conne>



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The vote was a close-run thing: we helped limit the ambitions of the industry lobbyists who were pushing for unrestricted use in Europe of land-based agrofuel crops like palm oil and MEPS voted to set a cap on the usage of land-based biofuel crops - although slightly higher than we were pushing for. Now, much more work needs to be done to ensure that community livelihoods in Indonesia are no longer negatively affected by EU policies. We reported in full about the campaign and the key questions in the current agrofuels debates

in our dual language special edition newsletter, published in December.

Apart from agrofuels, publications focused on indigenous peoples and climate change. We published the Indonesian version of our joint book with AMAN, *Forests for the Future (Hutan untuk Masa Depan)*, shortly after the Constitutional Court's landmark decision on customary forests.

We also ensured that more independent information about REDD (Reducing Emissions from Deforestation and Forest Degradation) - provided by the widely read REDD-Monitor website - was available

in the Indonesian language. Working with the Indigenous Peoples Network in Aceh, we ensured that the information was made available to communities whose forests are being targeted for REDD.

For more snapshots, and the bigger picture, browse the English or Indonesian homepage of our website (everything we post appears on the homepage), find us on Facebook, or follow us on Twitter. If you would like to help support our work, please consider donating to DTE by hitting the new Donate button coming soon on our website. ♦

All of DTE's English language publications can be accessed via www.downtoearth-indonesia.org

Indonesian language materials are at www.downtoearth-indonesia.org/id

We no longer publish a print version of the newsletter except for paying subscribers. If you would like to take out a print version subscription at GBP20 per year, please contact dte@gn.apc.org.

DTE activities Update 2013: snapshots from a year of campaigns

Focusing public attention on the devastating impacts on communities, environment and climate of coal mining and agrofuels featured prominently in DTE's work over the last year. In June, DTE visited East and Central Kalimantan with members of another UK NGO, World Development Movement. The trip included trekking to the site of BHP-Billiton's planned Haju coal mine - an area rich in rainforest biodiversity. We also spoke to local community members who don't want to see any more land turned into a massive open-pit mine (they have seen what these mines are like in neighbouring areas).

A few months later, we co-hosted JATAM coordinator Hendrik Siregar in the UK. He spoke about the impacts of coal mining at WDM-organised public meetings around the UK, and at BHP Billiton's London AGM he asked the company's board why it was persisting in dirty energy exploitation in Kalimantan. DTE informed company shareholders at the AGM how local people are against the Haju mine and how it will ruin local livelihoods. BHP Billiton claims it "isn't like other companies", and that it is treading carefully in Kalimantan. But is it possible for a coal company to tread carefully? How about doing what people really want and not treading there at all?

Other companies involved in coal-mining in Kalimantan include Bumi plc. Bumi's boardroom splits and ongoing financial scandals have overshadowed news of human rights abuse and planned relocation of local people. The vast Kaltim Prima Coal mine is expanding further (it is already Indonesia's biggest coal mine, producing over 40 million tonnes per year). DTE challenged Bumi's board about these on-the-ground impacts at the company's AGM in June.

As an active member of the London Mining Network, we supported the campaign

to secure tighter rules and supervision of companies like Bumi listing on London's Stock Exchange.

Turning to agrofuels, we worked closely with other European NGOs as well as WALHI and Sawit Watch in Indonesia, to scrutinise the fast-developing world of

biofuels policy-making in the European Union, watching out for opportunities to highlight the negative impacts of current policies and push for improvements. A key European Parliament vote was scheduled for September. So, we worked hard with visiting activists from Indonesia to campaign for a phasing out of land-based crops being used as biofuels in Europe under its 2020 fuel and energy targets.

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Bakrie in muddy waters

During a visit to East Java hosted by the mining advocacy network JATAM, DTE witnessed an astounding piece of action-theatre. This featured an effigy of Aburizal Bakrie (a candidate in this year's Presidential elections) being pelted with mud on the shore of the vast Lapindo mud lake in Sidoarjo. The mudflow has spread over thousands of hectares, forcing villagers out of their homes and swamping their farmland.

Bakrie leads one of Indonesia's most powerful business families, which has major investments in coal (including in Bumi), oil palm, land, and property, and is widely held responsible for the mudflow. He has never been held to account and has long since sold the oil drilling company that is accused of triggering the disaster.

The poster in the picture says: "Danger don't vote for me". Bakrie is the presidential candidate for Golkar, and is currently lagging far behind the most popular candidate Joko Widodo, known as Jokowi, who is standing for the PDI-P (Indonesian Democratic Party - Struggle). The Presidential elections are on July 9th while parliamentary elections are on the April 9th 2014.

For background on the mudflow disaster see <http://www.downtoearth-indonesia.org/story/east-java-mudflow-disaster>. (Photo: DTE)

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**DTE is looking for new board
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