

REFUGE

Jesuit Refugee Service Indonesia

Accompany, Serve and Advocate the Cause of Forcibly Displaced People



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PREFACE

The Universal Declaration of Human Rights (UDHR) turned 60 on the 10th of December 2008. The declaration represents the worldwide expression of the rights, which all human beings are inherently entitled to. JRS has always worked hard to serve, accompany and advocate for the rights of the most vulnerable, forcibly displaced people and communities affected by conflict.

By retelling their stories in Refuge JRS aims to highlight issues of concern to the communities it serves. In this month we retell the experiences of communities confronted with the promises and dangers of mining and plantations. They are examples of what many communities in Indonesia encounter. By listening to these voices it becomes clear that even after 60 years of the Universal Declaration of Human Rights many challenges have to be faced to ensure a life in dignity for all.

IRON AND GOLD MINING IN SOUTH ACEH

A PROMISE OF COMMUNITY WELFARE AND ITS FUTURE THREATS

By Daryadi, JRS Tapaktuan

Since the last three months heavy devices such as back hoe, grader, and bulldozers are a common sight in the small community of Simpang Dua and Simpang Tiga village in Middle Kluet sub-district, South Aceh. The devices are not used for an infrastructure project by the government, but are rented by a company to mine iron (Fe) stone that based on a survey is located around the hills and on land owned by the people of the two villages.

In fact, a part of the area around

Simpang Tiga village is already owned by PT Multi Mineral Utama (PT MMU) since almost a year. PT MMU has taken 20 ha land concession on an area that is predicted to contain not only iron but also gold. Meanwhile in the same village, another survey on iron ore is conducted. Yet another 20 ha of the communities land are in process of negotiation between the community and PT Hoffman that wants to mine in the area. According to head of Simpang Tiga village, Hasby (50) the company is planning to explore iron ore on the river of the village. Up





Manggamat River on Simpang Tiga containing iron stone at its upper course.



Iron stone of Simpang Dua and Simpang Tiga village hunted by investors.

until now, the community rejects the company's plan. Most of them are worried about erosion as a result of river exploration.

In the village of Simpang Dua, next to Simpang Tiga village, PT Pinang Sejati Utama (PSU) is preparing for the exploration of iron ore on 200 ha land owned by 54 families. Now the company funded by Singaporean investors is building a 2 km road to access the mining area whilst still trying to reach an agreement with the villagers.

PT PSU has tried to lobby the villagers of Simpang Dua in various ways. They repaired villager's fields and gave two cows to be slaughtered on meugang the day before the beginning of the fasting month this year. On

the day, everybody at Simpang Dua village ate the free meat at a time when the price of meat was up to Rp120.000 (12 USD) per kg. Moreover, the company made promises to increase wealth inside the community by sharing parts of the profits from the iron mining. PT Pinang Sejati Utama and the community have established the Tiga Manggis Cooperation at Simpang Dua village to manage the mining quotient for the communities.

Hasbi (32), the secretary of Simpang Dua village is now also the secretary of Tiga Manggis Cooperation. He said that if the company operates the community would receive a compensation of Rp35.000 (3.5 USD) for each ton of iron ore that gets mined. The Rp35.000 (3.5 USD) then

gets divided into Rp 20.000 (2 USD) for the landowner (the 54 families), Rp10.000 (1 USD) for the village and Rp5.000 (0.5 USD) for KPA (Komite Peralihan Aceh – Aceh Transition Committee) at sub-district level. If the company mines the estimated 1.000 ton iron ore each of the 54 families would receive about Rp 20 million that would on average be less than Rp400.000 (40 USD) for each family, Rp10.000.000 (1000 USD) for village and Rp5.000.000 (500 USD) for KPA. Moreover, Hasbi mentioned that the company promised to provide facilities for the development of farming, husbandry and fishery after the mining operation has finished. Another promise is to flatten the mining area and to rehabilitate it by planting rubber or cacao. At the beginning, the company planned to buy the community's land to a price of Rp. 4.000.000/ha (400 USD/ha). However, at the time the communities rejected this directly since there was no compensation for the crop on the land.

In fact, the communities do not understand much about this case. They are worried about the environmental impact of the project and the damage it might cause in future. Unfortunately, the communities neither know nor are told about the negative impacts and risks of iron mining. But from experiences in mining areas such as Kalimantan and Bangka Belitung it can be expected that if 200 ha mountainous land is dug up 5-10 meter deep and stones are taken and washed, that the soil will vanish and pool like holes will appear.

"We do not know what happens if a stone at the mountain is taken. Perhaps we can enjoy some benefits but what use is it if our grand children then have to suffer," said the worried 55 year old Agus Salim, a resident of Simpang Dua village. Ms. Suriawati expressed similar concerns about the future impact of the mining activity. She only knows that there is heavy machinery parking in front of the building that used to be the *Pustu* (Health Post)/PKK(Family Welfare



DRR Workshop, Simpang Tiga.

Movement) center. Next to it wait some big iron pipes and big tanks to be brought to the mining site. "We don't know what the company is going to do," said the mother of 3 children. Meanwhile, Muhasyibi one of the staff at PT Pinang Sejati Utama said that the preparation process of the mining activity so far goes very well. He said there were no objections from the community up until now.

Almost the same scenario can be seen in the neighboring village of Simpang Tiga. The village has so far dealt with two mining companies: PT Multi Mineral Utama (MMU), which is going to mine for gold, and PT Hoffman, currently undertaking a survey. PT MMU already has conducted a survey and started mining last year. The 20 ha location is far from the village. From the little information received by the community it is known that the explored land was owned by communities of Paya Ateuk village, located behind the mountains. It is said that PT MMU had paid about Rp15.000.000/ha (1500 USD/ha) as compensation to the landowner.

Now the community of Simpang Tiga also claims to be the traditional owner of this land as this land was used by their ancestors for deer hunting. People of Paya Ateuk village claimed that the land is

theirs since they have planted their trees in the area, what according to the people from Simpang Tiga was never reported to the authorities in Simpang Tiga village. When PT MMU started mining the land and paying compensations the complicated land ownership becomes an issue.

PT MMU's exploration was objected by the community of Simpang Tiga and should be put on hold until the question of ownership is settled. However, on 15th September 2008, PT MMU restarted the exploration without asking consent from the head of the village and the community itself. Instead it brought in armed police men to guard the site. This triggered the communities' fury. That day after *tarawih shalat* they trooped together in order to destroy the depot of PT MMU, a riot could be prevented by the head of Simpang Tiga village stepping in. He warned the villagers not to burn or destroy the depot. Finally, police arrived at midnight and the people dispersed.

On initiative of the head of Middle Kluet sub-district, Drs. Kafrawi, a meeting was held between PT MMU, police, and the communities on Saturday, 20 September 2008. But until now there is no direct benefit for the people of Simpang Tiga village nor for its neighbors

from Simpang Dua village. "It is said that the communities of Simpang Dua village have received Rp1.000.000 (100USD) on holiday benefit for each family, whereas we didn't get any," said the head of Simpang Tiga village when meeting with JRS last Monday afternoon.

What surprises is the fact that until today not one from the re-levant local government departments has ever come to these villages. Moreover, the head of the department for energy and mineral resources of South-Aceh District, Mardaleta, SE, SKM said that he did not know a lot about iron and gold mining activities in the two villages. "As far as I know, there were 27 mining companies, witch applied for a license, but I just checked and it turns out that some of their licenses are expired," he explained when contacted. Mardaleta said that too many applications were handed in at the department, as the administrative system of the department was chaotic. In order to get an application approved you have to deal with his department and the local government. "I will apply one system and will make a draft of a mining *Qanun*, so that the activities of mining companies are regulated," Mardaleta promised to Daryadi from JRS.



Forest conversion for palm oil plantation, Tapanuli Selatan

By Ning , JRS Tapaktuan

Introduction

The case of Buyat bay, on the south coast of Minahassa Peninsula in the north of Sulawesi was a tragedy many hoped will not happen again. The community of Buyat bay was relocated after the ocean close to their village was polluted due to the gold exploration activities of a mining company¹. Yet no one of the Simpang Dua villagers has ever heard of this case. The presence of a mining company in their village is welcomed since it brings the prospect of developments in terms of infrastructure repairs and other forms of aid for the community.

Buyat bay is thousands of kilometres away from Simpang Dua village in South Aceh, yet there is a potential the tragedy might repeat itself. Too often do mining companies just leave extraction sites after causing unrepairable damage to the environment partly caused by mismanagement or neglect of international or national mining exploration standards². The question that arises is how can this happen again and again? Why can communities just be left alone bearing the negative impacts of the big exploration business? The following writing is reviewing the issue from a legal perspective looking at the collision of current regulations.

Laws on Incentives and Protection

It is stated in Article 33, paragraph 3 of the 1945 constitution of the Republic of Indonesia: "The land, the waters and the natural resources within shall be under the powers of the State and shall be used to the greatest benefit of the people". The basic Agrarian Law (UUPA) No 5/1960 too contains a reference to the constitution as positive law, which underlines the authority of the state to manage natural resources. In more detail it regulates the state can:

1. manage and carry out allotment, usage, stock and maintenance;

2. determine and manage the rights on the land, waters and space;
3. determine and manage legal relations between agents and legal applications on the land, water and space.

The state authorities then enacted some regulations on the maintenance of national wealth, like the Law No 11/1967 on principal mining provision and Law No 18/2004 on plantation. Besides those national laws, Indonesia has ratified international conventions on economic, social and culture rights and enacted these in Law No 11/2005. One dominant aspect in all of these laws and conventions is that the land and natural resources should be managed so that members of society including the local communities benefit from it and that their social, economic and cultural rights are respected. It is a legal requirement that mining companies as well as individuals are obliged to carry out waste management and an environmental impact analysis. In order to avoid the ecological damage these qualified requisites have to be fulfilled before a licence on mining or for the opening of a plantation is given.

Even though there are laws protecting the rights of a community when regulating mining and plantation activities, they often are limited when these activities are conducted on a larger scale by companies with big capital behind them. There is a need for further regulations controlling the impacts of resource exploration especially of big companies. On the other hand it has to be acknowledged that economic growth, which benefits people, needs investment. Law No 11/1970 on foreign investment (PMA) was enacted exactly following this spirit. Article 15-17 of Law No 11/1970 provides direct incentives in form of dispensation from tax payments for mining and plantation companies and allows for very long

1. The Jakarta Post 07/25/2004

2. One other example is the case of the Lapindo mudflow, in Sidoarjo, East Java.

exploration lease agreements, cementing the company's rights of tenure.

Closing

Laws regulating natural resource exploitation face a dilemma regards people's long-term needs and welfare. Yet on a local level the same dilemma is experienced directly by small communities like Simpang Dua village in South Aceh, who see the immediate incentives at the same time as feeling the impact of the presence of a mining company in their village. The choices made are too often only based on the expected short-term physical benefits without considering and analysing the impact for future generations, effects on the community's local culture and regards its traditional economic practises.

Finally when all exploration leads to suffering critical awareness emerges within the affected community. As this awareness is hardly ever shared with other regions opportunities for resource exploitation, employing the same old practises, are wide open by just moving to the next site. It is here that the state has to take a role in protecting its citizens by defining legal standards and guidelines to ensure resource exploitation does not only benefit the extracting and harvesting companies but also the community in a sustainable way. It is not only about regulating good and bad exploration practises and a fair sharing of profits, but also about giving people the opportunity to make a well-informed choice about their lives and living conditions.

" WE WILL STAY HERE ANYWAY!"

By *Silvester, JRS Tapsel*

Everybody calls him "Mbah Dipo". The title "Mbah" is a respectful way for children to address a grandfather. Mbah Dipo is the grandfather of the relocation site and people from the neighbouring communities started to call him by that name too. He is called "Mbah" since 2006 when people from his community started consulting him asking for advice and guidance on a variety of issues. At that time he would often look for jobs for others and sometimes cured sick people, especially children or babies. The title is also appropriate, as most other elders of his age have left the relocation area as life is hard here. This is Mbah Dipo's story based on an interview with JRS.

What was the background and first impression coming to the relocation site?

This is a long story, a story that cannot be told in just one day. If I recall the first arrival, I remember miserable conditions. That time was especially hard for children and women. Before reaching this place, we were carried by a Big Fuso Truck from Medan Tembung to Batangtoru (±400Km). At Batangtoru we were chased away by the residents with the reason that we had no permission from the government and Batangtoru communities to stay. So, the truck

had to bring us back to Medan, where we lived under inappropriate conditions for about a year. Finally, JRS provided us with this place for relocation. At first, this area was only jungle and swamp. The way up here was very difficult and the only means of transportation was to take a boat along Batangtoru river. Everything was very limited and we started from zero. But for some of us, living in a jungle like this was better than begging on the outskirts of Langkat city or



Mbah Dipo dan wife, Daryati.

BIODATA

Name	: Dipo Sugiran
Place/Date of birth	: Banyuasin, 16 Agustus 1950.
Wife	: Daryati
Children	: Supandri, Supriadi, Riswati, Riswanto, Wiwik Indarti.
Grandchildren	: 4
- Came to East Aceh through transmigration program in 1996.	
-Address in Aceh :	
Tanjung Tani village	
Rantau Peuralak Sub district	
East Aceh – Nanggroe Aceh Darussalam	
- Displaced from Aceh in 2001	
- Came to the relocation site in 2002	
- Current address :	
Bara-bara Unte sub village	
Hutaraja village	
Batang Toru sub district	
South Tapanuli district	
North Sumatera	
- Current position :	
Head of Bara-bara Unte sub-village	



Silvester from JRS (left) and Mbah Dipo (right) in front of Mbah Dipo's house

being hunted by forest rangers whilst living in the area of Mount Leuser National Park after having to flee from East Aceh. However, many of us have already left. Most of them did not want to stay here and chose to relocate after the 3 month living support of JRS ended. Slowly we started a new life in the relocation area. One year after arrival we build a way to the nearest village making a save path through an area covered by forest so we could walk to the neighbouring market and children could go to school.

What developments have the community experienced since being relocated here in 2002?

Not much. You can see yourself, not much has changed here. Nevertheless, we kept on surviving in this area. The path we made enabled us to communicate and socialize with neighbouring communities at Terapung sub-village or to attend the Hutaraja market. After the living support from JRS ended we had difficulties covering our daily needs. We went fishing and caught eel in the river and trenches nearby. We would eat part of the catch and sold the rest in order to be able to buy rice, cooking oil, etc. Then, we got in touch with the communities around in Hutaraja and we started to be invited and to participate in their local ceremonies and other activities. The head of Hutaraja village made as a sub-village

called Bara-bara Unte. Since that time, we could access BLT (direct cash aid) and were included in the government health service for the poor.

What first was all jungle now became a palm-oil plantation. Are there any benefits from the plantation for the relocated community?

Yes, of course... big benefits! Approximately two years ago most of us were still just fishing and catching eel when some of the surrounding villages gave us these jobs. Sidempuan people call this type of work "mangomo" or "mocok-mocok" what describes irregular jobs. Although income from this kind of work was not constant it was good enough to fulfil our daily needs. With the money we got from mangomo we bought a generator. This way we had electricity in the house for a few hours every night. Others bought a motorbike or a small plot of land to start gardening.

At the same time we cannot rely on mocok-mocok forever, as sometimes there are no jobs at all. For example, during the fasting month before Idul Fitri we did not get any work. So, we went fishing, caught eel and worked in our own garden to make use of our time.

How much is an average wage from mangomo?

It depends on the boss, the supervisor or the owner of the plantation. For cutting down the trees and cleaning the debris we got Rp 1.200.000/ha (120 USD/ha). If the area is big enough we would work in a group. Each hectare is cleared by 5 people in about 3 days. For weeding the grass after the logging, we got Rp 40.000/day (4 USD/day). When carrying and planting the seeds of palm oil trees, we got Rp. 3.500 per seed. You see yourself the conditions of the road here, it is a very exhausting job. These jobs are only taken if you can't find anything else, but its better then being unemployed.

Women doing *mangomo* are paid about Rp 25.000/day (2.5 USD/day). Their wage is lower than those of men since their jobs are easier. Men go in and out of the jungle, deal with the swamp and fell the trees in the jungle. Usually women work on the land where threes have already been planted. They would then do the mamiring (weeding) or spray pesticides, for which they get paid Rp 3.500 (0.3 USD) each tank. One person may finish 10 tanks in half day (08.00am – 15.00pm).

Besides the wages from mangomo, is there any other impact of the plantation on the community?

Yes. There are things we are worried about. Since we live here many plantations opened and at the same time there are more and more conflicts about land. Many outsiders pass through our area. They bring tape and poles to measure land. The afternoons start to feel hotter since the jungle has been converted into a plantation.

So according to Mbah Dipo, land conflicts occur more often after the opening of more and more plantations?

Yes, that's right! In fact, when it was still jungle nobody asked about the land titles. We were alone, nobody passed there. However, after we converted

the swamp into a plantation and built a road to our relocation site a lot more people came, planted oil palm and claimed the land was theirs. How could we have guessed that we would get these problems? Anyway now we have to face it!

First, when we started to clear 200 hectares land as relocation site for our community, nobody complained about land titles, but then after we cleaned the first 50 hectares people said that the land was owned by someone else. Some said that the land was owned by *Koperasi Pegawai Negeri Kejaksaan* (Cooperation of Government Officers of the Legal Department), while others said that the land was owned by PT. Samukti Karya Lestari. Eventually the clearing of the 200 hectare forest was stopped.

Second, since 2005 we have been visited by staff from PT. Samukti Karya Lestari and the

head of Unit Trans village, Mr. Aritonang, to discuss about 10 hectare land occupied by the relocation community. Staff of PT. Samukti Karya Lestari, I forgot their name, told me that some part of the 10 hectare land we occupied was PT Samukti Karya Lestari's land, yet the director had agreed that the displaced people from Aceh might live on the land. The Head of Unit Trans village Pak Aritonang also said that this 10 hectare of land belongs to Unit Trans village. So everybody from the community would have to report to the head of Unit Trans village about his respective piece of land.

How is the situation now? How do the people from the relocation site respond? Is there any hope?

Basically we are very worried about the seizure of land. We do not understand these things. Anyway, if those 10 hectares too

get taken from us, we will still stay here anyway. We hold on to the statement of PT. Samukti Karya Lestari that the land can be used by the displaced people from Aceh.

If you ask about hope my friend, we do have a lot of hope for the future! First, everybody here hopes that we may continue to live on this land and don't have to face another displacement yet again. We are exhausted and there are no other options. Second, we hope we get help in gaining land titles for this area, both 10 ha or 200 ha. Third, look at the children and the elderly people. If somebody is badly sick or has to deliver a baby, they have to be carried outside the relocation area. The school for children is also very far. So that's it more or less. These are our hopes for the future, but we will stay here!



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