

# CRS Report for Congress

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## Papua, Indonesia: Issues for Congress

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## Summary

The ongoing investigation into the killing of two American citizens, current human rights conditions, and reports of an Indonesian military build-up in Papua have led to increased Congressional attention to Indonesia's eastern-most territory. Papua, for the purposes of this report, refers to the resource rich western half of the island of New Guinea and not the nation or people of Papua New Guinea which is situated on the eastern half of the Island. While the people of Papua have been subject to human rights abuses while under Indonesian rule, the ongoing expansion of democracy and civil society in Indonesia and the leadership of President Yudhoyono hold out the possibility that the human rights situation in Papua may improve. Some view the current improvement in the bilateral relationship between the United States and Indonesia as providing an enhanced opportunity for the United States to continue to support the expansion of democracy, the rule of law, civil society, and human rights while developing closer military-to-military relations with a valuable partner in the war against terror and a key geopolitical actor in the Southeast Asian region. Such policies, by fostering a more democratic and open society, may also contribute to an improved human rights situation in Papua. Others, including some Members of Congress, contend that Indonesia's failure thus far to bring to trial those responsible for the Timika incident and other human rights abuses, suggests that the Indonesian military (TNI) remains, at least in part, outside government control and that the United States should continue to suspend some kinds of military assistance. The recent arrest of Anthonius Wamang, who is thought to have carried out the attack which killed two Americans near Timika in 2002, may resolve what has been a key obstacle to improved military-to-military ties between Indonesia and the United States. It also has the potential to raise further questions concerning the incident. This report will be updated as circumstances warrant.

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# Papua, Indonesia: Issues for Congress

Papua, Indonesia refers to the western half of the island of New Guinea and encompasses the Indonesian provinces of West Irian Jaya, or Irian Jaya Barat, and Papua. Some also refer to this region of Indonesia as West Papua. Papua has a population of approximately two million and an estimated area of 422,000 square kilometers, which represents about 21% of the land mass, and 1% of the population of Indonesia. About 1.2 million of the estimated two million inhabitants of Papua are indigenous Melanesian people from about 250 different tribes which are distinct from the Malay people of Indonesia. Most of the rest of the people have transmigrated to Papua from elsewhere in Indonesia. The province is rich in mineral resources and timber.<sup>1</sup>

## U.S. Interest in Papua

Congress' attention to Papua has largely focused on the 2002 attack against Americans near Timika and the human rights situation of the indigenous Melanesian people of Papua. Congress has also expressed interest in the reported military buildup in Papua. These interests have evolved against a backdrop of greatly improved relations between the United States and Indonesia in 2005. An expanded separatist movement in Papua also could lead to greater violence.

Papuan issues tend to be subsumed into overall U.S. relations with and policy toward Indonesia. In 2005 there was considerable change in U.S. relations with Indonesia. The February 2005 decision by the Bush Administration to allow Indonesia to participate in International Military Education and Training (IMET) was followed by a May 2005 decision to restart non-lethal foreign military sales (FMS) to Indonesia and a November 2005 decision to waive foreign military financing (FMF) restrictions due to U.S. national security concerns.<sup>2</sup> In this way, past concerns over human rights in Indonesia, including those in Papua, which had limited the extent of the military-to-military relationship have apparently not been given as much weight by policy makers as they have previously due to Indonesia's democratic development and American security concerns.<sup>3</sup> To many, this foreign policy issue has

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<sup>1</sup> "A People Under the Jackboot," *The West Australian*, September 18, 2004.

<sup>2</sup> State Department, Office of the Spokesman, Washington, DC, "Taken Question at Daily Press Briefing," January 4, 2006. Eric John, "U.S. and RI: A Strategic Partnership," *The Jakarta Post*, January 3, 2006.

<sup>3</sup> For further information see CRS Report RL32394, *Indonesia: Domestic Politics, Strategic Dynamics, and American Interests*, by Bruce Vaughn, CRS Report RL31672, *Terrorism in Southeast Asia*, by Bruce Vaughn Coordinator, Emma-Chanlett-Avery, Mark Manyin, Larry Nicksch, CRS Report RS21874, *Indonesian Elections* by Bruce Vaughn and CRS Report (continued...)

involved a congressional-executive dispute where democratic development in Indonesia and American security concerns have shifted the locus of policy determinants in favor of the executive branch which currently is seeking to develop closer ties with Indonesia. There is concern among some that the message that the United States is still concerned with the human rights situation in Indonesia needs to continue to be conveyed to Indonesia so that Jakarta does not view this shift in America's position as a signal that America is now less concerned with human rights issues. As the peace process in Aceh has progressed, increased attention has been focused on the human rights situation in Papua.



Source: Map Resources. Adapted by CRS. (K.Yancey 1/31/06)

In testimony before Congress in March 2005, Ambassador Marie Hutala stated that “the democratic transition underway in Indonesia ... represents an important opportunity for the U.S.” She added “our first priority is to encourage continued Indonesian progress on democracy, human rights, and justice.”<sup>4</sup> The Department of State’s Country Report on Human Rights Practices for Indonesia makes the following observations, among others, on Indonesia and Papua.

<sup>3</sup> (...continued)

RS22136 *East Timor: Potential Issues for Congress*, by Rhoda Margesson and Bruce Vaughn.

<sup>4</sup> “Indonesia’s Democratic transition Offers Critical Opportunities,” *State Department Press Release*, March 11, 2005.

- The [Indonesian] government's human rights record remained poor; although there were improvements in a few areas, serious problems remained. ... Security force members murdered, tortured, raped, beat, and arbitrarily detained civilians and members of separatist movements, especially in Aceh and to a lesser extent in Papua.
- The government restricted the foreign press from traveling to conflict areas in Aceh, Papua, Sulawesi, and Maluku.
- The country made substantial progress in strengthening its democracy.
- The government issued a decree authorizing the establishment of a 40-member Papuan Peoples Council.<sup>5</sup>

Many observers hope that the human rights situation will improve with the further development of democracy, the rule of law, and civil society in Indonesia.<sup>6</sup>

In his statement before the Senate Foreign Relations Subcommittee on East Asia and Pacific Affairs, Deputy Assistant Secretary of State Eric G. John stated that "... Papua has suffered from separatist conflict and serious human rights abuses. The Indonesian government has not fully implemented the 2001 Special Autonomy Law that was designed to address political and economic grievances." John also pointed out that President Yudhoyono had "vowed to peacefully resolve the longstanding conflict in Papua" and pledged to "fully implement Special Autonomy."<sup>7</sup>

**Timika.** In August 2002, two Americans and an Indonesian working for the PT Freeport mine, a subsidiary of the New Orleans based Freeport McMoRan Cooper and Gold Inc., were killed in an ambush near Timika, Papua. The incident occurred on a road with military checkpoints leading to the Freeport mine and reportedly took place over at least a 30-minute period.<sup>8</sup> To date, circumstances surrounding the Timika attack remain unclear. The two Americans killed were teachers at the International School at Tembagapura near Timika in Papua. They, and their family and friends, came under attack while on a picnic outing. Indonesian police indicated at one point early in the investigation that elements from the Indonesian military may have been involved in the attack. Some of those who believe that elements of the military may have played a role believe that it could have been done in an effort to discredit the Free Papua Movement (OPM) which seeks independence for Papua. Some pro-Papuan independence supporters believe Anthonius Wamang, who is believed to be an OPM operational commander and has been indicted for the attack in the United States, may have been an informer to the Indonesian Military (TNI).<sup>9</sup>

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<sup>5</sup> Department of State, *Country Report on Human Rights Practices for Indonesia*, February 28, 2005.

<sup>6</sup> Slobodan Lekic, "US Envoy Urges Indonesia on Ambush Probe," *The Associated Press*, May 7, 2005.

<sup>7</sup> Eric John, "U.S.-Indonesia Relations," Congressional testimony, September 15, 2005.

<sup>8</sup> Nethy Dharma Somba, "12 Arrested in Papua for Killing of Teachers in '02," *The Jakarta Post*, January 13, 2006.

<sup>9</sup> Slobodan Lekic, "Widow of American killed in Papua Ambush Urges US to Keep Ban on (continued...)

The OPM denied involvement with the attack and stated that Wamang “has worked closely with the Indonesian military for the past four years in the sandalwood business and also as part of a pro-Indonesian militia.”<sup>10</sup>

Wamang was arrested in Papua on January 12, 2006. Details of the 2002 incident should come to light as Wamang’s interrogation proceeds, though some are concerned his testimony will be “coerced or twisted in such a way as to exonerate the military.”<sup>11</sup> Wamang has reportedly stated that he carried out the attack but that three men in Indonesian military uniforms joined in the attack. It has been reported that “Indonesian soldiers and disgruntled Papuans have acted together against Freeport, at one point orchestrating riots to extract greater benefits from its huge operations. ... Wamang’s statements now suggest that this same loose coalition may also have been responsible for the killing of the teachers.”<sup>12</sup> It also remains unclear whether Indonesia will extradite Wamang to the United States. It has also been reported that Wamang and his group turned themselves in believing that they were to be taken by the FBI to the United States and not into Indonesian custody.<sup>13</sup>

**Congressional Involvement.** In 2005, confusion in Indonesia arose over the U.S. position on Papua because of proposed Congressional legislation.<sup>14</sup> Indonesian reports on proposed Congressional legislation led many in Indonesia to believe that the proposed legislation had already become law and that the United States government as a whole was advocating the independence of Papua. The Indonesian House of Representatives reportedly warned the Indonesian government to take all possible measures to discourage legislation in the United States Congress on Papua.<sup>15</sup> These fears in the minds of Indonesians are made more understandable given Indonesia’s colonial past and the history of East Timor. The former Indonesian province of East Timor held a vote on autonomy or independence in 1999 which resulted in the independence of East Timor. The Indonesian House of Representatives (DPR) Inter-Parliamentary Cooperation Board sought clarification on U.S. policy on Papua. The United States Embassy responded to the controversy by reaffirming U.S. support for the territorial integrity of Indonesia. It has also been reported that approximately 40 U.S. Members of Congress sent a letter to the United

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<sup>9</sup> (...continued)

Indonesian Army,” *Associated Press*, January 28, 2005.

<sup>10</sup> “West Papua Rebels Accused US of Cover-up Over Ambush Killings,” *Agence France Presse*, July 2, 2005.

<sup>11</sup> Ellen Nakashima and Alan Sipress, “Indonesian Arrested in 2002 Slaying of American teachers,” *The Washington Post*, January 12, 2006.

<sup>12</sup> Raymond Bonner, “Indonesian Man Links Military to Shooting of US Teachers,” *The New York Times*, January 14, 2006.

<sup>13</sup> Nethy Dharma Somba, “12 Arrested in Papua for Killing of Teachers in ‘02,” *The Jakarta Post*, January 13, 2006.

<sup>14</sup> “Indonesian Parliament to Clarify Status of Irian to US Congress,” *BBC News*, August 2, 2005. For text of relevant legislation see appendix I below.

<sup>15</sup> Tony Hotland, “House urges Govt to Lobby U.S. Over Papua Issue,” *The Jakarta Post*, September 3, 2005.

Nations calling for support for a vote in Papua on independence for Papua.<sup>16</sup> Thirty Five Members of Congress reportedly sent a letter to Indonesian President Yudhoyono calling on him to lift travel restrictions to allow international journalists and human rights advocates to travel to Papua.<sup>17</sup> Vice President Jusuf Kalla has criticized those Members of Congress for meddling in the country's internal affairs stating "what if we were to ask the Indonesian Parliament 'how about Guantanamo'?"<sup>18</sup>

## Background to the Present Conflict

Papuans are a Melanesian people like the people of Papua New Guinea (PNG) which is situated on the eastern half of the island of New Guinea. Papua's tribal groups are thought to speak some 15% of the world's languages.<sup>19</sup> The indigenous Melanesian people<sup>20</sup> of Papua have a culture dating back, by some estimates, 40,000 years. This background differs significantly from the Malay character of the rest of the Indonesian archipelago. The Spanish were the first Europeans to discover the islands in 1546. The Dutch laid claim to Papua in 1828, and by 1910 they had an agreement with Britain and Germany (who controlled the southeast and northeastern parts of New Guinea, respectively) which recognized Dutch control over the western half of New Guinea. Like Indonesia, Papua was a Dutch colonial possession. Unlike Indonesia, it did not become a part of newly independent Indonesia at the time of Indonesia's independence in 1949. The Dutch argued that its ethnic and cultural difference justified Dutch control until a later date. Under former President Sukarno, Indonesia began mounting military pressure on Dutch West Papua in 1961.

As outlined in a report by the Council on Foreign Relations, in 1962 the United States pressured the Dutch to turn over control of West Papua to the United Nations (U.N.). Under the American-brokered New York Agreement of 1962 Indonesia was to "make arrangements with the assistance and participation of the United Nations" to give Papuans an opportunity to determine whether they wished to become part of Indonesia or not. Indonesia assumed control over Papua in 1963. In the "Act of Free Choice," carried out in 1969, selected delegates decided to join Indonesia.<sup>21</sup>

The Act of Free Choice is generally not considered to have been representative of the will of all Papuans. A broad-based referendum on Indonesian control over West Papua was not held. Instead, a group of 1,025 local officials voted in favor of

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<sup>16</sup> Michael Casey, "Indonesia's President Vows to Solve Papua Conflict. Rejects International Help," *Associated Press*, August 16, 2005.

<sup>17</sup> "US Lawmakers Chide Indonesia on West Papua," *Reuters*, September 16, 2005.

<sup>18</sup> "Indonesian Vice President Criticizes U.S. Lawmakers for Meddling in Domestic Affairs," *Associated Press*, August 10, 2005.

<sup>19</sup> "West Papua's Cultural Identity," BBC News, [<http://www.bbc.co.uk/worldservice>]

<sup>20</sup> Other Melanesian states include Papua New Guinea, Vanuatu, The Solomon Islands, New Caledonia and Fiji.

<sup>21</sup> Council on Foreign Relations, *Indonesia Commission: Peace and Progress in Papua*, New York, 2003, p.25.



merging with Indonesia.<sup>22</sup> The U.N. is generally considered to have failed in its mission to give the people of Papua an opportunity for self determination.<sup>23</sup> To some, “while Western colonial policy was coming to an end — - a new chapter of Asiatic colonial policy was opening.”<sup>24</sup> The pro-independence Free Papua Movement (OPM) emerged as these events were unfolding. It has been estimated by human rights advocate groups that 100,000 Papuans have died as the result of Indonesian control in Papua, though others have more recently challenged the scale of this figure.<sup>25</sup>

Declassified documents released in July 2004 indicate that the United States supported Indonesia’s take over of Papua in the lead up to the 1969 Act of Free Choice even as it was understood that such a move was likely unpopular with Papuans. The documents reportedly indicate that the United States estimated that between 85% and 90% of Papuans were opposed to Indonesian rule and that as a result the Indonesians were incapable of winning an open referendum at the time of Papua’s transition from Dutch colonial rule. Such steps were evidently considered necessary to maintain the support of Suharto’s Indonesia during the Cold War. A similar view was taken towards East Timor.<sup>26</sup>

Central to the conflict in Papua is its vast natural wealth, most of which stems from resource extraction industry, particularly mining and logging. Fisheries resources are another potentially valuable resource. Economic activity in built-up areas is dominated by Malay migrants from elsewhere in Indonesia. Traditionally, only a small percentage of the wealth generated by the natural resources of Papua has remained in the province. Papua is one of Indonesia’s poorest provinces despite its extensive natural resource wealth. Under the Special Autonomy Law for Papua of 2001, 70% of oil and gas royalties and 80% of mining, forestry and fisheries royalties are supposed to go to the province.

## The Human Rights Situation in Papua

While noting that Indonesia generally “made substantial progress in strengthening its democracy,” the United States Department of State Country Report

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<sup>22</sup> For further information see Larry Nicksch, “Papua-Irian Jaya,” CRS Memorandum, 4/16/02.

<sup>23</sup> John Saltford, *The United Nations and the Indonesian Take Over of West Papua*, (London: Routledge, 2003).

<sup>24</sup> Herb Thompson’s review of Saltford’s work in the *Journal of Contemporary Asia*, Vol. 34, No. 1, 2004.

<sup>25</sup> Don McFeteridge, “Indonesia and Papua - A View From the Birds Head,” September 9, 2005, United States - Indonesia Society, Washington.

<sup>26</sup> National Security Archives, “Indonesia’s 1969 Takeover of West Papua Not by “Free Choice”: Secret Files Show U.S. Support for Indonesia, Human Rights Abuses by Indonesian Military,” Edited by Brad Simpson, Posted July 9, 2004 [<http://www.gwu.edu/~nsarchiv>] . See also Jim Lobe, “US Sacrificed Papua to Court Suharto,” [<http://www.atimes.com>] “US ‘Concern’ Over West Papua,” *The Australian*, and Alan Sipress, “Declassified US Papers Spark Indonesian Rebuke,” *Washington Post*, July 18, 2004.

on Human Rights Practices of 2004, which was released in February 2005, describes the human rights situation in Indonesia as “poor; although there were improvements in a few areas.” It states that “security force members murdered, tortured, raped, beat, and arbitrarily detained civilians and members of separatist movements, especially in Aceh and to a lesser extent in Papua.”<sup>27</sup>

With the conflict in Aceh appearing to be coming to an end through an ongoing peace process, there seems to be increased attention on the human rights situation in Papua. Indonesian President Susilo Bambang Yudhoyono has called for a political settlement within the framework of special autonomy within the unitary Republic of Indonesia. The OPM has continued to press for independence, while the Indonesian government has yet to fully implement previous autonomy measures and is going forward with a move to divide the province.<sup>28</sup> There have been reports that funds allocated for the implementation of the Special Autonomy law have been used to finance military operations in Papua.<sup>29</sup>

In August 2005, The Centre for Peace and Conflict Studies at the University of Sydney in New South Wales, Australia, published a report, *Genocide in West Papua*, which assesses the treatment of Papuans by the TNI. The report details

a series of concerns which, if not acted upon, may pose serious threats to the survival of the indigenous people of the Indonesian province of Papua. It covers the threats posed by the Indonesian military to the province’s stability, the recent increase in large scale military campaigns which are decimating highland tribal communities, the HIV/AIDS explosion and persistent Papuan underdevelopment in the face of rapid and threatening demographic transition in which the Papuans face becoming a minority in their own land.<sup>30</sup>

The report also states that “a culture of impunity exists in Indonesia which sees its highest manifestation currently in Papua ... military operations have led to thousands of deaths in Papua ... the Republic’s armed forces act as a law unto themselves.”<sup>31</sup> The report cites eyewitness accounts of Indonesian “military involvement in acts of arson, theft, rape, and torture.”<sup>32</sup> Indonesian military spokesman General Bibit Santoso reportedly dismissed the report’s findings and stated that there were no

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<sup>27</sup> United States Department of State, *Country Report on Human Rights Practices 2004*, “Indonesia,” Released by the Bureau of Democracy, Human Rights, and Labor, February 28, 2005.

<sup>28</sup> “Indonesia Risk: Security Risk,” *The Economist*, September 22, 2005.

<sup>29</sup> Carmel Budiardjo, “Can Susilo be Taken at His Word on Papua?” *The Jakarta Post*, August 22, 2005.

<sup>30</sup> Centre for Peace and Conflict, University of Sydney, New South Wales, Australia. [<http://www.arts.usyd.edu.au/centres/cpacs>]

<sup>31</sup> John Wing and Peter King, *Genocide in West Papua? The Role of the Indonesian State Apparatus and a Current Needs Assessment of the Papuan People*, (Sydney: University of Sydney, August 2005).

<sup>32</sup> Samantha Hawley, “Indonesian Military Accused of Calculated Violence in Papua,” *Australian Broadcast Corporation*, August 18, 2005.

militias in Papua and added that the government had banned Muslim militants from operating in Papua.<sup>33</sup> The Australian Democrat Party Foreign Affairs Spokesman Senator Natasha Stott Despoja spoke at the launch of the *Genocide in West Papua* report and stated that “the situation in West Papua requires much more than words.”<sup>34</sup>

Other groups have similarly found evidence of repression. A report by the U.S. East-West Center on the conflict in Papua has found that the Indonesian government’s approach to Papua has ranged from “the overtly repressive to the occasionally accommodative” and observed that “the cycles of repression and alienation simply consolidate Papuan identity and support for independence.”<sup>35</sup> Human Rights Watch (HRW) has described the TNI’s actions in Papua as responding to the OPM with “disproportionate force” adding that “unarmed civilians continue to be among those injured or killed in military reprisals. Arbitrary detention, torture, disappearances, and arson are widespread in this vast and isolated region of Indonesia.” HRW has also pointed to the influx of non-Melanesian Indonesians, who remain largely in the towns and are mostly Malay Muslims as opposed to the more rural and Christian native Melanesian Papuans and who present a “volatile mix susceptible to manipulation by unscrupulous political leaders.”<sup>36</sup> While the 2004 report *Indonesian Human Rights Abuses in West Papua*, by the Allard K. Lowenstein International Human Rights Clinic at Yale University Law School did “not offer a definitive conclusion about whether genocide has occurred [in Papua] it finds in the available evidence a strong indication that the Indonesia government has committed genocide against the West Papuans.” It goes on to state that even if the violence committed against Papuans were not committed with the intent to destroy the Papuans as a group “many of these acts clearly constitute crime against humanity.”<sup>37</sup> An international dimension to the conflict arose in January 2006 when a group of 43 Papuans fled to Australia in an outrigger canoe and asked for political asylum.<sup>38</sup> Papuan activists called for increased support from the Pacific Islands Forum in January 2006.<sup>39</sup>

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<sup>33</sup> “RI Condemns Report by Aussie Researchers on Genocide in Papua,” *The Jakarta Post*, August 19, 2005.

<sup>34</sup> “Genocide in West Papua?” *Australian Democrats Press Release*, [<http://www.democrats.org.au>]

<sup>35</sup> Richard Chauvel and Ikrar Nusa Bhakti, *The Papuan Conflict: Jakarta’s Perceptions and Policies*, (Washington: East-West Center, Policy Studies 5, 2004).

<sup>36</sup> Human Rights Watch Asia, “Overview of Human Rights Issues in Indonesia.” [<http://www.hrw.org/english/docs/2005/01/13>]

<sup>37</sup> Allard K. Lowenstein International Human Rights Clinic paper prepared for the Indonesian Human Rights Network, “Indonesia Human Rights Abuses in West Papua: Application of the Law of Genocide to the History of Indonesian Control,” Yale University Law School, April 2004.

<sup>38</sup> A. Sukarsono, “Jakarta Warns Australia not to Give Papuans Asylum,” *Reuters*, January 20, 2006.

<sup>39</sup> “Papua: Calls for Pacific Forum Support of Freedom Plight,” *ABC (Australia) Radio*, January 24, 2006.

## Key Actors in Papua

**Freeport.** The American Freeport-McMoRan Copper and Gold Company operates the world's largest gold and second largest copper mine in Papua, at Grasburg near Timika, through its 91% ownership in its subsidiary PT Freeport Indonesia. The government of Indonesia owns the remaining 9% of the subsidiary.<sup>40</sup> While Freeport has been a major contributor of wealth to Indonesia — providing an estimated \$33 billion in direct and indirect benefits over the period 1992 to 2004<sup>41</sup> — its impact is reportedly less positive at the local level. Direct benefits to Indonesia reportedly total \$2.6 billion from 1992 to 2004. Freeport reported that it paid Indonesia in excess of \$1 billion in taxes, royalties and dividends in 2005. Freeport has also stated that it has spent approximately \$200 million on a Freeport Partnership Fund for Community Development since 1996.<sup>42</sup> It is at the local level that the environmental impact and social dislocating impact of the mine's operations are felt. The mine will generate an estimated 6 billion tons of waste before completion of operations. Much of the waste has made its way into ground water, rivers, and low lying wet lands rendering them, according to one study, unsuitable for aquatic life. Freeport has been accused in the past by tribal groups and Western activists of environmental degradation, abetting the military's presence in Papua, and not sharing enough wealth with local people.<sup>43</sup> In 1995, the Overseas Private Investment Corporation withdrew Freeport's political risk insurance apparently over environmental concerns.<sup>44</sup>

In its defense, Freeport reportedly has undertaken initiatives to seek to address the negative impact of the mine. Freeport has an avowed commitment to “promoting sustainable development” and reportedly spent \$72.7 million in 2004 on environmental management and social development to “minimize and mitigate negative environmental impacts and to maximize positive economic and social development.” Freeport has stated that it does not use cyanide or mercury in its processes in Papua. Freeport also has developed local infrastructure including “roads, port and airport facilities, utility and communications systems, schools, hospitals and community facilities.” Twenty-five percent of its employees are Papuans and the mine has an apprentice program to increase the percentage of Papuans working at its facilities. *Business Week* has reported that “the mining giant's gutsy human rights audit may set a standard for multinationals.”<sup>45</sup> Speaker of the House of Representatives Agung Laksono reportedly supported Freeport's continuing

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<sup>40</sup> “Freeport-McMoRan Copper & Gold Inc.” *Hoover's Company in Depth Records*, September 28, 2005.

<sup>41</sup> Jane Perlez and Raymond Bonner, “The Cost of Gold, The Hidden Payroll, Below a Mountain of Wealth, A River of Waste,” *The New York Times*, December 27, 2006.

<sup>42</sup> Freeport letter to the *New York Times* dated January 11, 2006.

<sup>43</sup> Michael Shari, “A Pit of Trouble,” *Business Week*, August 7, 2000.

<sup>44</sup> “Sen. Breaux Wants more Info on Freeport-McMoRan Res Issues,” *Dow Jones News Service*, December 7, 1995 and Daniel Puzen, “Environmental Vow to Keep Pressure on Freeport,” *American Metal Market*, December 12, 1995.

<sup>45</sup> “Freeport's Hard Look at Itself,” *Business Week*, October 24, 2005.

operation in response to calls in early 2006 to revoke its license to operate due to environmental damage created by the mine.<sup>46</sup>

*The New York Times* has reported that the New Orleans-based Freeport McMoRan mining company has had a financial relationship with the TNI for some time. After disturbances at the mine in 1996 Freeport reportedly began spending on military infrastructure and set up an Emergency Planning Department to handle the mine's relationship with the military which "began making direct monthly payments to Indonesian military commanders." Freeport reportedly gave military and police officers and units close to \$20 million between 1998 and 2004. These payments are thought to be in addition to tens of millions spent by Freeport on military infrastructure.<sup>47</sup> Such payments have been reported in the past.<sup>48</sup> Payments were also reportedly made to the police. Two theories for attacks against Freeport are that they were either part of a "turf war" between the military and the police for access to Freeport payments or that the military was reacting to potential reductions in Freeport payments.<sup>49</sup> Indonesian Attorney General Abdul Rahman Saleh has stated he would look into allegations that Freeport made payments to the military, which the Indonesian government has reportedly stated are illegal. Freeport has said that it has broken no laws by providing support to troops based near the mine.<sup>50</sup> The State Ministry for the Environment was reportedly planning to send a team to inspect the environmental management of PT Freeport's operation in January 2006.<sup>51</sup>

**The Government of Indonesia.** President Susilo Bambang Yudhoyono has ruled out independence for Papua but has at times appeared open to some degree of autonomy for the province. He is also opposed to the internationalization of the conflict and views it as an internal affair for Indonesia.<sup>52</sup> Communications and Information Minister Sofyan Djalil stated before a working group of the DPD, or Regional Representatives Council, that the government of Indonesia viewed Papua as a different situation from Aceh and as such would not involve the international community in the settlement of the dispute there.<sup>53</sup> President Yudhoyono has stated that "the government wishes to solve the issue in Papua in a peaceful, just, and dignified manner by emphasizing dialogue and persuasive approach." He added that

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<sup>46</sup> "DPR Wants Freeport to Continue Operations," *Koran Tempo*, January 7, 2006.

<sup>47</sup> "Recklessness in Indonesia," *The New York Times*, January 9, 2005.

<sup>48</sup> "US Firm Pays Indonesia Army," *BBC News*, March 14, 2003.

<sup>49</sup> Jane Perlez and Raymond Bonner, "The Cost of Gold, The Hidden Payroll, Below a Mountain of Wealth, A River of Waste," *The New York Times*, December 27, 2006.

<sup>50</sup> "Indonesia to Probe Claim US Mining Co Paid for Security," *Dowjones Newswire*, January 11, 2006.

<sup>51</sup> "Freeport Soon to be Inspected," *Koran Tempo*, January 25, 2006.

<sup>52</sup> Michael Casey, "Indonesia's President Vows to Solve Papua Conflict, Rejects International Help," *Associated Press*, August 16, 2005.

<sup>53</sup> "Papua Settlement Won't Involve Foreign Parties," *Bisnis Indonesia*, September 30, 2005.

“we decline foreign interference in settling this issue.”<sup>54</sup> TNI Commander General Endriartono Sutarto is reported as suspecting that there is an international conspiracy to separate Papua from Indonesia.<sup>55</sup>

Insight into President Susilo Bambang Yudhoyono’s perspective on the human rights situation in Papua may be gleaned from his call for further investigation and inquiry into the death of human rights activist Munir Thalib, who was poisoned on a Garuda Flight from Indonesia to Amsterdam. The president ordered a new investigation after the trial of Pollycarpus Budihari Priyanto not only found Priyanto guilty of poisoning Munir but also concluded that the motive was to prevent Munir from criticizing the military and government’s role in human rights abuses. In sentencing Priyanto, the court made a connection between him and former Deputy Chief of State Intelligence Muchdi Purwopranjono.<sup>56</sup> By ordering a further investigation Yudhoyono appears to be making a stand on human rights in Indonesia.

A measure of openness in government led to moves towards autonomy for Papua in the *reformasi* period following the end of President Suharto’s authoritarian rule. This led President Habibie in 1999 to enact laws to allow Papua to keep an increased share of locally generated wealth. The Indonesian Peoples Legislative Council (DPR) also passed legislation granting Special Autonomy for Papua which called for the establishment of a Papua People’s Council and reaffirmed customary law.<sup>57</sup> This period of openness to local autonomy lost momentum and its provisions were never fully implemented. Subsequently in January 2003, then-President Megawati moved to divide the province into three provinces, an action viewed by many Papuans as designed to undermine and divide their cause.

In early 2005, the government of President Susilo Bambang Yudhoyono apparently supported plans to divide the province further. In February 2005, Papuan Governor Jap Salossa announced plans to divide Papua into five provinces after courts ruled that previous plans to divide Papua into three provinces contradicted the 2001 Special Autonomy Law. In its ruling, the Constitutional Court did allow the division of Papua into two provinces, Papua and West Irian Jaya Provinces.<sup>58</sup> Approval of the then yet to be established Papuan People’s Council, which was to be made up of representative traditional leaders, religious leaders, and women, was viewed as important. The Indonesian government reportedly accepted the governor’s plan to divide the province into five separate provinces by 2009 despite the

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<sup>54</sup> Michael Casey, “Indonesia’s President Vows to Solve Papua Conflict, Rejects International Help,” *Associated Press*, August 16, 2005.

<sup>55</sup> “TNI Commander Suspects Conspiracy to Separate Papua from RI,” *LKBN Antara*, September 8, 2005.

<sup>56</sup> “SBY Re-examines In-flight Murder,” *The Australian*, December 23, 2005.

<sup>57</sup> Council on Foreign Relations, *Indonesia Commission: Peace and Progress in Papua*, New York, 2003, p. 43.

<sup>58</sup> Christine Tjandraningsih, “Indonesia Plans to Divide Papua into 5 Provinces,” *Kyodo News*, February 8, 2005.

constitutional court's earlier ruling.<sup>59</sup> This move is in apparent contradiction to the president's reported commitment to implement the special autonomy law and peacefully resolve the conflict. Under the Special Autonomy Law, the Papuan People's Council was to be established and consulted on major governmental decisions related to the province. Despite this, plans to divide the province progressed while the assembly was yet to be formed. A degree of development of the local economy, transport, and communications infrastructure has been achieved since Papua has come under Indonesian rule.

The Papuan People's Council (MRP) was finally established by the Indonesian government in October of 2005. The election process to the 42 member Council has been opposed by Papuan groups. Secretary of the Papuan Presidium Council Willy Mandowen reportedly stated that Papuans do not consider the new body to be representative of the Papuan People. Tom Beanal, Chair of the Papuan Customary Council, which represents numerous tribes, also opposed the legitimacy of the new body.<sup>60</sup> Beanal stated that officials of the Nationhood Unity Office chose pro-Indonesian leaders to represent constituencies without open elections. "There was no election, and suddenly an MPR [Peoples Council of Papua] member representing the area has been chosen."<sup>61</sup>

Election to the Papuan People's Council was not open to the public in Papua and was reportedly open only to "select groups chosen by the government" which also excluded the Catholic Church.<sup>62</sup> Officials of the Council Secretariat were also appointed by the governor of Papua rather than by the new council members.<sup>63</sup> Other reporting in the *Jakarta Post* was more positive on the formation of the new body.<sup>64</sup>

Rodd McGibbon's inquiry into Jakarta's relations with Papua, written for the East-West center, describes Papua's control under the strong "New Order" regime of former President Suharto, traces unilateral autonomy measures towards Papua during the reform period which followed, and also points to Indonesia's "back sliding" on promises made under the special autonomy law enacted during the reform period. His analysis posits a correlation between the level of power at the center relative to the fissiparous tendencies pulling at the Indonesian state. He also attributes the unilateral nature of the special autonomy law which emanated from Jakarta as a reason why the center was able to move away from its provisions. For this reason, he states, "autonomy arrangements that are not linked to a broad bargaining process

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<sup>59</sup> "Governor Wants to Split Papua into Five Provinces," *PACNEWS*, February 10, 2005.

<sup>60</sup> "Papuans 'Forming Own Assembly' to Counter Indonesian Body," *BBC News*, November 7, 2005.

<sup>61</sup> Nethy Dharma Somba, "MRP Members Election Opposed," *The Jakarta Post*, October 28, 2005.

<sup>62</sup> "New Papuan Peoples Council Sworn in," *PACNEWS*, November 2, 2005.

<sup>63</sup> Nethy Dharma Somba, "MRP Members Election Opposed," *The Jakarta Post*, October 28, 2005.

<sup>64</sup> Nethy Dharma Somba, "New Council Expected to Bring Justice to Papua," *The Jakarta Post*, November 2, 2005. Carmel Budiardjo, "Can Susilo be Taken at His Word on Papua," *The Jakarta Post*, August 22, 2005.

with separatist leaders and elements of civil society are unlikely to constitute a sustainable policy framework.”<sup>65</sup> The apparent success of the Aceh peace process may yield lessons for resolution of the Papua conflict.

**The Indonesian Military.** It has been reported that Indonesia has plans to deploy up to 15,000 additional troops to Papua over the period 2005-09. Others believe these estimates may be greatly exaggerated while some Indonesian government officials have described these reported troop build-ups as troop rotations that will not increase overall troop levels. The forces are thought to be part of a new division with its headquarters reportedly based at Sorong. Currently there are reportedly four battalions of troops in Papua with existing plans to deploy an additional three battalions. Brigadier General Hotma Ngaraja reportedly stated that the ideal number of troops for Papua would be nine battalions or one division.<sup>66</sup> The troops for the buildup are reportedly to be recruited from Kodams, Territorial Commands, in non-Melanesian parts of Indonesia. A local member of the Indonesia Regional Representatives Council (DPD), Ferdinanda Ibo Yatipay, has stated that the arrival of troops in Papua is making Papuans concerned.<sup>67</sup> There have been assertions by some human rights advocates that East Timor-style militias are being established in Papua.<sup>68</sup> Some believe that the military has been involved in illegal logging in Papua.<sup>69</sup>

There is increasing discussion in Indonesia of a more traditional or territorial defense-focused role for the military as opposed to a role focused on the domestic affairs of the nation. This is one justification for increased deployments to Papua. Army Chief General Djoko Santoso stated before the DPR’s Commission I, which handles security issues, that increasing threats to Indonesia from domestic and overseas elements were leading to the need to establish military battalions in border areas. The dispute between Indonesia and Malaysia over Ambalat and the maritime boundary which will determine who will be able to exploit undersea oil and gas resources there, is being cited by some Indonesian military officials as a reason why Indonesia needs to establish its presence on Pulau Mapia in Supiori District, Papua.<sup>70</sup>

**Papuan Resistance and Political Organization.** Conflict between Indonesian soldiers and pro-Papuan independence groups in the mid-1990s led to various violent incidents, many related to the raising of the Papuan flag. A short-lived dialogue between then Indonesian President Habibie and the Forum for

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<sup>65</sup> Rodd McGibbon, “Secessionist Challenges in Aceh and Papua: Is Special Autonomy the Solution? East-West Center Policy Study 10, 2004.

<sup>66</sup> “Indonesia Army to Boost Presence in Irian Jaya, *BBC News*, August 25, 2005.

<sup>67</sup> Nethy Dharma Somba, “Papuan Troop deployment Worries Locals DPD Member,” *The Jakarta Post*, August 2005.

<sup>68</sup> John Wing and Peter King, *Genocide in West Papua? The Role of the Indonesian State Apparatus and a current Needs Assessment of the Papuan People*, (Sydney: University of Sydney, August 2005), p.13.

<sup>69</sup> M. Kearney, “Military Turns its Sights on Papua,” *The Courier Mail*, August 27, 2005.

<sup>70</sup> “Indonesian Military to Open Post on Irian Jaya’s Pulau Mapia,” *BBC News*, May 30, 2005. “Indons to Build Up Papua Force,” *Hobart Mercury*, March 19, 2005.



Reconciliation of Irian Jaya Society followed in 1998. Following this, a Papuan Peoples Congress came together in May and June of 2000. This Congress led to the creation of the Papuan Presidium Council.<sup>71</sup> The Papuan Presidium Council (PDP) was elected by an estimated 25,000 Papuans representing 253 tribes in Jayapura on June 5, 2000. The PDP has sought to advance the cause of independence in a non-violent fashion. Despite this, its former Chairman, Theys Eluay, was killed on November 11, 2001. In April 2003, seven Indonesian Kopassus soldiers were convicted of killing Chairman Eluay. They received prison sentences of up to 42 months.<sup>72</sup> There is also a Papuan Traditional Council which is a pan-tribal council. In addition, more extreme groups such as the Organisasi Papua Merdeka (OPM) exist. It has been estimated that the OPM has 620 guerillas who are poorly armed with an assortment of an estimated 150 weapons ranging from modern M-16 rifles to old Mausers.<sup>73</sup> The Liberation Army of Free Papua is the OPM's military wing. "There are reports that some OPM groups have covert symbiotic relationships with TNI [Indonesian military] units."<sup>74</sup>

Papuan groups continue to oppose Indonesian control over Papua. The Free West Papua Movement, or Organisasi Papua Merdeka (OPM), emerged in opposition to Indonesian control over Papua. Many Papuans have a sense of identity that is different from the main Malay, and predominately Muslim, identity of the rest of the Indonesian archipelago, and many favor autonomy or independence from Indonesia.<sup>75</sup> In May 2005, the Papuan's People's Civil Rights Coalition reportedly protested the United Nation's 1969 decision to transfer control over Papua to Indonesia.<sup>76</sup> Coordinator of the Jayapura-based Institute for Human Rights Study and Advocacy (ELSHAM) John Rumbiak has reportedly stated that "The Government in Jakarta has allowed the military to prevail in Papua, to take the security approach which has denied ordinary people their rights and enriched military officers who are making big money for themselves through dealings with mining, logging and oil and gas interests."<sup>77</sup>

In addition to its goal of independence<sup>78</sup> the OPM has issued statements articulating more immediate goals which include the following:

- Withdrawal of Indonesian military forces from Papua,

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<sup>71</sup> Rodd McGibbon, *Secessionist Challenges in Aceh and Papua: Is Special Autonomy the Solution?* East-West Center, Policy Study 10, 2004.

<sup>72</sup> Council on Foreign Relations, *Indonesia Commission: Peace and Progress in Papua*, New York, 2003, p. 9.

<sup>73</sup> Bureau of Democracy, Human Rights, and Labor, Department of State, "Indonesia: Country Report on Human Rights Practices, 2004, February 28, 2005.

<sup>74</sup> Council on Foreign Relations, *Indonesia Commission: Peace and Progress in Papua*, New York, 2003, p. 66.

<sup>75</sup> "When Jacob Rumbiak was 11," *Port Philip Leader*, April 4, 2005.

<sup>76</sup> "Papuan Protestors Reject Integration," *Jakarta Post*, May 3, 2005.

<sup>77</sup> "A People Under the Jackboot," *The West Australian*, September 18, 2004.

<sup>78</sup> "Indonesia Risk," *The Economist Intelligence Unit*, September 22, 2005.

- Review the “Act of Free Choice,”
- Release all political prisoners without condition,
- Limit the number of transmigrants entering into Papua,
- Dismantle any militia or jihad networks in Papua.<sup>79</sup>

Other groups are also active in seeking to promote the rights of Papuans. In May 2005, the Papua People’s Civil Rights Coalition protested the U.N.’s decision to turn administrative control over to Indonesia and declared their rejection of the Act of Free Choice.<sup>80</sup> Flag raising continues to be an act of defiance that leads to clashes with Indonesian authorities as it did in Jayapura in May of 2005.<sup>81</sup> Police reportedly prohibit the flying of the Papuan Morning Star flag even though the Special Autonomy Law allows Papuans to fly a flag symbolizing Papuan cultural identity.<sup>82</sup> The Papua-based Institute for Human Rights Study and Advocacy has also been critical of the U.S. military-to-military ties with Indonesia.<sup>83</sup> In August 2005, 10,000 Papuans reportedly demonstrated at the Papua Provincial Assembly in Jayapura to demand a review of the Special Autonomy Law by the central government.<sup>84</sup> A pro-independence rally for Papua was held in Port Moresby, Papua New Guinea, to coincide with the Pacific Islands Forum meeting on October 27, 2005.<sup>85</sup> Papua activists called on the Pacific Islands Forum to take up Papua’s case and admit Papuans as observers to the Forum, but they were barred from the meeting.<sup>86</sup>

## Options and Implications for Congress

In a statement on the FY2006 Foreign Operations Conference report, Senator Leahy stated that the conference agreement requires a report on the status of the FBI investigation into the August 2002 attack as well as on the humanitarian and human rights situation in Papua. Senator Leahy also stated “... one West Papuan individual has been indicted in the U.S. ... and responsibility for this heinous crime does not stop there.”<sup>87</sup>

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<sup>79</sup> “OPM in Push for Indon Pullout,” *PNG Courier*, December 6, 2004.

<sup>80</sup> “Papuan Protesters Reject Integration,” *The Jakarta Post*, May 3, 2005.

<sup>81</sup> Indonesian Police, Demonstrators Clash in Papua Province,” *Oster Dow Jones*, May 10, 2005.

<sup>82</sup> Bureau of Democracy, Human Rights, and Labor, Department of State, “Indonesia: Country Report on Human Rights Practices, 2004, February 28, 2005.

<sup>83</sup> “Free West Papua,” *Australian Associated Press*, March 8, 2005.

<sup>84</sup> Nethy Dharma Somba, “Ten Thousand Papuans Criticize Special Autonomy Implementation,” *The Jakarta Post*, August 13, 2005.

<sup>85</sup> “Hundreds Rally in Papua New Guinea in Support of West Papua,” *BBC News*, October 27, 2005.

<sup>86</sup> “West Papuans Seek Support from Pacific Islands Forum,” *Australian Associated Press*, October 28, 2005.

<sup>87</sup> Statement of Senator Patrick Leahy on Fiscal Year 2006 Foreign Operations Conference Report, *States News Service*, November 10, 2005.

H.R. 3057 as enacted into P.L. 109-102 on November 14, 2005, did not include the language on Papua which was included in an earlier draft of the legislation. Language in sec. 1115 of the Foreign Relations Authorization, H.R. 2601, which passed the House and was placed on the calendar in the Senate (see below) also created concern in Indonesia. The text of the proposed legislation noted with grave concern human rights violations by the TNI “particularly in areas of communal and separatist conflict” and made a number of findings related to Papua and would, if passed, require reports on special autonomy for Papua and on the Act of Free Choice. Such proposed legislative language created much concern in Indonesia and was interpreted by many there as enacted law and U.S. policy. The conference report, H.Rept. 109-265, while noting that the Papua language proposed by the Senate (Sec. 6109) was not included in the conference agreement, does direct the Secretary of State to submit a report on Papua as required by the Senate provision. The following text is drawn from H.R. 3057 the Foreign Operations, Export Financing and Related Programs Appropriations Act, 2006 as enrolled as agreed to or passed by both the House and Senate, the earlier public print, which included section 6109, relevant language from the conference report, and Section 1115 of H.R. 2601 as placed on the calendar in the Senate. It should be noted that efforts to revisit the Act of Free Choice are viewed by many in Indonesia as a challenge to their sovereignty over Papua and are thus viewed as a provocative intrusion by the United States into what they view as an internal domestic issue.

Some analysts and practitioners would argue that America’s policy toward Papua should be balanced against larger policy concerns related to Indonesia such as the need to support Indonesia’s emerging democracy and the need to continue to cultivate Indonesia as a partner in the war against terror in Southeast Asia and for other geopolitical considerations. Others would argue that the United States must do all it can to curb human rights abuses by the Indonesian military, while others would argue that these two approaches can be blended.

## Appendix. Related Legislation

*H.R. 3057, the Foreign Operations, Export Financing and Related Programs Appropriations Act, 2006 as Enrolled as agreed to or passed by both the House and Senate.*

### INDONESIA

1. SEC. 599F. (a) Funds appropriated by this Act under the heading 'Foreign Military Financing Program' may be made available for assistance for Indonesia, and licenses may be issued for the export of lethal defense articles for the Indonesian Armed Forces, only if the Secretary of State certifies to the appropriate congressional committees that —
  - (1) the Indonesian Government is prosecuting and punishing, in a manner proportional to the crime, members of the Armed Forces who have been credibly alleged to have committed gross violations of human rights;
  - (2) at the direction of the President of Indonesia, the Armed Forces are cooperating with civilian judicial authorities and with international efforts to resolve cases of gross violations of human rights in East Timor and elsewhere; and
  - (3) at the direction of the President of Indonesia, the Government of Indonesia is implementing reforms to improve civilian control of the military.
- (b) The Secretary of State may waive subsection (a) if the Secretary determines and reports to the Committees on Appropriations that to do so is in the national security interests of the United States.

### REPORT ON INDONESIAN COOPERATION

SEC. 599G. Not later than 90 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations that describes

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- (1) the status of the investigation of the murders of two United States citizens and one Indonesian citizen that occurred on August 31, 2002 in Timika, Indonesia, the status of any individuals indicted within the United States or Indonesia for crimes relating to those murders, and the status of judicial proceedings relating to those murders;
  - (2) the efforts by the Government of Indonesia to arrest individuals indicted for crimes relating to those murders and any other actions taken by the Government of Indonesia, including the Indonesian judiciary, police and Armed Forces, to bring the individuals responsible for those murders to justice; and
  - (3) the cooperation provided by the Government of Indonesia, including the Indonesian judiciary, police and Armed Forces, to requests related to those murders made by the Secretary of State or the Director of the Federal Bureau of Investigation.

**H.R. 3057 Public Print from July 2005.** [This section was not included in the Act though it is referenced in the conference report, see below.]

**WEST PAPUA REPORT**

1. *SEC. 6109. Not later than 90 days after enactment of this Act, the Secretary of State shall submit a report to the Committee on Appropriations, describing —*
  - (1) *the approximate number of Indonesian troops in West Papua including trends in the number and deployment of security forces, the approximate number of armed separatists, and progress toward a political settlement of the conflict there including initiatives from Papuan civil society such as the ‘land of peace’ proposal;*
  - (2) *current humanitarian and human rights conditions in West Papua, including access for international and domestic humanitarian and human rights groups and the media;*
  - (3) *the extent to which international funding for reconstruction in Aceh is being contracted or subcontracted to firms controlled by or affiliated with the Indonesian military, and the involvement of Acehnese local and provincial government and civil society in planning and decision-making in reconstruction efforts;*
  - (4) *human rights conditions in Aceh, the approximate number of Indonesian troops in Aceh including trends in the number and deployment of security forces, and efforts by the United States Government to promote a political settlement of the conflict; and*
  - (5) *activities of militia, including jihadist-oriented militia, and the extent to which members of Indonesia’s security forces support these militia.*

**Conference Report, H.Rept. 109-265 language**

The conference agreement does not include a provision proposed by the Senate (section 6109) regarding a ‘West Papua Report’ requiring the Secretary of State to submit a report regarding Indonesian troops, and current humanitarian and human rights conditions, in the Papua region of Indonesia. The House did not address this matter. The conferees direct the Secretary of State to submit, within 90 days of enactment of the Act, the report required by the Senate provision.

**H.R. 2601 (Foreign Relations Authorization, FY2006-FY2007 as passed by the House and placed on calendar in the Senate):**

**SEC. 1115. DEVELOPMENTS IN AND POLICY TOWARD INDONESIA.**

1. (a) Statement of Congress Relating to Recent Developments, Human Rights, and Reform- Congress —
  - (1) recognizes the remarkable progress in democratization and decentralization made by Indonesia in recent years and commends the people of Indonesia on the pace and scale of those continuing reforms;
  - (2) reaffirms —
    - (A) its deep condolences to the people of Indonesia for the profound losses inflicted by the December 26, 2004, earthquake and tsunami; and

- (B) its commitment to generous United States support for relief and long term reconstruction efforts in affected areas;
- (3) expresses its hope that in the aftermath of the tsunami tragedy the Government of Indonesia and other parties will succeed in reaching and implementing a peaceful, negotiated settlement of the long-standing conflict in Aceh;
- (4) commends the Government of Indonesia for allowing broad international access to Aceh after the December 2004 tsunami, and urges that international nongovernmental organizations and media be allowed unfettered access throughout Indonesia, including in Papua and Aceh;
- (5) notes with grave concern that —
- (A) reform of the Indonesian security forces has not kept pace with democratic political reform, and that the Indonesian military is subject to inadequate civilian control and oversight, lacks budgetary transparency, and continues to emphasize an internal security role within Indonesia;
- (B) members of the Indonesian security forces continue to commit many serious human rights violations, including killings, torture, rape, and arbitrary detention, particularly in areas of communal and separatist conflict; and
- (C) the Government of Indonesia largely fails to hold soldiers and police accountable for extrajudicial killings and other serious human rights abuses, both past and present, including atrocities committed in East Timor prior to its independence from Indonesia;
- (6) condemns the intimidation and harassment of human rights and civil society organizations by members of the Indonesian security forces and military-backed militia groups, and urges a complete investigation of the fatal poisoning of prominent human rights activist Munir in September 2004; and
- (7) urges the Government of Indonesia and the Indonesian military to continue to provide full, active, and unfettered cooperation to the Federal Bureau of Investigation of the Department of Justice in its investigation of the August 31, 2002, attack near Timika, Papua, which killed three people (including two Americans, Rick Spier and Ted Burgon) and injured 12 others, and to pursue the indictment, apprehension, and prosecution of all parties responsible for that attack.
- (b) Findings Relating to Papua- Congress finds the following:
- (1) Papua, a resource-rich province whose indigenous inhabitants are predominantly Melanesian, was formerly a colony of the Netherlands.
- (2) While Indonesia has claimed Papua as part of its territory since its independence in the late 1940s, Papua remained under Dutch administrative control until 1962.
- (3) On August 15, 1962, Indonesia and the Netherlands signed an agreement at the United Nations in New York (commonly referred to as the 'New York Agreement') which transferred administration of Papua first to a United Nations Temporary Executive Authority (UNTEA), and then to Indonesia in 1963, pending an 'act of free choice . . . to permit the inhabitants to decide whether they wish to remain with Indonesia'.

(4) In the New York Agreement, Indonesia formally recognized 'the eligibility of all adults [in Papua] . . . to participate in [an] act of self-determination to be carried out in accordance with international practice', and pledged 'to give the people of the territory the opportunity to exercise freedom of choice . . . before the end of 1969'.

(5) In July and August 1969, Indonesia conducted an 'Act of Free Choice', in which 1,025 selected Papuan elders voted unanimously to join Indonesia, in circumstances that were subject to both overt and covert forms of manipulation.

(6) In the intervening years, indigenous Papuans have suffered extensive human rights abuses, natural resource exploitation, environmental degradation, and commercial dominance by immigrant communities, and some individuals and groups estimate that more than 100,000 Papuans have been killed during Indonesian rule, primarily during the Sukarno and Suharto administrations.

(7) While the United States supports the territorial integrity of Indonesia, Indonesia's historical reliance on force for the maintenance of control has been counterproductive, and long-standing abuses by security forces have galvanized independence sentiments among many Papuans.

(8) While the Indonesian parliament passed a Special Autonomy Law for Papua in October 2001 that was intended to allocate greater revenue and decision making authority to the Papuan provincial government, the promise of special autonomy has not been effectively realized and has been undermined in its implementation, such as by conflicting legal directives further subdividing the province in apparent contravention of the law and without the consent of appropriate provincial authorities.

(9) Rather than demilitarizing its approach, Indonesia has reportedly sent thousands of additional troops to Papua, and military operations in the central highlands since the fall of 2004 have displaced thousands of civilians into very vulnerable circumstances, contributing further to mistrust of the central government by many indigenous Papuans.

(10) According to the 2004 Annual Country Report on Human Rights Practices of the Department of State, in Indonesia 'security force members murdered, tortured, raped, beat, and arbitrarily detained civilians and members of separatist movements' and 'police frequently and arbitrarily detained persons without warrants, charges, or court proceedings' in Papua.

(c) Reporting Requirements-

(1) REPORT ON SPECIAL AUTONOMY- Not later than 180 days after the date of the enactment of this Act and one year thereafter, the Secretary of State shall submit to the appropriate congressional committees a report detailing implementation of special autonomy for Papua and Aceh. Such reports shall include —

(A) an assessment of the extent to which each province has enjoyed an increase in revenue allocations and decision making authority;

(B) a description of access by international press and non-governmental organizations to each province;

(C) an assessment of the role played by local civil society in governance and decision making;

(D) a description of force levels and conduct of Indonesian security forces in each province; and

(E) a description of United States efforts to promote respect for human rights in each province.

(2) **REPORT ON THE 1969 ACT OF FREE CHOICE**- Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report analyzing the 1969 Act of Free Choice.