

DRAFT

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INDONESIA:
CHARGES AND REBUTTALS OVER LABOR RIGHTS PRACTICES
Analysis of Submissions to the U.S. Trade Representative

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I. INTRODUCTION

In June 1992, Asia Watch and the International Labor Rights Education and Research Fund (ILRERF), a non-governmental organization based in Washington, petitioned the United States Trade Representative, Carla Hills to review Indonesian labor rights practices. Under U.S. law,¹ the President, at the recommendation of the Trade Representative, can end tariff benefits to a U.S. trading partner under a program known as the General System of Preferences (GSP), if the country in question is violating labor rights and making no progress to end those violations. The rights in question include freedom of association, the right to organize and bargain collectively, the ban on any form of forced labor, a minimum age for the employment of children and acceptable conditions of work.

The Office of the Trade Representative agreed to review the Indonesian case, and a hearing before the GSP Subcommittee of that office was held on October 16 at which both Asia Watch and ILRERF testified. On November 16, the Indonesian government submitted a 170-page response to both petitions, drawn up by the law firm White and Case, with over 100 attachments. Both petitioners were given a chance to respond, and in December, an Indonesian delegation led by Dr. Payaman Simanjuntak of the Ministry of Manpower met in Washington with the GSP Subcommittee and representatives of Asia Watch and ILRERF. A decision by the Trade Representative's office will be announced in April 1993. If GSP benefits are cut as a result, the annual cost to Indonesia of the rise in tariffs on Indonesian exports coming into the U.S. will be about \$400 million.

This report summarizes the major allegations made by Asia Watch in its original petition to the U.S. Trade Representative and in subsequent materials submitted, and the Indonesian rebuttal. Asia Watch, as an organization concerned with the defense of civil and political rights, focused on restrictions of freedom of association and evidence of forced labor, rather than working conditions, including wages and safety, per se. It believes, however, that securing the right of workers to organize is a key step toward the improvement of working conditions in Indonesia.

II. SUMMARY OF CHARGES AND REBUTTALS

The main Asia Watch (AW) charges and Indonesian government (GOI) rebuttals can be summarized as follows:

AW: Indonesia restricts the right to freedom of association by allowing only one government-controlled trade union, the Serikat Perburuhan Seluruh Indonesia (SPSI). While other unions are in theory permitted, requirements to obtain legal recognition are so onerous as to make recognition impossible. Those attempting to form independent unions have been harassed.

GOI: SPSI was formed by and for workers without government interference. It is not the only legally recognized union; the Indonesian Teachers Association (PGRI) was recognized in April 1990. A new Ministry of Manpower, now in draft, will substantially ease requirements for obtaining recognition. Many other organizations effectively function as unions, even without recognition, such as the civil servants organizations, KORPRI. There has been no government attempt to hinder the formation of new

¹ Section 502(b)(8) of the Trade Act (CHECK)

unions.

AW: The right to bargain collectively is restricted by the lack of independent unions, controls on the right to strike, and military interference. Management often only agrees to negotiate if workers make a credible threat to disrupt production by work stoppages or strikes. SPSI units at the workplace, where they exist, often side with the company. The presence of soldiers and police during negotiations between workers and management serves as form of intimidation and robs the process of any meaning.

GOI: The Ministry of Manpower vigorously promotes collective bargaining, but such bargaining is consultative, not confrontational as in the West. SPSI workplace units have been effective in negotiating collective bargaining agreements. Strikes are permitted; they are only declared illegal when established procedures are violated. The petitioners fail to understand the dual political/military role of the Indonesian armed forces and the role of the army in protecting against internal disturbances. The threat of communist insurgency through labor disputes is a serious national security problem, not merely a labor problem.

AW: The Indonesian government has engaged in forced labor by luring East Timorese laborers to Java on false pretenses, paying them substandard wages and forcing them to undergo military training. Logging companies, with some government involvement, have effectively created a system of bonded, unpaid labor in the Asmat area of Irian Jaya.

GOI: Indonesia is bound by the ILO Convention No.29 Concerning Forced Labor. Allegations about East Timorese workers were based on inadequate, inaccurate and untrue information. The workers volunteered for the positions, were paid the minimum wage and were provided with transportation to return to East Timor if they chose. KOPASSUS forces assisted with physical training; although it may contain military elements, it is not "military training." The government has no record of officials in Irian Jaya cooperating with timber companies to compel Asmat tribespeople to cut down trees.

III. FREEDOM OF ASSOCIATION

SPSI and Government Control

SPSI remains the only legally recognized trade union which claims to negotiate with employers on behalf of workers, the recognition of the Indonesian Teachers Association (PGRI) notwithstanding. In the 1991 Country Reports on Human Rights Practices, the State Department noted, "The Government and employers have considerable influence over SPSI affairs; a retired military lieutenant colonel and GOLKAR district chairman with some prior union experience is chairman of the largest provincial branch of SPSI, primarily due to government backing. The Minister of Manpower is a member of the SPSI Consultative Council. SPSI officials are pressured to join GOLKAR and GOLKAR members dominate the SPSI leadership."²

The Indonesian government states that SPSI has a total membership of 1,016,562 workers organized into 10,000 workplace units (PUK SPSI). This represents less than six percent of the workforce. The greatest obstacles to forming more units, the government asserts, are "lack of worker

² *Country Reports on Human Rights Practices for 1991*, U.S. Department of State, February 1992, p.870.

familiarity with trade union practices, employer resistance, employee apathy and employee fear of possible employer retaliation."³

But in those units which do exist, SPSI often fails to represent worker interests. In May 1992, for example, an agreement was reached by the district head of Bekasi (outside Jakarta), the district leader of SPSI and the local head of the employers association, APINDO, to ban all strikes in Bekasi until the session of the People's Consultative Assembly (MPR) to elect the President was concluded in March 1993. There was no consultation with workers about this 10-month ban on strikes, as the number of strikes in Bekasi after May amply indicates. The Indonesian government, however, maintains that, "Rather than harming the workers by agreeing not to strike, the SPSI supported the desire of the workers and worked to improve their welfare...The majority of the workers, after experiencing the disruption of frequent strikes in the region, sought this agreement as an alternative means to address their demands...The tripartite agreement thus represents a carefully considered decision on the part of workers to enter an agreement to settle labor disputes peacefully through negotiation and thereby avoid potentially harmful strikes and lock-outs."⁴ There is no indication of how this decision of the "majority" was reached or "the desire of workers" ascertained.

It is true that in many of the strikes called over the past year in West Java, workers have demanded that an SPSI unit be set up in their plant. But it is also clear that the main reason workers without an SPSI unit demand to have one is because it is the only way they feel they can get their grievances addressed by management. Ad-hoc negotiating groups formed by workers in the aftermath of wildcat strikes are not taken seriously by management, and agreements reached by such groups are often ignored. But when SPSI units do exist, workers often demand that it be dissolved for failing to protect their interests.

In its original petition, Asia Watch cited the case of the PT Star Ankasa metal factory in Surabaya, where in 1991, workers had protested mandatory payment of SPSI dues and asked for the SPSI unit to be dissolved on the ground that it did not defend their interests. The Indonesian government called the case material presented "at best incomplete and at worst inaccurate." According to the government's account of the same strike,

On July 16, 1991, the workers went on strike to demand an increase in wages and to be informed about the terms of their collective bargaining agreement. In response to the strike, the company negotiated with representatives of the company SPSI unit and agreed to institute a pay raise in March 1992 when the new minimum wage provisions went into effect.

The following day, the workers went on strike again to demand the replacement of the executive board of SPSI in the company. The workers were unhappy with the board because they believed it did not accurately present the union's financial report and did not fight for improvement in the workers' welfare. Contrary to the petitioners' allegations, the workers did not request that

³ Indonesian statement, p.71

⁴ Indonesian Statement, p.44 and p.83

the SPSI be dissolved or request any money to be returned. Rather, they were unhappy with the executive board...Their demands did not include objections to the payment of SPSI dues.⁵

Requirements for Registration

The current requirements for legal recognition as a union are that the organization in question have representation in 20 of Indonesia's 27 provinces⁶, 100 districts and at least 1,000 workplaces.⁷ A new draft regulation, which surfaced for the first time in response to the GSP petitions, would reduce that requirement to five provinces, with at least 25 district-level branches, 100 workplace unions and 10,000 members. If the new regulation were to be adopted and impartially implemented, it would be an improvement on a draconian law, but would still constitute an unnecessarily strict control on the labor movement.

Setiakawan and SBSI

Two independent unions have emerged in the last two years, Setiakawan (Solidarity) and the Worker's Union for a Prosperous Indonesia (SBSI). "In recognition of the right to organize and associate, the Government did not take any action in connection with the establishment" of either organization, and both are free to apply for recognition as a union, according to the Indonesian government's November 16 statement to the GSP Subcommittee. In fact, while it is true that neither was outlawed, both organizations have faced harassment and surveillance since they were founded, Setiakawan in 1990, SBSI in 1992. The nature of the harassment would virtually preclude either organization being able to hold the meetings that might result in the recruitment of the necessary number of members for recognition.

The Indonesian government now claims, citing a October 7, 1992 statement from the Setiakawan Management Council, that Setiakawan was not attempting to become a union and considered itself an educational organization. But this may reflect a response to government pressure. In July 1991, the Secretary General of Setiakawan, was abducted by armed men believed to be members of military intelligence, and held for three days. The abduction followed a series of training meetings for workers that Setiakawan had held under the watchful eye of security forces. A year later, on July 6, 1992, workers at the PT Astari Niaga plant in Tangerang went on strike, demanding a wage increase retroactive to April. On July 7, the head of the SPSI unit and the company announced a settlement, but the workers rejected it, saying there had been no consultation with them beforehand and SPSI had never attempted to gather them together to explain the agreement. When the workers refused to settle, the company called in the police, who investigated one of the workers and accused him of being manipulated by Setiakawan.⁸ It is not known what happened to the worker.

⁵ *Statement of the Government of Indonesia before the Office of United States Trade Representative, Trade Policy Staff Committee, Generalized System of Preferences Subcommittee*, November 16, 1992, p.46.

⁶ Indonesia forcibly annexed East Timor as its 27th province in July 1976; that annexation has not been recognized by the United Nations and was illegal under international law.

⁷ Regulation PER-05/MEN/87 on Worker Union Registration.

⁸ *Kompas*, July 8, 1992.

The SBSI has fared little better. On October 28, 1992, police in Tangerang, West Java, broke up a meeting in which nine members of SBSI, headed by their General Chairman, Mochtar Pakpahan, were discussing how to open a branch office in Tangerang. Greg Talcott, the U.S. embassy's labor attache, was present as an observer. All ten men were taken to the Tangerang police station; Talcott was released after an hour. The others were interrogated overnight and released the following morning.

On October 29, at about 10 p.m., Mochtar Pakpahan was picked up at his home by Sergeant Peter Sihotang of the military intelligence agency BAIS and taken to an unknown destination on the outskirts of Jakarta where he was interrogated for four hours by Colonel Dadang Supriadi in the presence of three other BAIS officers before being taken back to his house at about 4 a.m. on October 30.

Pakpahan was questioned about what information he provided Talcott and what assistance Talcott had given him. He was also questioned about why he decided to establish SBSI, since the SPSI was already in place; what funds he had obtained; and from whom. He was told by Colonel Supriadi that SBSI was an illegal organization and that the SBSI bulletin that it had produced was subversive in content.⁹

When asked whether the police break-up of the SBSI meeting did not suggest a violation of the freedoms of assembly and association, Dr. Payaman Simanjuntak of the Manpower Ministry said in December 1992 that the SBSI members had violated Article 510 of the Criminal Code, banning public gatherings without a permit. The meeting, however, was not public, and to require government permits for private meetings is in itself a major violation of the right to freedom of assembly. One wonders whether the SPSI, the government union, obtains a permit for every meeting of its governing council.

The Indonesian Teachers Association and Other Professional Organizations

The Indonesian government claims that the Indonesian Teachers Association is a legally registered union with completely voluntary membership and functions to "protect the rights and welfare of teachers."¹⁰ The State Department in its 1991 report noted that PGRI "has not...attempted to bargain over wages and working conditions, preferring its traditional role of working with the Government to pursue the interests of its members. Some PGRI officials are employees of the Ministry of Education."¹¹ The Indonesian government refutes that assertion, saying PGRI has represented teachers in negotiations for increased salaries, promotions and pension benefits. "Neither PGRI nor the Government has to negotiate using Western methods in order to comply with the ILO Convention or retain GSP benefits."¹²

But not only has PGRI not functioned as a union -- its leaders have actually forced teachers into

⁹ Asia Watch provided the details on the SBSI incident to the U.S. Trade Representative on December 1, too late to be included in the material sent to the Indonesian government for a response.

¹⁰ Indonesian Statement, p.50

¹¹ page reference, country reports

¹² Indonesian Statement, p.55

actions which are detrimental to their interests. In January 1992, the head of the PGRI branch in Yogyakarta, Sawal Hardjoprijitno, said that a deduction should be taken from teacher salaries to contribute to the success of GOLKAR in the 1992 election campaign. He told a reporter that teachers were at once members of KORPRI, the civil servants association, and GOLKAR, and that they should take an active role in seeing their organization succeed.¹³

The Indonesian government asserts that a number of other state-sponsored professional associations are "quasi-unions" and are in the process of increasing their memberships to apply for formal recognition as unions. These include KORPRI; the Indonesian Journalists Association (PWI); the Indonesian Seamen's Union (KPI); and the Indonesian Workers' Cooperative Alliance (INKOPAR).

It is particularly inappropriate to call KORPRI a trade union. In August 1991, almost a year before the national parliamentary elections took place, members of KORPRI in the Javanese district of Purworejo were complaining that they were being forced to pay "tactical dues" at the neighborhood, village, subdistrict and district level in order to build a campaign chest for GOLKAR. All members of KORPRI were also members of GOLKAR, according to the district secretary who was also head of the Purworejo KORPRI unit.¹⁴ Likewise on June 2, 1992, the head of the KORPRI unit at Gajah Mada University in Yogyakarta sent around a letter urging all members to vote for GOLKAR.

If Indonesia were a country in which free and fair elections took place, the fact that an organization claiming to be a union campaigned for a particular political party would not be remarkable. In a country where elections are manifestly not free or fair, and the party in question represents the government, pressure to support that party takes on a much different coloring. If KORPRI is a "quasi-union", the interests of labor and management are difficult to distinguish.

Not even the Indonesian government takes seriously the notion of any non-SPSI organization functioning as a union. In a letter dated October 5, 1989 from the Indonesian embassy in Washington to Foreign Minister Ali Alatas regarding the GSP petition of the AFL-CIO that year, the ambassador says, "Our lawyers asked our help in several matters on which we need confirmation from the government, as we have already conveyed to you by telephone. Among these matters is the notion that SPSI is not the only labor union in Indonesia but one of 21 professional associations on the attached list which have been permitted to operate. In case SPSI has objections, we suggest that, for foreign consumption, the letter to the U.S. Trade Representative be approved, without sacrificing the government's domestic policy."¹⁵

¹³ "Untuk Dana Pemilu, Wajar, Gaji Guru Dipotong", *Bernas*, January 23, 1992, p.1.

¹⁴ "Dikeluhkan, Pungutan untuk Pemilu", *Bernas*, August 7, 1991. In fact, members of KORPRI are not legally obligated to be GOLKAR members; the pressure to join GOLKAR, however, can be intense.

¹⁵ Letter from Ambassador Abdul Rachman Ramly to Foreign Minister Ali Alatas, 5 October 1989, No.132-DB-1989. The Indonesian text reads: "Dalam kaitannya dengan konsep surat kami diatas, pihak pengacara kita meminta bantuan kami beberapa hal yang perlu mendapat konfirmasi dari Pemerintah RI seperti yang telah kami sampaikan kepada Bapak Menteri per telepon antara lain bahwa SPSI bukan satu-satunya Serikat Pekerja di Indonesia namun masih ada sekitar 21 serikat pekerja profesional yang diizinkan di Indonesia sebagaimana daftar terlampir. Sekiranya pihak SPSI berkeberatan, kami sarankan kiranya untuk konsumsi luar negeri khusus mengenai surat kepada USTR tersebut dapat disetujui, tanpa mengorbankan kebijaksanaan pemerintah di dalam negeri."

But the government goes further and maintains not only the unions but all social organizations as defined by Law No.8/1985 can function as unions:

The difference between unions and social organizations or other associations that perform union functions is that only unions registered with the Ministry of Manpower may negotiate collective bargaining agreements. In practice, however, this distinction is without a difference because a social organization can negotiate agreements concerning working conditions...Further, these associations function like unions in other ways: all can recruit workers and all represent workers and negotiate on behalf of workers concerning working conditions.¹⁶

Human rights activists and non-governmental organizations in Indonesia saw Law No.8/1985 at the time it was passed as an effort to further restrict freedom of association by forcing yet another category of organizations to register with the government and pledge adherence to the state philosophy, Pancasila. The government's failure to see any real difference between unions and other professional and mass membership organizations in Indonesia underscores how lacking in independence the "unions" really are.

IV. RIGHT TO BARGAIN COLLECTIVELY AND STRIKE

The right of workers to organize themselves to bargain collectively with their employers about wages, benefits and working conditions is the essence of trade union activity, and it is a right the Indonesian government formally recognizes. According to the Indonesian government, workers are to be represented by officers of the trade union, and the company by senior officers; if they are unable to resolve a dispute on their own, they may request the Ministry of Manpower to appoint a "conciliator" or submit the dispute to a Tripartite Regional Committee, usually referred to by its Indonesian acronym of "P4D" consisting of five people each from "labor unions, employer groups and representatives from government agencies."¹⁷ Given the level of unionization, these provisions, even if they guaranteed an impartial process which they do not, would affect only a tiny minority of workers. Among the existing SPSI units, only half have produced collective bargaining agreements, and the extent to which union negotiators actually represented worker demands must be questioned.

The Indonesian government also notes, however, that there is provision in Indonesian law that if a company with at least 25 employees has no union, a delegation of workers may be appointed to negotiate a "company regulation" with the employer about conditions of employment and rules of conduct. The Indonesian government maintains that these "company regulations" are basically the same as collective bargaining agreements. But without genuine freedom of association, there are no checks on who represents the workers, the extent to which a real bargaining process takes place or how well the agreement is implemented. In many of the labor disputes that took place in the Tangerang and Bekasi areas in 1992, workers were reluctant to come forward to negotiate because they feared being fired after

¹⁶ Indonesian Statement, p.36

¹⁷ Indonesian Statement, p.64. The disputing parties can also submit the dispute to binding arbitration, according to Indonesian law, but this almost never happens.

publicity about the dispute died down.

On October 14, 1992, a strike involving 5,000 workers took place at six factories belonging to the Yasinta group of textile manufacturers, demanding increases in wages and benefits. The workers claimed they had conveyed their demands three times to their SPSI unit, but that unit was on the side of the factory. When police and military forces were called in, reportedly because the workers were blocking traffic, they and the company urged the strikers to send representatives to negotiate a settlement. No worker would go, because all feared retaliation. The fear was based in part on the fact that after 70 workers had gone on strike earlier on September 29, four of them had been fired. The next day, the workers marched to the district parliament to seek its help. A parliamentarian persuaded them to send representatives to the local office of the Ministry of Manpower to negotiate with the company.¹⁸

The fear felt by the Yasinta workers is a direct consequence of lack of freedom of association; workers are all too well aware of the consequences of challenging the established order. If the SPSI units are often unrepresentative of workers when the boards of these units are ostensibly "democratically elected", the worker committees chosen to negotiate "company regulations" must be even less so, as no such claim is made.

Strikes

Precisely because existing procedures for resolving labor disputes do not for the most part allow for a real expression of worker demands, many workers have resorted to strikes and work stoppages to draw attention to their grievances, particularly in West Java and the industrial area around Jakarta. These are wildcat strikes. While the Indonesia does have a law governing the right to strike, it requires that workers attempt to negotiate first, by the same procedures which effectively block their interests from being heard. A new draft law outlines a procedure so cumbersome and detailed that workers would have to specify exactly what slogans they would put on signs they carried.

The Indonesian government maintains that the spectacular rise in wildcat strikes from 20 in 1989 to over 156 in the first 10 months of 1992 is due to its own enforcement of minimum wage laws and increased awareness by workers of their rights, thus implying that frequency of strikes is a sign that the labor rights situation is improving.¹⁹

It is hard to see how the strikes could reflect better enforcement of minimum wage laws since most of the strikes are over failure of companies to pay the minimum wage. Increased awareness of rights is probably a factor, but the main reason is probably desperation.

In one case, women workers at a Tangerang-based electronics factory called PT Automen, owned by South Koreans, went on strike in September 1992. They said they were forced to work 11 hours sitting down with a one-hour break and no overtime. They complained of physical side-effects from the work and also of sexual harassment on the part of the Korean managers. There was no SPSI unit allowed in the factory, because the Korean owner said he knew from the Korean experience that if unionization was

¹⁸ *Kompas*, October 16, 1992; *Media Indonesia*, October 15, 1992.

¹⁹ Indonesian Statement, p.83.

allowed, workers demands would escalate. When the women finally went on strike, the Tangerang office of the Manpower Ministry said it was not aware of any problem. Plants are supposed to be regularly visited by inspectors from the Ministry to ensure they meet Ministry regulations, but no inspector had visited since the factory opened two years before, even though there has been a history of problems with South Korean-owned firms. After the case was publicized, the local Ministry office said it would send an inspector to the plant.²⁰

Military Interference in Negotiations

The Indonesian government says, "When strikes occur, the workers are usually successful in obtaining their demands."²¹ It is true that it is often only these strikes which force employers to the bargaining table, and in many case, the workers come away with a promise of increased wages. There have been several instances of subsequent strikes because the company in question failed to live up to the agreement. More worrisome, however, is the fact that the Indonesian military often interferes with strikes and oversees the negotiations.

The Indonesian government acknowledges military involvement but says that the claims of Asia Watch and ILRERF as to the extent of that involvement are inaccurate. It first notes that the military's presence is to "protect public safety and prevent destruction of property or civil unrest" and that its involvement is justified by Law No.5/1967 on internal security. "One of the military's roles with respect to strikes," according to the government, "is to determine if there are any outside forces at work...One possible inroad for communist subversion is through worker unrest. The Government especially fears that the communist ideology might be attractive to young people who did not live through the national distress of the 1960's, and many of those young people can best be reached on the job through labor disputes."²² Asia Watch notes that there has been no serious political threat from communism since the Indonesian army encouraged a pogrom against suspected supporters of the Indonesian Communist Party in 1965-67 in which an estimated 500,000 people were killed and over one million arrested.

In gathering information to respond to the cases raised by Asia Watch and ILRERF, the Ministry of Manpower relied on information from companies and documents relating to the negotiations. In virtually all cases where Asia Watch cited specific arrests or detentions by the military, confirmation could only have come from the military. The Manpower Ministry, however, was apparently either unwilling or unable to interview military sources in preparing its response. Indeed, in many of the cases, it appears as though neither the company concerned nor the Ministry of Manpower had any ability to influence the nature or extent of military involvement.

Two Accounts of the Same Strike: The Case of PT Gajah Tunggal

Asia Watch and ILRERF both cited several examples of military interference in labor disputes. The Indonesian government responded to each of these cases in detail. One of these cases was the

²⁰ Jayakarta, September 10 and 26, 1992.

²¹ Indonesian Statement, p.2.

²² Indonesian Statement, pp.87-89.

massive dispute in August 1991 at PT Gajah Tunggal, a conglomerate consisting of 14 factories in Tangerang making everything from tires to fanbelts to sports shoes and involving some 14,000 workers. A comparison of specific points in the Asia Watch (AW) and Government of Indonesia (GOI) versions of the Gajah Tunggal strike is instructive. In some cases, the Indonesian version provides helpful additional details. The most interesting differences, however, are those in which both accounts agree on the facts and differ in the interpretation.

AW: Workers went on strike after an announcement on July 30, 1991 that the wages of workers employed less than three years would be adjusted upwards to meet the minimum wage standard, but those employed for more than three years would not receive raises. They demanded the minimum wage, insurance and paid vacation leave; they also demanded that the SPSI unit be dissolved, as they believed it was being used as a tool to control the workers.

GOI: Workers who were already earning above the minimum wage initiated the strike after new employees who were earning 10 percent below the minimum had their wages adjusted upward. The long-term employees demanded the same percentage increase. Workers said they no longer wanted to be represented by the SPSI unit which represented the entire conglomerate, but asked for a separate unit to be set up in each of the 14 factories.

AW: On the morning of August 1, after workers on the night shift in one of the factories had refused to work, truckloads of troops from the subdistrict military command (KORAMIL) were called in. The soldiers in combat gear fired plastic bullets into the air and ordered the workers to choose their representatives then and there to negotiate with the Gajah Tunggal directors. Workers refused on the grounds that anyone they chose would be fired. Management produced a letter that no one would be dismissed, witnessed by the Ministry of Manpower, SPSI and members of the police.

GOI: By 10:00 a.m., thousands of workers were gathered inside and outside the fences of the complex. The workers became disruptive and began to destroy property.

Because of the size and uncontrolled nature of the protest, the company notified the local office of the Ministry of Manpower, as required by law, and also notified the local police.

At about 10:15 a.m., members of the Indonesian military (KORAMIL Battalion 203) arrived at the strike. Contrary to Petitioners' allegations, these soldiers were not dressed in combat gear but were equipped with standard riot control gear including crowd control sticks and guns loaded with plastic bullets. In order to stop the destruction of property and control the large crowd, two or three soldiers fired warning shots into the air.

At this point, the workers began shouting that they wanted to meet with the management of the company...The head of the local SPSI asked the workers to choose representatives to negotiate with management. Fearing that their representatives would be penalized, the workers demanded that management sign an agreement promising not to take any action against the representatives. The management signed the agreement, which was then acknowledged by the

Department of Manpower, SPSI, APINDO (local office of the employers' association) and an officer from KODIM [district military command].²³

AW: Negotiations began at 3 p.m., with one worker representing each factory in the complex and with the police, the district military command and the subdistrict military command in attendance. The police commander reportedly threatened the workers that if they continued to strike, they would be charged with subversion. An agreement was announced at 6 p.m.

GOI: Negotiations began in utter confusion, because instead of 140 worker representatives, about 400 were present.

As Petitioners note, all parties who were present at the strike also attended the negotiation. This included members of the police, the district military command and the subdistrict military command. Contrary to the Petitioners' allegations, however, these parties were present at the negotiations only to provide constructive comments and to observe...Petitioners' allegation that a police commander threatened to charge the workers with subversion if they continued to strike is completely false...By 9 p.m., the company had agreed to all the workers' demands related to the company regulations.²⁴

AW: The agreement fell short of the original demands and the strike continued. The worker representatives were called in by the security forces and government representatives and interrogated about how they had conveyed the agreement to their colleagues. They were then sent back to the factories to get the acceptance of their fellow workers. They returned to work on August 3, but continued to press their demands in a letter signed by one Zulkifli Saleh, the man who had become their chief spokesman. On August 16, Zulkifli was arrested without a warrant by the district military command (KODIM). Eight other workers were taken to the KODIM on August 19 and interrogated from 1:30 p.m. until just after midnight. They saw Zulkifli but were not allowed to speak to him and were accused of being communists, subversives and saboteurs.

GOI: About 20 percent of the workers did not start work on August 2, and a second strike began when workers from Plan A who were dissatisfied with the agreement began to demonstrate. They then forced other workers to join in, often using physical force and threats. By 8 a.m., all the workers had left the factories and gathered outside. Shortly thereafter, management announced that the factory was closed and asked the workers to go home. Members of the police assisted with the exit of the workers and by 10 a.m. the plant was closed. Management announced that the next day, the plant would operate as normal and any worker who did not appear would not be paid. There was no threat of firing.

On August 9, 1991, personnel was informed that Mr. Zulkifli, one of the worker representatives, had been absent from work for four days for health reasons. When an employee is seriously ill, the company usually sends someone to the employee's home to see if the family needs assistance. When the representative

²³ Indonesian Statement, p.92.

²⁴ Indonesian Statement, p.93

from management went to Mr. Zulkifli's home, however, he was informed that Mr. Zulkifli was out attending a meeting.

On August 14, the President Commissioner of the company came to the complex to meet with one worker representative from each of the 14 factories. However,...one hundred workers crowded into the room. Then, Mr. Zulkifli appeared in the crowd and produced a list of demands. His demands were taken under advisement and work resumed as usual. After that day, Mr. Zulkifli never returned to PT Gajah Tunggal...The Government has no information of any arrest or detention of Mr. Zulkifli.²⁵

AW: After workers heard about the arrest of Zulkifli, workers at PT Gajah Tunggal assembled at 1 p.m. and decided to go on strike immediately, demanding that Zulkifli be freed, that their demands be met and that the SPSI unit be dissolved. Four truckloads of combat-ready soldiers from Battalion 203 and other units were called in and sealed off all exits of the complex. Soldiers started beating the strikers who fought back, throwing stones and destroying one vehicle.

GOI: On August 20, after the lunch break, employees of Plant A refused to go to work but never informed management of the reasons. Petitioners' allegation that workers were striking to demand that Zulkifli be freed is not true.

Management immediately notified the Ministry of Manpower and the local police...While approximately 60 members of the KORAMIL Battalion 203 arrived at the complex, they were not called by management and they did not enter the complex until forced to do so in response to the violent acts of the protestors.

Petitioners allege that KORAMIL officers beat the strikers. When a large group of demonstrators gained unauthorized access to the complex through the portion of the fence that had been destroyed earlier, management informed military and police of the trespass. Members of the military began to remove demonstrators, using retaliatory force in some instances to secure the removal of all the demonstrators.

AW: The next day, August 21, more than 5,000 workers marched to the local parliament building in Tangerang but were prevented from entering by fully armed troops and riot police. Troops marched around the Gajah Tunggal complex, firing shots into the air and beating up some of the workers they accused of insulting the military and engaging in vandalism. Four workers were detained in the local police headquarters; by September 4, two of the four had resigned. Two other worker representatives, Sam'un and Sulawan, were summoned to the KODIM at 3 p.m. on September 4, where they were beaten up. They returned to the factory the next day. On September 7, another worker, Sunardi, was arrested at the factory and taken to the BAKORSTANAS or internal security agency's headquarters in Jakarta where he was interrogated about who had instigated the strike. He was released around midnight and resigned the next day. Five others were called in by the military and released; they, too, resigned immediately after

²⁵ Indonesian Statement, pp.94-95.

their release, suggesting they were pressured to do so during interrogation.

GOI: Disturbances began again on August 21. In attempt to control the crowd before violence broke out, police fired into the air. Thousands of workers marched to the local parliament building where they were met by the head of the Parliament on the steps and discussed their demands. Some 85 percent of the workers returned to work on August 22. The company assured workers of their safety and almost all returned the following day. Two or three employees from Plant A decided on their own not to return to work. Over the next several days, two officers from the local Tangerang police department (POLSEK) came to the personnel office of PT Gajah Tunggal requesting permission to question employees suspected of being directly involved in the destruction of facilities during the most recent demonstration. These workers were brought to POLSEK and returned the same day. The police always reported back to the personnel office after the employees had been returned to work. No workers were arrested or fired as a result of this questioning. By the beginning of September 1991, all of the workers' demands had been successfully negotiated.

Other Cases of Military Involvement

Asia Watch had also raised a case in Bekasi where the chief of police was called in to witness the negotiations between workers and management of PT Daimi Azis, a ready-to-wear garment factory. Some 900 workers had walked off the job in November 1991, demanding they be paid the minimum wage. According to the Indonesian Government,

Petitioners allege that the police took part in negotiations between management and workers as a coercive tool to "intimidate the workers to accept what management offers." This characterization is inaccurate. While police attended the negotiations, they served only as witnesses to the negotiations. In addition, the results of the negotiations themselves demonstrate that company management granted the workers' demands. Police intimidation would be both an unnecessary and inappropriate element in the cooperative tenor of negotiations.²⁶

It should be noted that the workers were only demanding what was rightfully theirs. The government response fails to recognize that the very presence of security forces can be a veiled threat to the workers and a reminder that failure to come to terms can have serious consequences.

Asia Watch had also cited the case of the Medan Canning Company where workers, most of them women, went on strike in February 1992 demanding higher wages. The strike was successful, but on February 16, after the strike was settled, five women involved in the strike were detained overnight by the district military command, KODIM 0201 as a means of punishing them for striking. On February 29, four men, including two workers and two labor organizers from a local non-governmental organization were arrested and held for questioning until March 7, when they were released. In response, the Indonesian government merely states, "The company did not request this action, and it does not have any knowledge of any military activity."²⁷ It is quite possible that the company did not request the action, but

²⁶ Indonesian Statement, p.100.

²⁷ Indonesian Statement, p.102.

this does not lessen the fundamental violation involved: an effort by the military, using a variety of techniques including arbitrary detention, to pressure workers into refraining from any public expression of grievances or associating for the purposes of collective bargaining.

V. FORCED LABOR

East Timorese Workers

One of the most detailed exchanges between Asia Watch and the Indonesian government involved Asia Watch's allegations that the Indonesian government in late 1990 and 1991 had lured hundreds young East Timorese workers to Java with promises they would receive vocational training and high-paying jobs when in fact they were given menial jobs at substandard wages. Many were kept under the watchful eye of the Indonesian military and suspected of being supporters of the East Timorese resistance when they protested about their treatment. The Asia Watch charges, published in a May 1992 report entitled "Deception and Harassment of East Timorese Workers" were based on interviews and several statements signed by the East Timorese concerned. The Indonesian government went to great lengths to refute the charges, including getting one of the signers of the statement published in the Asia Watch report, Dominggus Soares, to claim that his name had been used without his knowledge. Asia Watch has since learned that some of the East Timorese were summoned without being told why to the provincial office of the Ministry of Manpower in October 1992. They were then asked about the accusations that East Timorese were unhappy with their work, in the presence of the deputy head of the provincial Manpower office, representatives from the factories employing the East Timorese, and an attorney from White and Case. Under the circumstances, it is possible the East Timorese felt they had no choice but to claim job satisfaction.

The Original Charges

In its report, Asia Watch noted that in December 1990, a daughter of President Suharto, Siti Hardijanti Hastuti, better known as Tutut, went to Dili, East Timor, with an offer of jobs and vocational training for young East Timorese workers. The program was to be run jointly by Mrs. Tutut's philanthropy, the Tiara Foundation, and the Ministry of Manpower. Hundreds of East Timorese ranging in age from 15 to 25 were recruited to take part in what they were told would be a three-month skill-training program, leading to high-paying jobs on Pulau Batam, an industrial development site off the coast of Sumatra. They found themselves sent not to Pulau Batam but to enterprises in Java and Bali where they worked as unskilled labor, doing everything from hauling crates in Semarang, Central Java, to cleaning chicken cages at a poultry processing plant in Bogor, West Java. One group of 100 workers who arrived in Surabaya, East Java on June 6, 1991 and were then transferred to Jakarta, ended up being sent to what was in effect a boot camp run by KOPASSUS, the Indonesian special forces. They were under constant surveillance, and in at least one case, workers were detained and beaten for protesting about their working conditions. Many of those who wished to return home found themselves stranded. While there was no question that the young people had left East Timor voluntarily, Asia Watch argued that because they were deceived as to the true nature of the jobs and training they would be getting and because they did not have the money to return, the whole project became tantamount to forced labor.

The Indonesian Response

The Indonesian government strongly denied the charges. East Timor, it said, with its population

growing far faster than its economy, has a major unemployment and underemployment problem. The local government together with the Ministry of Manpower thus developed the East Timor Worker Program to improve skills, increase income by allowing workers to work in the industrial rather than agricultural sector, and reduce the burden on the local government to provide employment opportunities. With respect to the specific charges,

Neither the Government nor the Foundation made any promises with respect to wages and work location when it agreed to place the workers... Due to the workers' low skills, the Government found that it was inappropriate to place the East Timorese on Batam Island because of the relatively high technology employed there

In 1991, East Timorese workers were placed at the following locations through the Government's Worker Program:

<u>Location of Assignment</u>	<u>Number of Workers</u>
Bali	60
East Java	160
Central Java	
Semarang and vicinity	67
Solo	40
D.I. Yogyakarta	40
West Java	
Bandung	23
Tangerang	64
Bekasi	35
Indocement	34
DKI Jakarta	200
South Kalimantan	39
East Kalimantan	59
TOTAL:	821 ²⁸

In 1992, the government notes, 31 more workers were sent to Solo and 30 to South Kalimantan, raising the total placed to 882. The Tiara Foundation, for its part, placed 208 East Timorese, with 71 in the textile factory, PT Kanindotex in Semarang; 78 in PT Barito Pacific in the Moluccas; 24 in PT Kedawung, Jakarta and 17 in the poultry processing plant, Cipendawa in Bogor, West Java. (A communication Asia Watch received from eight East Timorese at Kanindotex, dated December 7, 1992,

²⁸ Indonesian Statement, pp.109-110. On pp.112-115, the government lists some of the companies employing East Timorese, including PT Gemala Container, North Jakarta; PT Hasi (shoe factory), Tangerang; PT Kanindotex (textile), Semarang; PT Suaco (cable factory), West Jakarta; PT Indah Jaya Textiles, South Jakarta; PT Indocement (cement plant), Bogor; PT Tunggal Yudi Sawmill Plywood (logging), in Samarinda, Kalimantan; PT Pamindo Tiga (automobile part); PT Superior Coach (automobile assembly); PT Bakri Brothers (steel pipes); PT Gunung Garuda (steel); PT Delta Santa Wood; PT Kedaung Group; PT Wono Kayo Rojo Koyo (poultry) in Malang, East Java; PT Kali Jaya Putra (rattan), Surabaya.

notes that in fact, only 38 of the original group remain.)

The Foundation worked together with the Ministry of Manpower in the recruitment and selection process, and applicants were chosen from a list of job hunters compiled by the regional office of the Ministry of Manpower in East Timor.²⁹

Asia Watch had called the jobs "menial." The government called that characterization misleading.

Because workers received the majority of their training on the job, they all started with simple assignments usually taking positions in the production unit.³⁰

The government also termed "completely false" the charge that the workers were receiving substandard wages, saying the wages exceeded the minimum wage applicable in the area where they were working. The workers at Kanindotex acknowledged in December 1992 that they were now receiving above the minimum wage for Semarang. In August 1991, when they first made public their complaints, however, their wages met the minimum only with the addition of a temporary subsidy from the Tiara Foundation and even then, room and board, which the workers had thought was promised by the company, was deducted. The remainder was inadequate to meet basic needs. Moreover, the workers complained in December 1992 that those among them who had been outspoken in expressing grievances were receiving Rp.1000 (50 cents) a day less than their silent colleagues, a major discrepancy when wages are only \$1.20 to \$1.70 to start with.

For its statement to the GSP Subcommittee, the government also had 29 workers in the logging company, PT Tunggal Yudi Sawmill Plywood, fill out a questionnaire saying how much they enjoyed working there. The workers had to give their name and employee number and were asked four questions: Do you like working for PT Tunggal Yudi Sawmill Plywood? How is your relationship with your fellow workers or your supervisor? Is it difficult for you to communicate with your co-workers or your supervisor? What do you do with your wages? No worker far from home at the lowest level in the factory is going to say on a form requested by the government that he or she is unhappy and has poor relations with supervisors -- even if there were not the history of human rights abuses by the government against East Timorese.

But there is also a history of East Timorese workers being forced to make statements about job satisfaction. At the PT Kanindotex factory in Semarang, 65 workers signed a letter to the then governor of East Timor, Mario Carrascalao, that an employee of the Tiara Foundation had pressed them into signing a statement the previous May that work was going well and there were no major problems. "Because the statement was basically forced on us and accompanied by threats, that if we refused to sign, none of our complaints would be addressed, some of us felt forced to sign."³¹

²⁹ Indonesian Statement, p.111.

³⁰ Indonesian Statement, p.111.

³¹ The full letter is published in Asia Watch, *Deception and Harassment of East Timorese Workers*, 4:16, May 19, 1992, p.6-7.

The Indonesian government also obtained a statement by Dominggus Soares, one of the workers whose signature appears on the 1991 letter to Governor Carrascalao, disavowing any knowledge of the letter and saying that he was happy working for Kanindotex. According to the government, "This casts doubt on the veracity and accuracy of the alleged letter."

Asia Watch managed to check back with eight of the workers at Kanindotex who not only reiterated their original charge but said that on August 30, a week after the letter was written, "we were forced to denounce our own aspirations" in the National Parliament Building in Jakarta.

In response to Asia Watch's assertion that one group of 100 East Timorese were given military training and were under surveillance by KOPASSUS, the army special forces, the Indonesian government said the charge was based on inaccurate information. The workers, according to the government, were given physical and vocational training.

The physical training consists of marching, saluting, obeying commands, standing at attention, and running obstacles courses. The Indonesian military assists with this training, which is received not only by workers from East Timor but also by workers from all over the country. It is thought that this combination of training eases the transition from an agricultural environment to a industrial one and prepares the trainees for work in an industrial environment. Thus, the training that is provided to East Timorese youths, although it may contain some military elements, is not "military training."³²

As supporting evidence for this remarkable statement, the government attached a letter from one Colonel Sutrisno, a military officer in charge of the West Java training program. Colonel Sutrisno notes that the military assistance used in the training centers

comes from the various branches of the Indonesian Armed Forces including the Marine Corps and Kopassus, a special combat-trained force which is exceptionally suited to train young job-seekers from a variety of backgrounds.³³

It is KOPASSUS, Asia Watch notes, which has been responsible over the years for some of the worst human rights abuses in East Timor, including torture, disappearances and summary executions.

According to some of the East Timorese in Colonel Sutrisno's training center, two youths, Luis Maria Lopes and Nuno V. Pereira, discussed their frustrations in a meeting with Sutrisno on August 3, 1991 and Sutrisno said he would study the problem and meet them again on August 9. On August 8, however, the two were picked up from their Jakarta workplace and taken back to the Training Center where they were interrogated by two KOPASSUS officers. The following day, 13 other East Timorese then undergoing training at the Center were lined up in the area used for flag-raising ceremonies and beaten and kicked by three soldiers, include one KOPASSUS sergeant and one Marine officer. The

³² Indonesian Statement, p.118.

³³ Sutrisno letter, Exhibit 98 in Indonesian Statement.

youths were then interrogated by Colonel Sutrisno himself, accused of being political activists and threatened with electric shocks if they did not answer properly.

The Indonesian government's version is that of the 100 East Timorese who entered Sutrisno's training program, only nine were unhappy with their jobs which consisted of loading, unloading and storing rattan. Two of these workers were Luis Maria Lopes and Nuno V. Pereira. Colonel Sutrisno met with them on August 3 to discuss their grievances and told them he would try to find them new jobs, "although it would be difficult because they had not finished elementary school." He asked them to be patient. The next day, Luis and Nuno returned with the other seven and met with Sutrisno and the Training Center placement officer. The latter asked the East Timorese whether they wished to return to East Timor, and they said no. As a result, four returned to their jobs, three returned to East Timor at government expense "because they caused disruption in the workplace," and Nuno and Luis dropped out of the program. "Asia Watch's allegations that the East Timorese youths...were beaten, kicked and threatened with electric shock are completely untrue."³⁴

Irian Jaya

Asia Watch did not include material on Irian Jaya in its June 1992 petition to the Trade Representative. ILRERF alleged that some of the indigenous Asmat people were forced into labor by Jakarta-based logging companies, a charge the government dismissed as founded. Part of the difficulty of verifying reports of forced labor in Irian Jaya is the lack of access. It is far more difficult to get a travel permit into the Asmat area than it is to go to East Timor.

Asia Watch has received two reports about Irian Jaya since June which need to be investigated. One concerns the PT Phoenix company. In July 1992 in Uus, near Agats, a group of Asmat workers went to collect wages for several months logging and were told that their credit was overextended, so they received nothing. Sources said many of the workers had effectively become bonded labor, following a well-established pattern in Irian Jaya. Companies like PT Phoenix reportedly offer a kind of "credit card" to their employees to use at company stores, so the workers can purchase goods against income from their wages. The goods at the store are usually not available elsewhere and the workers have no way of checking, and are often too unfamiliar with the process to ask, how their individual accounts are kept. They wind up in permanent debt to the company store and thus become bonded labor for the company.

Another tactic reportedly used by logging companies in the Asmat area is to have government inspectors declare logs brought in by workers to be below standard because they are less than 50 centimeters in diameter. The rejected logs are then shipped out anyway as local officials look the other way, but the logging companies do not pay the workers who felled them. According to one Asia Watch source, in February 1992, workers in the villages of Sa, Er, Erma and Sona were instructed by the district officer working with a company called Artika Optima, a subsidiary of the Djajanti Group, to bring in logs no less than 35 centimeters in diameter. When the government inspector rejected the logs as too small, according to this source, two months' work of the indigenous clans involved went uncompensated.

Conclusions

³⁴ Indonesian statement, p.119.

Asia Watch maintains that severe violations of freedom of association and expression continue to take place in Indonesia in a way that makes it impossible for Indonesian workers to exercise internationally-recognized labor rights. The documentation provided by the Indonesian government in rebutting the petitions of Asia Watch and ILRERF is voluminous, but selective. While the government goes to great lengths to get detailed descriptions from different companies about strikes held on their premises, it simply denies or professes ignorance of beatings, arrests or detentions. There is clearly a need for an independent investigation of labor rights practices which would allow the investigators to interview workers, employers and members of the military alleged to have been involved in specific incidents of human rights abuses.