

# Criminal collaborations? Antonius Wamang and the Indonesian military in Timika<sup>1</sup>

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**Abstract:** US intelligence reports linked the Indonesian military to the August 2002 murder of two American schoolteachers and an Indonesian in Timika, Papua province. Restrictions on the US Foreign Military Financing (FMF) and International Military Education and Training (IMET) for Indonesia came to be linked to the investigation of this murder. However, a Jakarta court subsequently sentenced a Papuan villager, Antonius Wamang, to life in prison for leading the attack. Six other villagers were given sentences ranging from five to eight years. The same day that Wamang was sentenced, Pentagon officials announced a ‘new era of military cooperation’ with Indonesia. Yet many irregularities were not resolved during the trial. Questions remain about whether Wamang’s group acted alone. Did Indonesian military agents help Wamang stage the attack? Did Bush Administration officials help cover up evidence of Indonesian military involvement so that they could pursue objectives in the war on terror? The idiom of co-production offers insight into ambivalent and contingent collaborations that develop during covert operations and acts of terrorism.

**Keywords:** criminality; militarism; nationalism; Freeport McMoRan; Indonesia; USA

<sup>1</sup> This article updates S. Eben Kirksey and Andreas Harsono (2007), ‘Murder at Mile 63’, 9 April, *Joyo Indonesian News*/Pantau Foundation. It is based on interviews with Antonius Wamang, Hardi Tsugumol, Decky Murib, Patsy Spier and more than 50 other sources in Timika, Jayapura, Jakarta and Washington, DC. The revised article uses documents obtained from the State Department through a Freedom of Information Act request by Brad Simpson of the National Security Archive. Another important source for the updated article was the case dossier [*Berkas Perkara*] for Wamang and the other defendants – some 2,000 pages of Indonesian-language documents compiled by high-level police investigators with the Criminal Investigations Branch [*Badan Reserse Kriminal POLRI, Direktorat I Keamanan and Transnasional*]. These documents were provided by Ecoline Situmorang, the defence attorney for Wamang. The research was made possible by grants from Joyo Indonesia News in New York and Pantau media group in Jakarta. We dedicate it to the memory of Gordon Bishop.

## A trip to the big city

When Antonius Wamang boarded a Garuda jet in September 2001 at Timika's Moses Kilangin airport, his heart was pounding – he was on a mission to obtain weapons and ammunition in Indonesia's capital, Jakarta.<sup>2</sup> Wamang hoped to secure help from Indonesian security forces in Jakarta, to attack local Indonesian soldiers in Timika. He had never before travelled outside of Papua, Indonesia's easternmost province.<sup>3</sup> Born in the remote highland village of Beoga in 1972, Wamang was a young boy when Indonesian Brigadier General Imam Munandar launched Operation Eliminate [*Operasi Kikis*] in the highlands.<sup>4</sup> Anti-personnel Daisy Cluster bombs, mortars and machine guns were used against Papuan villagers armed only with bows and arrows. Nearly 30 years later, Wamang had found what he thought was an opportunity to buy arms and fight back against the Indonesian military. Wamang was embarking on a highly ambiguous programme of strategic engagement with the occupying forces. But this strategy is not uncommon among Papuan guerrillas. There are accounts of similar collaborations with Indonesian soldiers by Free Aceh Movement (GAM) guerrillas in Aceh and of resistance figures being 'turned' by Indonesian intelligence agents in East Timor.<sup>5</sup> As he departed for Jakarta, Wamang was unknown – by

<sup>2</sup> Antonius Wamang, tape-recorded interview with S. Eben Kirksey (SEK) on 25 March 2005 in Kwamki Lama, Timika; interview with Andreas Harsono (AH), 8–9 October 2006 in the Indonesian police headquarters detention centre in Jakarta.

<sup>3</sup> The territory of 'Papua' has various names, each charged with political connotations. On 19 October 1961, as the Dutch colonial era was drawing to a close, the Papuan National Committee issued a manifesto renaming the nation 'West Papua' from the previous name 'Netherlands New Guinea'. One month later, Indonesian President Sukarno issued a call for the destruction of the 'puppet state of West Papua' and launched a military takeover of the territory. After a UN-brokered deal ceded sovereignty of the territory to Indonesia in 1963, the official name of the new province became 'West Irian', and later 'Irian Jaya'. On 1 January 2000, Indonesian President Abdurrahman Wahid issued a Presidential decree to rename the territory 'Papua'. Further complexity was introduced in 2003 with a controversial plan to split the territory into the province of Papua and the province of West Irian Jaya, later renamed West Papua.

<sup>4</sup> S. Sularto (1977), 'Mereka yang terpaksa mengungsi', *Kompas*, 28 November; Carmel Budiardjo and Liem Soei Liong (1988), *West Papua: The Obliteration of a People*, TAPOL, Thornton Heath, pp 119–124; Robin Osborne (1985), *Indonesia's Secret War: The Guerilla Struggle in Irian Jaya*, Allen and Unwin, London, p 145.

<sup>5</sup> For an in-depth analysis of these collaborative relationships in the context of a large-scale Indonesian military operation to infiltrate Papuan TPN/OPM guerrillas in 2000, see S. E. Kirksey (2008), 'Freedom in entangled worlds: experiences of possibility in West Papua', PhD thesis, History of Consciousness, University of California, Berkeley, CA. For other examples of such collaboration, see Edward Aspinall (2007), 'Guerillas in power', *Inside Indonesia*, Vol 90, Oct–Dec (on Aceh); the entry on

all accounts a minor figure in a local group of guerrillas who had vague ideas about waging war against the Indonesian military. His encounters in Jakarta were to open up new horizons for him.

Wamang told us that he flew to Jakarta alone and was met at Cengkareng airport by Agus Anggaibak, then a Timika-based sandalwood dealer with ties to the Indonesian military.<sup>6</sup> According to Janes Natkime, who knows both Wamang and Anggaibak and currently heads the Warsi Foundation in Timika, 'Agus Anggaibak set up everything, he lobbied the officers and arranged the money'.<sup>7</sup> Rejecting these claims, Anggaibak, who is currently a 27-year-old member of the regional parliamentary assembly in Timika (DPRD Mimika), said that he once travelled to Jakarta with someone named Anton, Antonius Wamang's preferred nickname. But he claims that this person was a member of BIN (*Badan Intellegen Negara*), one of Indonesia's intelligence agencies, and not Anton Wamang. Still, in a telephone interview on 11 June 2008, Anggaibak admitted to meeting Antonius Wamang. 'Everyone in Timika has met Wamang,' he said.

Allegedly, Anggaibak had earlier visited Wamang's group in their jungle hideout, encouraging them to raise money to buy guns. He brought a rifle with him. Anggaibak reportedly showed off this weapon in Wamang's camp. Identifiers were etched into the gun: 'MODEL P88-9, Col 9 mmp AK, Made in Germany'.<sup>8</sup> But Anggaibak claims that he never had a gun. 'My adjutant, who has been with me since I formed a sandalwood cooperative in high school, carries a rifle. But, I have never had a weapon,' he said. Anggaibak reportedly promised to help Wamang obtain weapons like the one he was carrying, as well as other guns, from arms dealers in Jakarta.<sup>9</sup>

Like all groups in Papua's *Tentara Pembebasan Nasional*, or National Liberation Army – a group without a clear hierarchical command

Eurico Guterres in Gerry van Klinken and David Bouchier (2002), 'The key suspects', in Desmond Ball, Hamish McDonald, James Dunn, Gerry van Klinken, David Bouchier, Douglas Kammen, and Richard Tanter, eds, *Masters of Terror: Indonesia's Military and Violence in East Timor in 1999*, Strategic and Defence Studies Centre, RSPAS, ANU, Canberra, pp 113–223 (on East Timor); and Andrew Kilvert (1999), 'Whisky friends', *Inside Indonesia*, Vol 60, Oct–Dec (on Papua).

<sup>6</sup> Wamang, 2005, *supra* note 2; John Rumbiak, SEK interview, 24 February 2005 in Washington, DC.

<sup>7</sup> Janes Natkime, AH interview 6 November 2006. Original quotation: 'Agus Anggaibak yang atur, lobby tentara, Agus yang setel semua, atur uang'.

<sup>8</sup> An activist attended the meeting and copied the specifications of the gun down in his notebook. SEK saw this notebook, 24 March 2005, in Timika.

<sup>9</sup> Wamang, 2005, *supra* note 2; Rumbiak, *supra* note 6.

structure founded in 1971 –Wamang’s group was poorly armed. They regarded veteran guerrilla Kelly Kwalik as their figurehead. Many of Wamang’s comrades were newcomers to the cause. Among them were teenager Johni Kacamol, and Hardi Tsugumol who had spent most of his time in big cities in Java and Papua.<sup>10</sup> Tsugumol had connections with Indonesian soldiers. The group had only three ageing rifles: an SS1, an M16 and a bolt-action Mauser. Following several weeks of intensive gold panning and sandalwood collecting, Wamang’s group raised enough money to purchase more guns. Anggaibak allegedly departed for Jakarta, with an advance payment from Wamang, where he began working on securing a deal. When Wamang later flew to Jakarta, he brought sacks of sandalwood that were reportedly worth more than 500 million Indonesian rupiah (US\$54,000) for Anggaibak’s contacts.<sup>11</sup> On the international market sandalwood fetches even higher prices. This rare wood is used to make incense and perfume.

According to Wamang, he and Anggaibak initially stayed in a police guest house in Jakarta. Wamang said that Sergeant Puji, a police officer, befriended him. Sergeant Puji reportedly took Wamang and Anggaibak on trips around Jakarta. They toured around while Puji asked them about the Papuan guerrillas’ activities in Timika. Puji presented Wamang with a gift of six magazines of bullets (180 bullets) that could be used in Wamang’s M16 or SS1 rifles. Puji also gave Wamang bullets for his Mauser. These bullets, Wamang told us, were among those later used to launch an attack. One night in the guest house, Puji showed Wamang 15 M16 rifles. Wamang said he had paid 250 million Indonesian rupiah (US\$27,000) for these guns and Puji held on to them for safe keeping.<sup>12</sup>

Wamang said he later moved to the Hotel Djody at Jalan Jaksa 35, a backpacker hostel in downtown Jakarta.<sup>13</sup> A sandalwood middleman from Makassar, named Mochtar, introduced Anggaibak and Wamang to some Indonesian army and police officers. ‘Mochtar was a regular guest here,’ said Herry Blaponte of the hotel’s front office staff. Blaponte told us that Mochtar had regularly made sandalwood business deals with his Papuan guests. Hotel staff remembered Mochtar as having a

<sup>10</sup> In the police documents, Johni Kacamol’s name is spelled ‘Joni Kasamol’, but Kacamol himself spells his name ‘Johni Kacamol’. AH interview with Johni Kacamol, 8 October 2006.

<sup>11</sup> Wamang, 2005, *supra* note 2; Deminikus Bebari interview with AH, 13 October 2006 in Jakarta.

<sup>12</sup> Wamang, 2005, *supra* note 2.

<sup>13</sup> Wamang, 2005, *supra* note 2.

stocky build and being a 'dandy'. Their memories of him are not fond, however, since, allegedly, he left without paying his bill. Mochtar could not be reached for comment. Blaponte and hotel security staff member Mahmud Trikasno later told Indonesian Chief Detective Dzainal Syarief that they did not remember Wamang's stay at their hotel. 'I don't remember his face,' said Trikasno. Neither did four cleaning service staff recognize Wamang when presented with his picture some five years after Wamang said he had stayed at the hotel. The hotel has many guests and they said that it was entirely possible that they simply did not notice Wamang.<sup>14</sup>

One afternoon at the Hotel Djody, according to Wamang, a stranger approached him and Anggaibak. 'I hear you are looking to buy guns,' Wamang quoted the stranger as saying. Eventually Anggaibak admitted that they were. The stranger – Captain Hardi Heidi – said that he was an Indonesian soldier from Surabaya. Eventually, Wamang paid for four guns from Hardi Heidi: two AKs and two M16s. Wamang arranged for Hardi Heidi to retain the weapons for safe keeping until he was ready to depart for Timika.<sup>15</sup> This proved to be a naive mistake. Hardi Heidi introduced Anggaibak and Wamang to Sugiono, reportedly an active duty Kopassus officer who pledged to help transport the weapons to Timika.<sup>16</sup> Sugiono and Hardi Heidi, like Sergeant Puji, wanted to hear about the activities of Papuan guerrillas around Timika.

On 21 September, Wamang visited 40 Papuan delegates who had just returned from negotiations with Freeport McMoRan – the New Orleans-based company that mines one of the world's largest deposits of copper and gold near Timika. They were making a stop in Jakarta and stayed at the Hotel Mega Matra. Excited to see many fellow Amungme leaders, Wamang visited the hotel a number of times. The group had just returned from negotiating a profit-sharing deal with Freeport's management in New Orleans. Wamang asked many delegates for money. According to delegate Eltinus Omaleng, Wamang bragged about how he had secured a shipload of weapons that were ready to be dispatched to Papua.<sup>17</sup> Wamang needed extra money to transport the

<sup>14</sup> Herry Blaponte and Mahmud Trikasno, AH interview, 6 November 2006. Police Chief Commissioner Zainal Syarief, who headed the Indonesian police investigation into the Mile 63 case, declined to comment on this story. AH showed Wamang's photo to five other hotel employees. None remembered his face. They said they had many guests. The hotel management does not keep a guest record.

<sup>15</sup> Wamang, 2005, *supra* note 2.

<sup>16</sup> Rumbiak, *supra* note 6; Wamang, 2005, *supra* note 2.

<sup>17</sup> Eltinus Omaleng, AH interview in Jakarta, 6 November 2006.

weapons. Janes Natkime gave Wamang 1.5 million Indonesian rupiah (US\$160). 'Five days later he came back to the hotel, saying that the ship had been rerouted to Aceh.'<sup>18</sup>

Wamang told us that he had paid Sugiono nearly 50 million Indonesian rupiah (US\$5,400) to ship the guns to Timika. After a chartered boat was loaded with the weapons, Wamang claims that Sugiono and Hardi Heidi gave him the slip. The boat pulled away with Wamang standing alone on the Tanjung Perak dock in Jakarta. Just before its departure, Wamang said that he had overheard a conversation between Hardi Heidi and his wife. 'We should sell these in Aceh,' the wife had said.<sup>19</sup>

After calling associates in Timika for more money, Wamang travelled back alone on the passenger ship *Kelimutu*. He arrived in Timika with only the bullets that Sergeant Puji had given him.<sup>20</sup> Wamang's extensive contacts with Indonesian agents had given him moments of hope – his newfound friends in Jakarta, he initially thought, were genuinely committed to helping the freedom fighters of Papua. But his mission to obtain guns had failed.

Wamang's naivety appears to have been exploited by Agus Anggaibak, Sugiono, Mochtar and Hardi Heidi. Each of them seems to have personally profited from Wamang's gullibility. Did these Indonesian agents who had 'befriended' Wamang also further play on his naivety to turn his vague idea of an ambush on local military forces in Timika into something else? In conversations with Hardi Heidi and Sugiono, it is hard to imagine that the subject of Wamang's planned use for the guns was never broached. The role of the police officer, Sergeant Puji, may have been limited simply to the sale of ammunition and guns. Did military intelligence agents in Jakarta hatch a plan for an ambush in Timika and then recruit Wamang for the job? Or was the ambush planned in a piecemeal, contingent fashion? Was the event 'co-produced' by multiple agents with competing agendas?

The idiom of *co-production* is used by Sheila Jasanoff, a Harvard-based theorist in the field of science and technology studies, to understand

<sup>18</sup> Like Papua, Aceh is an Indonesian province with an active nationalist movement, which declared independence in December 1976. Aceh guerrilla fighters regularly attacked Indonesian military positions. Some of the most daring attacks took place in 2001. Free Aceh guerrillas signed a peace agreement with Jakarta in August 2005.

<sup>19</sup> Wamang, 2005 and 2006, *supra* note 2. Indonesian original: 'Harus kami jual ke Aceh'.

<sup>20</sup> Wamang, 2005, *supra* note 2.

how knowledge influences the construction of the social order. Her writing explores the ambivalent collaborations of different actors who work together to create ideas and infrastructures. Local contingencies figure prominently in Jasanoff's work. Rather than see science as a centrally coordinated conspiracy – which simply reinscribes hegemonic and oppressive political orders – she attends to the micro-processes by which social life and cognitive understandings gain form and meaning together.<sup>21</sup> Appropriating the idiom of co-production offers a new vocabulary that might be used to understand the ambivalent and contingent collaborations that develop during covert operations and acts of terrorism.

Many other analysts of Indonesian culture and politics use the figure of the *dalang*, the puppeteer of Javanese shadow plays, to represent the masterminds of criminal plots. We did not find evidence of a single *dalang*. Instead we found that *a number of agents had co-produced an act of terror*. Multiple actors, often with competing agendas, came together to stage an attack.

*The Washington Post* reported on 3 November 2002 that senior Indonesian military officers, including armed forces commander General Endriartono Sutarto, had discussed an unspecified operation against Freeport before the ambush in Timika.<sup>22</sup> *The Washington Post* reported that Sutarto 'did not detail a specific attack,' nor did he 'call explicitly for the killing of Americans or other foreigners'. Instead, general discussions about Freeport could have been understood by subordinates as a direction 'to take some kind of violent action against Freeport'. The idiom of co-production suggests that 'conspiracies' are not necessarily carefully planned in advance – that chance meetings and contingent circumstances can produce unexpected outcomes.

<sup>21</sup> S. Jasanoff (2004), *States of Knowledge: The Co-production of Science and Social Order*, Routledge, New York; S. Jasanoff (2005), *Designs on Nature: Science and Democracy in Europe and the United States*, Princeton University Press, Princeton, NJ; see also J. Reardon (2005), *Race to the Finish: Identity and Governance in an Age of Genomics*, Princeton, NJ, pp 6–9.

<sup>22</sup> E. Nakashima and A. Sipress (2002), 'Indonesia military allegedly talked of targeting mine', *Washington Post*, 3 November, p A18, available from Website: <http://www.washingtonpost.com/ac2/wp-dyn/A59430-2002Nov2?language=printer>. The *Post* reported, 'The intelligence was based on information supplied after the ambush by a person who claimed to be knowledgeable about the high-level military conversations. The source was described in the report as "highly reliable". This information was supported by an intercept of a conversation including that individual, said the U.S. government official and the American source. The intercept was shared with the United States by another country, identified by a Western source as Australia.'

General Sutarto vehemently denied that he or any other top military officers had discussed any operation targeting Freeport. He sued *The Washington Post* for US\$1 billion and demanded an apology from the paper.<sup>23</sup> The paper settled out of court with Sutarto and printed the following statement: further investigations ‘revealed no substantiation that Sutarto or other high-ranking Indonesian military officers were involved in any discussion or planning of the attack. *The Post* regrets publication of this report.’<sup>24</sup>

Leaked reports on the FBI’s preliminary findings later seemed to confirm the original article in *The Washington Post*. ‘It’s no longer a question of who did it,’ a senior US official familiar with the investigation, told the *Associated Press* in March 2004. ‘It’s only a question of how high up this went within the chain of command,’ said the official.<sup>25</sup> But the US Embassy later issued a formal denial that the FBI had found evidence of Indonesian military involvement.

Why would Indonesian security forces stage an attack near Timika? One possible motive is linked to the fact that Freeport paid a total of US\$5.6 million in 2002 for ‘support costs for government-provided security’.<sup>26</sup> The Sarbanes-Oxley Act of 2002 imposed new reporting requirements on US companies in the wake of the Enron corporate accounting scandal. After this measure was passed into law, Freeport was forced to disclose its payments to the Indonesian military. In early 2002, there were internal discussions within Freeport about increasing the transparency of the company’s relationship with the Indonesian security forces. Reverend David Lowry, then the Vice-President for Social and Community Relations at Freeport McMoRan, told researchers with Global Witness, a London-based organization, that: ‘[the discussion] was a good number of months prior to 31 August [2002]’. On this date, Wamang’s group sprang into action. Did Indonesian agents collaborate with Wamang in a bid to convince Freeport of their continued need for security?

<sup>23</sup> T. M. Lubis (2002), ‘Lawyer for Washington Post says Indonesian military failed to follow procedure regarding media complaints’, *Radio New Zealand*, 22 November, available from Website: <http://www.rnzi.com/pages/news.php?op=read&id=3396>.

<sup>24</sup> Nakashima and Sipress, *supra* note 26.

<sup>25</sup> Slobodan Lekic (2004), ‘Indonesian army ordered deadly ambush’, *Associated Press*, 3 March.

<sup>26</sup> Quoted in ‘Paying for protection: the Freeport mine and the Indonesian security forces’, a report by Global Witness, July 2005, p 4, available from Website: [http://www.globalwitness.org/media\\_library\\_detail.php/139/en/paying\\_for\\_protection](http://www.globalwitness.org/media_library_detail.php/139/en/paying_for_protection).

## The ambush

'I remember the night of Friday, 30 August, 2002,' Steve Emma told Indonesian police investigators through an interpreter. Emma was then a teacher in Tembagapura, an expatriate community in the highlands of Papua. 'I met up with friends from the school to hang out and watch a video,' Emma continued. 'We were all laughing a lot.' The group decided to go on a picnic the next day.<sup>27</sup>

Tembagapura is located near the open-cast gold and copper mine of Freeport McMoRan. Most of the pupils of the Tembagapura International School, where Mr Emma taught, are children of expatriates who work at Freeport. The teachers are contract employees of the corporation. Freeport also has contracts with different branches of the Indonesian security forces to protect its facilities. They include Kostrad (Army Reserves) Battalion 515, Army Battalion 752, units from the marines and the army's cavalry, the air force's elite unit Paskhas, police paramilitary Mobile Brigade troops (Brimob) and Kopassus special forces.

A winding mountain road connects Tembagapura with the coastal town of Timika. The 79-mile road has 14 military posts manned by Indonesian security forces, along with Freeport's own personnel. A fleet of Freeport vehicles – tankers, dump trucks, semi-trailers – plies the Timika–Tembagapura road. Freeport personnel register every car and person travelling along the road.<sup>28</sup> Workers have to show their employee ID cards at the checkpoints. Locals have to show special permits issued by Freeport's Community Liaison Office. There are also special Freeport-issued visitor cards.<sup>29</sup>

Steve Emma and a group of 10 others set out for their picnic on the morning of 31 August in a pair of white Toyota Land Cruisers. They

<sup>27</sup> This section relies heavily on the *Berkas Perkara*, the case dossier, assembled by the *Badan Reserse Kriminal Polri* to prosecute Antonius Wamang and his co-defendants. The English-speaking witnesses were interviewed by police investigators with an Indonesian translator present. We have back-translated quotations from these interviews into English. Undoubtedly this has introduced minor errors. When possible we have cross-checked the quotations from these interviews with other sources. Stephen Francis Emma, interview with Fajaruddin and Ahmad, 8 May 2006, in *Berkas Perkara* No Pol: BP/05/III/2006/KAMTRANNAS. Indonesian original reads: 'Keadanya saat itu nyaman dan semuanya banyak ketawa. Grup tersebut memutuskan untuk membawa kita naik gunung pada keesokan harian untuk melihat glacier dan untuk acara piknik.'

<sup>28</sup> PT Freeport Indonesia Corporate Communications Department (2005), *Pedoman Kunjungan*, August, Freeport, Jakarta. This manual prints a map of the mining area with the military posts or 'Milpos'.

<sup>29</sup> Lintuuran, AH interview in Jakarta, 6 November 2006.

travelled from Tembagapura along the road down towards Timika. ‘When we reached the [Mile 64] checkpoint I felt uneasy and nervous,’ Emma said. ‘I began to think that something was wrong.’<sup>30</sup> The driver, Rick Spier, had to complete a detailed form and sign it. ‘My feelings of unease became worse when I made eye contact with one of the soldiers at the checkpoint. I nodded at him and said “hello” and the soldier just met me with a cold stare.’<sup>31</sup>

The teachers stopped for their picnic at a section of old-growth cloud forest near Mile 62 of the road. The group found orchids and pitcher plants. Patsy Spier, Rick’s wife, said that it was rainy and foggy. ‘We ended up leaving the picnic early,’ said Patsy.<sup>32</sup>

As the teachers travelled back towards Tembagapura, they were having a lively discussion with lots of laughter and jokes. Steve Emma said, ‘Suddenly there was an unexpected attack, that I still can’t understand. I still clearly remember my emotions and thoughts during those next 45 minutes.’<sup>33</sup>

Rick Spier was driving the first vehicle that carried Steve Emma and three other passengers. Ted Burgon, the school’s principal, rode next to Rick. The first four shots were distinct and methodical. ‘My heart skipped and my eyes opened wide when the first shot hit our windshield. The second shot hit Rick in the face. The third shot hit Ted and I remember choking and almost vomiting at that instant ... The fourth shot hit Ted again and he toppled slowly into the middle of the jeep where Rick already lay dead.’<sup>34</sup>

<sup>30</sup> Stephen Francis Emma, interview with Fajaruddin and Ahmad, 8 May 2006, in *Berkas Perkara, supra* note 27. Indonesian original reads: ‘Pada saat kita mendekati cek point saya ingat pada waktu itu saya merasa gelisah, hati berdebar-debar dan merasa tidak enak’.

<sup>31</sup> Stephen Francis Emma, interview with Fajaruddin and Ahmad, 8 May 2006, in *Berkas Perkara, supra* note 27. Indonesian original reads: ‘Perasaan ini bertambah parah pada saat bersirobok pandangan mata dengan salah satu personil di cek point tersebut...Saya menganggukan [*sic*] kepala untuk sekedar menyatakan “halo” dan saya menerima pandangan dingin yang sama dari petugas ini.’

<sup>32</sup> Patsy Spier in AH interview in Jakarta, 13 October 2006.

<sup>33</sup> Stephen Francis Emma, interview with Fajaruddin and Ahmad, 8 May 2006, in *Berkas Perkara, supra* note 27. Indonesian original reads: ‘Kemudian tiba-tiba, serangan yang tidak disangka-sangka, yang tidak bisa dimakna, yang tidak tertahankan terjadi. Saya masih ingat dengan jelas rasa hati, emosi dan pikiran yang terjalin dalam 45 menit kemudian. Mohon sabar...’

<sup>34</sup> Stephen Francis Emma, interview with Fajaruddin and Ahmad, 8 May 2006, in *Berkas Perkara, supra* note 27. Indonesian original reads: ‘Hati saya melonjak dan mata saya terbuka lebar ketika tembakan pertama menghantam kaca depan kami ... Tembakan kedua menghantam muka Rick ... Tembakan ketiga menghantam Ted dan saya teringat

Patsy Spier was travelling in the second Toyota van, driven by Ken Balk.<sup>35</sup> Suddenly, in the fog, Patsy Spier saw her husband's car, in front of hers, stopped by the side of the road. A third vehicle was speeding towards her on the opposite side of the road. 'They ran Rick's car off of the road,' Spier remembered thinking.

Ken Balk, who was in the same car, also saw this vehicle: 'Another truck sped down. It was a white Toyota Land Cruiser. Seconds before we were shot, this company Toyota Land Cruiser went past us going down the mountain. They were men, officially dressed, wearing security caps. Some who I happened to see were ethnic Papuans.'<sup>36</sup> The Indonesian military has recruited hundreds of Papuans as soldiers – it is possible that these men in the car were Papuan members of the military.

Patsy Spier also saw a third vehicle at the scene of the crime, but she remembers a pickup truck, not a Toyota Land Cruiser. She told Indonesian investigators: 'When the pickup truck went by our vehicle, I saw two grey puffs behind the truck. At that moment I also heard the sound of an explosion, and I was shot in the left side of my back.'<sup>37</sup> Spier now thinks that the two 'grey puffs' were bullets ricocheting off the pavement.<sup>38</sup>

Patsy Spier was sitting next to Bambang Riwanto, her Javanese colleague. 'All of us were shot, wounded. Bambang was laying on top of me, bleeding. I was worried about my husband but the shooting just continued,' said Spier.<sup>39</sup> Like Rick Spier and Ted Burgon, Bambang Riwanto died in the attack.

pada saat itu sempat tercekik hampir muntah... Tembakan keempat menghantam Ted lagi dan dia perlahan jatuh terpuruk dibagian tengah mobil jeep mendekati Rick yang sudah mati...'

<sup>35</sup> Spier, *supra* note 32. Patsy drew the seating positions inside the two vehicles. These were consistent with previous media reports, such as, 'Freeport victim's quest for answers leads to Australia', *Sydney Morning Herald*, 27 February 2003.

<sup>36</sup> Kenneth M. Balk, interview with Zainal Syarif and Jeldi Ramadhan, 9 May 2006, in *Berkas Perkara*, *supra* note 27. Indonesian original reads: 'pada saat itu truck lainnya mengebut turun... Kendaraan tersebut adalah Toyota Landcruisser warnanya putih... Sesaat sebelum saya melihat kita ditembaki, sebuah truk perusahaan Toyota Landcuisser melewati kami menuruni gunung. Mereka itu pegawai laki-laki yang menggunakan topi pengaman. Beberapa yang saya kebetulan lihat adalah orang Papua.'

<sup>37</sup> *Berkas Perkara*, *supra* note 27, Spier interview, p 3. Original reads: 'Selama pikap truk tersebut melalui kendaraan kami, saya melihat dua kepulan abu di belakang pikap truk tersebut. Pada waktu itu juga saya mendengar suara meledak, dan saya ke tembak di belakang badan bagian kiri.'

<sup>38</sup> Patsy Spier in SEK interview, Washington, DC, 30 November 2007.

<sup>39</sup> Spier, *supra* note 32.

Three other vehicles came to a stop at the ambush site amidst the shooting – a yellow Mac truck and two Canadian Pacific dump trucks. They too were soon riddled with bullets.<sup>40</sup> Among the 11 people wounded in the attack, three were the Indonesian drivers of these vehicles. The two most seriously injured drivers, Loudwyk Worotikan and Johannes Bawan, worked for a Freeport contract company. Mastur, the third driver, sustained light injuries. Forensic investigators found 73 holes where bullets had entered the five vehicles stopped at the ambush site, and 46 holes where bullets had exited.<sup>41</sup> A total of 208 bullets, shells or fragments were recovered from the crime scene.<sup>42</sup>

Andrew Neale, a Freeport expatriate, came upon the scene from the direction of Tembagapura.<sup>43</sup> Seeing the chaos, Neale jammed his vehicle into reverse and drove back to the Kostrad Battalion 515 military post, less than five minutes away at Mile 64. According to Lexy Lintuuran, Freeport's security chief, the Kostrad Company stationed there 'has more than 100 soldiers'.<sup>44</sup> Neale then drove back to the scene of the shooting with two of the soldiers in his car. When the Kostrad soldiers arrived at the scene, the attackers melted away. The soldiers briefly fired their guns. Then the shooting abruptly stopped.<sup>45</sup>

Indonesian soldiers at the Mile 64 checkpoint, about 300 metres from the attack site, claimed not to have heard any of the shooting. These soldiers say that they first learned of the attack at 12.40 pm, when Andrew Neale arrived at their post.<sup>46</sup> This was the same military checkpoint where Steve Emma had experienced an uneasy feeling earlier that day.

Atanasio dos Santos, a police officer stationed at Security Post 700 in Tembagapura, said that he had received a phone call at 12.15 pm reporting 'sounds of an explosion' along the Timika–Tembagapura road.

<sup>40</sup> Dudon Satiaputra, 'Rahasia: Laporan hasil sementara pemeriksaan TKP penembakan kary. PT. Freeport', Jakarta, 19 December 2002.

<sup>41</sup> Ch Syafrian S., interview with Fajaruddin and Ahmad, 23 January 2006, in *Berkas Perkara*, *supra* note 27.

<sup>42</sup> Dudon Satiaputra, *supra* note 40. Ch Syafriani, a ballistics expert with the Indonesian police, reiterated the data contained in the original ballistics report on 29 September 2006 in the Central Jakarta district court – the lab analysed 30 bullets of 5.56 calibre, 77 bullet fragments, 94 bullet casings of 5.56 calibre, 7 bullet casings of 7.62 calibre. Of the six magazines given to Wamang by Sergeant Puji, he claims that only 1½ magazines (about 45 bullets of 5.56 calibre) were used by his men that day.

<sup>43</sup> Dana Priest, 'A nightmare, and a mystery, in the jungle', *The Washington Post*, 22 June 2003, p A01.

<sup>44</sup> Lintuuran, *supra* note 29.

<sup>45</sup> Priest, *supra* note 43.

<sup>46</sup> *Berkas Perkara*, *supra* note 27, at p 17.

He travelled directly to the scene of the crime, but soldiers were already there when he arrived.<sup>47</sup> In addition to Kostrad Battalion 515 soldiers, dos Santos also saw another soldier. He told police investigators: 'I saw a man armed with a rifle who was dressed in civilian clothes, a black jacket. This was around 2.00 pm near the ambush site at Mile 63 and I have a hunch that he was a member of Kopassus.'<sup>48</sup>

Kopassus is the special force of the Indonesian military. In the words of Australian scholar Damien Kingsbury, Kopassus 'was established to specialise in covert domestic operations, against internal political dissenters as well as separatist movements. Its methods are by definition both political and extrajudicial.'<sup>49</sup> Reports of at least one Kopassus officer at the scene of the crime led police investigators to explore the possibility that the Indonesian military had staged the ambush. Given Kopassus's history, it seemed plausible that it had co-produced this act of terror.

## The shooters

Antonius Wamang, the Papuan man who had tried to obtain guns in Jakarta, admits to participating in the ambush on 31 August 2002. Wamang told us that he thought his group was attacking an Indonesian military convoy. His colleague, Johni Kacamol, was placed at the crime scene by an eyewitness, the Indonesian driver Mastur, who saw Kacamol carrying a gun. Another colleague, Yulianus Deikme, told investigators that he was at the crime scene, but did not carry a weapon.<sup>50</sup> But Wamang claimed that other gunmen, a separate group of shooters, were present at the ambush site as well.<sup>51</sup>

On 12 August 2003, Wamang told FBI agent Ronald C. Eowan: 'I saw two white Freeport vehicles on the road as well as an Indonesian military vehicle next to the road. I also saw Indonesian soldiers shooting

<sup>47</sup> *Berkas Perkara*, supra note 27, at p 13.

<sup>48</sup> Ch Syafrian S., interview with Fajaruddin and Ahmad, 23 January 2006, in *Berkas Perkara*, supra note 27. Indonesian original reads: 'Saya melihat orang bersenjata laras panjang berpakaian preman berjaket hitam pada jam sekitar 14.00 wit di sekitar TKP mile 63 dan menurut dugaan saya dia adalah anggota Kopassus'.

<sup>49</sup> D. Kingsbury (2003), *Power Politics and the Indonesian Military*, RoutledgeCurzon, London, p 29.

<sup>50</sup> 'Wamang divonis seumur hidup', *Pikiran Rakyat*, 8 November 2006.

<sup>51</sup> Wamang, 2005 and 2006, supra note 2.

– like they were competing. I saw four Indonesian soldiers and one Papuan, who was also a soldier.’<sup>52</sup>

It is not clear who fired the first four shots in the ambush, which victims remember as being distinct and methodical.<sup>53</sup> After Rick Spier and Ted Burgon had been killed by these initial shots, there was a pause of one or two minutes. According to Steve Emma, ‘After one or two minutes of silence 12–14 shots destroyed the windshield’.<sup>54</sup> According to a later autopsy report, two different types of bullets were found in Rick Spier’s body.<sup>55</sup>

Wamang told us that he left the ambush scene shortly after the second vehicle, the Land Cruiser carrying Patsy Spier and the other teachers, had arrived on the scene.<sup>56</sup> Wamang told police investigators: shortly after the second vehicle came to a stop, ‘there were shots coming from the direction of Tembagapura, from the opposite embankment, right at us. I told my companions, “There is shooting, there is shooting”’.<sup>57</sup>

‘We weren’t there very long. We immediately retreated,’ Wamang said in a tape-recorded interview. ‘Were you there 30 minutes?’ ‘No,’ Wamang replied, ‘30 minutes is way too long’.<sup>58</sup> Wamang told FBI agent Ronald Eowan that he had left the crime scene when he saw a woman crawl out of one of the vehicles.<sup>59</sup> Wamang told us that he had

<sup>52</sup> Ronald C. Eowan, interview with Zainal Syarief and Fajaruddin (translator, Cherrilyne Goodenough Pakpahan), 20 April 2006, in *Berkas Perkara*, *supra* note 27. Indonesian original: ‘Dia melihat 2 (dua) buah kendaraan warna putih milik PT FI di jalanan dan juga melihat kendaraan TNI di samping jalan raya. Dia juga melihat anggota TNI melakukan tembakan – seperti sedang berkompetisi. Dia melihat 4 (empat) orang TNI dan 1 (satu) orang Papua yang juga merupakan anggota TNI.’

<sup>53</sup> Wamang told us he did not know who started the shooting. In a summary of the evidence, prepared by Zainal Syarief, a senior police investigator, a man named ‘Emi Aim’, apparently a pseudonym, fired the first five shots from a Mauser rifle. Emi Aim was allegedly part of Wamang’s group and was reported as being dead, according to the court documents. Wamang, 2005, *supra* note 2. *Berkas Perkara*, *supra* note 27, at p 24.

<sup>54</sup> Stephen Francis Emma, interview with Fajaruddin and Ahmad, 8 May 2006, in *Berkas Perkara*, *supra* note 27. Indonesian original reads: ‘Sekitar semenit dua menit kemudian 12–14 tembakan menghancurkan kaca depan’.

<sup>55</sup> *Berkas Perkara*, *supra* note 27, at p 34.

<sup>56</sup> Wamang, 2005, *supra* note 2.

<sup>57</sup> *Berkas Perkara*, *supra* note 27, at p 24. Original reads: ‘Ada tembakan lagi dari arah Tembagapura dari tanggul kearah saksi. Saat itu saksi mengatakan kepada teman-temannya ada tembakan, ada tembakan.’

<sup>58</sup> Wamang, 2005, *supra* note 2. This tape-recorded interview with SEK was confirmed by AH on 9 October 2006 with Wamang.

<sup>59</sup> Ronald C. Eowan, interviewed by Zainal Syarief and Fajaruddin, 20 April 2006, *Berkas Perkara*, *supra* note 27.

believed up until that moment that he had been shooting at an Indonesian military convoy.<sup>60</sup>

Wamang's group did not approach the stopped cars. As they left the scene, the other gunmen continued shooting. No-one followed as they beat a hasty retreat on foot.<sup>61</sup> Eyewitnesses agree that the shooting at Mile 63 lasted from 35 minutes to one hour.

Did Wamang fabricate the story about the second group of shooters? Did he tell investigators that the Indonesian military was involved in the hope of lessening his jail sentence? Perhaps. But Wamang's account has remarkable points of correspondence with the testimony of the victims. Several of the American schoolteachers also saw an unaccounted-for white vehicle at the crime scene.

Wamang says that his group – a band of teenagers and men with limited weapons training – shot at the cars from atop an embankment.<sup>62</sup> They wore black shorts, black T-shirts and black plastic headbands. Wamang says that they were all barefoot.<sup>63</sup> Victims of the attack saw some of the shooters walking along the side of the road near the vehicles. But their reports suggest that these were not Wamang's men. Ken Balk told investigators: 'I saw one of the shooters clearly. He was wearing green military camouflage pants with a dark T-shirt. He wore black military boots.'<sup>64</sup> Sandra Hopkins, who was in the same vehicle as Patsy Spier and Ken Balk, also clearly saw the attackers: 'The shooters were standing 4–5 metres or less from the vehicle that I was in. The man who I saw most clearly wore a black T-shirt. He wore camouflage pants with khaki, green, and brown colours. People running from the ambush site wore green military jackets or shirts.'<sup>65</sup>

At least 13 guns were fired at the crime scene, according to a ballistics report issued by the Police Central Forensic Laboratory [*Pusat*

<sup>60</sup> Wamang, 2005, *supra* note 2.

<sup>61</sup> Wamang, 2005, *supra* note 2.

<sup>62</sup> Wamang, 2005, *supra* note 2.

<sup>63</sup> Wamang, 2005, *supra* note 2. Surat Dakwaan, Kejaksaan Negeri Jakarta Pusat, Juni 2006 in *Berkas Perkara*, *supra* note 27.

<sup>64</sup> Kenneth M. Balk, interview with Zainal Syarief and Jeldi Ramadhan, 9 May 2006, in *Berkas Perkara*, *supra* note 27. Indonesian original reads: 'Saya melihat satu di antara [*sic*] para penembak tersebut, dia menggunakan celana kamufase militer hijau dengan kaos t-shirt warna gelap dan memakai sepatu militer warna hitam'.

<sup>65</sup> Sandra Hopkins, interview with Zainal Syarief, 9 May 2006, in *Berkas Perkara*, *supra* note 27. Indonesian original reads: 'Para penembak berdiri sekitar 4–5 meter atau kurang dari kendaraan yang saya tumpangi...Seorang laki-laki yang saya lihat paling jelas mengenakan t-shirt warna hitam. Dia memakai celana kamufase (loreng), coklat muda (kakhi) yang berwarna hijau dan coklat...mereka yang melarikan diri mengenakan jaket/baju militer warna hijau.'

*Laboratorium Forensik Polri*] on 19 December 2002: five M16s, six SS1s and two Mausers.<sup>66</sup> ‘We had one M16, one SS1, and one Mauser,’ Wamang told us.<sup>67</sup> Wamang’s account is consistent with the evidence presented by Chief Prosecutor Anita Asterida: his group carried a total of three guns.<sup>68</sup> Nine guns, of the 13 that are traceable by ballistics evidence to the crime scene, were identified by FBI experts as belonging to Kostrad Battalion 515, the Indonesian military detachment stationed in Timika with security checkpoints along the Timika–Tembagapura road.<sup>69</sup> There are no similar smoking guns linking Kopassus special forces soldiers to the crime scene. But one of the 13 guns that left cartridges at the crime scene was unaccounted for by investigators. Police investigators also suggested that there may have been more than 13 weapons fired at the crime scene – non-automatic weapons do not necessarily leave casings behind.<sup>70</sup>

Were the weapons of the Kostrad Battalion 515 soldiers fired in the direction of Wamang and his men? Or were they shot into the vehicles of the teachers? The ballistics evidence presented in the Central Jakarta district court that convicted Wamang did not directly address these questions.<sup>71</sup> If Kostrad shooters were standing on the opposite embankment from Wamang, as eyewitness testimony suggests, then the question of their intended target may indeed be difficult to discern. However, from the bullet holes on both the left and the right sides of the Toyota Land Cruisers, it is clear that there were shooters on both sides of the road.<sup>72</sup> Evidence of Indonesian military shooters, or evidence that

<sup>66</sup> Dudon Satiaputra, *supra* note 40.

<sup>67</sup> Wamang, 2005, *supra* note 2.

<sup>68</sup> Surat Dakwaan Antonius Wamang, Kejaksaan Negeri Jakarta Pusat, Juni 2006.

<sup>69</sup> *Berkas Perkara*, *supra* note 27, at p 33.

<sup>70</sup> Dr Syafrian, an Indonesian police ballistics expert who testified at the trial, noted: ‘Bullet casings fly out of guns with magazines when they are used for automatic or semi-automatic shooting. Thus, casings from these guns are often found at crime scenes. Guns that have cylinders where bullets are inserted do not eject bullet casings.’ Ch Syafrian S., interview with Ahmad A., 23 January 2006, in *Berkas Perkara*, *supra* note 27. Indonesian original: ‘senjata api yang cara pengisian pelurunya menggunakan magazen dengan sistem penembakan otomatis atau semi otomatis maka selongsong pelurunya akan terlempar keluar pada saat ditembakkan sehingga akan ditemukan di TKP, sedangkan senjata api yang cara pengisian pelurunya menggunakan silinder maka selongsong pelurunya tidak terlempar keluar’.

<sup>71</sup> *Berkas Perkara*, *supra* note 27, at p 33.

<sup>72</sup> *Berkas Perkara*, *supra* note 27, Lampiran 3b, Seketsa Lobang Perkenaan Tembakan Pada Mobil LWB Merk Land Sruiser Warna Putih Nomor Lambung 01-1490; Lampiran 3c Seketsa Lobang Perkenaan Tembakan Pada Mobil LWB Merk Land Sruiser Warna Putih Nomor Lambung 01-1187.

shooters had commandeered Freeport vehicles, was not pursued by the Indonesian court that convicted Wamang and his colleagues.

Atanasio dos Santos, the police officer from Tembagapura, is not the only eyewitness who saw a Kopassus soldier at the crime scene. Decky Murib, a Papuan man who works as a military informant, told police investigators that 10 soldiers had picked him up at the Hotel Serayu in Timika at 7.30 that morning.<sup>73</sup> Murib often accompanied Indonesian officers on their operations. It is not unusual for villagers such as Decky Murib to work informally for Indonesian soldiers. Murib told us he was surprised to see Kopassus Captain Margus Arifin leading this group. 'He was supposed to be in Bandung,' said Murib.<sup>74</sup>

Formerly, Margus Arifin had been the Kopassus liaison officer at Freeport's Emergency Planning Operation (EPO) office. EPO is a Freeport division that provides logistical, transportation and communication support for the more than 3,000 Indonesian security personnel stationed in the area.<sup>75</sup> According to Global Witness, 'Freeport Indonesia appears to have made payments totalling US\$46,000 and described mostly as food costs, to Captain Margus Arifin' by March 2002.<sup>76</sup>

Decky Murib told police investigators that Arifin had driven him in a car with licence plate number 609 through the Freeport checkpoints and dropped him, with four soldiers, at Mile 62 of the Tembagapura road. Arifin reportedly continued north along the road with the remaining soldiers, in the direction of the Kostrad Battalion 515 post at Mile 64.<sup>77</sup> Kostrad and Kopassus soldiers are under separate chains of command in Indonesia's military, but often conduct joint operations.<sup>78</sup> Margus Arifin denied Murib's testimony, saying that he was in Bandung that day. Kopassus commander Major General Sriyanto Muntrasan also told *Tempo* magazine that Margus Arifin was attending a course in Bandung that day.

<sup>73</sup> 'Saran Tindak Lanjut BAP Saksi Sdr Decky Murib (TBO Kopassus)', 28 September 2002, Timika. This is a police document in the archives of Elsham Papua. SEK has a copy of this document.

<sup>74</sup> Decky Murib, interview with SEK, 26 March 2005.

<sup>75</sup> AH interview with Lexy Lintuuran and Saul Tahapary, PT Freeport Indonesia's senior manager on corporate security and security consultant respectively, 6 November 2006, Jakarta.

<sup>76</sup> Global Witness, *supra* note 26, at p 28.

<sup>77</sup> 'Kesaksian Deyk Murib di Polda Papua Tentang Penembakan di Mile 62–63 Tembagapura', 18 September 2002, Polda, Jayapura. 'Saran Tindak Lanjut BAP Saksi Sdr Decky Murib (TBO Kopassus)', 28 September 2002, Timika.

<sup>78</sup> For details of one such joint operation, see Alfian Hamzah (2003), 'Kejarlah daku kau kusekolahkan', *Pantau Magazine*, January.

The vehicle with licence plate 609 was from Freeport's EPO fleet. 'Two or three Indonesian military officers were assigned to the EPO division,' said Dr Joseph Molyneux, then Freeport's corporate chief and now working at the FBI. 'They would have been able to approve the use of vehicle 609 or could have taken it on their own since they had direct access to it.'<sup>79</sup> According to Lexy Lintuuran, who then worked under Molyneux, a car with the licence plate 609 passed through the checkpoints on the morning of the attack. Lintuuran said Murib's statement was consistent with the Freeport record.<sup>80</sup>

Later Murib worked with police investigators to identify Kopassus soldiers whom he alleged were at the crime scene: Captain Margus Arifin, First Lieutenant Wawan Suwandi, Second Class Sergeant I Wayan Suradnya and First Class Private Jufri Uswanas.<sup>81</sup>

The presence of vehicle 609, a white Toyota Land Cruiser, at the crime scene would explain the observations of the victims. Patsy Spier said that she was shot as a white vehicle passed by her own Land Cruiser. Ken Balk remembered a white Toyota Land Cruiser carrying men in military dress as the attack started.

Another vehicle, also from Freeport's EPO division, was reportedly commandeered by the shooters. In the weeks leading up to the ambush, one of Wamang's co-conspirators, Hardi Tsugumol, made it clear to other Papuans that he was very busy getting ready for 'an action' on the road, according to Deminikus Bebari of the Amungme Indigenous Council [*Lemassa*]. Tsugumol 'amassed food and other supplies,' wrote Bebari, in a 2002 report prepared for Indonesian police investigators.<sup>82</sup> Just before dawn on 31 August, three men, including Tsugumol, were 'picked up at the Pompa Dua complex in the Kwamki Lama neighbourhood [7 km from Timika] by a white Toyota Land Cruiser from Freeport's Emergency Planning Operation (EPO) division,' wrote Bebari.<sup>83</sup> Tsugumol declined to reveal the identity of the vehicle's driver, saying he had to protect his 'friend'. He admitted only that they had travelled along the Timika–Tembagapura road, past five checkpoints,

<sup>79</sup> Molyneux, SEK phone interview, 1 October 2007.

<sup>80</sup> Lintuuran, *supra* note 29.

<sup>81</sup> 'Saran Tindak Lanjut BAP Saksi Sdr Decky Murib (TBO Kopassus)', 28 September 2002, Timika.

<sup>82</sup> Deminikus Bebari, 'Kesaksiaan Saudara Hardi Tsugumol Tentang Pelaku Penembakan di Mill 63', Lemassa internal report. SEK has a copy of this document on file.

<sup>83</sup> Bebari, 'Kesaksiaan Saudara Hardi Tsugumol Tentang Pelaku Penembakan di Mill 63'. Original reads: 'Mereka dijemput oleh Mobil PT. Freeport Indonesia yang digunakan oleh Department Army (EPO) di Kompleks Pompa Dua Kwamki lama'.

that morning.<sup>84</sup> Checkpoints mean nothing to soldiers. 'They do as they please, they don't care. The only ones we cannot control are the security vehicles,' said Lexy Lintuuran, the security executive at Freeport.<sup>85</sup> Wamang told us inconsistent stories about how he had arrived on the scene – at times he indicated that he had travelled up and down the road by car in the days leading up to the attack, and at other times he said that he had arrived on foot.

Hardi Tsugumol had a network of unlikely 'friends'. When he was a boy growing up in a highland village, he had wanted to be a soldier.<sup>86</sup> Later he lived in Java for many years, where he married an Indonesian woman. After returning to Timika, Tsugumol maintained relationships with active-duty Indonesian soldiers. In contrast to Antonius Wamang, who had long been loosely affiliated with TPN guerrillas, Tsugumol only cultivated contacts with 'freedom fighters' near Timika a short time before the ambush. Did Tsugumol serve as a double-agent? Did he deliberately set up Wamang and other Papuans who had dreams of heroically expelling the military occupier? Was Tsugumol the link that tipped off the Indonesian military to the precise location of the planned ambush? In the lead-up to the ambush, Tsugumol 'contacted his friends in the military to buy ammunition – 300 bullets for 600,000 Indonesian rupiah (US\$65), via his friends who were in the Indonesian special forces,' wrote Bebari.<sup>87</sup> Were these purely financial transactions? Did Tsugumol also get 'tactical advice' from his contacts 'on the inside'? Did he supply his military contacts with intelligence about Wamang's plans?

Before the attack, Tsugumol also notified a number of key Papuan human rights advocates that a 'peaceful rally' [*aksi damai*] would take place on the Timika–Tembagapura road. Was he trying to set up these Papuan leaders in urban areas? A document circulated by Tsugumol to

<sup>84</sup> Kwamki Lama neighbourhood is located near Timika. One has to pass five checkpoints manned by Freeport's security and the Indonesian military to reach Mile 63. The five checkpoints include Mile 28, Mile 32, Mile 34, Mile 50 (one of the strictest) and Mile 58.

<sup>85</sup> Lintuuran, *supra* note 29. Original quote: 'Mereka seenaknya saja, mereka masa bodoh. Yang tidak bisa kita kendalikan hanya mobil-mobil keamanan.'

<sup>86</sup> Hardi Tsugumol, 22 March 2005, interview with SEK in Timika.

<sup>87</sup> Bebari, *supra* note 83. Original reads: 'Hardy Tsugumol sangat sibuk dengan persiapan rencana aksi damai di sekitar terowongan ruas jalan Timika–Tembagapura, menyangkut: BAMA (Bahan Makanan) serta kelengkapan lainnya. Menghubungi teman-temannya anggota (Militer) untuk membeli Amunisi yang berjumlah 300 Butir, dengan harga Rp, 600.000 melalui salah satu temannya yang anggota Kopassus.' AH checked this information with Bebari in Jakarta, 13 November 2006.

Papuan human rights defenders and TPN members stated (in broken Indonesian): ‘The troops must understand human rights laws, and in this respect must pay attention to civilians from Papua, Indonesia, and whites. They are just the people [*masyarakat*] and not our enemies.’<sup>88</sup>

Naivety on the part of Wamang, for one, was certainly an important factor that allowed strange bedfellows to come together in the events leading up to the ambush. But recent history might well have led him to believe that it was possible to play one group of Indonesian security forces off against another. In other contexts, Papuan activists have used financial and logistical support from Indonesian agents to stage successful events in which aspirations for independence have been aired.<sup>89</sup> Many Papuans with kinship and personal ties to TPN guerrillas also work for the Indonesian military. For Anna Tsing, ‘collaborations are the hopeful edge of a political project’.<sup>90</sup> Wamang and his band of guerrillas may have been working to ‘turn’ their ‘friends on the inside’ at the same time as Indonesian military agents were working to frame these Papuan independence fighters. Unsettling results often emerge from relationships of mutual exploitation. The idiom of co-production suggests that agents cannot always know with certainty the outcomes of their actions. Ambivalent collaborations and contingent circumstances may well produce events that surprise everyone involved. Where competing agendas co-mingle, where the lines separating enemies from allies grow fuzzy, dangerous possibilities emerge.<sup>91</sup>

## **A cover-up?**

Victims of the 31 August ambush were immediately transported to SOS Tembagapura Hospital, and were soon evacuated to larger hospitals in Australia and Indonesia. Seven survivors with the most serious injuries

<sup>88</sup> ‘Perintah Operasi’, 27 June 2002, TPN Makodap III Nemangkawi. Indonesian original: ‘Pasukan harus dapat memahami Hukum-hukum HAM, dan didalam hal ini harus berhati-hati sipil dari Papua, Indonesia/ Kulit puth adalah masyarakat dan bukan musuh kita’.

<sup>89</sup> Such events, involving both elite independence groups in urban centres and TPN/OPM guerrillas in rural areas, are discussed in S. Eben Kirksey (2008), ‘Freedom in entangled worlds: experiences of freedom in West Papua’, PhD dissertation ((filed January), Department of History of Consciousness, University of California, Santa Cruz.

<sup>90</sup> A. L. Tsing (1999), ‘Becoming a tribal elder, and other green development fantasies’, in T. M. Li, ed, *Transforming the Indonesian Uplands: Marginality, Power, and Production*, Harwood Academic Publishers, London, p 162.

<sup>91</sup> These themes are explored in Kirksey, *supra* note 89.

were flown to Townsville in northern Australia on 1 September. 'In their desire to keep a lid on information, the [Townsville] hospital and Freeport did not allow the patients to use the telephone for the first day and a half,' according to a cable from the US Consulate in Sydney, which was recently declassified in response to a Freedom of Information Act Request filed by the National Security Archive in Washington, DC.<sup>92</sup> The victims of the attack were not even allowed to contact their families on their first day in Australia.

Elsham Papua, a human rights organization based in Jayapura, immediately called on the US government to launch an independent investigation. On 2 September, the American Embassy in Jakarta sent a classified cable to Secretary of State Colin Powell, which stated: 'Many Papuan groups are calling for an independent investigation, led by the US. Calls for an independent probe are unrealistic, but we believe that Papua's Police Chief, who enjoys a good reputation with Papuan activists (and US), can conduct a fair investigation'.<sup>93</sup>

The Indonesian police investigation came to question 30 soldiers and 44 civilians, and conducted extensive forensic research. These police investigators found 'a strong possibility' that there had been Indonesian military shooters.<sup>94</sup>

On 1 September, one day after the attack, the body of 'Mr X' appeared near the crime scene. Indonesian military officers claimed that their troops had shot one of the Papuan guerrilla attackers. Second Class Corporal Wayan, an Indonesian soldier with Kostrad Battalion 515, claimed to have shot Mr X while patrolling a mountain near the crime scene at 11.40 am. At 1.30 pm, senior military and police officials – including Papua police chief Major General I Made Mangku Pastika and Papua army commander Major General Mahidin Simbolon – arrived at the side of the road where Corporal Wayan was standing with the body.<sup>95</sup> There were no blood stains on the ground near the body.

Corporal Wayan claims that Mr X was standing on a small ledge approximately half a metre in width on the side of a steep cliff when he shot and killed him. A police reconstruction, conducted on 10 September 2002, deemed Wayan's story implausible.<sup>96</sup> The body reportedly fell

<sup>92</sup> Cable from the American Consul in Sydney to the Secretary of State in Washington, DC, 2 September 2002.

<sup>93</sup> Cable from the American Embassy in Jakarta to the Secretary of State (PRIORITY 0033), 'The perpetrators of the August 31 attack on a Pt Freeport convoy in Papua remain unclear', 2 September 2002.

<sup>94</sup> Quoted in Priest, *supra* note 43.

<sup>95</sup> 'Ringkasan Laporan', Elsham Papua, 14 August 2003.

eight metres off the cliff, yet did not have any broken bones. A report by Indonesian forensics experts found that the blood type of Mr X was 'O' and that dirt and leaves from the site where Wayan claimed to have shot the man did not contain any blood of this type.<sup>97</sup> *The Washington Post* reported that Mr X was a former military informant.<sup>98</sup> This man, reportedly named Deminus Waker, had been kidnapped by security forces before the ambush.<sup>99</sup> However, documents from the court that sentenced Wamang to prison claimed that Mr X was Elias Kwalik, an alleged accomplice in the attack.

Elsham Papua became involved in the Timika investigation in the days immediately after the attack. Investigating reports about the identity of Mr X led them to Deminus Waker's village. When their vehicle approached the village, a crowd of villagers closed in. Paula Makabory, an Elsham team member, told us: 'Some villagers carried axes, others hefted large stones. A rock hit our vehicle and then another.' The driver jammed the vehicle into reverse and sped backwards down the road. Three Indonesian agents had reportedly visited the village earlier in the day and provoked the attack on the Elsham team, Makabory said. Intelligence agents stationed at the local Mimika military command also routinely followed Makabory and other Elsham human rights workers.<sup>100</sup>

Elsham Papua issued a preliminary report on 26 September 2002. It presented evidence 'suggesting the shooting was carried out by Indonesian military personnel or groups facilitated by the TNI'.<sup>101</sup> The BBC, Radio Australia and many Papuan newspapers covered the report. Two days later, the Indonesian military denied it and announced that it was suing Elsham. There was a raid on Elsham Papua's Jakarta office on 10 October 2002.<sup>102</sup> 'During the raid, the men seized documents and computer diskettes containing Elsham reports on the August ambush,' wrote

<sup>96</sup> 'Peristiwa 1 September 2002', internal document, Polda Papua. Original reads: 'MR. X diduga bukan TSK pelaku yg sebenarnya di TKP Mile 62'. 'Audiensi Team Investigasi Els-Ham Papua Dgn Polda Papua', Kantor Polres M-32, Mimika, 11 September 2002.

<sup>97</sup> Dudon Satiaputra, *supra* note 40.

<sup>98</sup> A. Sipress and E. Nakashima (2002), 'Slain suspect in Indonesian ambush said to be military informer', *The Washington Post*, 15 September.

<sup>99</sup> M. Moore (2002), 'Gunmen shoot at Papua police team', *The Age*, 17 September.

<sup>100</sup> 'Tim Elsham dan Polisi Mendapat Ancaman Pembunuhan dan Terror', 18 September 2002, Elsham Papua, Mimika.

<sup>101</sup> Elsham Papua, 'What happened at Freeport', 26 September 2002.

<sup>102</sup> Alberth Rumbekwan, 'Kronologi Peristiwa Pembongkaran Kantor Perwakilan Elsham Papua di Jakarta', sent to West Papua@topica.com on 16 October 2002.

*The Jakarta Post*.<sup>103</sup> A court summons arrived in November, announcing that John Rumbiak and Yohanis Bonai, the supervisor and director of Elsham respectively, were being sued for libellous statements.<sup>104</sup> Yohanis Bonai's wife, Elsje, along with other members of their extended family, were attacked by unknown gunmen while driving near the border between Papua and Papua New Guinea on 28 December 2002. Elsje Bonay was shot in both legs.<sup>105</sup> She survived the attack, but after repeated surgery she still has difficulty walking. *Tempo* magazine ran a story with the headline: 'Shooting of Papuan human rights activist's family may be related to Timika incident'.<sup>106</sup> Yohanis Bonai resigned as the Director of Elsham, but the organization continued to investigate the Timika case.

Indonesian police investigators drew similar conclusions to the Elsham investigators – that there was evidence of an Indonesian military role in the attack in Timika. Saul Tahapary, a Freeport security consultant who was party to a conversation with the then Papua police chief I Made Mangku Pastika, recalled that Pastika was upset about attempts by the military to cover up their own actions.<sup>107</sup> Pastika was soon transferred off the investigation to deal with the Bali bombing that had killed more than 200 people.

Police Brigadier General Raziman Tarigan, who was then Pastika's immediate deputy, took over the Indonesian police investigation after Pastika's departure. Tarigan worked closely with Elsham investigators.<sup>108</sup> He told reporters that the 13 guns used in the attack were the types of weapons issued to soldiers stationed in the area.<sup>109</sup> 'Only the military

<sup>103</sup> 'Office of Rights group probing Papua shootings attacked', *The Jakarta Post*, 28 October 2002.

<sup>104</sup> Andi Imran to Yohanis Bonai, 'Somasi', 15 November 2002, Jakarta. This is the original summons from the TNI to Elsham. Copy of the document on file with SEK.  
<sup>105</sup> Nethy Dharma Somba (2002), 'Wife of human rights activist shot at Papua-PNG border', *The Jakarta Post*, 29 December.

<sup>106</sup> 'Shooting of Papuan human rights activist's family may be related to Timika incident', *Tempo Interactive*, 28 December 2003, 20:54:13 WIB.

<sup>107</sup> Interview of Saul Tahapary with AH, 6 November 2006 in Jakarta. Original quotation: 'Mas, negara ini khan punya kita semua. Kalau demi bangsa dan negara, ya kasih tahu dulu, supaya kita ini tidak repot semua.' According to Tahapary, Pastika made this statement to Maj Gen M. Yasin (deputi Menko Polkam bidang Politik Dalam Negeri), Brig Gen Mamat Rachmat and Dr Yudho, Coordinating Minister on Security and Politics, Susilo Bambang Yudhoyono's office.

<sup>108</sup> Soal Penembakan Di Timika Belum Ada Bukti Keterlibatan TNI, 9 January 2003, Indonesian military press release, available from Website: <http://www.tni.mil.id/news.php?q=dtl&id=232>.

<sup>109</sup> Dudon Satiaputra, *supra* note 40. 'Police say Indonesian army behind Papua ambush', *Agence France Presse*, 26 December 2002.

and Freeport workers pass through the area,' Tarigan was quoted as saying by *Koran Tempo*.<sup>110</sup> After making these public statements, Tarigan was also transferred off the investigation.<sup>111</sup>

During a meeting between armed forces commander General Endriartono Sutarto and US Ambassador Ralph Boyce on 16 June 2003, the commander expressed concern about a written interview request from *The Washington Post*. Having just settled a lawsuit with *The Post* about the Timika case, Sutarto was troubled by a new request to interview him, the Indonesian Strategic Intelligence Agency (BAIS) and chiefs of the State Intelligence Agency (BIN) regarding the ambush. According to a classified report from the meeting, 'The Ambassador replied by suggesting that the upcoming *Post* article should not deter us from our main objective, which was justice in the Timika case.'<sup>112</sup>

General Sutarto, on his own initiative, dispatched a military fact-finding team led by Brigadier General Hendarji to Timika and Jayapura, following the reports of military involvement. The team from Central Military Police (Puspom TNI) was told to conduct a 'reconstruction'. According to a standard textbook on criminology, a murder reconstruction involves answering a series of questions: (1) Was there more than one person involved? (2) How was the victim killed? (3) Were there actions taken to cover up what actually took place?<sup>113</sup> However, the Indonesian military reconstruction did not rigorously attempt to answer any of these three questions.

Decy Murib, the military informant who claimed to have travelled with Kopassus's Captain Margus Arifin to a spot near the crime scene, told us that he was threatened and intimidated by Indonesian soldiers on 28 December 2002, the day of the reconstruction.<sup>114</sup> Murib told us that he was threatened by Arifin himself. Captain Margus Arifin reportedly told Murib not to participate in the reconstruction. Murib decided to go into hiding.<sup>115</sup> Deminikus Bebari of the indigenous rights group Lemassa and Albert Bolang of the Legal Aid Institute accompanied the Indonesian military reconstruction team on 28 December 2002

<sup>110</sup> Tom Hyland (2002), 'Police blame army for Papua ambush', *The Age*, 27 December; *Agence France Presse*, *supra* note 109.

<sup>111</sup> Simon Elegant (2003), 'Murder at the mine', *Time Magazine*, 10 February.

<sup>112</sup> Cable from American Embassy in Jakarta to Secretary of State in Washington, DC, 17 June 2003.

<sup>113</sup> Richard Saferstien (2001), *Criminalistics: An Introduction to Forensic Science*, 7 ed, Prentice Hall, Upper Saddle River, NJ, p 69.

<sup>114</sup> Decy Murib, *supra* note 74. Indonesian original: 'Bapa mau tembak saya, silahkan'.

<sup>115</sup> Decy Murib, *supra* note 74.

as outside observers. The Indonesian military said that they would test the accuracy of Decky Murib's account implicating Kopassus in the shooting. Deminikus Bebari had repeatedly interviewed Murib, who originally told police investigators that he heard shots after Captain Margus Arifin had dropped him at the side of the road. The military reconstruction team deposited Bebari at Mile 58, as a witness, while they shot automatic weapons at the scene of the crime. Bebari did not hear the gunshots. Deminikus Bebari told us, 'Decky might be a drunkard and an opportunist but he was at Mile 62. How could we test whether he had heard the shots or not when I was placed four miles away from his position?'<sup>116</sup> Brigadier General Hendarji, who headed the military reconstruction, confronted Bebari during the reconstruction. Bebari recounted that Hendarji said, 'Since you did not hear any gunshots, then all of Murib's testimony about the Timika shooting was lies'.<sup>117</sup> In January 2003, Decky Murib was flown to Jakarta by Indonesian military officials.<sup>118</sup> Major General Sjafrie Sjamsoeddin, the Indonesian military spokesman, announced on 14 January 2003: 'Decky Murib lied'.<sup>119</sup>

Despite repeated threats by militia members, Deminikus Bebari continued to carry out research and advocacy about the ambush that killed the schoolteachers. In June 2004, Bebari's house in Timika was ransacked by an angry mob. A group of men wielding axes entered the house and grabbed Bebari's wife, Nirmala Ohee, and their three children. The men destroyed books, clothes and other personal property. They reportedly threatened to kill Nirmala Ohee and the children.<sup>120</sup>

## A widow and the FBI

Recovering from her gunshot wounds and mourning her lost husband, Patsy Spier closely followed the news as police investigators implicated Indonesian military troops in the attack. When the Indonesian military took over the investigation and promptly exonerated themselves, Spier began her campaign for justice. After making a few tear-

<sup>116</sup> Deminikus Bebari interview with AH, 13 November 2006, Jakarta.

<sup>117</sup> Deminikus Bebari, 'Kronologi Pemeriksaan Saksi (Decky Murib) oleh Puspom TNI atas Aksi Penembakan Mill 63 Ruas Jalan Timika-Tembagapura', 6 January 2003.

<sup>118</sup> Deminikus Bebari, *supra* note 116.

<sup>119</sup> Kapsuspen Tni: Kesaksian Decky Murib Bohong, 14 Jan 2003, available from Website: <http://www.tni.mil.id/news.php?q=dtl&id=239>.

<sup>120</sup> Deminikus Bebari, SEK interview on 24 March 2005 in Timika and 20 July 2005 in Washington, DC.

choked phone calls to the offices of Washington policy makers, she learned that the US government was poised to renew Indonesian military funding through the International Military Education and Training (IMET) programme. 'I just, I just couldn't believe it,' Spier told Australian ABC reporters, 'If the Indonesian police had implicated the Indonesian military, why would my government want to give money to that military?'<sup>121</sup>

The Bush Administration made military aid to Indonesia a high priority in the post-September 11<sup>th</sup> era. Following the Santa Cruz massacre in East Timor, the US Congress had blocked military aid to Indonesia in 1992. All military assistance to Indonesia had been cut by the Clinton Administration in response to the bloodbath during the 1999 independence referendum in East Timor.<sup>122</sup> When Patsy Spier first came to Capitol Hill in early 2003, human rights groups – Amnesty International, Human Rights Watch and the East Timor Action Network – were losing a battle to keep restrictions on Indonesian military financing. Spier's presentations to lawmakers were well received. She secured meetings with top US government officials: Deputy Secretary of Defense Paul Wolfowitz, FBI Director Robert Mueller, key senators and congressmen.<sup>123</sup> Given what she saw as the 'internal conflicts' within Indonesia's security forces, Patsy Spier came to see an independent FBI investigation as the only way to get to the truth about the case.<sup>124</sup> Spier came to see the FBI special agents assigned to the case – namely Paul Myers, Brad Dierdorf and Ron Eowan – as her personal 'guardian angels'.<sup>125</sup>

Initially, FBI agents were permitted only short visits to Timika. All their interviews of witnesses were, at first, conducted in the presence of Indonesian minders.<sup>126</sup> Their translator, a Malaysian woman, had difficulty understanding the regional dialect of Bahasa spoken in Papua.<sup>127</sup> Despite repeated high-level requests from the US government, including a personal appeal by President George W. Bush, the FBI had continual difficulties in gaining access to witnesses and material evidence.<sup>128</sup> 'We were objective,' said Dierdorf during an interrogation

<sup>121</sup> Anthony Balmain (2004), 'Ambush in Papua', Australian Broadcasting Corporation, 7 August.

<sup>122</sup> Priest, *supra* note 43.

<sup>123</sup> Tim Shorrock (2004), 'Murder, she said', *Mother Jones*, March–April.

<sup>124</sup> Spier, *supra* note 38.

<sup>125</sup> Patsy Spier, SEK interview, Santa Cruz, 22 May 2004.

<sup>126</sup> Priest, *supra* note 43.

<sup>127</sup> 'Logat Papua' is a distinct linguistic regional dialect related to Bahasa Indonesia. In addition to this creole dialect, there are over 250 indigenous languages in Papua.

<sup>128</sup> Matthew Moore (2002), 'Find Freeport killers, Bush tells Megawati', *Sydney Morning Herald*, 21 December.

on 24 February 2005. 'Our gut feeling initially leaned away from Papuans,' he added.

The 'objectivity' of the FBI investigation was in fact compromised. Standpoint epistemologists see all knowledge projects as political – researchers are never free from the values and interests of particular social locations. The subject positions of researchers shape the types of questions that they ask.<sup>129</sup> Questions about Indonesian military involvement in the attack were certainly at odds with high-level Bush Administration priorities. Edmund McWilliams, formerly a political secretary for the US Embassy in Jakarta, told us: 'The FBI investigation, once it was finally launched, proceeded in the constraining political context of an administration policy which was pressing for rapid expansion of US–Indonesian military ties. I personally observed FBI reluctance to accept or pursue information offered to it that pointed to Indonesian military involvement in the killings.'<sup>130</sup> The overarching political context thus provided an environment that was not conducive to the field agents pursuing their 'gut feeling'.

Spier nonetheless saw the FBI as her only hope of getting to the truth behind her husband's murder. She saw that restricting funds for the Indonesian military would provide a financial incentive for cooperation with the US investigation team. Senator Russell D. Feingold (D-Wis) later sponsored an amendment to prohibit 'normalization' of the USA–Indonesia military relationship. Senator Wayne Allard (R-CO) sponsored a parallel amendment that prohibited the release of US\$600,000 in IMET military training funds. Both amendments were passed in October 2003. Only 'full cooperation' with the FBI investigation would allow the Pentagon to release these funds to the Indonesian military. These congressional measures stymied Bush Administration efforts to restore full military ties with Indonesia.

On 24 June 2004, US Attorney General John Ashcroft and FBI Director Robert Mueller announced that Antonius Wamang had been indicted for the murders at Mile 63. The indictment alleged that Wamang was a 'terrorist' seeking independence from Indonesia. The US Department of Justice did not mention evidence of Indonesian military involvement in the indictment. The US Department of Justice did not

<sup>129</sup> S. Harding (1996), 'Rethinking standpoint epistemology: what is "strong objectivity"?' in E. F. Keller and H. E. Longino, eds, *Feminism and Science*, Oxford University Press, New York, p 241; S. Harding (2004), *The Feminist Standpoint Theory Reader: Intellectual and Political Controversies*, Routledge, New York, p 136.

<sup>130</sup> Ed McWilliams, 'FBI', e-mail sent to SEK on 4 November 2006.

explicitly exonerate the Indonesian military, but the military themselves later claimed exoneration. Here the agendas of the Bush Administration and the Indonesian military aligned to co-produce a new spectre of terror. The Indonesian military agenda of combating a domestic nationalist movement, through this attack, came to link up with the 'global war on terror'. Blaming the ambush on Wamang and his men appeared to be a parsimonious explanation to high-level Bush Administration officials. In short, it was politically expedient to ignore a more complex account of the possible role of Indonesian state agents in helping to stage this criminal act.

Patsy Spier's initial reports to journalists and presentations to US policy makers focused on evidence of an Indonesian military role in the attack. Following the indictment of Wamang, Spier continued to meet policy makers. But her presentations no longer focused on the possibility of Indonesian military involvement. She began to believe the explanations of her 'guardian angels' that the attack had been conducted by Papuan terrorists. In April 2007, the Justice Department gave Spier the Special Courage Award for 'extraordinary bravery in the aftermath of a crime'. FBI Director Robert Mueller created the Strength of Human Spirit Award especially for her.<sup>131</sup>

### **A lobbying bonanza**

The Timika ambush took place during the administration of President Megawati Sukarnoputri, who had made restoring military ties with the USA a high priority. Megawati's husband, Taufik Kiemas, hired a Washington lobby firm to work on the issue of military aid. Taufik is also a leader of Megawati's Indonesian Democratic Party of Struggle. He contracted Alston & Bird LLP, a Washington firm, to lobby on Capitol Hill. Yohannes Hardian Widjonarko, the treasurer of the Kawula Alit Nusantara Foundation, an organization led by Taufik Kiemas, signed the contract with Alston & Bird.<sup>132</sup> The one-year contract was also signed by Senator Bob Dole, the Republican presidential candidate in 1996. The contract called for payment of US\$200,000 per month and laid out 12 lobbying objectives including seeking a resumption of the military assistance. The total cost for Alston & Bird's efforts, according to legal

<sup>131</sup> J. Widdifield (2007), 'Patsy's story', *University of Denver Magazine*, fall.

<sup>132</sup> Andreas Harsono (2007), 'Lobbying bonanza', International Consortium of Investigative Journalists, 31 May. This story used Foreign Agents Registration Act (FARA) documents. FARA records on file with Andreas Harsono.

records, was \$1,044,147. From 1 November 2003 to 30 April 2004, Alston & Bird reported US\$846,163 in income from Widjonarko. From 1 May 2004 to 20 October 2004, the reported income was \$197,984. Where did all the money come from? It depends on whom you ask.

While Bob Dole and his team worked in the chambers of power in Washington, DC, over a two-year period, Elsham's John Rumbiak presented the FBI with specific details about Wamang's ties to the Indonesian military.<sup>133</sup> But the FBI was not listening. In response to written questions about the Timika case from Senator Joseph R. Biden, Dr Condoleezza Rice said: 'Although the investigation is not complete, the FBI has uncovered no evidence indicating TNI involvement in the Timika murders'. Did FBI investigators not brief Administration officials about Wamang's trip to Jakarta and his extensive contacts with military agents? Were US leaders not informed about eyewitness reports of a second group of shooters?

In 2005, lobbyists with Richard L. Collins & Co began asking offices on Capitol Hill for the names of Papuan 'separatists' who had presented briefings to Congress in the recent past. Paula Makabory, an Elsham employee who investigated the Timika case, was among the Papuan human rights workers who had recently presented Washington policy makers with her findings. According to Edmund McWilliams, the former US State Department official, Collins & Co was seeking these names on behalf of Indonesia's top State Intelligence Agency, BIN [*Badan Intelijen Negara*]. McWilliams circulated a note on this issue to 74 congressional members of staff: 'There is a very strong basis for concern that any Papuans whose names were given to BIN would face real danger.... Several Papuan human rights advocates have recently fled Papua because of death threats and a number of prominent Papuan human rights advocates have been detained, tortured and murdered by security forces.'<sup>134</sup> Following threats, Paula Makabory eventually relocated to Melbourne, Australia, with her children Cindy and Godwin. She has since been granted political asylum.

## **Entrapment**

Despite pressure from high-level US officials, Indonesian authorities failed to capture Antonius Wamang. Perhaps they feared the story he

<sup>133</sup> John Rumbiak, SEK interview on 5 February 2005.

<sup>134</sup> Edmund McWilliams (2005), 'Warning about Indonesian Intelligence Agency activities in Congress', e-mail sent on 16 December to skirksey@ucsc.edu.

might tell in court. The impasse prompted Willy Mandowen, a Papuan politician, to begin talking to the FBI and US government officials about negotiating Wamang's surrender. Mandowen sent an e-mail to a public discussion forum for Papuan activists on 7 December 2005: 'Tomorrow at Capitol Hill, Washington DC, we are meeting with important representatives of the US Congress who are giving full support to help us resolve our problems in West Papua in a comprehensive and humanitarian manner'.<sup>135</sup> Congressional staff talked to Mandowen about the possibility that FBI agents might bring Wamang to stand trial in the USA.<sup>136</sup>

With Mandowen's help, FBI agents Paul Myers and Ron Eowan coordinated an 11 January 2006 'meeting' at a small hotel in Timika called the Amole Dua.<sup>137</sup> Invitations to this meeting were sent to Wamang via Reverend Isak Onawame, a Timika church leader who is internationally known for his human rights work. Witnesses said that the FBI had pledged to transport the suspects to the USA for trial. At the hotel, the two FBI agents told the 12 men attending the meeting, including Wamang and Reverend Onawame, to get into the back of a medium-sized truck. The agents reportedly promised to drive the men to the Timika airport and fly them out of Indonesia. However, instead of driving to the airport, Myers and Eowan dropped the men at a local police station where Indonesian police from the mobile brigade (Brimob) were waiting.<sup>138</sup> It seems the police had by this time given up their defiant independence in the case.

Reverend Onawame was strip-searched, deprived of sleep and interrogated at the police station along with the other detainees. Another detainee, an elderly man named Jairus Kibak, claimed to have been struck on the forehead by an Indonesian interrogator. Four of the men, who were never charged with any crime, were released the next day.<sup>139</sup> Reverend Onawame was not released. Denny Yomaki of Elsham Papua,

<sup>135</sup> Willy Mandowen (2005), 'Kami Tidak Berpesta Atas Keringat Orang!' sent to komunitas\_papua@yahoo.com from wmandowen@yahoo.com on 7 December. Indonesian original reads: 'Sekedar info bahwa esok 08 Desember 2005 pukul 16:00 bertempat di capitol hill Washington DC kami akan bersua dengan wakil-wakil penting Kongres AS yang telah memberi dukungan terhadap penyelesaian secara menyeluruh dan manusiawi masalah Papua Barat'.

<sup>136</sup> Octovianus Mote, SEK interview, 11 January 2006.

<sup>137</sup> Ellen Nakashima (2006), 'FBI said involved in arrest of 8 Indonesians', *The Washington Post*, 14 January.

<sup>138</sup> Raymond Bonner (2006), 'Indonesian man links military to shooting of U.S. teachers', *The New York Times*, 14 January.

<sup>139</sup> Nakashima, *supra* note 137.

who went to see the Reverend in prison, said: 'Interrogators extracted a false confession from Reverend Onawame. He told the police that he gave Wamang food.' Antonius Wamang has repeatedly said that Reverend Isak Onawame was not involved in the crime. 'It's fine if I am held responsible,' Wamang said, 'but, the Reverend didn't even help us with logistics'.<sup>140</sup> Court documents quote Reverend Onawame as saying 'I gave two sacks of rice and one plastic tent to Antonius Wamang'.<sup>141</sup> Onawame has since retracted this 'confession'. The court documents do not claim that Reverend Onawame was at the scene of the crime.

The prisoners were soon transferred to the Indonesian Police Headquarters' detention centre in Jakarta, three time zones away from Timika. They were not given their own cells to sleep in. Instead they all shared the prison 'TV room'. The Timika defendants were repeatedly threatened while in jail.<sup>142</sup> Hardi Tsugumol, the man with known ties to the Indonesian military, was charged by Indonesian prosecutors with providing Wamang with logistical support. Tsugumol developed serious heart problems in June 2006. His medical treatment was delayed until late August, when he underwent heart surgery. Tsugumol also suffered from hepatitis and HIV/AIDS. One of the prisoners' lawyers, Riando Tambunan, repeatedly asked the court to attend to Tsugumol's health problems. But visits from doctors were infrequent. Tsugumol died on 1 December 2006.

Wamang was sentenced to life in prison by a Jakarta court on 7 November 2006. Two other defendants, teenagers Johni Kacamol and Yulianus Deikme, were each sentenced to seven years in jail, while the other four, including Reverend Onawame, Hardi Tsugumol and the two church workers, were sentenced to 18 months.<sup>143</sup> They did not talk about their ties to the Indonesian military in the courtroom. The threats that they were subjected to in prison made them afraid to tell the whole story, according to Reverend Onawame in a telephone interview from prison on 9 June 2008. Were they also trying to protect their 'friends' on the inside?

Lawyers for the group filed an appeal at the Jakarta High Court. In January 2007, the court upheld the life imprisonment of Wamang. Surpri-

<sup>140</sup> Wamang, 2006, *supra* note 2.

<sup>141</sup> *Berkas Perkara*, *supra* note 27, at p 87.

<sup>142</sup> Deminikus Bebari (2006), 'Re: Mogok Makan dan Teror', e-mail sent from demiedenis@yahoo.com to skirksey@ucsc.edu, 20 September.

<sup>143</sup> 'Wamang Divonis Seumur Hidup', *Pikiran Rakyat*, 8 November 2006.

ingly, the court increased the sentences of the other defendants: Kacamol and Deikme were sentenced to eight years in jail (increasing their sentences from seven years), while the other four were sentenced to five years (increasing their sentences from 18 months). The Papuan villagers appealed to the Supreme Court. This appeal was rejected. The Supreme Court found no procedural fault in the High Court trial.<sup>144</sup>

Collaborations between FBI special agents and the Indonesian prosecutors produced a simple, seemingly parsimonious, account of what had taken place: Wamang and his band of guerrilla fighters had staged a terrorist attack in hopes of furthering the cause of independence. The courtroom accounts made no mention of Sergeant Puji, the police officer whom Wamang has fingered as a supplier of bullets used in the attack. Nor did the court hear evidence of the reported involvement of Indonesian soldiers – Captain Margus Arifin, First Lieutenant Wawan Suwandi, Second Class Sergeant I Wayan Suradnya and First Class Private Jufri Uswanas. Puzzlingly, the courtroom documents referred to Johni Kacamol, the teenager placed at the scene of the crime, as ‘Agus Anggaibak’. The real Agus Anggaibak, who reportedly inspired Wamang’s attack and helped him obtain bullets in Jakarta, now regards himself as an up-and-coming leader in the government regional assembly in Timika.<sup>145</sup> The seemingly simple narrative about terrorism, which was co-produced by the FBI and Indonesian prosecutors, laid the groundwork for bolstering a new military regime in Indonesia. The trial of Wamang set the stage for new military collaboration between the USA and Indonesia.

Even though the FBI investigation has not been formally brought to a conclusion, the Bush Administration has launched new military aid programmes for Indonesia. In 2006, a new Pentagon programme was announced that would provide up to US\$19 million in additional funds for building Indonesian military capacity. The very day that Wamang was sentenced to life in prison, Washington signalled a ‘new era of military co-operation’ with Indonesia.<sup>146</sup> In December 2007, the US Congress decided to award the Indonesian military US\$18.4 million in Foreign Military Financing for the fiscal year 2008.<sup>147</sup>

<sup>144</sup> ‘MA Tetap Hukum Terpidana Freeport Penjara Seumur Hidup’, *Antara*, 26 September 2007.

<sup>145</sup> Agus Anggaibak, telephone interview by SEK from Jakarta to Timika, 11 June 2008.

<sup>146</sup> ‘US: Washington signals new era of military co-operation’, *Radio Australia*, 11 November 2006.

## **Conclusion**

At the time of the incident, the Indonesian military was embattled – competing with the police for security contracts, fending off criticism from human rights groups, and dealing with pressure for reform from a civilian administration. In the initial months after the ambush in Timika, it seemed as if this incident would be their downfall. Initially, it seemed as if the Indonesian military had conducted this attack by themselves – without the help of TPN guerrillas. When the FBI began their investigation, it seemed possible that they would identify the Indonesian military as the culprits.

The idiom of co-production explains how the contingent collaborations, the (perhaps) chance connections between Wamang's group and the Indonesian military enabled this ambush to take place. Co-production might also help us to understand the collaborations between the FBI and Indonesian officials that came to frame this attack as an act of terrorism. We did find evidence of attempts to coordinate the different investigations 'at the political level', in the words of Susilo Bambang Yudhoyono. Yet in many ways, the FBI investigation was independent of the Indonesian authorities – they had their own field agents and an independent network of informants. To appropriate the language of Jasanoff, they had separate micro-processes by which the case came to have form and meaning. The FBI did not apparently conspire with the Indonesian authorities to fabricate or destroy evidence. Instead, our conclusion is that they worked closely with the Indonesian authorities to construct a parsimonious and politically viable narrative that fitted parts of the existing evidence. However, both the FBI and Indonesian military investigators seem to have ignored inconvenient truths.

<sup>147</sup> The majority of these funds, US\$15.7 million, will be automatically awarded to the Indonesian military in FY 2008. The remaining US\$2.7 million will be awarded once the US Department of State has completed a report about the assassination of human rights activist Munir, access to Papua, and general reforms in Indonesia. J. Miller (2007), 'ETAN Statement on military assistance to Indonesia in the FY2008 Consolidated Appropriations bill (HR 2764)', accessed 18 December 2007 from Website: <http://www.etan.org/news/2007/12app.htm>.