Illegal Coal Mining in South Kalimanatan - A Mining Company Confronts PETI Operations through Engagement

Overview
Over the last 25 years, the Indonesian government has been faced with the spread of illegal mining operations across the archipelago, and this problem has intensified since the end of the New Order Regime when the nation’s political system was overhauled and there was a major push to decentralise power. This case study highlights one large mining companies attempt to address this problem by launching a partnership that engages all the main stakeholders, encouraging the illegal mining operations to adopt more environmentally responsible mining practices, and at the same being able to share in the profits derived by operators plundering the company’s concession zones.

Introduction
For more than two decades, the Government of Indonesia has been deeply preoccupied with illegal mining issues, an activity that’s not only destroying the environment but also many rural Indonesians’ livelihoods, not to mention damaging this country’s reputation as a reliable investment destination. Furthermore, the phenomenon of illegal mining raises questions on the government’s commitment to comply with its existing agreements and more importantly, its ability to protect and manage the country’s natural resources.

As one of mining companies affected by illegal mining activity, Arutmin has made a concerted effort to eliminate illegal mining in its concession areas. By initiating a partnership program involving regional law enforcement agencies such as the police force and army cooperatives to enforce environmental regulations and safeguards, Arutmin attempted to reconcile the differences between the company and illegal miners with all the main stakeholders, including the often marginalised local community, benefiting.

For Arutmin, this partnership wasn’t just about ensuring its business interests or making a profit - more than this, it was an attempt to introduce environmentally responsible natural resource management strategies that preserved South Kalimanatan’s unique natural heritage.

Coal mining in Indonesia
Coal in Indonesia is the biggest resource after oil and gas. Total coal deposits in Indonesia are estimated at 50 billion tons, enough to last approximately 80 years at current consumption levels. About 94% of Indonesia coal resources are located in Kalimantan and Sumatra. As of 2006, Indonesia became the world’s second largest coal producer after Australia.
The province of South Kalimantan (Kalimantan Selatan) is the second largest coal producing region in Indonesia after East Kalimantan, churning out 36.12% of the nation’s coal output and contributing to IDR 250.96 billion (USD 27.58 million) to the government in mining royalties and taxes (Department of Energy and Mineral Resources of Republic of Indonesia, 2003 in Zulkarnain et al., 2004). Arutmin is the largest of 24 companies operating mines in the region under the Coal Contracts of Work (CCOW) scheme, or Perjanjian Karya Pengusahaan Pertambangan Batubara (PKP2B) (South Kalimantan Mining and Energy Office, 2005).

South Kalimantan is the smallest of Kalimantan Island’s four provinces, and has a unique land structure with abundant natural resources. Located between 114° 19’ 13 – 116° 33’ 28” East Longitude and 1° 21’ 49”– 4° 56’ 31.56” South Latitude, the province covers an area of 3.8 million ha (37,530.52 km2) area, and is split diagonally from north to south by the Meratus Mountain Range (see map below).

The eastern side of the ranges consists mostly of rolling hills, while the west is dominated by flatlands and intertidal swamps.

Overall, the South Kalimantan area can be classified into four separate ecosystems: alluvial covering an area of 586,243 ha, lower plains covering an area of 1,271,944 ha, hilly terrain spread over 635,409 ha, and mountain ranges stretching over 1,259,456 ha (South Kalimantan Central Statistics Agency; Zulkarnain et al., 2004).

South Kalimantan possesses rich mineral resource deposits, and apart from coal, holds large reserves of iron-ore, gold and gemstones. The province also holds considerable diamond deposits, and Martapura, in the province’s south, is known as Indonesian’s diamond mining Mecca.

South Kalimantan province is divided into 11 regencies and two municipalities with Banjarmasin as its capital.

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Coal Contracts of Work

Indonesia’s Mining Law states that the government, through the Ministry of Mines and Energy, has authority and control over the nation’s strategic and vital mineral resources, including coal reserves. Also, the Mining Law gives the Minister of Mines and Energy authority to choose any party they wish as a contractor to carry out mining work that has not been or cannot be undertaken by government institutions or state-owned companies.

The reformasi, however, saw a devolution of power from the central government which lead to the issuance of Law No. 32 of 2004 on Autonomy Law and its amendments and regulations transferring authority over certain matters to the local government.

Contracts of work generally have a legal basis in Article 10 of the Mining Law and Article 8 of the Foreign Investment Law. After being prepared by the Ministry of Mines and Energy, the contract is put forward to the Foreign Investment Coordinating Agency (Badan Koordinasi Penanaman Modal, BKPM) and House of Representatives for consultation and to obtain a recommendation. After obtaining a positive recommendation, the President of Indonesia will then issue an approval in principle, along with a power of attorney to the Ministry of Mines and Energy to sign the contract of work for and on behalf of the Government of Indonesia.

A CCOW is granted by the government to a contractor for the exploration, production and transport of coal. Under Presidential Decree No. 75 of 1996 on Principle Provisions of Coal Contracts of Works (Decree No. 75), a contractor is responsible for the management of its coal mining activities, including bearing all risks and costs involved. These responsibilities include:

(i) delivering 13.5% of the proceeds of the coal production to the Government in cash, based on the free on board (FOB) price or the price at point of sale;
(ii) paying taxes to the government according to the prevailing taxation rules at the time the agreement is signed;
(iii) regional levies that have been ratified by the central government;
(iv) paying an annual fixed fee (dead rent) to the government, based on the area of the coal concession in accordance with prevailing regulations;
(v) submitting and obtaining approval from the government on an annual basis for goods and materials to be imported, and
(vi) prioritising the use of Indonesian products, services and labour, while observing government policy for the development of regional areas and the conservation of the environment.

Source: Asialaw Website, 2008.

PT Arutmin Indonesia: An Overview

Arutmin is one of Indonesia’s major coal mining companies, selling most of its coal on the global market. They’re also the first mining venture to sign on to the Coal Contracts of Work (CCOW) scheme, making Arutmin Indonesia’s longest-standing private coal producer. Arutmin mines coal of a high calorific value and low to medium ash content which is commonly used by industries and power plants.

The giant Indonesian-based multinational energy company, PT Bumi Resources Tbk, owns 99.99% of share in PT Arutmin Indonesia after acquiring an 80% stake from BHP Minerals Exploration Inc. in October 2001 and the remaining 19.99% from PT Ekakarsa Yasakarya Indonesia in April 2004.

Arutmin has established strategic alliances with two Australian multinationals, the diversified resources giant, BHP Billiton, and the world’s biggest mining contractor, Thiess Pty Ltd. These global players in the mining industry share the responsibility for marketing and producing most of Arutmin’s coal.
In 1981, Arutmin was licensed to explore and mine coal over an area of 1,260,000 hectares within Block 6 in South Kalimantan, based on a first generation Coal Contract of Work which expires in 2019. Total coal reserves in this CCOW area are estimated at 200 million tons of coal which is mined in opencast mines (see map on page 2).

By 1989 coal production had begun in the CCOW area located on Senakin Peninsula, in the Kotabaru Regency, on the northern tip of the island of Pulau Laut in the eastern part of the province. In recent years, however, the CCOW has been reduced in size, now covering an area of 70,153 hectares (Bumi Resources Website, 2008).

By 1990, hubs of coal production had spread across the province’s south-east, with the company setting-up mines at Senakin, Batulicin, Satui and Asam Asam. In the early years, coal production rates were quite low, reaching only 450,000 tons by 1990.

But rising market demand fueled rapid expansion, and Arutmin quickly introduced more advanced mining technology, overhauled its facilities and up-skilled its workforce. Consequently coal production rates took off, and by 2002 the company was producing up to 10.5 million tons of coal per year. But the company has greater ambitions, aiming to raise production targets up to more than 18 million tons per year, and planning to start up a series of underground mining ventures - all previous mining operations had been opencast.

Arutmin is legally required to follow national mining guidelines when it sets up one of its opencast mining operations. The first step is to carefully clear the land of any forest cover or vegetation, with the logs being given to government-authorised parties who sell them on the open market. Next, the topsoil is removed and stored temporarily for use during the post-mining land rehabilitation procedure, when the soil is replaced, restoring the land’s original fertility characteristics. Once the topsoil is removed, the overburden is cleared away exposing the coal seams below, and dumped in the mined out areas at the back of the active pit, known as the back fill - like the topsoil, the overburden is typically reused during land reclamation after mining operations are terminated.

Who are the Banjar people?

The southern and eastern coast of Kalimantan is home to the Banjar people, who live up and down the rivers from the interior rainforest to the coastal cities. Banjar culture dominates the province of South Kalimantan, and there are also significant Banjar populations in East Kalimantan, Central Kalimantan, and Malaysia. Although they are devout Muslims, the Banjar proudly trace their origins to a legendary Hindu kingdom, the Negara Dipa. Contemporary ethnic identity developed from a combination of Jawa (Java), Melayu (Malay), and Dayak cultures. Through the Jawa people, Buddhism, Hinduism and finally Islam were introduced into South Kalimantan. In 1526, Banjar Prince Samudera accepted Islam and took the name of Sultan Suriansyah as a condition of receiving help from a Jawa army in overthrowing his uncle (Joshua Project Website, 2008).

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Illegal Coal Mining in South Kalimantan

Indonesian’s problem with illegal mining, also known as PETI (Penambangan Tanpa Izin) in Bahasa Indonesian - meaning “mining without permits” - can be explained partially by the energy policies of previous governments.

When conflict in the Middle East sparked off the 1973 oil crisis, Suharto’s New Order Regime decided to implement a new energy policy that lessened the country’s dependence on oil, encouraging the use of coal as an alternative fuel source.

The Suharto regime made a wholesale effort to develop coal reserves across the Indonesian archipelago, particularly in the regions where there were rich coal deposits, such as in South Kalimantan, for use in industry and power plants.

Desperate to attract foreign investment to help develop their coal potential, particularly in East and South Kalimantan, in 1981 the government issued Presidential Decree No.49/1981 stating that offshore investors could establish joint coal contracts with the giant Indonesian coal producer, PT Tambang Batubara Bukit Asam.

Even though Presidential Decree No. 49/1981 encouraged foreign investment, and coal producing capacity expanded, the government wanted to push both large-scale and smaller-scale mining ventures even more. So with this goal in mind, the Directorate General of General Mining from South Kalimantan’s Regional Mining Office developed the Village Unit Cooperation Scheme, known as KUD (Koperasi Unit Desa).

Through the KUD scheme, the government hoped to promote legal small-scale mining operations among the local community, giving them a direct stake in the province’s lucrative mining operations that are so integral to the region’s economy. In this way, villagers, including the more marginalised groups, could benefit from the wealth derived from resource mining and processing - villagers would become empowered now they felt that the region’s rich resources weren’t the exclusive property of the wealthy mining companies (Zulkarnain et al., 2004).

Despite the dramatic increase in regional mine production outputs, by 1989 South Kalimantan still wasn’t producing enough coal to satisfy insatiable global coal demands, even though the large companies and KUDs were extracting coal at unprecedented rates. With the world demand for coal growing rapidly, the doors swung open for opportunistic mining ventures that began setting up mines illegally.

In late 1990, the first PETI was spotted in the Tapin Regency, operating within PT Chung Hwa OMD concession area (Sodikin, 2003). A year later these illegal operations had spread to the Banjar region, near the provincial capital of Banjarmasin, and just five years later, PETI mines were common across South Kalimantan, plundering coal from mining companies’ concession zones and quickly depleting coal reserves.

This condition was aggravated even more when the Asian currencies crashed in mid-1997 triggering the East Asian Financial Crisis. Indonesia was hit especially hard, and its economy shrunk by 13.7 per cent over the next few years. In cities, unemployment rose dramatically while real wages dropped, and many were forced back to the country to find jobs in agriculture and mining - most of the mining jobs were in the illegal mines, or PETI that dotted the countryside. By 1989, Arutmin had to face reality, and made a public statement admitting that PETI mines were operating in their concession areas.

Over time the local PETI’s power grew as illegal mines spread, and they became more influential in local politics - especially after they formed an alliance with support contractors like heavy machinery suppliers, transportation companies, traders, and land owners, and established an association called Aspera (Asosiasi Penambang Rakyat). As Aspera gained more leverage in local politics they started to challenge the mining concessions the government had granted the larger state-sanctioned mining ventures.

To this day, Aspera argue that because they’re from the local community, they’re entitled to the local resources, even though in reality they’re often financed by outside investors. They reject the claim that PETIs even exist in the area, explaining that their members are legitimate small-scale mining ventures who’ve been granted mining permits or Kuasa Pertambangan (KPs) by the regency head. But reports indicate that the regency heads have been granting KPs to former PETIs, or to small mining operators who then sell their KPs to PETIs, who then set-up illegal mines in existing legal mining concessions.

Taking full advantage of the decentralisation resulting from GR No.75/2001, the regency head can now get a much bigger cut of the mining profits derived from KP holders rather than the larger state-sanctioned mining opera.

2 The New Order is the term coined by former Indonesian President Suharto for his regime as he came to power in 1966 to contrast his rule with that of his predecessor, Sukarno, dubbed dismissively as the ‘Old Order’. The term ‘New Order’ has now become synonymous with the Suharto years (1966-1998).

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tors. These KP holders pay royalties and reclamation fees to the regency head, absolving them of environmental responsibility during mining operations and post-mine rehabilitation – despite their new legal status, on paper anyway, they still operate within existing mining concessions, including Arutmin’s area. According to Aspera, however, their activities have helped lift many of the local community out of poverty by providing jobs.

With the backing of the increasingly powerful regency head and a new-found, although disputed, legal status, many of Aspera’s members have become more and more audacious, and now are calling for the state government to revoke Arutmin’s mining contract. They claim that the company is essentially pillaging the land, with no financial recompense to South Kalimantan’s economy and its people.

Despite these damning accusations against Arutmin, the mining giant maintains that PETIs and Aspera are the real wrongdoers, alleging that between 2001 and 2003, PETI had looted coal in South Kalimantan totalling 28.2 million tons or an average of 9.4 million tons per year - about equal to Arutmin’s 2002 production output of 10.5 million tons. In an ironic twist, this means South Kalimantan lost about IDR 513 billion, about AUD60 million, in government royalties derived from mining profits. If this figure is split evenly between the province’s 3 million inhabitants, this is about IDR 1.3 million (AUD150) for each person (Sodikin, 2003).

The Fall of Suharto’s New Order Regime, Decentralisation of Power and its Impact on South Kalimantan’s Mining Sector

Since independence from the Dutch in 1945, Indonesia has been ruled by autocratic regimes, where power was highly centralised, first under Sukarno from 1945 to 1967, and then under Suhartos’ New Order Regime from 1967 to 1998. When the Asian Financial Crisis devastated the Indonesian economy in 1997, Suharto responded by introducing extremely unpopular austerity measures that dramatically increased the prices of basic commodities such as kerosene and rice.

Suharto stood for re-elections for the seventh time in March 1998, and like always, he stood unopposed - the Indonesian public had had enough, and riots and protests erupted across the nation. Dissent broke out within the ranks of his own Golkar party and his strongest ally, the military, and in May, 1998, he resigned from office handing power to his deputy, Jusuf Habibe.

After decades of centralised control, the Indonesian public demanded that the government dismantle the autocratic system, and transfer power from the federal level down to the state and local governments, giving the general public more representative power. Habibe responded in 1999 with the reformatasi, overhauling Indonesia’s political system and introducing a series of legislative bills known as the Regional Autonomy Law.

Approved by the national parliament in May 1999, Law No. 22/1999 on Regional Government and Law No. 25/1999 stipulated that the local level of government would have a much greater say in the decision-making process, and they would be granted “broad and wide-ranging autonomy” - a seismic shift in Indonesian national policy.

These laws, superseded by Law No. 32/2004 and law No. 33/2004, state that the local level has responsibility for governmental matters except in the five areas of foreign affairs - defence and security, justice, monetary and fiscal affairs. Local government was now responsible for areas like public works, health, education and culture, agriculture, transport, industry and trade, investment, environment, land matters, and cooperatives and employment (Shimomura, 2003).

The Regional Autonomy Law also stated that the state government would now give a greater share of the incomes and royalties derived from mining operations or exploration to the regencies where these activities occurred. These regencies were also given power to increase their own regional income by levying taxes on existing mining operations or establishing their own companies to exploit the region’s resources.

Despite these significant moves to change the nation’s political system, the reality on the ground was very different – weak law enforcement, political uncertainty, ineffective government policy-making practices, and a lingering autocratic New Order mentality left the Indonesian public disillusioned and frustrated. Instead of an equal distribution of power between the various levels of government, the state and federal government are in a perpetual tug-of-war with local government to gain control over the region, creating an ambiguity in laws and regulations leading to regional disputes and conflicts (Fox et al., 2005; Hardjono, 2005).

Even though this push to decentralise power across Indonesia’s political system suffered many setbacks, its effects were felt across Indonesia’s socioeconomic spectrum, and the mining sector was no exception. For instance, in 1999 Government Regulation (GR) No.75/2001 was introduced giving the regency heads the full authority to grant mining permits or Kuasa Pertambangan (KPs) anywhere in their area and take a cut or Pendapatan Asli Daerah (PAD) in these KP holding mining operations.

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Crushing plant at a PETI mine site in South Kalimantan. Courtesy of PT Arutmin

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How PETI Operations Are Set Up

PETI uses the following strategies to set-up its illegal mines (Mining and Energy Office South Kalimantan Province, 2007):

- Often KP holders mines outside the area allowed in the KP;
- The KP holder authorises their workers to mine outside the area allowed in the KP;
- Often the KP holder sells their KP to PETI; or
- PETI mine an area without any KP.

According to Mining Law 11/1967 not only are PETI operations illegal, but also any purchasing or transporting of coal produced by PETI. Illegal mining activities in South Kalimantan usually consist of the following players (see also Flowchart):

- Capital Investor
- Land owner
- Tools and equipments owner
- Miners
- Stockpile owner
- Barge owner
- Buyer/Customer

Usually capital investors bankroll these illegal mining operations - these financiers can come from many professions including local business owners such as shopkeepers or restaurant owners, military men or police officers (Aspinall, 2002). Some of the investors aren’t even locals, residing in Jakarta or other cities and provinces across Indonesia, and every so often overseas. Typically, the investor provides the seed money for the operation, as well as the technical expertise, and often hire the equipment, and they approach the landowners to secure a suitable operations site.

In many cases, land owners don’t legally own the land, but have claimed ownership on the basis of inheritance or simply just staked it out as their own, as there’s a common belief among the locals that the land in Kalimantan is theirs to exploit freely. But this attitude has caused many problems in the past, and there are several reports of violence and bloodshed between hostile gangs fighting to control land with the richest coal deposits. Profits are divvied up between the investor and the landowner, who often team up to form a company in an effort to attain legal status.

The tools and equipment owners hire out their equipment on a short-term basis to illegal mining operators, providing trucks, excavators, and other equipment. Since working with PETIs and non-KP holders is a criminal offence, they convince regulatory bodies that they are legitimate by also hiring their equipment to legal mining companies, maintaining that the legal ventures are their only customers.

Although most of the miners are recruited from South Kalimantan’s local community, some also come from other provinces, such as Sulawesi and Java, and their jobs include operating excavators, driving trucks, or doing other manual labouring. Mine owners often recruit religious gang leaders from South Sulawesi’s capital city of Makassar to work as security personnel – this ethnic group is famous for their toughness and a strong traditional social code.

Acting as a middleman between the illegal mine owners and the buyers, the stockpile owners keep the coal stored near port facilities which often fall within existing legal mining concession areas. As brokers, the stockpile owners take a cut of the PETIs profits from the coal sales to the buyers who then transfer the coal to the port where contracted barge owners ship it to the buyers’ destination.

PETIs sell their coal at a much lower rate than the legal mining operators, making it very attractive to offshore buyers. Asia’s economic tigers, such as China, India and South Korea, are eager to get their hands on cheap coal to help fuel their rapidly expanding economies. Rather than spending USD 36 for a ton of high calorific coal produced by a legal mine, they can get the same coal from PETI for only USD 22, which is a significant price cut (Zulkarnain et al., 2004).

Since PETI aren’t actually legal entities, they don’t pay government taxes or royalties and they don’t spend money on land rehabilitation like other mining companies, so they can offer much lower prices to interested buyers. PETI’s customers aren’t just offshore buyers or dubious business interests, but include major government-owned enterprises such as the electricity company Perusahaan Listrik Negara (PLN) and the cement manufacturer Tonasa, revealing how ingrained the illegal mining sector is in the regional economy.
Impacts of Illegal Mining Activities

Not surprisingly, illegal mining causes many problems, particularly environmental ones. Generally, illegal mine operators use environmentally reckless mining practices with little thought for worker safety. Before quarrying begins, the land is cleared illegally of all vegetation and forest cover to make the land minable, and the logs are sold on the open market. The government loses billion of rupiah every year from unpaid royalties and taxes from this logging activity, but even more pernicious is the slash and burn technique used to clear the forest cover which can trigger environmental disasters, such as massive flooding, soil erosion and landslides\(^1\).

Once the forest is cleared, the illegal mining activities themselves can cause severe damage to the environment in and around the mine site, and operators usually show total disregard for air and water quality regulations and safeguards. Once the topsoil is removed, the soil structure is altered dramatically, losing much of its fertility characteristics.

Without proper equipment and with little money to spare, PETI typically mine to depths of about 20 metres, after which they abandon the site without any sort of land rehabilitation whatsoever. Covering areas of up to 50 square kilometres, these abandoned open pit sites are often peppered with ‘lakes’ filled with acid leachate run-off which leaks out into the surroundings, contaminating waterways and poisoning the environment (see Figure 1)\(^2\). The landscape is transformed into a barren desert where the denuded soil supports neither plant nor animal life.

Since many of these illegal mine sites fall within existing legal mine concessions, the polluted areas fall under the jurisdiction of mining companies like Arutmin who are bound by the legal provisions of the CCOW scheme. Charged with the responsibility of rehabilitating these abandoned mine sites, these companies have to restore these highly polluted sites back to some semblance of their original form, an extremely expensive process, costing about USD 2 to reclaim one square meter of exploited land.

There are some reports from local mining authorities that Arutmin actually benefits from PETI operations, as they can evade responsibility for land reclamation by shifting the blame for environmental damage produced by their own actions to PETI, when in fact PETI never operated in the area (Anonymous, 2004). Even though Arutmin, and other companies, are responsible for all the land reclamation within its concession zone, irrespective of if it’s caused by the company or PETI, the rumours go that Arutmin is refusing to clean up these severely damaged sites saying that the costs are too high and they aren’t culpable for the mine site’s rehabilitation.

It’s very difficult to either prove or disprove these claims, and they could be an attempt by local groups to undermine Arutmin’s regional position and reputation. But by 2003, illegal mining activities had already destroyed about 693.11 ha of Arutmin’s CCOW mining concession area and had pilfered 22,423,168 tons of coal from the existing deposits (Ramdhani, 2004). Based on this, Arutmin has had to rethink its management plan for its 30 year long mining contract, or KP, since Arutmin didn’t consider the massive amounts of coal reserves that would be lost to PETI operations. Not surprisingly, with the rates that PETI mines are pillaging the coal deposits, Arutmin has to re-calculate its yearly coal outputs, so it can continue its operations until the contract’s termination.

Impact of Support Services on Local Community

It’s not only the clearing of the mine sites and the actual mining operations that impact the environment and reduce the quality of the local community’s lives, but also the activities that support the mine operations, such as the transporting of the coal. Truck drivers who transport the PETI coal to port facilities and across the island of Kalimantan usually operate at night, hauling their excessive

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\(^1\) Indonesia has been repeatedly afflicted by deadly floods and landslides in recent years, with activists warning that logging and a failure to reforest denuded land are often to blame (sourced from [http://www.abc.net.au/news/stories/2007/12/26/2127654.htm](http://www.abc.net.au/news/stories/2007/12/26/2127654.htm)).

\(^2\) In both underground and surface mining, sulfur-bearing minerals common in coal mining areas are brought up to the surface in waste rock. When these minerals come into contact with rain and groundwater, an acid leachate is formed. This leachate picks up heavy metals and carries these toxins into streams or groundwater. This form of contamination is known as acid mine drainage (AMD). AMD contamination renders water non-potable, harms plants, animals and humans, and can corrode structures like culverts and bridges (Sourced from the WWF Report: “Coming Clean: The Truth and Future of Coal in Asia Pacific”).
Not only are the truck drivers reckless, causing accidents and fatalities, but there are many reports of them getting involved in extortion rackets, using heavy handed tactics against the local community, and even more distressingly, sexually abusing and raping women during roadside stops. Although they often pay bribes to government officials and policemen to gain unrestricted access to the roads, they save money by getting cheap, subsidised fuel at the public gas stations. Legal mining companies, on the other hand, have to pay more to fill up their trucks since the government charges a levy on fuel used by KP holders (see Figure 2).

PETI Operators Cause Fuel Shortages

From 2000 to 2004, the central and local government were still going through the messy process of decentralisation and many legal provisions remained in limbo, so PETI could operate with relative freedom. The global demand for coal was rising quickly, and truck drivers were hauling vast amounts of coal across South Kalimantan to the loading ports. Even though the coal transporting trucks were milking the local gas stations dry, there still wasn't enough fuel in the province.

As South Kalimantan gets its fuel supplies by ship, PETI operators and their contracted drivers decided to skip the middleman, the gas stations, buying diesel fuel straight off the ships in transactions made directly with the fuel ship operators. Since so much of this fuel was being diverted to PETI operators, the amount actually getting to the people of South Kalimantan was greatly reduced, sparking off several fuel shortages across the province.

PETI Operators Set-up Illegal Coal Loading Ports

Typically PETI operators and others involved in the illegal coal trade, who could be either locals or expatriates, set up their own ports to ship coal to the buyer’s destination. These coal loading ports are constructed with total disregard for legal provisions and environmental safeguards and are usually highly polluting, with diesel fuel and coal spilling into the water, and dredging of the seafloor devastating the protected mangrove forests and other fragile coastal ecosystems (see Figure 3).

Illegal Mining Causes Social Problems

Illegal mining can also lead to social problems. Land ownership laws in South Kalimantan are either ignored or non-existent, so it’s unclear who actually has rightful title to the land. Although indigenous tribal groups, or Dayak, have lived in Kalimantan for time immemorial, the government doesn’t recognise the Dayak system of land registration, considering this land to be state land. Gangs often use strong-arm tactics to take ownership of land, and there are many reports of

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violence and bloodshed resulting from fights over land disputes.

When Arutmin was first granted its KP, Suharto’s New Order regime controlled the government, and their resource management policy was to push productivity and profits at the expense of just about everything else, including environmental concerns and the local community’s land rights. When Suharto resigned in 1998, and the reformasi was introduced, there was a drive to devolve central power to the local level. Once the autonomy laws were introduced in 2000, giving local leaders more power to manage their own region, chaos ensued, and there was a massive land grab by locals and commercial interests.

Arutmin’s mining concessions cover a very large area, and are almost impossible to monitor and secure, so PETI operators had little trouble setting up mines in the more remote areas. Before long, however, rival PETI operators were competing for the same land, so they formed gangs to grab and protect the land against rivals.

Representing different interest groups, these gangs were made up of either criminals or religious parties, and sometimes both. Sometimes they worked exclusively for PETI operators as a kind of ‘army’ that staked out minable territory, sometimes they consist of Dayak who were reasserting their claim to their ancestral lands, and other times the gangs were made up of migrants like the Bugis from Sulawesi or Ambon from the Mollucas.

These marauding gangs caused great concern for community leaders and the local community, often harassing villagers, and trying to recruit children and teenagers into their ranks – and gangs working for PETI are no exception.

Despite the numerous reports filed by press, NGOs and mining companies documenting all PETI illegal activities, not to mention the adverse effect they’ve had on the local community and the environment, they are yet to be successfully indicted.

Although PETI operations have been reduced in recent years, their activities still continue in some parts of South Kalimantan. Since concession zones are so vast and the PETI are located in remote areas, it’s often difficult to monitor their activities. Besides, in the past local law enforcement agencies and government authorities have lacked the resources and the inclination to take serious action, although this is changing (Anonymous, 2004).

Arutmin’s Partnership Program

On 5 June 2000, with the support of the state government, Arutmin initiated a partnership program in an attempt to deal with the illegal mining problem in South Kalimantan and to prevent the environmental damage caused by PETI operations, particularly within their concession zones (Pangestu et al., 2005). Backed by Indonesia’s Director General of Mines, the idea was to bring together the foundations, organisations, cooperatives and business interests associated with illegal mining operations to form a coordinated management strategy.

The illegal mining operations within the concession zones areas would still be mined by PETI miners, but the coal would now be purchased by CCOW companies who held the KPs for the land – in this way, the concession owners could now share the profits from these now quasi-legitimate operations.

In an effort to get all parties involved in this new partnership program, Arutmin asked two PETI cooperatives – both owned by the province’s main security agencies - the South Kalimantan Police Force Cooperative Centre, known as the Puskoppolda, and the South Kalimantan Army Cooperative Centre, or Puskopad if they wanted to join the scheme. Besides, it was well known, although unproven, that these cooperatives, with the support of their powerful backers, were already profiting from several PETI operations, so Arutmin felt it was easier to get them on board as bona fide players. If these PETI cooperatives had a legitimate stake in the partnership program, they were

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likely to make a genuine effort to safeguard the mine operation sites.

Puskoppolda looked after activities in the southern concession of Asam-Asam, including the Jumbang mine, and just north in Satui, including the Gatotkaca and the Antareja mine sites. Puskopad was responsible for safeguarding former PETI operations in the concessions of East Senakin, Sepapah and Sangsang. Arutmin signed agreements with Puskopad on 28 September 2001 and Puskoppolda on 13 June 2002. Further agreements were signed on 11 April 2003 for mining activities in the Gatotkaca Pit and Antareja Pit. Figure 4 above shows how the partnership organisation was structured.

Apart from Arutmin’s goal of wiping out all PETI activity on their concessions, the partnership program attempted to lure local businessmen away from investing in illegal mining activities by giving them a stake in legal ventures that encouraged more environmentally responsible mining practices. The initial launching of the program included these steps:

1. Promoting the partnership program to the relevant groups including local government, security forces, local business interests, the community, and PETI operators;
2. Curbing all PETI activity within Arutmin CCOW areas;
3. Undertaking a topographic survey of the areas exploited by PETI operations to determine the amount of mined coal and estimate the residuals;
4. Designing a management strategy for the new mines taking into consideration the existing environment damage in areas exploited and abandoned by PETI, and calculating reclamation costs; and
5. Estimating how much to offer potential contractors and sub-contractors in future negotiations.

In the Satui agreement, Arutmin engaged Puskoppolda not only to secure the Satui mining concession zone and uproot all PETI operations, but as an actual mining contractor. As a legitimate contractor, Puskoppolda agreed to put forward the capital to extract the existing coal, to adopt management strategies that ensured efficient coal extraction and a lengthy operational lifetime, and to work with sub-contractors and Arutmin to actively discourage PETI operations. One desired outcome of this partnership program was that land disputes would decrease, since all concerned parties now had a genuine stake in the legal mining sector, and could actually profit from it.

Under the partnership scheme, the contractor was responsible for recruiting the labour force, or sub-contractors - made up mostly of ex-PETI miners - and providing equipment, vehicles for transportation, and accommodation for the workers. Other responsibilities included supervising the workers and looking after administration, all the while ensuring that they complied with the original contract detailing the area to be mined and the agreed management strategies and mining practices. In return Arutmin paid the contractor the negotiated amount, adjusted by any additions or deductions pursuant to the agreement. The going rate was IDR 66,000 per ton, (AUD 7.80) and it was to be delivered from the mine site to Arutmin’s ROM Muara loading port.

A similar strategy was adopted in the Asam-Asam mining concession to the south. In this case, Arutmin established a partnership with two former PETI operators, PT Astana Karya and PT Parmapersada Nusantara. Once again, Arutmin felt it was better to include these former PETI operations in the new partnership scheme, but this unlikely alliance between former foes was based just as much on securing Arutmin’s business interest as curbing land disputes and improving the region’s social problems that often ensue. Generally, the former PETI operations are poorly financed, the equipment is substandard, and the workers aren’t properly trained, resulting in inefficient, environmentally destructive and dangerous mining practices.

For this reason, Arutmin agreed to take on the responsibility for improving the contractors’ production capacity by helping them to modernise and upsize their equipment, and ensure mine safety by showing them safe mining practices. In return, the former PETI ventures were expected to comply with mining legal provisions, employ environmentally responsible mining practices, including post-operative rehabilitation, hold a valid mining operations permit, and ensure mine sites follow occupational health and safety regulations.

In October 2005, Arutmin terminated its contract with Puskoppolda, and by the end of

“Besides, it was well known, although unproven, that these cooperatives, with the support of their powerful backers, were already profiting from several PETI operations, so Arutmin felt it was easier to get them on board as bona fide players.”
2006 they had also discontinued their contract with Puskopad. There were several reasons for this, but the break-up was mutual - Arutmin felt that these cooperatives, with the beefy support of their security force sponsors, had successfully wiped out or coopted most PETI operations within their concession zones, and as such were now of little use. The flip side to this, however, was that many of the PETI operations that were incorporated into the Puskoppolda and Puskopad fold, and had gained new-found legal status, were starting up their own undeclared side operations, which were quite profitable now their equipment had been modernised and Arutmin had trained them in more efficient mining practices.

In an effort to stamp out the remaining PETI operations, the authorities adopted a double-pronged approach, where the central government severed the PETI’s direct fuel distribution line from fuel ship operators, and the local law enforcement agencies took a much tougher approach to clamping down on PETI operations.

This U-turn in the local law enforcement’s attitude towards PETI operations - in the past they are known to have colluded with them - was largely due to a change in leadership in the South Kalimantan Police Force that came about in 2006. The new head, or kapolda, decided that the deep-seated corruption widespread within the security forces had to be rooted out, and decided that all illicit dealings with PETI operations had to stop. With this new crack down on PETI operators, the Mining and Forestry Departments could be more rigorous with approving KPs, and operators now had to prove their legality.

“...many of the PETI operations that were incorporated into the Puskoppolda and Puskopad fold, and had gained new-found legal status, were starting up their own undeclared side operations, which were quite profitable now their equipment had been modernised and Arutmin had trained them in more efficient mining practices.”
Arutmin is conscious of the fact that many complex underlying causes can lead to illegal mining, and it’s not simply a matter of businessmen trying to turn a profit. Mining companies like Arutmin generally operate in remote areas where impoverished and marginalised communities can’t gain access to development assistance. Struggling to make a living, in the past these dispossessed groups often turned to PETI operators to find employment, as there wasn’t enough work available with the larger state-sanctioned mines.

Aware that the local community has been largely abandoned by the central government, and that the local government doesn’t have the resources to introduce far-reaching development programs, big companies like Arutmin have attempted to initiate their own social programs.

Focusing on the areas of economic development, healthcare, and education, Arutmin’s community programs are not charities but are based on the more successful government initiatives that involve the stakeholders at every level, and aim at empowering marginalised groups rather than giving free handouts (Anonymous, 2005).

With support from NGOs, Arutmin invests in cottage industries, like tailoring businesses in Sungai Danau, citronella cultivation farms in Kintap, and a 50 hectare pilot corn farm in Senakin. Since 2005 Arutmin has worked with organisations like PT Permodalan Nasional Madani, a state-owned investment firm that offers micro-finance to community-based groups, to launch a series of initiatives in Kintap and Satui to help stimulate the local economy (Anonymous, 2005).

Other initiatives introduced by Arutmin to encourage economic growth and improve the locals’ standard of living include repairing and constructing roads and bridges, setting up clean water supply facilities, and establishing mosques and churches around the mine operation sites, such as those in Lok Padi, Sei Cuka, Sungai Danau and Sigam, and Pulau Laut.

In 2005 Arutmin started up a poverty alleviation program called GADA ULIN which aimed at empowering 2,350 poor families, or 9,400 individuals, in Batulicin, in the province’s east. The program set the ambitious goal of decreasing poverty by up to 50 percent over a period of five years (Anonymous, 2005).

In cooperation with local health centres and villages leaders, Arutmin has also launched a series of health care initiatives for the local community offering free services like health check-ups, medication distribution, mass circumcisions (important in Muslim societies) and vaccinations. Occasionally, the company also sponsors local sporting events such as the Arutmin 10km run in Tanah Bumbu, a health walk in Batulicin, and the Arutmin Cup football competition in Senakin.

Apart from the economic stimulus packages and the health care programs, Arutmin also invested into developing the region’s education system, building several elementary schools, and a number of junior and senior high schools in the Satui and Kotabaru regions. The company often participates in local school activities by organising events such as science and knowledge quizzes, writing and drawing competitions, first-aid instruction courses, as well as health and safety management system educational programs.

In 2006, Arutmin allocated USD 3 million from its annual budget for community development program (Anonymous, 2006).

One of Arutmin’s projects was to build a mess hall for the coal mine workers. Courtesy of PT Arutmin

“Aware that the local community has been largely abandoned by the central government, and that the local government doesn’t have the resources to introduce far-reaching development programs, big companies like Arutmin have attempted to initiate their own social programs.”
These days the Arutmin partnership program has officially ended, and Puskoppolda and Puskopad have shown they were committed to curbing PETI operations in Arutmin’s CCOW areas, even though they faced constant hurdles. As far as meeting production targets, only Puskopad was successful, surpassing the stated targets by reaching an output of 243 percent of the forecasted yield, while Puskoppolda fell short of its forecasted yield, only making 49 percent (see Table 1) (Ramdhan, 2004).

With the backing of the two security force sponsored contractors, the Arutmin partnership program had considerable success curbing PETI operations across South Kalimantan, but they couldn’t eradicate the problem entirely, and PETI operations are still active in areas like Senakin in the province’s north-east (Ramdhan, 2004).

Although PETI operations started spreading relatively recently, back in the early 1980s, by the first years of the new millennia it was an intrinsic part of South Kalimantan’s society, playing a central role in the economy and the social life. As such, the biggest obstacle facing Arutmin when it initiated the partnership program, was uprooting this entrenched cultural and economic phenomenon. In comparison to backbreaking, low-earning jobs like farming, illegal coal mining operations offered the locals much better conditions and higher wages. Also, by putting down the seed money for PETI operations, local elites stood to gain much more from illegal coal mining ventures than from investing in local businesses or agriculture.

Taking on illegal mining in South Kalimantan was by no means a simple affair, and it was made even more complicated when one of the contractors, Puskopad, encountered a conflict of interests. Several reports claimed that PETI operations had the backing of many high profile individuals across Indonesia, including high ranking officers from the Indonesian Army, based out of Jakarta. Puskopad’s major sponsor was the Indonesian army, but it was also contracted by Arutmin to eradicate PETI operations across South Kalimantan. How could Puskopad reconcile its responsibilities to Arutmin with its strong alliance and financial dependence on the Indonesian army?

The problems weren’t all external, however, and Arutmin fell short on many accounts while executing the partnership program. The program wasn’t well planned—geological maps of the concession areas were incomplete or non-existent, and this made it near impossible to keep track of all the PETI operations, especially in the more remote areas.

In addition, the company was often unreliable with its payments, annoying contractors and sub-contractors, which made it even harder to establish good relationships with groups they were desperately trying to win over (Ramdhan, 2004).

Arutmin has also alienated the local community, particularly those who settled the land long before the CCOW ventures claimed the land as their own. Besides, the original occupants of the land stood to gain much more by selling their land to PETI operators than just

### Table 1 Planned versus actual production outputs by Puskopad and Puskoppolda in the 3 years up to April 2004 as reported by Dinan & Partners Mining Consultant (Source: Ramdhan, 2004)

<table>
<thead>
<tr>
<th>Period</th>
<th>Puskopad</th>
<th>Puskoppolda</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Planned</td>
<td>Planned</td>
</tr>
<tr>
<td>2002</td>
<td>230,000</td>
<td>550,000</td>
</tr>
<tr>
<td>2003</td>
<td>250,000</td>
<td>1,200,000</td>
</tr>
<tr>
<td>2004</td>
<td>70,000</td>
<td>300,000</td>
</tr>
<tr>
<td>Total</td>
<td>550,000</td>
<td>2,050,000</td>
</tr>
<tr>
<td>Percentage</td>
<td>243%</td>
<td>49%</td>
</tr>
</tbody>
</table>

Although PETI operations started spreading relatively recently, back in the early 1980s, by the first years of the new millennia it was an intrinsic part of South Kalimantan’s society, playing a central role in the economy and the social life. As such, the biggest obstacle facing Arutmin when it initiated the partnership program was uprooting this entrenched cultural and economic phenomenon.
handing it over to Arutmin with no financial compensation. If the landowners transfer their land to PETI operators, PETI essentially leases the land by giving the locals a share of the mining profits. On the other hand, Arutmin are legally entitled to just show up and flash their state-sanctioned land title papers, and the locals have to hand over the land without any questions or legal recourse.

As previously mentioned, the South Kalimantan Police Force has had relative success in shutting down PETI operations across the province. In 2003 they claimed to have shutdown 86 operations that were mining a total of 13,638 metric tones of coal, and engaging 74 excavators, 14 bulldozers, and 14 coal hauling trucks (Pangestu et al., 2005). By May 2004, law enforcement agencies reported that PETI operations had been reduced to 31 cases, of which 25 were still under investigation, dealing with an estimated 118 metric tons of coal, and using 46 excavators, 2 bulldozers, and 5 coal-transporting trucks (Pangestu et al., 2005).

But shutting down these illegal mining operations was a costly endeavour - to transport just one excavator, the security force sponsored contractors had to spend about IDR 5 million (AUD 585) on hiring the trucks and trailers (Pangestu et al., 2005). The reason they couldn’t just destroy the equipment, is that the provincial public prosecution office insisted that all heavy equipment counted as evidence during the court trials.

In an ironic twist, generally PETI defendants were still released without charge even though the contractors went to the trouble of making sure all the evidence was present. This was largely due to the widespread bribery and collusion between PETI investors, local authorities (including the police and military) and the judicial institutions, not to mention the frequent ‘interventions’ of high profile backers, both local and Jakarta-based.

Despite Arutmin’s major effort to find a workable alternative to the PETI operations, and its big push to get the Partnership Scheme off the ground, the reality is that the local economy has actually taken a downturn since PETI started phasing out. Local markets aren’t as bustling, mining-related financial transaction have decreased, hotels are less busy, profits for small restaurants and food stalls are down, support services such as heavy equipment rental firms and transport contractors are going bankrupt, and many locals are losing their jobs. It’s not surprising that the local community became disillusioned with Arutmin’s partnership program and their concerted effort to wipe out all PETI operations.

An abandoned PETI jetty previously used for loading coal. Courtesy of PT Arutmin.
Conclusion

Although it didn’t quite turn out as expected, the Arutmin partnership program was not a complete failure as it successfully exerted downward pressure on illegal mining operators without sparking violence or conflict. In the end, though, the harsh reality is that the illegal coal mining problems in South Kalimantan simply can’t be solved by schemes like the partnership program alone. It’s crucial that there’s rigorous law enforcement, not to mention the goodwill from the state and local government. Also these two levels of government have to ensure that their policies are ‘synchronised’ and don’t contradict each, as this leaves gaping holes in the rules and regulations that allow PETI operations to flourish.

Also, all the major stake holders have to face the reality that the disappearance of PETI operations in South Kalimantan will probably have an adverse effect on the regional economy, and the local inhabitants. Illegal mining was largely a backlash against the policies of Suharto’s New Order regime policies that prioritised economic growth and attracting Foreign Direct Investment (FDI) over the rights and livelihoods of the local community.

Disillusioned and dispossessed, locals refused to stand by idly as big business and foreign interests plundered their land, with all the profits going to the elite, the central government and offshore - setting up illegal mining operations on existing concessions was the only way locals could get a piece of the economic pie.

Any future plans to wipe out PETI operations entirely and find a reasonable alternative must see big business interests and the government, both central and local, work closely with the local community to set up initiatives that provide the locals with employment and income opportunities that ensure an improved standard of living and help poor and marginalised groups escape the poverty trap. Only by addressing the core issue of poverty can the stakeholders hope to eradicate PETI operations and find an environmentally sensible and economically viable solution.

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Children relax outside the typical house of a PETI worker. Courtesy of PT Arutmin