



Human Rights Assessment of the
Proposed Tangguh LNG Project

Summary of Recommendations
and Conclusion

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Summary of Recommendations

I. Fundamental Human Rights

(A) Indigenous Rights

(1) Consultation and Consent to Development -- Interactions with potentially affected peoples must be transparent, open, and continuous and be effectively documented and communicated to stakeholders at local, regional, and national levels. Pertamina/BP should establish community ombudsmen, institutionalize the consultation process, and accommodate emergency meetings.

(2) Land Rights -- Pertamina/BP should establish and pay a “fair” easement price based upon the value of comparable land owned by subsistence cultures elsewhere in Papua. To promote respect for adat land rights, BP could help local and provincial governments develop guidelines to demarcate the boundaries of traditional lands, land titling and registration procedures, standards by which to assess the value of real estate, and an enforceable legal system by which to protect private property.

(3) Natural Resources -- BP should encourage the Central Government to guarantee the revenue benefits outlined for Papua under the Special Autonomy Law and promote the establishment of mechanisms to ensure transparency with respect to the flow of gas revenues. If ARCO activities precipitated the burning of Otoweri/Wiriagar sago trees, BP should pay restitution; if not, BP might consider donating seedlings as a gesture of concern. Pertamina/BP should pay restitution for any trees felled on the land under easement and for the loss of fishing grounds due to the project.

(4) Cultural Rights -- Pertamina/BP will need to work closely with local communities to minimize the impact of incoming workers and limit their permanent immigration. Consideration should be given to completing the project with fewer workers and all incoming workers should be educated regarding adat customs and the rights of local peoples. Workers should be inoculated against infectious diseases and housed in a manner that least impacts the environment and the local community. The hiring and compensating of workers should follow the Diversified Growth Strategy and families, drugs, alcohol, firearms, and prostitution should be banned at Base Camp. To limit immigration, contracts should encourage workers to return home, the building of roads should be prohibited, and laws should be established regarding the sale and use of communal land and squatting on indigenous lands.

(5) Religious Rights -- Pertamina/BP should consult with local religious leaders regarding movement of the cemeteries and appropriate adat rites to honor the deceased in reburial. Consideration should be given to shifting of the facility footprint to avoid overlapping with the cemeteries.

(6) Relocation -- The relocation process should be transparent to villagers and external stakeholders and effectively documented. Mechanisms for dispute settlement and enforcement should be institutionalized, based upon existing adat structures.

(B) Basic Human Rights

(1) Right to Life -- BP should actively promote respect for the rights of stakeholders with security forces. Every effort should be made in conjunction with village leaders and respected third parties to determine the cause of the death of the Wirigar children and bring finality to this matter. Whatever the determination, concern should be demonstrated for the villagers' loss in a culturally appropriate manner.

(2) Freedoms of Opinion and Expression -- These rights should be made clear to all stakeholders and actively enforced inside and, to the extent possible, outside of the workplace. BP should seek to protect individuals and groups that exercise these freedoms by opposing the project.

(C) Labor Rights

(1) Freedom of Association -- These rights should be made clear to all workers and other stakeholders and actively enforced in connection with recruitment, training, promotions, and day-to-day work. Consideration should be given to improving BP's broader relationship with organized labor in Indonesia. Pertamina/BP should be willing and prepared to raise with government officials any concerns regarding employee's freedom of association.

(2) Discrimination -- Non-discrimination guidelines should be made clear to all employees and other stakeholders and actively enforced in connection with recruitment, training, promotions, and day-to-day work. Training courses should be established to challenge existing assumptions regarding racial superiority/inferiority and Papuans should be given preferences in securing senior positions.

II. Balancing Human Rights and Security

(A) Deployment: BP should urge the highest levels of the Government of Indonesia to limit TNI and Brimob deployments and, if necessary, seek support for this position from the U.S. and U.K. governments. BP should develop operating principles to guide deployment decisions such as establishing clear criteria and procedures, using the police rather than the TNI as the front line of security, and consulting in advance at high levels of civilian and military authority.

(B) Conduct: BP should develop a written policy regarding the provision of equipment to state security forces. It should also develop a policy and training regarding the use of force.

(C) Training: Case studies should be developed on International Humanitarian Law and the Voluntary Principles on Security and Human Rights. Training should also focus on alternative dispute resolution and ethnic sensitivities. The ICRC is the most promising partner for security force training.

(D) Accountability: BP should take into account past human rights records of military personnel deployed in the region. It should raise specific cases at the highest levels and, within the realm of its influence, seek investigations and accountability for abuses committed by security forces in the project area and unimpeded access for NGOs investigating alleged abuses. It should also urge the creation of ombudsmen for the military and police.

(E) Community: BP should convene periodic security briefings and workshops with local communities and NGOs, address potential “pretext issues”, include community leaders on a security committee, and provide for a local security and human rights “hotline” for emergency use.

III. Supporting Papuan Civil Society and Governance

(A) Building Human Rights Capacity for Local Communities and Civil Society: BP should support formation of a human rights consortium to monitor and report on issues in the project area and maintain access for NGOs and the media to the project area. BP should also support training programs for human rights advocates.

(B) Institutionalizing Human Rights through Papuan Governance: BP should recognize its interest in overcoming the crisis of legitimacy and capacity undermining the provincial government and mobilize technical assistance for the governor and legislature. It should test support for assistance to the provincial human rights commission and explore a local governance partnership with USAID focused on the Bird’s Head region.

Conclusion

The Tangguh Project raises significant human rights issues that could affect both the fundamental freedoms of the peoples living in the Bintuni Bay area and BP's corporate reputation and brand image among global stakeholders.

Any proposal for a large-scale LNG project in an area inhabited by communities of indigenous peoples living predominantly traditional lifestyles will inevitably lead to controversies regarding the human rights impact of the project on those peoples. Assessing whether a multinational has effectively and fairly balanced commercial and community interests is inherently difficult, particularly when there is a history of exploitation of similar communities and when some stakeholders regard any such project as intrinsically injurious to the lifestyles of the indigenous peoples. The Tangguh Project is further complicated by the fact that it would be launched in a politically polarized province facing an uncertain future.

Accordingly, Pertamina/BP's ability to effectively engage with local communities in their areas of influence will be critical to the project's operational success and the security of its assets and people. If the local communities benefit from the project, they will work to support and sustain it. If the local communities do not perceive an overall benefit, and their culture and livelihoods are damaged by the project, it will be much more difficult to ensure the project's long-term success and to protect BP's reputation.

Given this context, Pertamina/BP would be wise to take a holistic approach in addressing human rights issues associated with the Tangguh Project. Human rights, including specific indigenous, labor, and security issues, should be recognized and addressed within established policies, management guidelines, and implementation plans that educate affected stakeholders regarding their rights and enforce respect for those rights. To the greatest extent possible, this institutionalization of respect for human rights should be undertaken within the context of existing adat structures and systems.

Pertamina/BP should be transparent and accountable in every aspect of the project that bears on the human rights of the indigenous communities. When incidents occur and mistakes are made, as they inevitably will be, they should be discussed openly and honestly. Human rights abuses form a tragic legacy for many Papuans.

Pertamina/BP will also need to develop mechanisms to effectively monitor their compliance in meeting international human rights standards. To establish credibility among the widest array of stakeholders, monitoring will need to be undertaken both by internal management and by an independent external monitor.

Ultimately, the most valuable asset that Pertamina/BP can develop in the Bintuni Bay region is trust. Developing and safeguarding that asset will be vital to the success of the project for both the companies involved and the people of Papua.

About the Authors

Gare A. Smith heads the corporate social responsibility and risk management practice at the law firm Foley Hoag. Prior to joining Foley Hoag he was a Vice President at Levi Strauss & Co. where his responsibilities included supervising global implementation of the company's code of conduct. During the Clinton Administration, Mr. Smith served as Principal Deputy Assistant Secretary in the U.S. Department of State's Bureau of Democracy, Human Rights & Labor. In that capacity, he was a U.S. representative to the U.N. Human Rights Commission, the International Labor Organization, and the U.N. Working Group on the Rights of Indigenous Peoples. He also helped to launch the President's Model Business Principles and advise the Apparel Industry Partnership in creating a code of conduct and an independent monitoring system. Previously, he served as Senior Foreign Policy Advisor & Counsel to Senator Edward M. Kennedy. Mr. Smith serves on the boards of a number of human and labor rights organizations.

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Bennett Freeman is an independent consultant advising global companies, international institutions, and NGOs on corporate responsibility, human rights, and political risk issues. Mr. Freeman served as a presidential appointee in three positions at the U.S. Department of State during the Clinton Administration, most recently as Deputy Assistant Secretary in the Bureau of Democracy, Human Rights & Labor, from 1999-2001. In that capacity, he led the U.S./U.K. initiative that brought together leading NGOs with major oil and mining companies to develop "The Voluntary Principles on Security and Human Rights." Mr. Freeman also served as Deputy Assistant Secretary for Public Affairs under Secretary of State Warren Christopher. Prior to government service, he was Manager of Corporate Affairs for GE, working from 1985 to 1993 on a range of public affairs, corporate responsibility, international trade, and export finance issues.