

Mining for a Nickel and a Dime



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How Worker Rights Are Undermined at IMIP

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INKRISPENA merupakan lembaga pusat sumberdaya pengetahuan yang didedikasikan untuk pembangunan, penguatan, pengembangan, kepemimpinan politik rakyat pekerja dengan misi mengumpulkan dan mengelola kajian, peningkatan kapasitas, dan asistensi bantuan teknis pengetahuan tentang krisis serta strategi pembangunan alternatif bagi rakyat pekerja

Photo caption :
Morning shift workers heading to the IMIP area, Nov. 18, 2018



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Y. Wasi Gedepuraka

**Institut Kajian Krisis dan Strategi Pembangunan Alternatif
(INKRISPENA)**

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Chapter 1

Introduction

1.1 Background

The increase in global demand for electric vehicles (EV) has reshaped the market for key resources needed to produce these vehicles, with significant impacts on the economies of some countries that produce or export these resources.

Nickel – a silvery white metal that is often used to strengthen alloys such as stainless steel – is an important component of the lithium-ion batteries used for EVs. Indonesia has the largest nickel reserves and is one of the largest nickel-producing countries in the world,¹ with easily accessible laterite nickel ore deposits. The growth in demand for EVs has had a strong impact on Indonesia's mining economy.

As nickel is an important driver for economic growth, Indonesia has drawn up a national plan for developing and increasing its domestic capacity to process nickel ore into various forms of finished product.² Non-tax state revenues from the nickel sector have increased in recent years, from € 120 million in 2019 to € 174 million³ in 2020.⁴ Output in Indonesia is fast increasing with 34 per cent more nickel coming from the mines in 2021 than in 2020. In the first two months of 2022, production was already up by 38.2

¹ Victor Kiprof, *Top Nickel Producing Countries*, World Atlas, 29 January 2019, <https://www.worldatlas.com/articles/top-nickel-producing-countries.html>, accessed 17 September 2019; Olivia Da Silva, *Indonesian Nickel on Track to Become Major Export*, 27 March 2019, <https://investingnews.com/daily/resource-investing/base-metals-investing/nickel-investing/indonesian-nickel-became-major-export/>, accessed 17 September 2019.

² Ed Davies and Gayatri Suroyo, *Indonesia nickel boom on track to overshadow palm oil: investment chief*, 27 March 2019, <https://www.reuters.com/article/us-indonesia-economy-investment/indonesia-nickel-boom-on-track-to-overshadow-palm-oil-investment-chief-idUSKCN1R8120>, accessed 17 September 2019.

³ IDR 2 trillion in 2019, IDR 2.9 trillion in 2020.

⁴ Verda Nano Setiawan, *PNBP Nikel November Meroket 65 per cent Setahun Menjadi Rp 4,78 Triliun*, 10 November 2021, <https://katadata.co.id/happyfajrian/berita/618b6b2fc7b9b/pnbp-nikel-november-meroket-65-setahun-menjadi-rp-4-78-triliun>, accessed 6 April 2022.

per cent compared with the same period in 2021.⁵ In 2021, Indonesia produced about 1 million metric tons of nickel, which is about 37 per cent of the global nickel production.⁶

Indonesia issued a presidential decree, which came into effect in 2014, banning the export of raw mining materials⁷ in order to increase domestic processing facilities and thus the added value of minerals such as nickel.⁸ The ban was partly lifted in 2017 but it was put in place again in 2020 by the government, which pushed for investments at the same time.⁹

Almost all of Indonesia's nickel goes to China. As a consequence of the presidential decree, Indonesia has also attracted major Chinese investors in nickel processing plants. Indonesia has abundant class 2 nickel, used for steel, but needs hydrometallurgical processes such as high-pressure acid leaching (HPAL) to make intermediate products such as mixed hydroxide precipitate (MHP), which can either serve as direct input for class 1 nickel or can be made directly into battery cathodes. In May 2021, the first HPAL project started in Indonesia, with more in the preparation phase. The ban on export of unprocessed minerals has paid off, seeing that Indonesia has drawn investments in its nickel processing industry and the production of refined nickel has risen exponentially.¹⁰

China currently dominates the global EV market and is also a major player in the mining of metals necessary for the production of batteries for EVs. In Indonesia, China's presence is very visible in the Morowali industrial zone, an important nickel mining area and processing zone in Central Sulawesi.

⁵ Amy Home, *Column: Nickel demand boomed in 2021; this year it will be supply*, Reuters, 19 May 2019, <https://www.reuters.com/markets/commodities/nickel-demand-boomed-2021-this-year-it-will-be-supply-2022-05-18/>, accessed 2 June 2022.

⁶ Krisna Gupta, *Indonesia's claim that banning nickel exports spurs downstreaming is questionable*, 30 March 2022, The Conversation, <https://theconversation.com/indonesias-claim-that-banning-nickel-exports-spurs-downstreaming-is-questionable-180229>, accessed 12 July 2022.

⁷ This decree was based on the 2009 law on Mineral and Coal Mining.

⁸ United Nations Conference on Trade and Development (UNCTAD), *Using trade policy to drive value addition: Lessons from Indonesia's ban on nickel exports*, 2017, p. 2, https://unctad.org/system/files/non-official-document/suc2017d8_en.pdf

⁹ Tim Treadgold, *Indonesia on track to dominate the supply of nickel to make batteries*, Forbes, 2 June 2021, <https://www.forbes.com/sites/timtreadgold/2021/06/02/indonesia-on-track-to-dominate-the-supply-of-nickel-to-make-batteries/>, accessed 28 February 2022 and in mid-2019 the government announced that the ban on nickel ore would come into effect at the beginning of 2020. Angela Durrant, *Indonesia nickel ore ban: who will fill the supply gap*, 10 December 2019, <https://www.woodmac.com/news/opinion/Indonesian-nickel-ore-ban-who-will-fill-the-supply-gap/#:~:text=On%2030%20August%202019%20the,caused%20an%20immediate%20price%20spike,> accessed 9 December 2020.

¹⁰ Isabelle Huber, *Indonesia Nickel Industrial Strategy*, Center for Strategic & International Studies, December 2021, <https://www.csis.org/analysis/indonesias-nickel-industrial-strategy>, accessed 3 June 2022.

1.2 Morowali Industrial Park: an expanding investment in nickel

The construction of the Morowali Industrial Park (IMIP) started in 2013 based on an agreement signed on 2 October 2013 between Shanghai Decent Investment and Bintang Delapan, a China-Indonesian trade cooperation.¹¹ PT IMIP is one of the projects listed as part of the Chinese Belt and Road Initiative, although it predated the start of the initiative. Originally intended to develop nickel pig iron and stainless steel, it expanded its focus to include nickel as an element of the battery production for renewable energy.

The park covers over 2,000 hectares¹², including mines, smelters, mills and HPAL facilities, but also has its own airport and telecommunication network.¹³ It is designated as a national strategic project (NSP), even though it is private sector-led, to accelerate the economic contribution to the region and the national economy. This status gives the zone full support from the central and local governments.¹⁴ IMIP is financed through banks, including the China Eximbank and HSBC China. The largest financier of project within IMIP is the China Development Bank, which financed, among other things, US\$ 1.22 billion for manufacturing plants and coal-fired electricity plants.¹⁵

In Figure 1, the ownership structure of IMIP is detailed. The majority owner is Shanghai Decent Investment, which is a corporation of the privately owned Chinese company Tsingshan Group (holding 66.25 per cent shares). The other owner is Indonesia PT Bintang Delapan Group (holding 33.75 per

¹¹ Pius Ginting and Ellen Moore, 2021, *Indonesia Morowali Industrial Park (IMIP)*, The people's map of Global China, 25 November, <https://thepeoplesmap.net/project/indonesia-morowali-industrial-park-imip/> accessed 18 March 2022 and *Caijing* magazine, *Tsingshan's Indonesia Morowali Industrial Park: Build, and they will come*, issue 30, 2019, <https://www.business.hsbc.com.cn/en-gb/belt-and-road/story-5>, accessed 18 March 2022.

¹² In the past, IMIP's land area was 1,350 hectares, then it became 2,000 hectares and now 3,600 hectares. See It will be more crowded, in 3 years there will be 40 tenants in Morowali Industrial Estate, Oct.12, 2022, in [https://industri.kontan.co.id/news/bakal-makin-ramai-3-tahun-lagi-akan-ada-40-tenant-di-kawasan-industri-morowali#:~:text=%E2%80%9CDulu%20kan%20\(luas%20lahan%20IMIP,hektar%2C%20nah%20sekarang%204.000%20hektar](https://industri.kontan.co.id/news/bakal-makin-ramai-3-tahun-lagi-akan-ada-40-tenant-di-kawasan-industri-morowali#:~:text=%E2%80%9CDulu%20kan%20(luas%20lahan%20IMIP,hektar%2C%20nah%20sekarang%204.000%20hektar) and PT IMIP's Cultivation Area Increases, Central Sulawesi Provincial Government and Morowali Regency Government are asked to Supervise More Strictly, June 29, 2022, in <https://channelsulawesi.id/2022/06/29/luas-garapan-pt-imip-bertambah-pemprov-sulteng-dan-pemkab-morowali-diminta-lebih-ketat-mengawasi/>

¹³ Pius Ginting and Ellen Moore, *Indonesia Motorail Industrial Park*, The people's map of global China, 24 November 2021, <https://thepeoplesmap.net/project/indonesia-morowali-industrial-park-imip/>, accessed 30 March 2022.

¹⁴ The Committee for Acceleration of Priority Infrastructure Delivery (KPPIP), *National Strategic projects*, <https://kppip.go.id/en/national-strategic-projects/>, accessed 29 March 2022.

¹⁴ <https://www.industriestateindonesia.com/files/estates/V7Hev4DsqCgPQzB1RI9NS2TzxE72HEAwzCnGtYQF.pdf>

¹⁵ Hong Kong Means Business, *Belt and Road gets Indonesian Boost*, Market Spotlight, 8 June 2018, <https://hkmb.hktdc.com/en/1X0AE6D5/market-spotlight/Belt-and-Road-Gets-Indonesian-Boost>, accessed 30 March 2022.

cent shares).¹⁶ PT IMIP is then a joint venture of the Shanghai Decent Investment Group (49.69 per cent), Sulawesi Mining Investment (SMI, 25 per cent), and the Bintang Delapan Group (25.31 per cent).¹⁷ PT SMI is a joint venture of the Shanghai Decent Investment Group (with a controlling stake) and PT Bintang Delapan Group¹⁸ and has also received Chinese state-backed capital through the China Eximbank among others.

Tsingshan is the most important investor in IMIP, and they are the largest stainless steel producer globally. Through its company, Shanghai Decent Investment (Group) Co. Ltd., Tsingshan manages its international supply chain including mining (including nickel), smelting, slab and sheet production, and bar and wire processing.¹⁹ Through establishing PT IMIP, the Tsingshan group secured access to Indonesian nickel. Tsingshan has a strong hold, including through shares in different parts of the nickel value chain in the park, such as infrastructure, mines and furnaces. According to several sources, by the end of 2018 the investment in PT IMIP amounted to US\$ 8 billion and included investment in vast infrastructure facilities.²⁰

¹⁶ PT IMIP, Indonesia Morowali Industrial Park, Sulawesi Indonesia Industrial Estates Directory 2018-20 <https://www.industrialestateindonesia.com/files/estates/V7Hev4DsqCgPQzB1RI9NS2TzxE72HEAwzCnGtYQF.pdf>

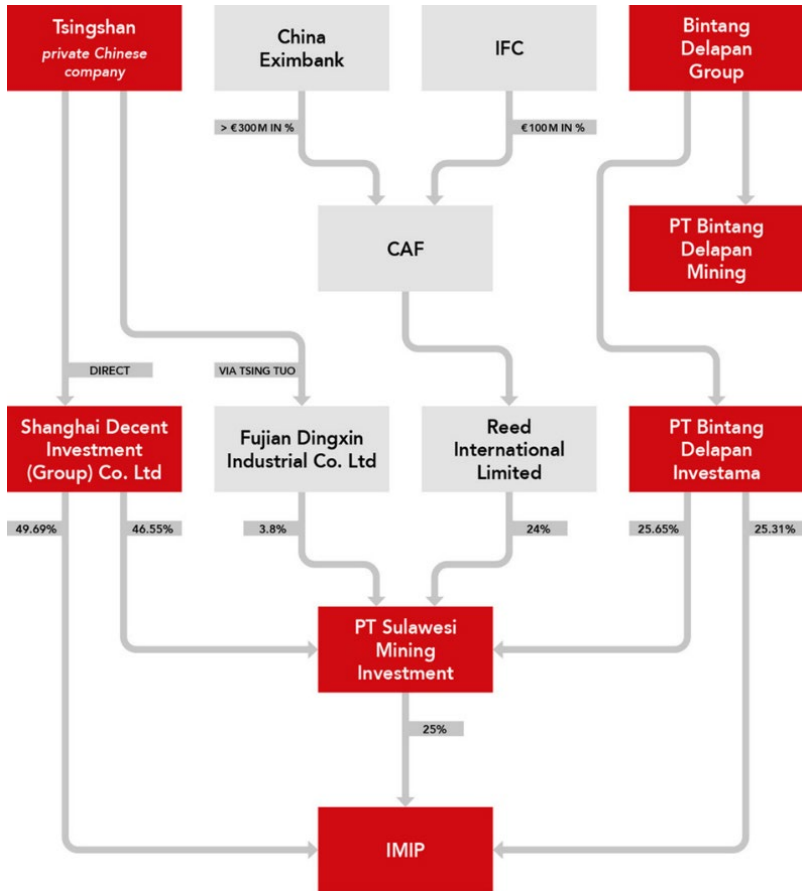
¹⁷ *Kehadiran IMIP dan Transformasi Miskin Partisipasi*, *Kumparan*, Palu Poso, 29 July 2019, <https://kumparan.com/paluposo/kehadiran-imip-dan-transformasi-miskin-partisipasi-1rZ1XhSdBl4/full>, accessed 21 October 2019.

¹⁸ Manyun Zou and Lu Yutong, *Chinese companies face worries in quest for Indonesian Nickel. Risks rise for reliance on mercurial exporter, which holds 24% of global reserves*, 2 February 2022, Nikkei Asia, <https://asia.nikkei.com/Spotlight/Caixin/Chinese-companies-face-worries-in-quest-for-Indonesian-nickel>, accessed 17 March 2022.

¹⁹ Nickel Mines Limited, *Tsingshan collaboration*, <https://nickelmines.com.au/tsingshan-collaboration/tsingshan/>, accessed 18 March 2022.

²⁰ Mentioned in the Nikkei Asia; Manyun Zou & Lu Yutong (2022), *Chinese companies face worries in quest for Indonesian Nickel. Risks rise for reliance on mercurial exporter, which holds 24% of global reserves*, 2 February 2022, Nikkei Asia, <https://asia.nikkei.com/Spotlight/Caixin/Chinese-companies-face-worries-in-quest-for-Indonesian-nickel>, accessed 17 March 2022.

Figure 1:
Investments in IMIP



1.3 Human rights abuses at Morowali Industrial Park

With the rise of nickel mining and the processing industry, communities living near the Morowali industrial zone have seen their environment change and their human rights undermined as the area has been developed for industry. This is not surprising as many company-community conflicts in

Indonesia centre around the impacts of mining corporations. The Indonesian Mining Advocacy Network (JATAM) noted that, between 2014 and 2019, there have been 71 reports of conflicts related to the mining sector, including cases of assault, intimidation allegedly ordered by mining companies and criminalisation of human rights defenders in Indonesia.²¹

Equally concerning are the labour rights abuses reported by workers employed by companies operating at the Morowali Industrial Park. The issues described later in this report include examples of PT IMIP and tenant companies at Morowali undermining labour rights activists and unionisation.

This report uses the Mind the Gap framework to analyse the responses of the companies to workers and unions, and concludes with options for using the Mind the Gap counter-strategies at Morowali.

Box 1: Harmful corporate strategies

The Mind the Gap project has identified a range of harmful strategies that companies use to avoid responsibility for human rights and environmental impacts. These strategies were identified through a collaborative research process, drawing on decades of experience of civil society actors around the world. Through the process, a harmful corporate strategy has come to be defined as: *a series of actions taken by a company that results in avoidance of responsibility for human rights or environmental impacts*. Mind the Gap identified 25 harmful strategies, which are grouped into five categories, offering a framework for analysing how companies respond to concerns about abuse.

The five categories of harmful strategies are:

- Constructing deniability
- Avoiding liability through judicial strategies
- Distracting and obfuscating stakeholders
- Undermining defenders and communities, including undermining unionisation
- Utilising state power

Mind the Gap has also developed counter-strategies aimed at enabling civil society organisations, unions, communities and workers to respond to harmful corporate strategies.

A full explanation of the Mind the Gap framework can be found at www.mindthegap.ngo

²¹ Ady Thea DA, *Jatam: Ada 71 Konflik Pertambangan Periode 2014-2019*, 7 January 2020, <https://www.hukumonline.com/berita/a/jatam--ada-71-konflik-pertambangan-periode-2014-2019-lt5e14311f6aa5a>, accessed 12 February 2020.

1.4 Research methodology

This research paper specifically focuses on the impacts of nickel processing on labour rights in Morowali, and analyses the corporate responses to workers' attempts to realise their rights. The paper is based on desk and field research undertaken during field visits to Morowali in August 2019 and June 2021. The research team of INKRISPENA, assisted by a local union activist, conducted in-depth interviews and focus group discussions with community members, workers and local government and company officials. In July 2022 several meetings with trade unions were organised to update data and confirm information in this report.

The group of interviewees (23) included five workers who are members of Morowali Industrial Workers Union (SPIM), farmers, fisherfolks community, community members and activists, and small shop owners. Of those interviewed, six community members were female. Additionally, interviews were held with five non-governmental organisations (NGOs) that are active in Morowali, seven local government officials, of which two were female, and two representatives of Indonesia Mining Association (IMA).

The report has been submitted to PT Bintang Delapan Mineral (PT BDM), PT Sulawesi Mining Investment (PT SMI), and PT IMIP for a review of the factual information. None of the companies have taken the opportunity to react to the report.

1.5 Outline

This paper starts with a brief introduction to nickel mining in Morowali in Chapter 2. Chapter 3 provides an overview of labour rights issues in Morowali. Chapter 4 analyses how PT IMIP appears to be undermining the role and work of unions to avoid taking responsibility for the labour rights impacts identified and thus undermines defenders and communities.

The paper ends with conclusions and recommendations and potential counterstrategies that civil society organisations could adopt to hold PT IMIP and the companies in Morowali Industrial Park responsible for the labour rights abuses in the park.

Chapter 2

Industrialisation of Nickel Mining in Central Sulawesi

2.1 Development of downstream mining industry

Indonesia is well on its way to developing from a country that produces raw materials to a semi-finished or finished goods producer by developing its downstream industries. In 2014, the country banned the export of raw mining materials and subsequently rolled out a national plan to develop domestic processing facilities.²² In its strategy to advance growth and development, the Indonesian government has divided the country into six economic corridors. The development of economic growth centres is carried out through the establishment of industrial clusters and Special Economic Zones.

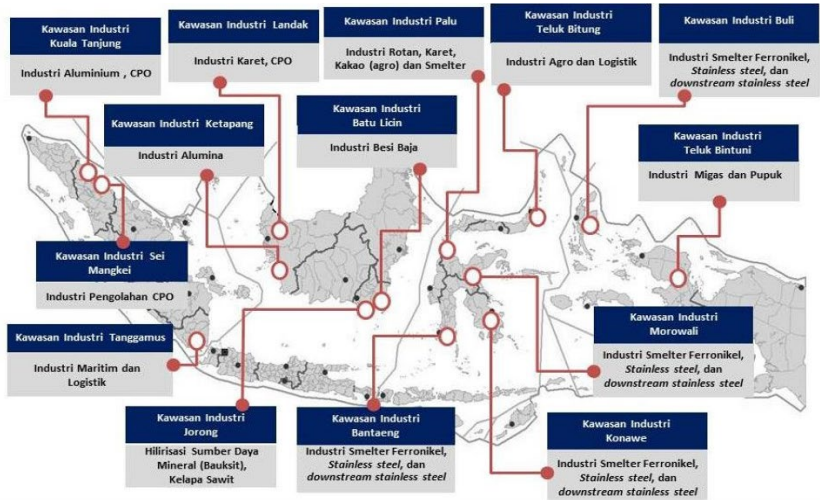
The Sulawesi Economic Corridor is positioned as the national centre for production and processing of mining products, as well as agricultural, plantation, fishery and oil and gas products. To realise this development, five special economic zones were created; in Central Sulawesi the Indonesia Morowali Industrial Park (IMIP) was created in 2013, as mentioned above.²³ The purpose of the industrial park was to advance domestic ferronickel industries and to provide work for an estimated 80,000 workers.²⁴

²² Owo, *Mengendalikan Ekspor Mineral Mentah, Meningkatkan Nilai Tambah Produk - Hilirisasi Industri Tambang Pantang Mundur*, Neraca, 9 September 2013, <https://www.neraca.co.id/article/32713/mengendalikan-ekspor-mineral-mentah-meningkatkan-nilai-tambah-produk-hilirisasi-industri-tambang-pantang-mundur>, accessed 16 July 2020.

²³ Rosniawanti Fikry Tahir, *Profil Perusahaan Tambang Pemilik Helikopter Jatuh di Morowali*, Tempo. Co, 22 April 2018, <https://bisnis.tempo.co/read/1081967/profil-entitasbisnis-tambang-pemilik-helikopter-jatuh-di-morowali>, accessed 7 September 2019.

²⁴ Ministry of Industry Republic of Indonesia, *Industry Facts & Figures*, 2016, Public Relation Bureau Ministry of Industry Republic of Indonesia, <https://kemenperin.go.id/download/13491>, accessed 16 July 2020.

Figure 2
Development of 14 Industrial Estates Outside Java



Source: Source: Indonesia's Medium and Long-Term Development Plan 2014-2019, Book I.

Historically, Morowali mining activities were dominated by exploitation activities due to the absence of any processing industry facilities. Disputes over mining permits and lack of basic infrastructure, such as roads and electricity, held back investments to build processing industry facilities. The creation of IMIP has transformed Morowali into a nickel-based processing industry agglomeration.

In 2016, Indonesian President Jokowi Widodo made the nickel industrial area in Morowali Regency, Central Sulawesi into a national strategic project (PSN). With the designation as a national strategic project (PSN), the status of the IMIP area is just one step away from a national vital object (Obvitas), which would place the industrial park under state supervision and protection.²⁵

²⁵ Presidential Regulation No. 3 of 2016.

2.2 Companies operating at IMIP

Commercial nickel mining in Morowali began back in 1978 when PT International Nickel Indonesia (INCO) started commercial production after a series of exploration activities and feasibility studies.²⁶ Just before IMIP's massive construction process in December 2014, there were two large business entities active in the area. PT Bintang Delapan Mineral (PT BDM), which was mining nickel ore for export to China, and PT Sulawesi Mining Investment (PT SMI), which started a first phase smelter construction process in 2010-2011 and the second phase in mid-2013.²⁷

PT IMIP is the developer of the industrial park and manages a nickel-based industrial zone, whose main products are nickel, stainless steel and carbon steel.²⁸ The mining concessions are held by a large number of companies, including PT Vale.²⁹ In the early years, there are at least 18 nickel processing companies active within IMIP.³⁰ The four nickel smelters that are developed by IMIP are expected to produce 2 million tons of nickel pig iron per year, using lateritic nickel ores.³¹ To generate sufficient electricity to operate the nickel ore smelters and furnaces, the IMIP area is supported by three electric power plants with a capacity of 1,130 megawatts. Furthermore, the area is also supported by an industrial port and airport. Other supporting industries include plants processing manganese, silicon, chrome, lime, coke and more.³²

²⁶ Andika, *Booming Nikel, MP3EI dan Pembentukan Kelas Pekerja*, Sajogyo Institute, Working Paper No.19, 2014, op.cit., p.25, <https://www.scribd.com/document/358870219/Booming-Nikel>, accessed 15 June 2022.

²⁷ Adhitya Himawan, *Sulawesi Mining rampungkan smelter nikel di 2014*, 26 April 2013, <https://industri.kontan.co.id/news/sulawesi-mining-rampungkan-smelter-nikel-di-2014>, accessed 16 June 2022.

²⁸ LinkedIn profile page of PT Indonesia Morowali Industrial Park (IMIP), <https://www.linkedin.com/company/pt-indonesia-morowali-industrial-park>, accessed 7 July 2021.

²⁹ See APNI, *Data iup nikel*, <https://www.apni.or.id/iupnikel>, accessed 4 December 2019, and also Anisatul Umah, *Ini 5 Produsen Nikel Terbesar RI, Siapa Jawaranya?*, CNBC Indonesia, 7 July 2021, <https://www.cnbcindonesia.com/news/20210707161618-4-259046/ini-5-produsen-nikel-terbesar-ri-siapa-jawaranya>, accessed 4 December 2021.

³⁰ There are currently 22 more tenants under construction and in the next three years the total industries that will operate there will reach around 40 tenants. It will be more crowded, in 3 years there will be 40 tenants in Morowali Industrial Estate, Oct.12,2022 in <https://industri.kontan.co.id/news/bakal-makin-ramai-3-tahun-lagi-akan-ada-40-tenant-di-kawasan-industri-morowali> accessed Oct.15, 2022

³¹ Nickel pig iron is a cheaper alternative for pure nickel (only limited percentage nickel), for producing stainless steel. Lateritic nickel ores deposits are surficial weathered rinds. Chemeurop.com, *Lateritic nickel ore deposits*, https://www.chemeurop.com/en/encyclopedia/Lateritic_nickel_ore_deposits.html, accessed 25 July 2022.

³² LinkedIn profile page of PT Indonesia Morowali Industrial Park (IMIP), <https://www.linkedin.com/company/pt-indonesia-morowali-industrial-park>, accessed 7 July 2021.

Figure 3
Company Tenants in IMIP 2014-2022



Source: <https://www.facebook.com/nikelimip.morowali/>

2.3 Transformation of an area

The nickel areas in Morowali have previously been inhabited by fisherfolks, farming communities and indigenous peoples. With the increase in nickel mining activity and following the development and operation of the IMIP, Morowali has undergone a rapid landscape transformation particularly in the south, to the border of Southeast Sulawesi Province. The nickel boom has massively transformed an area that was previously an agricultural and fishery area into an upstream-downstream integrated industrial area along with the supporting infrastructure that allows large-scale production to be carried

out. The rapidly changing landscape has had a significant impact on communities' lives.

Indigenous peoples were displaced in the 1960s when exploration first began and they are still considered as squatters in the concession area.³³ Farmers have been confronted with direct expropriation of agricultural land in areas that overlap with concession areas.³⁴ The growth of the mining industry has led to a new wave of land grabbing, particularly by local governments.³⁵ The construction of access and hauling roads to the nickel ore sites up in the hills has also negatively impacted villagers.³⁶ Additionally, restriction of road access has prevented some villagers from entering nearby forests to look for products, such as resin and rattan, that they use to sustain themselves.³⁷

The degradation of the coastal marine environment next to the nickel mining areas has caused issues for local fishermen. As the river mouth is now covered with mud and sedimentation, fisherfolk are no longer able to dock fishing boats on the beach near their homes and have to rely on high tide to go fishing.³⁸ Those who still go to sea have to travel out further and longer, with fewer catches and higher logistics costs.³⁹

³³ Abdul Rahman Nur, *Konflik Masyarakat Karunsi Dengan PT. VALE*, Yayasan Pusat Studi Hukum dan Kebijakan (YPSHK), Kendari, December 2014, p.23.

³⁴ Arianto Sangadji, *Akumulasi Primitif dan Pengalaman Historis di Sulawesi Tengah*, 2014, loc.cit., p.33.

³⁵ Arianto Sangadji, *Akumulasi Primitif dan Pengalaman Historis di Sulawesi Tengah (Primitive Accumulation and Historical Experience in Central Sulawesi)*, Working Paper, loc.cit., p.33, <http://ytm.or.id/wp-content/uploads/2017/01/Kertas-Kerja-2014.pdf>, accessed 15 January 2019.

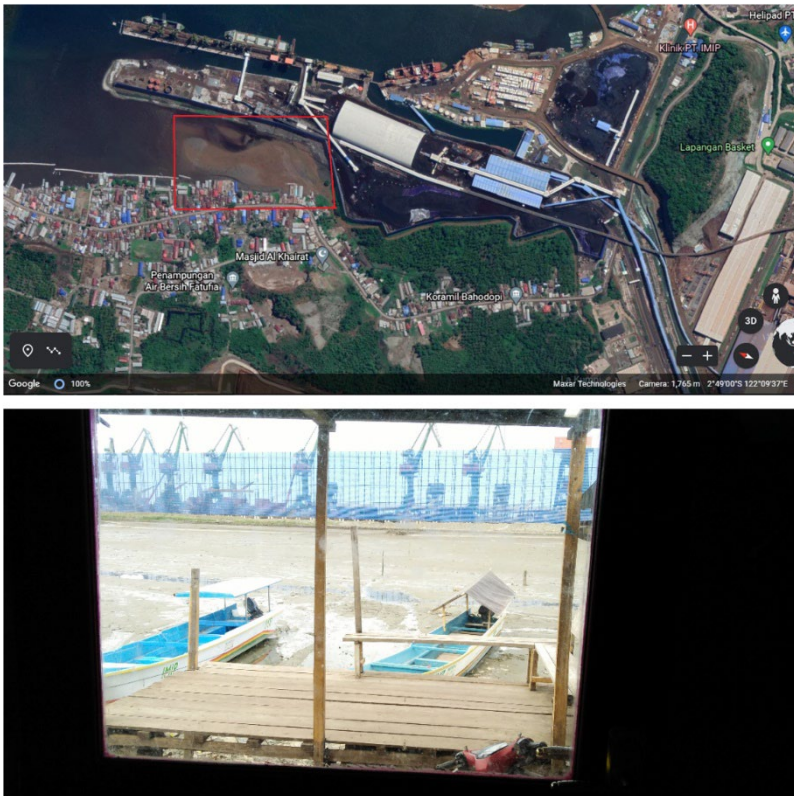
³⁶ Andika Dhika, *Warga Bahomakmur Protes Bintang Delapan Rusak Laban Pertanian*, 13 May 2016, <https://www.mongabay.co.id/2016/05/13/warga-bahomakmur-protes-bintang-delapan-rusak-lahan-pertanian/>, accessed 17 April 2019; Analisis Dampak Lingkungan Hidup (ANDAL) PT Kencana Bumi Mineral: Rencana Penambangan Bijih Nikel Kecamatan Bahodopi, Kabupaten Morowali, Provinsi Sulawesi Tengah, 2017, p.ii-17.

³⁷ Interview SFD, 25 August 2019; Interview ASN, 24 August 2019; see also Muhammad Rushdi (et.al), *Rangkaian Pasok Nikel Baterai dari Indonesia dan Persoalan Sosial Ekologi*, Aksi Ekologi dan Emansipasi Rakyat (AEER), Jakarta, December 2020, p.64.

³⁸ Interview SFD and ACH with fisherfolk, 26 August 2019.

³⁹ See Andika, *Konflik Ruang Ekstraktif di Kabupaten Morowali: Studi Ekspansi Pertambangan di Kabupaten Morowali Sulawesi Tengah*, 2011, p.22-23, https://www.academia.edu/4414640/kp_no_11_Andika, accessed 25 July 2019; Andika, 2014, p.50; and Muhammad Rushdi (et.al), 2020, p.61.

Figure 4
Sedimentation of the Fatufia River Estuary



Source : res.doc, Aug, 29, 2019
Background: coal stockpiling unloading jetty. Picture taken from inside a local's house

Moreover, nickel laterite processing in Indonesia is very polluting and has significant impacts on the environment. The process used to produce nickel pig iron (NPI) is often referred to as “dirty nickel” because it produces large amounts of slag, high energy consumption and environmental pollution.⁴⁰ When the dry season arrives, dust pollution from the traffic of trucks carrying nickel ore for days on end causes dust to enter the houses, damages grain in rice fields, and causes respiratory infections.⁴¹

⁴⁰ Iwan Setiawan, *Pengolahan Nikel Laterit Secara Pirometalurgi: Kini dan Penelitian ke Depan*, Makalah Seminar Nasional Sains dan Teknologi, 2016, Fakultas Teknik Universitas Muhammadiyah, Jakarta, 8 November 2016, p.3.

⁴¹ Interview MRS, community member, 26 August 2019; Christopel Paino and Sapariah Satri, *Morowali di Banuh Cengkeraman Tambang Para Jenderal*, 12 May 2014, <https://www.mongabay.co.id/2014/05/12/fokus-liputan->

Figure 5
Coal Stockpile in Kurisa Bay



Source: Google Earth

Left red box: coal stockpile; right red box: Kurisa village fishing settlement

morowali-di-bawah-cengkeraman-tambang-para-jenderal/?fb_comment_id=1414379208838670_1416920065251251, accessed 22 March 2020; Muhammad Rushdi (et.al), 2020, p.64; Data on the various types of public health problems in the Bahodopi sub-district and visit to a community health service center at the sub-district level in Arianto Sangadji (et.al), 2020, p.48-49.

Chapter 3

Labour Rights Abuses at IMIP

3.1 Expanding demand for labour

The demand for labour in the nickel mining industry in Morowali has increased sharply from the start of the construction of the industrial park in 2013. In 2019, it was estimated that the workforce in the industrial park had reached more than 30,000 people.⁴² To satisfy the demand for labour, workers are recruited from within the region and beyond, including from various other islands of Indonesia.⁴³ Additionally, an estimated 5,000-7,000 migrant workers from China are employed at IMIP.⁴⁴

PT IMIP is responsible for the recruitment process for businesses that are tenants in the park. Employees are warned on the recruitment page not to go through other brokers or other parties as intermediaries.⁴⁵ However, irregularities have been reported in recruitment processes. Although the official recruitment process is to send application letters directly to PT IMIP's recruitment management, workers from outside of Morowali have reported that fees have to be paid to brokers and insiders to secure a position.⁴⁶

⁴² The Morowali Regency Spatial and Regional Plan (RTRW) 2018-2033 has designated the area around IMIP as a Regency Strategic Area (KSK) with economic interests. It is estimated that, by the year 2019, KI IMIP has absorbed approximately 30,000 to 80,000 workers (Kary Kabadikp, *Kawasan industri tanpa RTRW*, 30 September 2019, <https://morowalikab.go.id/home/read/penantian-panjang-rtrw-kawasan-industri-morowali-sampai-papan>, accessed 20 September 2019. According to Coordinating Minister for Maritime Affairs and Investment, Luhut Binsar Pandjaitan, it will reach 100,000 people (Asdar Zula, *Pabrik Energi Baru Nikel Laterit Siap Dibangun di Kawasan PT IMIP*, 11 January 2019, in <https://ekbis.sindonews.com/berita/1369764/34/pabrik-new-energy-nikel-laterite-ready-to-build-in-region-pt-imip?showpage=all>, accessed 20 September 2019).

⁴³ Pabrik Energi Baru Nikel Laterit Siap Dibangun di Kawasan PT IMIP, 11 January 2019, in <https://ekbis.sindonews.com/berita/1369764/34/pabrik-energi-baru-nikel-laterit-siap-dibangun-di-kawasan-pt-imip?showpage=all>, accessed 20 September 2019. The information on the number of foreign workers claimed by the government and mass media was refuted by Sangadji's research that there were 4,017 foreign workers in various production activities in the IMIP area. See Arianto Sangadji (et.al), 2020, p. 25-26.

⁴⁴ Muammar Fikrie, *Hantu anti-Tiongkok di Sulawesi*, 29 January 2018, <https://beritagar.id/artikel-amp/laporan-khas/hantu-anti-tiongkok-di-sulawesi>, accessed 20 July 2019, and interview with LKM, local entrepreneur, 26 August 2020.

⁴⁵ See the recruitment page at <https://rekrutmen.imip.co.id/>

⁴⁶ Interview at FGD with five union members, 5 September 2019 and Arianto Sangadji, Muh Fardan Ngoyo, and Pius Ginting (2019) *Road to Ruin: Challenging the Sustainability of Nickel-based Production for Electric Vehicles*,

Figure 6
Job Vacancy Announcement

LOWONGAN OPERATOR

- DUMP TRUCK
- MIXER TRUCK
- TRAILER
- MOBILE CRANE
- PEDESTAL CRANE
- BOOM TRUCK
- BULLDOZER
- FORKLIFT
- CONCRETE PUMP

DIBUTUHKAN 2000-an OPERATOR

Berkas dibawa langsung ke PT IMIP
Atau dikirim via Email
hrrecruitment@imip.co.id

Kualifikasi Persyaratan

- Pendidikan Minimal SMA/SMK/ sederajat WNI
- Memiliki SIM Bil Umum e-KTP
- Umur 20 sampai 40 tahun SKCK
- Riwayat Hidup
- Kartu Keluarga
- Kartu Pencari Kerja
- Surat Lamaran Kerja

Sertifikat SIO (Untuk operator Crane & Forklift)

0853 4210 2611
Khusus Jam Kerja

PENGUMUMAN
Persyaratan Berkas Pelamar PT. IMIP

Bagi Crew :

1. Pas Foto Berwarna Ukuran 3x4 sebanyak 1 Lembar*
2. Surat Lamaran Kerja (No Hp & Email Aktif)*
3. Daftar Riwayat Hidup*
4. Foto Copy KTP*
5. Foto Copy Kartu Keluarga*
6. Foto Copy Akte Kelahiran*
7. Foto Copy Ijazah Terakhir*
8. Foto Copy Transkrip Nilai/ SKHUN*
9. Foto Copy SKCK*
10. Foto Copy AK1 (Kartu Pencari Kerja)*
11. Foto Copy NPWP*
12. Foto Copy BPJS kesehatan**
13. Foto Copy Sertifikat Pengalaman Kerja/PKL/Seminar**

Khusus Operator & Driver :

14. Foto Copy SIM*
15. Foto Copy SIO Operator Crane dan Forklift*

Keterangan : *Wajib **Jika ada

Beri pelamar yang terdaftar sebagai Peserta BPJS Mandiri Wajib statusnya Lunas (Tidak Menunggak)

Berlaku Mulai Desember 2019
HR-Recruitment

Source: <https://www.facebook.com/PT.IMIP/photos/pb.100070348011120.-2207520000./1747817065351140/?type=3> dan
<https://www.facebook.com/officialimip/posts/bagi-para-calon-karyawan-yang-ingin-memasukkan-berkas-ini-adalah-daftar-persyara/1006386409715386/>

3.2 Job insecurity

Despite the high demand for labour at IMIP, there is still a significant degree of job insecurity among workers. A number of workers employed by tenant companies at IMIP are contract workers which includes casual daily labourers who do not have formal employment contracts.⁴⁷ Casual workers are most vulnerable to losing their jobs.⁴⁸ Although Indonesian law requires that, after working at least 21 days a month for three consecutive months,

Rosa-Luxemburg-Stiftung Dialogue Programme Climate Justice, November 2019, https://www.rosalux.de/fileadmin/rls_uploads/pdfs/engl/Nickel_Study_FINAL.pdf

⁴⁷ In the early years of construction, there were many reports of the use of casual workers. Now the casual workers are contracted not directly by IMIP management but by subcontracting companies that include not only local companies but also subcontracting companies from China. One of the signs of subcontracted workers is that they are always transported in pick-up trucks into the IMIP area. Interview with IRW, union activist, 22 June 2022

⁴⁸ Andika, 2014, p.71, and MSI, workers and union activist, interview 13 July 2022.

casual workers' agreements should change to permanent worker status, in practice this does not automatically happen at IMIP.⁴⁹

Workers with low-status jobs such as helpers have on average to go through three years of contract work before they become permanent workers.⁵⁰ Workers with higher levels of education generally go through an average of 1-1.5 years of service before they become permanent workers.⁵¹ Contract workers with fixed term contracts also find that mining companies are using different tactics and excuses to end their work contracts or are not granting permanent workers status.⁵²

Job insecurity is not only experienced by contract workers. Permanent workers at IMIP also experience insecurity as they reportedly can be dismissed by management for arbitrary reasons, not necessarily based on the Indonesian labour law or even their own company regulations.⁵³ Mistakes or minor defects are sometimes used as a reason for dismissal.⁵⁴ Dismissals can also be facilitated by the Indonesian labour law. When, for example, workers are absent from work for more than five consecutive days without permission, the Ministry of Manpower regulation gives the company the possibility of dismissing these workers.⁵⁵

Dismissals are sometimes carried out without a warning letter, with the management of PT IMIP arguing that they had not dismissed workers but that the workers themselves resigned. However, in some cases the workers concerned have never submitted a resignation letter. Under the pretext of "resignation" and not dismissal, the workers concerned are not entitled to severance pay from the company.⁵⁶ Trade union activists with permanent

⁴⁹ NOT FEW ARE VICTIMS, <https://sbsinews.com/pkwt-di-pt-imip-tidak-sedikit-yang-menjadi-korban/>, 15 August 2018 and WORKING CONTRACT PROBLEMS, PSP (Leader of Labor Union) SPN PT IMIP DEFENDS, <https://spn.or.id/kontrak-kerja-bermasalah-ppsp-spn-pt-imip-lakukan-pembelaan/>, 13 June 2021.

⁵⁰ Interview YSF, 28 August 2019, and IRW, workers and union activists, interview 13 July 2022, as well as literature and news, including: Adriansa Manu, *Kondisi dan Dinamika Buruh Tambang Morowali*, 20 January 2017, <https://ytm.or.id/kondisi-dan-dinamika-buruh-tambang-morowali/>, accessed 3 September 2019, and Adriansa Manu, *Kondisi dan Dinamika Buruh Tambang Morowali*, 20 Januari 2017, <https://ytm.or.id/kondisi-dan-dinamika-buruh-tambang-morowali/>, accessed 3 September 2019, and Andika, 2014.

⁵¹ Arianto Sangadji (et.al), 2020, op.cit., hal. 51.

⁵² Buruh dan Rakyat Lingkar Tambang Menuntut Kesejahteraan dan Penyerobotan Lahan Perkebunan Warga (Workers and People in Mine Circle Demand Welfare and Grabbing of Community-Owned Plantation), in <https://www.satusulteng.com/buruh-dan-rakyat-lingkar-tambang-menuntut-kesejahteraan-dan-penyerobotan-lahan-perkebunan-warga/>, 7 December 2016 and from MSL, workers union activist, interview 13 July 2022

⁵³ See the results of the dialogue between the United Workers and People's Alliance and the regional government of Morowali Regency in section III.4.2.2.7 points B.1 and B.4. This is reinforced by the results of another study from the Department of Sociology; Misalnya, M. Falikul Isbah & A.B. Widyanta (ed), *Berkarya Tiada Henti: Tiga Lentera Bulaksumur*, Departemen Sosiologi Fakultas Ilmu Sosial dan Ilmu Politik, Universitas Gajah Mada, Yogyakarta, November 2019.

⁵⁴ A.B Widyanta, 2019, op.cit., p.213.

⁵⁵ This possibility is granted through the labour regulation. According to the regulation of the Minister of Manpower, a worker who is absent for more than five consecutive days can be categorised as resigning. Described in: <https://www.hg.org/legal-articles/termination-of-employment-relationship-in-indonesia-6058>

⁵⁶ "In case the worker/ labourer violates the provisions that are specified under his or her individual work agreement, the enterprise's rules and regulations, or the enterprise's collective work agreement, the entrepreneur

worker status who are subject to dismissal sanctions not only lose their jobs but are often intimidated and blacklisted by all companies related to Tshingsan.⁵⁷

3.3 Lack of decent wages

The Central Sulawesi Provincial Government has set the 2022 provincial minimum wage at € 147⁵⁸ per month, which is effective from 1 January 2022 and has increased from € 135⁵⁹ in 2021.⁶⁰ In 2019⁶¹, the minimum wage was € 128.⁶² The wages for workers in the IMIP area is not enough to make ends meet. Even though the average nominal value of gross wages received is higher than the regional minimum wage – and higher, for example, than the wages paid in the garment manufacturing sector in Java – the value of the wages, the purchasing power, is low for this area.

The prices for basic needs such as rent, food, water and other necessities are too high to afford with the wages received. Calculations of the minimum wage in Indonesia are based on individual workers; when a worker has a family, the wages received will never be sufficient to also cover expenses for the other members of the family including school fees, remittances to the family in their home village, and paying debts, even when workers receive family allowances.

The high costs of living are confirmed by a 2019 study published by the Rosa Luxemburg Foundation that refer to workers earning a basic wage of IDR 3.3 million (US\$ 213), which – with allowances and overtime pay – might

may terminate his or her employment after the entrepreneur precedes it with the issuance of the first, second and third warning letters consecutively.” Manpower Law. Act of the Republic of Indonesia Number 2003. Unofficial translation by the ILO Jakarta (2004), <https://www.ilo.org/dyn/travail/docs/760/Indonesian+Labour+Law+-+Act+13+of+2003.pdf>, Article 161 (1), accessed 12 July 2022.

⁵⁷ Interviews with 3 trade union activists that have been blacklisted (names on file) as well as union leaders from FSPNI, SPN, SBSI and SPIM, during the field visits in August and September 2019 and in June 2021.

⁵⁸ IDR 2,390,739, exchange rate from xe.com on 01-01-2022

⁵⁹ IDR 2,303,711, exchange rate from xe.com on 01-01-2021

⁶⁰ Newsbeezer, *Details of the 2022 UMP list in 31 provinces*, 23 November 2021, <https://newsbeezer.com/indonesiaeng/details-of-the-ump-list-2022-in-31-provinces-which-is-the-highest-side-all/>, accessed 23 March 2022.

⁶¹ Ministry of Manpower and Transmigration, *Indonesia monthly minimum wage: Central Sulawesi*, <https://www.ceicdata.com/en/indonesia/monthly-minimum-wage/monthly-minimum-wage-central-sulawesi->, accessed 23 March 2022.

⁶² IDR 2,123,040, exchange rate from xe.com on 01-01-2019.

reach to between IDR 5 and 7 million, but still “barely keep the workers afloat” with much of their wages being spent on food.⁶³

Box 2: Basic wage⁶⁴

In 2019, the basic wage for workers at operator level, in this case a welding helper, in the company PT ITSS, was IDR 2,050,000 (€ 124). Besides the basic wage, there are fixed and non-permanent allowances. The fixed allowance is divided into three components, namely a location allowance of IDR 100,000 (€6), a housing allowance of IDR 200,000 (€12) and a family allowance of IDR 200,000 (€12). The non-permanent allowance is divided into two components, namely an attendance incentive of IDR 230,000 (€14) and a night shift incentive. Quite some workers live in tenements, which has often shared rooms and will cost them between IDR 800,000 (€48) and IDR 1,7 million (€103).

Apart from the component of overtime wages, in one month the total amount of wages received by a PT ITSS worker is only IDR 3,130,060 (€189). If they work overtime, the worker will receive a gross wage of IDR 5,833,560 (€ 352) per month. However, to get such a gross wage, the welding helper, and generally other workers in IMIP, has to spend 318 hours of work in a month, which would be 144 hours per month extra on top of a normal working week of 40 hours.⁶⁵

3.4 Working hours

In general, the nickel processing workers in the IMIP area leave their respective tenements for the factory starting at 4:30 or 5:00 in the morning. This is to avoid congestion at the gate of the IMIP area, which can snake up to kilometres, and to gain access to pick-up buses at the gates of industrial estates that take them into the area. After their early start, workers have a long day ahead of them.

Workers report that the implementation of working time by nickel processing business entities in IMIP has exceeded the regulations and

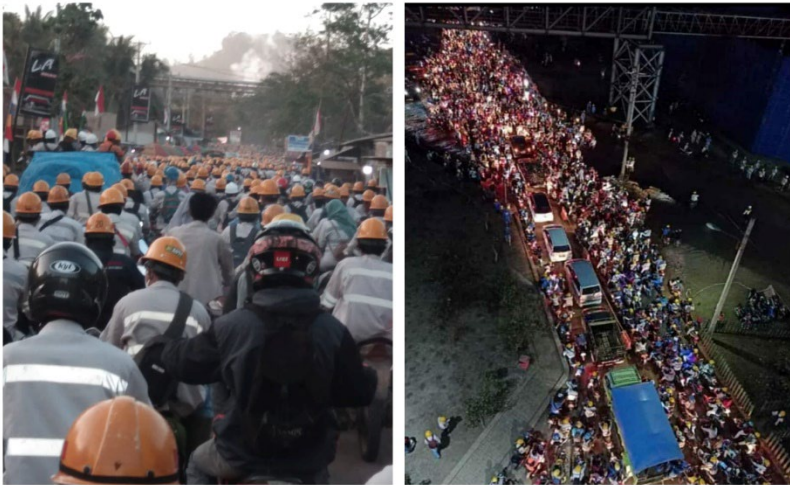
⁶³ Arianto Sangadji, Muh Fardan Ngoyo, and Pius Ginting (2019) *Road to Ruin: Challenging the Sustainability of Nickel-based Production for Electric Vehicles*, Rosa-Luxemburg-Stiftung Dialogue Programme Climate Justice, November 2019, p. 24, https://www.rosalux.de/fileadmin/rls_uploads/pdfs/engl/Nickel_Study_FINAL.pdf

⁶⁴ exchange rate for all figures from xe.com on 01-01-2019

⁶⁵ Adriansa Manu, 2017, Hantu anti-Tionggok di Sulawesi, 29 January 2018.

ministerial decrees.⁶⁶ The duration of work between divisions varies, but generally the ferronickel production section operates through two shifts of 12 hours starting from 7am to 9pm – excluding one hour of rest time during the day and one hour of rest at night. With an additional 2-3 hours of overtime work per day, the average total time production workers can reach is more than 12 hours per day.⁶⁷ Workers sometimes return to their homes around 10-11pm at night, only to get back to work at 5 am the next day.⁶⁸

Figure 7
Traffic Situation on Trans Sulawesi-IMIP
Morning Shift and Night Shift



Source: res.doc., Nov. 19, 2019

Workers in the logistics department, which include dump trucks and excavator operators that bring nickel ore to the conveyor belt machines connected to the smelting furnaces, generally work in three shifts with a normal working time of eight hours. Efficiency of loading and unloading is

⁶⁶ Referring to the Decree of the Minister of Manpower and Transmigration No. KEP.234 / Men / 2003 concerning Working and Rest Time in the Energy and Mineral Resources Business Sector in Certain Regions; and, Minister of Manpower and Transmigration Regulation No. Per.15 / Men / VII / 2005 concerning working and rest time in the General Mining Business Sector in Certain Operating Areas.

⁶⁷ In the Decree of the Minister of Manpower; "If the worker is required to work overtime, he or she may work overtime for no longer than 3 (three) hours in a day or 14 (fourteen) hours in a week." Manpower Law. Act of the Republic of Indonesia Number 2003. Unofficial translation by the ILO Jakarta (2004) <https://www.ilo.org/dyn/travail/docs/760/Indonesian+Labour+Law+-+Act+13+of+2003.pdf>, Article 77 (2), accessed 12 July 2022.

⁶⁸ Interviews with five workers at FGD on 5 September 2019

seen as the key to maintaining profitability and minimising costs, thus speeding up the process of excavation and delivery of nickel ore to the processing plants.⁶⁹

As a consequence, the excavator and dump truck operators have to work extra overtime when needed. On top of an already average two hours of mandatory overtime work, the average total working hours of logistics workers can reach 10-11 hours per day without proper breaks or rest in order to guarantee the constant supply of nickel ore to the smelting furnaces.⁷⁰ With one day off a week, the long working hours do not allow enough time to rest or socialise,⁷¹ and can cause related problems such as work accidents, but also stress and burn out.

Although Indonesian law requires that overtime can only happen if there is written agreement between workers and a company, in practice, workers are given written overtime orders without prior agreement. In addition, overtime should be restricted to four hours per day and 14 hours per week,⁷² which is not always followed.

3.5 Occupational health and safety

Data from the country's Social Security Administrator for Health (BPJS) for January-September 2019 stated that, in less than one year, there were 154 cases of work accidents in the IMIP area. Accidents occur most frequently in the ferronickel section, during the pyrometallurgical process, and the smelting of the nickel, and where good quality personal protective equipment (PPE) is needed that is able to withstand high heat.

The Rosa Luxemburg Foundation study confirms the safety hazards and describes several fatal accidents such as one worker in 2017 being crushed to death by a bulldozer at SMI and a worker falling into a vat of slag at the Tsingshan factory in 2018.⁷³

⁶⁹ Analysis of the cost of using this heavy equipment in nickel mining can be seen in Karina Novita Sari Setiawan, Tri Achmadi, Siti Dwi Lazuardi, *Analisis Skala Penambangan Mineral dan Pengangkutan* (Studi Kasus: Angkutan Nikel di Sulawesi Tenggara), *Journal Teknik ITS*, Vol.7, No.1, Fakultas Teknik Institut Teknologi Sepuluh, November 2018, Surabaya.

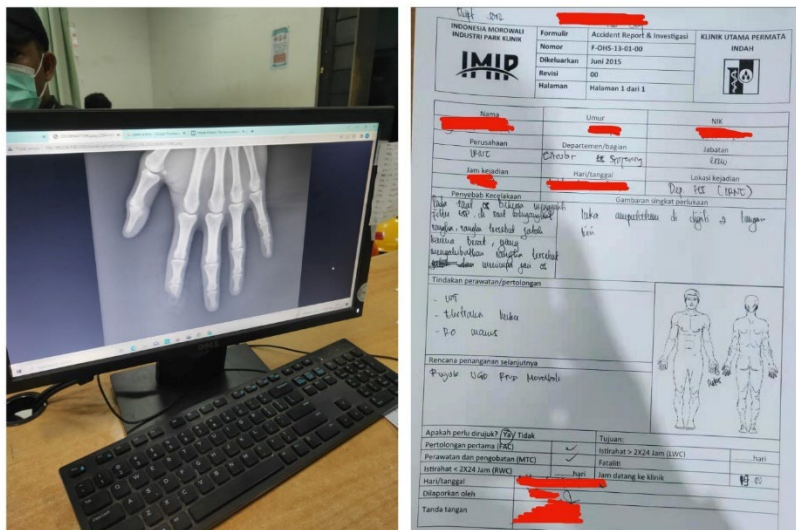
⁷⁰ Adriansa Manu, 2017. Also corroborated in interviews with workers at the SPIM secretariat on 7 June 2021.

⁷¹ Interview AD, 23 August 2019.

⁷² Better Work, *Better Work Indonesia: 8.6 Overtime*, Better Work, <https://betterwork.org/portfolio/8-2-overtime/>, accessed 17 June 2022.

⁷³ Arianto Sangadji, Muh Fardan Ngoyo, and Pius Ginting (2019), *Road to Ruin: Challenging the Sustainability of Nickel-based Production for Electric Vehicles*, Rosa-Luxemburg-Stiftung Dialogue Programme Climate Justice, November 2019, p. 24, https://www.rosalux.de/fileadmin/rls_uploads/pdfs/engl/Nickel_Study_FINAL.pdf

Figure 8
X-ray results and accident investigation report form



Source: res.doc., June 27, 2022

There have been demonstrations, appeals and demands over the years to improve on the occupational health and safety (OHS) situation in IMIP. For example, in 2019 the Morowali Industrial Workers Union (SPIM) called to improve the occupational health and safety (OHS) governance and asked for a review of work standard operating procedures (SOPs) due to the frequent work accidents in the Morowali mining business area.⁷⁴ They also urged the labour inspection of the Morowali regional government not to turn a blind eye to the OHS issues in the industrial area. The workers also asked the Morowali people's representative institution (DPRD) to form a special committee to evaluate the handling of OHS cases in mining business activities in the area.⁷⁵ In 2022, the national Industrial Workers' Union (SPN) and the

⁷⁴ Bambang Sumantri, *Banyak Korban Kecelakaan Kerja, SPIM Demo PT IMIP*, 3 December 2019, <https://kailipost.com/2019/12/banyak-korban-kecelakaan-kerja-spim-demo-pt-imip.html>, accessed 4 January 2020 and *Keselamatan Kerja Terancam, Buruh Tuntut Tambang Nikel Morowali*, 3 December 2019, <https://www.beritasatu.com/nasional/588667/keselamatan-kerja-terancam-buruh-tuntut-tambang-nikel-morowali>, accessed 4 January 2020.

⁷⁵ *Keselamatan Kerja Terancam, Buruh Tuntut Tambang Nikel Morowali*, 3 December 2019, dalam <https://www.beritasatu.com/nasional/588667/keselamatan-kerja-terancam-buruh-tuntut-tambang-nikel-morowali>, accessed 4 January 2020.

Mining and Energy Federation (FPE-SBSI) formed a tripartite taskforce with the regional labour office to resolve issues concerning OHS in IMIP.⁷⁶

3.6 Tensions between domestic and migrant workers

In almost the entire nickel mining processing production chain, workers from Indonesia and China work alongside each other. The perceived difference in treatment has caused tension and has sometimes led to physical fights between Chinese and Indonesian workers. Indonesian workers have complained about perceived differences in salary,⁷⁷ which they believe to be two to four times higher for Chinese workers compared to local workers. They also complain about Chinese workers having better accommodation; and about verbal abuse by Chinese foremen when giving orders.⁷⁸ In production operations, positions at the level of supervisor, foremen and operators are shared by Chinese and Indonesian workers. Despite equality on paper, Indonesian supervisors find they have less authority compared to supervisors from China and also receive additional work transferred from Chinese supervisors.⁷⁹

However, there are efforts from both parties to understand each other's position in the production chain in the factory and there have been solidarity actions from both sides.⁸⁰ There is increased awareness among union activists to neutralise the tension and emphasise that both Chinese and Indonesian workers suffer from exploitation.⁸¹

⁷⁶ IndustriALL (2022), *Urgent need to stop mine accidents at Indonesia Morowali Industrial Park*, IndustriALL, 8 March 2022, accessed 26 March 2022.

⁷⁷ Information on wage inequality between Chinese and Indonesian workers has been widely documented. For example, Misalnya, M. Falikul Isbah & A.B. Widyanta (ed), *Berkarya Tiada Henti: Tiga Lentera Bulaksumur*, Departemen Sosiologi Fakultas Ilmu Sosial dan Ilmu Politik, Universitas Gajah Mada, Yogyakarta, November 2019. Also corroborated in interviews with workers during a field visit on 5 June 2021 and group discussions between 14 and 17 June 2022.

⁷⁸ A.B Widyanta, 2019, op.cit., p.214. See also Sergio Carciotto and Ringisai Chikohomero, *Chinese Labour Practices in Six Southern African Countries*, Monograph 27, Institute For Security Studies, Agustus 2022

⁷⁹ Interviews with workers at the SPIM secretariat, 7 June 2021.

⁸⁰ Adriansa Manu, 2017, loc.cit. and Interview with AB, union activist, 29 August 2019.

⁸¹ Arianto Sangadji (et.al), 2019, op.cit., p. 57.

Chapter 4

Undermining Unionisation to Avoid Responsibility

Although Freedom of Association and Protection of the Right to Organise (ILO Convention 87) is a fundamental labour right, the practice of this right is often frustrated by corporations. Obstructing unionisation in itself is a labour rights abuse, but it is also a strategy to avoid the realisation of other labour rights. The International Labour Organization (ILO) describes freedom of association as an “enabling right” to obtain a number of other labour rights. Preventing unionisation stops workers from having a safe work place and often prevents adequate wages and reasonable working hours, as well as stopping workers’ complaints from being heard and allows companies to maintain low safety standards.

Indonesia ratified all eight ILO Core Conventions and was the first country in the Asian region to do so. Since the promulgation of freedom of association in 1998, the number of unions in Indonesia has increased sharply. However, in later years this number decreased again by almost 50 per cent, from 14,000 unions in 2007 to 7,000 in 2017.⁸² Both the decrease in labour unions and the membership numbers have been influenced by several factors, including the more flexible working relationships that hinder the consolidation of labour unions, the increasingly repressive government and law enforcement in labour relations cases, union busting by companies and the absence of law enforcement against business entities that hinder or suppress the freedom of association.⁸³

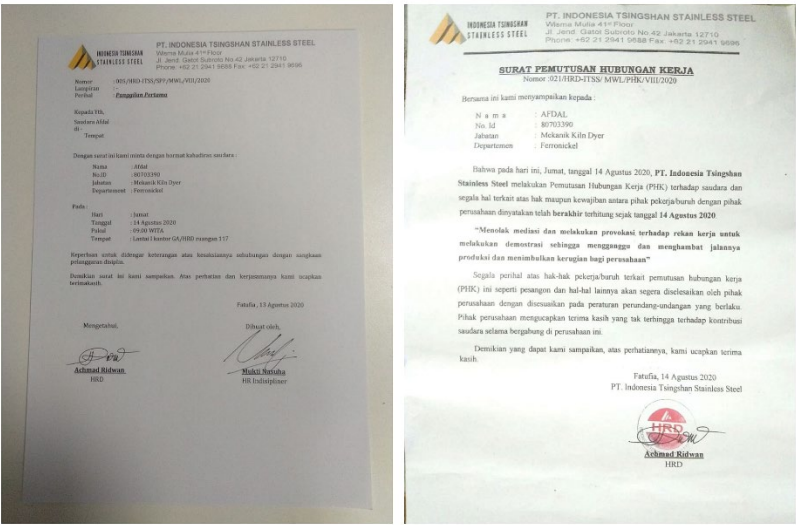
At the Morowali Industrial Park, freedom of association of workers is undermined by IMIP tenants both through retaliating against workers that are on strike and through the dismissal of union leaders. This is supported through PT IMIP (see below). Union busting is a practice implemented by

⁸² CNN Indonesia, *Menaker: Jumlah Serikat Pekerja Menurun Signifikan*, 29 March 2018, <https://www.cnnindonesia.com/nasional/20180328143824-20-286542/menaker-jumlah-serikat-pekerja-menurun-signifikan>, accessed 15 April 2019.

⁸³ Danish Trade Union Development Agency Mondial FNV, *Indonesia Labour Market Profile 2020*, https://www.ulssekreterariatet.dk/wp-content/uploads/2020/04/lmp_indonesia_2020_final_version-1.pdf

business entities or employers to stem or obstruct the basic activities and functions of labour unions in the company’s work area.

Figure 9
Letter of termination to union activist due to strike in August 2020



Source: res.doc., Augs.16, 2020

Union busting strategies vary but, in general, union busting has two basic patterns. First, business entities and employers try to prevent workers from exercising their legal rights to establish or join trade unions. Without trade unions, companies are more free to take actions that impact negatively on workers. Secondly, once established, the tactics focus on weakening the strength of the existing trade unions. Sanctions against leaders and members, intimidation and discriminatory actions are some of the tactics commonly used to weaken trade unions. In both strategies, workers’ advocates (human rights defenders) are often attacked.

4.1 Retaliating against workers on strike

In Indonesia, striking is legal, but should be staged “legally, orderly and peacefully as a result of failed negotiations”. Striking in companies that serve the public interest and/or companies with activities that could endanger people’s lives when interrupted, should be staged in such a way that public interest will not be disrupted and the safety of people not endangered. Workers and trade unions have to give a written notification of the intention to strike at least seven days in advance to the employer and the local government agency stating the date and hour, venue and reason for the strike.⁸⁴

Although the right to strike is indeed recognised and regulated within Indonesian law, companies use scare tactics that often either prevent the implementation of this right, reduce the effectiveness, or lead to retaliation against workers. In IMIP there is a strong history of company intimidation and retaliation against workers before, during and after strikes. The following subchapters detail several of these strikes, the reactions of the companies, including PT IMIP and the repercussions for the workers concerned.

4.1.1 Overall strike in 2019

The labour unions were planning to hold a strike in the IMIP industrial area in 2019, to demand higher minimum wages. The strike was an attempt by workers to urge the Governor to play a more active role in formulating industrial relations and to make sure that the district/city sectoral minimum wages (UMSK) increased by 20 per cent, as there was no wage agreements between the companies in the area (including in PT IMIP), the labour unions and the Morowali Regency Wage Council.

⁸⁴ Manpower Law. Act of the Republic of Indonesia Number 2003. Unofficial translation by the ILO Jakarta (2004) <https://www.ilo.org/dyn/travail/docs/760/Indonesian+Labour+Law+-+Act+13+of+2003.pdf>, accessed 10 January 2022.

The management of PT IMIP, however, issued and disseminated intimidation letters to workers planning to strike.⁸⁵ The letter⁸⁶ mentioned that the strike was illegal with reference among others to the Manpower Law of 2003.⁸⁷ Workers planning to strike were afraid they might be dismissed if they participated in the strike. The demonstrations and strikes were carried out between 24-27 January 2019,⁸⁸ and were related to the demand made of the local government to ratify the UMSK. The wage rise of 20 per cent demanded by the workers was substantiated by the high costs of living in the Morowali industrial area.

The regional government confirmed PT IMIP's legal interpretation by stating that the strike was only valid if **bipartite** negotiations failed, as stated in the Manpower Law of 2003. Striking about the results of **tripartite** negotiations, which is the case with the UMSK negotiations, is therefore illegal, according to the regional government.⁸⁹

⁸⁵ PT IMIP issued and circulated an appeal letter numbered 064 / SDM-IMIP / MWL / 2019. The letter stated that the plan for a strike by workers in the IMIP area that would take place on 24 January 2019 was illegal and not in accordance with the procedures and regulations in force. This was referring to Law No.13 of 2003 and the Decree of the Minister of Manpower and Transmigration No. KEP.232 / MEN / 2003 concerning the Legal Consequences of Illegal Work Strikes. PT IMIP appealed to workers to continue working productively and ensure workers' safety. If the workers ignored the appeal letter, they would face consequences in accordance with company regulations and applicable laws and regulations.

⁸⁶ The letter is on file with SOMO.

⁸⁷ Manpower Law. Act of the Republic of Indonesia Number 2003. Unofficial translation by the ILO Jakarta (2004), <https://www.ilo.org/dyn/travail/docs/760/Indonesian+Labour+Law+-+Act+13+of+2003.pdf>, accessed 10 January 2022.

⁸⁸ SPNEWS, *Mogok Kerja di IMIP Morowali, Disnaker Menghimbau Pekerja dan Perusahaan Tidak Boleh Saling Intimidasi*, 25 January 2019, <https://spn.or.id/mogok-kerja-di-imip-morowali-disnaker-menghimbau-pekerja-dan-perusahaan-tidak-boleh-saling-intimidasi/>, accessed 7 February 2020.

⁸⁹ This interpretation of the Manpower Law is contested as the law does not mention tripartite negotiations.

Figure 10
The 2019 Strike Situation



res.doc., June 2019

4.1.2 Strike in 2020⁹⁰

In 2020, during the Covid-19 pandemic, workers in PT IMIP were sent on leave. They were sent home and were told to quarantine. Their employment status was unclear. After a series of meetings between three trade unions (the Aliansi Buruh dan Rakyat Bersatu, consisting of the Morowali Industrial Workers Union /SPIM, the Federation of Industry, Health, Energy and Mining of the Indonesian Prosperous Labour Union/FIKEP SBSI and the Federation of Indonesian National Workers Unions/FSPNI) and PT IMIP, agreements on returning to work and health protocols were announced.

It became clear on 1 August 2020 that workers had not received the needed summons to get back to work and that PT IMIP had released a new

⁹⁰ Based on Muhammad Rushdi, Apditya Sutomo, Pius Ginting, Risdianto, Masri Anwar, *Fast and Furious for Future. The dark side of electricity battery vehicle components and their impacts in Indonesia*, the Dialogue Program Climate Justice Manila / Philippines, Rosa Luxemburg Stiftung, April 2021, https://www.rosalux.de/fileadmin/images/publikationen/Studien/Fast_and_Furious_for_Future.pdf

regulation that caused even more stress for workers as the regulation was unclear on issues such as the shift system and fines for workers. On 1 August 2020, the three trade unions therefore released a list of nine demands, which included a call to re-employ laid off workers and rejecting the parts of the regulation that would harm workers. On 5 August, a first demonstration was held that ended in front of the PT IMIP office. The sub-district secretary mediated between PT IMIP and the three trade unions, planned a new meeting on 10 August and promised the workers who participated in the demonstration that there were not going to be dismissals on account of participating in the action. However, workers were still unclear on their employment status due to the Covid-19 pandemic. The unions announced its members would go on a legitimate strike on 18 August 2020⁹¹.

Only a few days before the strike, on 14 August 2020, the management of PT Indonesia Tsingshan Stainless Steel (ITSS) and PT Bukit Smelter Indonesia (BSI) summoned the leaders of the two unions and presented them with a letter of unilateral dismissal. The union leaders had not received an explanation or clarification about the purpose of the meeting in advance, nor were they given the chance to respond to the letter.⁹²

In the end, the strike was held between 22 and 25 August when a mediated meeting through the regional government was held between the three trade unions and PT IMIP. This resulted in several agreements including the recall of workers laid off during the pandemic and improvements to the company regulations. The dismissed union leaders however were never reinstated.

The strikes in 2019 and 2020 were not the first strikes in IMIP and the strike in 2019 was not the first strike to be declared illegal in the industrial park. There has been a history of strikes in IMIP, already from the construction of the park on. In the following sections two strikes by workers from the two companies that are part of the ownership structure of PT IMIP will be discussed.

4.1.3 PT SMI strike

Issues such as low wages and no guaranteed work contracts, as well as frequent cases of dismissals during the construction process, prompted around 50 casual workers of PT SMI to go on strike in early 2014. Throughout 2014, there were about 10 strikes at PT SMI and for each strike PT SMI

⁹¹ Afdhal Interview on 9 June 2021 and Mohammad Rushdi (et al.), 2020, p. 74-75.

⁹² Muhammad Rushdi (et.al), 2020, p.77.

responded with dismissing the workers.⁹³ PT SMI used the Manpower Law⁹⁴ to declare the strikes illegal and through this, workers were considered absent from work without leave and were thus dismissed. This also caused workers to be more cautious and prevented spontaneous strikes.⁹⁵

After the strikes and subsequent dismissals, the company tried to further erode the labour union's influence by blacklisting the strikers within the IMIP area.⁹⁶ Workers responded to PT SMI's retaliation efforts by forming labour unions and conducting strikes in a more organised manner.

In mid-March 2014, around 320 unionised workers of PT SMI went on strike again for five days. With the support of the union, this strike was better organised than the previous strikes, and it caused the company to respond by using other strategies. The striking workers were intimidated by security personnel, who were initially tasked with protecting building sites.⁹⁷ In addition, in PT SMI a pro-management trade union was established and were used to disperse the strike. Management intervened again strongly by dismissing workers on the grounds that they were absent from work for five consecutive days.

Regardless of whether the strike was legal or not, the workers succeeded in forcing the regent's office, whose task it is to mediate between workers and management, to call PT SMI management to the negotiating table. Negotiations were started, with the result that some contract workers were assigned permanent contracts and several casual workers would become contract workers.⁹⁸

4.1.4 PT BDM strike

On 2 October 2016, PT BDM workers went on strike to demand to be paid for overtime work. PT BDM responded to the strike by dismissing around 159 of the workers who were participating in the strike. The dismissals, however, sparked wider protests, even outside the industrial estate.⁹⁹ In early November 2016, the dismissed workers rallied at the PT BDM management office. Despite promises that they would be reinstated, this did not happen.

⁹³ Adriansa Manu, 2017.

⁹⁴ Article 142 of Law No.13 of 2003 and Article 6 Paragraph (1) of the Decree of the Minister of Manpower and Transmigration (Kepmenakertrans) KEP-232 / MEN / 2003.

⁹⁵ Although, under the same law, the right to strike is recognised in the management of industrial relations, these regulations limit the use of the right to strike through the stipulation of 'legal or illegal' conditions for strikes in Articles 139-142.

⁹⁶ Interview AF, union activist, 24 August 2019.

⁹⁷ Arianto Sangadji, Muh Fardan Ngoyo, and Pius Ginting (2019), *Road to Ruin: Challenging the Sustainability of Nickel-based Production for Electric Vehicles*, Rosa-Luxemburg-Stiftung Dialogue Programme Climate Justice, November 2019, https://www.rosalux.de/fileadmin/rls_uploads/pdfs/engl/NickeL_Study_FINAL.pdf

⁹⁸ Adriansa Manu, 2017.

⁹⁹ Adriansa Manu, 2017.

4.2 Dismissal of union leaders to halt strikes

As described above, on some occasions company management will dismiss union leaders and workers who have been on strike, often declaring the strikes to be illegal. Company management at IMIP has on occasions also taken advantage of the time between the legally required strike notification by unions and the strike itself to effectively prevent the strike from happening by dismissing the union leaders. Alongside the specific companies, PT IMIP has also been involved on several occasions in suppressing workers protests and strikes in meetings as well as in sending letters to workers.

4.3 Refusal to negotiate a collective bargaining agreement

One of the methods commonly used by companies in Indonesia to undermine the bargaining power of workers and their unions is delaying or refusing to negotiate collective bargaining agreements. For more than a decade, mining workers in the Morowali industrial area have submitted a request to the management of the PT IMIP area to negotiate a collective labour agreement that would apply to all tenant business entities in the area. The request was always rejected. Since 2016, nickel mining workers in Morowali from several unions¹⁰⁰ have encouraged the regional government of Morowali Regency to play a more active role in the governance of industrial relations in the mining sector in Morowali.

From the results of the dialogue with the regional government, on 1 October 2019, it was agreed that there should be tripartite negotiations on several problems, including the creation of a new company regulation, engagement in dialogue with trade unions, providing workers with transportation and the implication of local and national government legislation.¹⁰¹

¹⁰⁰ The Aliansi Buruh dan Rakyat Bersatu (Workers Union-Sulawesi Mining Industry Factory/SP-SMIP, National Workers Union /SPN, Morowali Industrial Workers Union/SPIM, Federation of Industry, Health, Energy and Mining-The Indonesian Prosperous Labour Union/FIKEP SBSI, and the Branch Leadership Council of the Indonesian National Workers Union Federation/DPC-FSPNI).

¹⁰¹ Pemerintah Daerah Kabupaten Morowali, *Situs Resmi Pemerintah Daerah Kab. Morowali, Ini Berita Acara Rapat Mediasi Antara Pemda Morowali, FORKOMPINDA, dan Serikat Buruh*, 1 October 2019, <https://morowalikab.go.id/home/read/ini-berita-acara-rapat-mediasi-antara-pemda-morowali-forkompinda-dan-serikat-buruh>, accessed 18 January 2020.

Chapter 5

Conclusions

This report details information on the Indonesia Morowali Industrial Park where nickel is explored and processed. The contents detail the labour conditions in IMIP as well as the efforts of workers to improve their situation and the subsequent retaliation efforts of companies.

Looking at specific cases, it becomes clear that workers and trade unions have sought to protect their rights, through organising and specific actions, but that companies have systematically thwarted their efforts, often using uncertainties or gaps in the labour law. Workers have been counteracted by the companies they work for as well as by PT IMIP, the company exploiting the IMIP area, in which several of the companies active in the industrial area, PT SMI and PT BDM, have a substantial stake.

The behaviour of the companies, described in this report, is a typical example of the harmful strategies identified by the Mind the Gap consortium. In particular, the companies mentioned in this report used a variety of tactics to undermine labour rights defenders and unionisation, including using and manipulating the law as a tactic. They also utilised state power to bolster their ability to undermine labour rights. The consequence is that those seeking to defend their rights and secure justice can find themselves in a vicious cycle, where each effort to defend their rights only leads to yet more abuse.

5.1 Undermining defenders and communities; Undermining unionisation

One of the five harmful corporate strategies mentioned in the Mind the Gap framework is companies undermining defenders and communities. A specific sub-strategy in the framework is undermining unionisation:

“Whether through direct violence or indirect tactics to thwart critics, companies can seek to silence communities and human rights defenders in order to continue their business operations, thereby avoiding to address concerns raised by defenders, communities and civil society organisations.”¹⁰²

Defenders of labour rights are defenders of human rights. In the words of the General-Secretary of the United Nations: “Labour rights are human rights, and the ability to exercise those rights in the workplace is a prerequisite for workers to enjoy a broad range of other rights, whether economic, social, cultural, political or otherwise.”¹⁰³

The companies referred to in this research have undermined unionisation and have sought to silence workers who tried to defend their labour rights. This report describes how companies repeatedly used threats to people’s livelihoods – for example, by threatening the dismissal of workers and union leaders if they went on strike. Using threats and spreading fear among workers is an intimidation tactic. The aim is to reduce the number of workers who will participate in strikes and to make the demands for rights and improvements less effective. The tactic therefore also indirectly undermines the collective organization of the workers unions. This loss of effectiveness strikes back at the legitimacy of the workers’ unions, especially when their demands, such as the demand for wage increases, are not fulfilled.

Mind the Gap also notes how companies use, and sometimes manipulate, the law as a strategy to attack communities and/or human rights defenders. In the Morowali case, although the Manpower Law provides workers with the possibility of striking, it also provides companies with opportunities to retaliate. Companies use the clause that workers can be dismissed after being off work for five days. They declare the strike illegal and thus declare this absence from work as unauthorised and grounds for dismissal.

¹⁰² Mariette van Huijstee, Virginia Sandjojo e.a., *Corporate strategies to avoid responsibilities for human rights abuses*, SOMO, 2020, <https://www.somo.nl/wp-content/uploads/2020/07/Mind-the-Gap-summary.pdf>

¹⁰³ Maina Kiai, *Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association*, United Nations General Assembly, 14 September 2016, https://www.un.org/ga/search/view_doc.asp?symbol=A/71/385&referer=/english/&Lang=E, accessed 19 September 2019.

5.2 Utilising state power

The strategies used by the companies to undermine unionisation and silence labour rights defenders were, at times, aided by the way the companies could secure the support of local government. The Mind the Gap framework details how companies can leverage their power with governmental actors to obtain favourable treatment. In some cases, parts of the government can be “captured” by corporate interests. In the Morowali case, the scale of the PT IMIP investment, and the way the government has categorised the project, appear to give the companies substantial influence. This is likely to be enhanced by the level of Chinese investment involved, and the categorisation of the project as a Belt and Road Initiative.

This report describes several occasions when the government intervened and supported actions of PT IMIP and several other companies. An example of this is the support of the regional government for PT IMIP’s interpretation of the Manpower Law of 2003, as described in Chapter 4.1.1. In this case a strike was deemed illegal on the basis that the negotiations were not **bipartite** negotiations but **tripartite** – even though the law never mentioned tripartite negotiations.

The utilisation of state power by companies is also manifest when the state fails to act in line with its obligations to protect rights. This was clearly seen in 2020, during the Covid-19 pandemic, when the sub-district secretary mediated between PT IMIP and the three trade unions. Workers were given assurances that they would not be dismissed. The agreements were not published by the local government and instead workers were dismissed and the district government remained silent.

5.3 Counterstrategies for civil society organisations and unions

Mind the Gap has established a framework of counterstrategies that can be used by workers, activists and communities to seek justice and accountability. In this case, the authors want to highlight one potential cause of action. One of the counterstrategies identified in the Mind the Gap framework is actions that shift the power balance, which has a sub-counterstrategy of expanding and amplifying community activism.

5.4 Shifting the power balance

The reality is an enormous imbalance of power between workers and communities trying to improve their situation and the multinational companies they try to affect. Harmful strategies of companies, such as those discussed above, are being realised by these companies in their use and abuse of their powerful positions. For activists and organisations facing such strategies, finding ways to shift the balance of power in their favour can help to counter harmful corporate strategies. There are a range of actions that can help to change the power dynamics. Below we discuss one of these; expanding and amplifying community actions.

5.5 Expanding and amplifying community activism

Corporate harm and the further damage caused by corporate strategies to evade responsibility can affect individuals, communities and even whole societies. The counterstrategies that affected people use often benefit from collaboration with local and national civil society organisations, national and international NGOs, trade unions and activists.

In the Morowali case, establishing an alliance between trade unions, community organisations and civil society organisations, including international organisations with expertise on Chinese foreign investment in Indonesia, could serve as a forum for combining various counter strategies, in which every party could use its expertise. As nickel is such important for EVs, this link gives even more scope for international cooperation.

The counterstrategies can be executed towards different dimensions of change, including policy change and accountability, through the mobilisation of workers and public (international) campaigns, for example. Companies use different strategies to avoid accountability, civil society can more effectively counter this by using a variety of (proven and new) counterstrategies to cause change.

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