

# Submission to the Joint Standing Committee on Treaties

## Regarding

### The Agreement between Australia and the Republic of Indonesia on the Framework for Security Cooperation

#### Dr Clinton Fernandes

Senior Lecturer, Strategic Studies  
School of Humanities and Social Sciences  
University of New South Wales @ ADFA  
Canberra ACT 2600  
Ph: 02 6268 8847  
<http://www.unsw.adfa.edu.au/hass/staff/fernandes.html>

This submission deals primarily with Article 3 of the Treaty. It examines a number of claims typically made to justify closer links between the Australian Defence Force and the Indonesian military.

#### Claim 1: The “Blessing of September 11”

**Claim:** Close links between the Indonesian military and the Australian Defence Force are necessary to fight the War on Terror. That is, despite all the human rights atrocities committed by the TNI, the attacks of 11 September 2001 and the Bali bombings of 2002 make such links unavoidable.

**Fact:** Senior Indonesian officials have rejoiced at the War on Terror justification; Rizal Mallarangeng, a senior adviser to President Megawati Sukarnoputri, called it the ‘blessing of September 11’, saying that separatists could henceforth be classified as terrorist groups and dealt with militarily<sup>1</sup>. The Indonesian military has certainly seen the potential for taking advantage of this ‘blessing’. As the US State Department’s 2006 Report on Terrorism shrewdly observes, ‘the previously power-wielding Indonesian military and intelligence apparatus indicated eagerness to find new relevance by joining in the counterterrorism fight’<sup>2</sup>.

It should be remembered that the greatest act of regional terrorism (violence against civilians for political reasons) in recent years was the Indonesian military’s campaign of state-sponsored terror against the people of East Timor. Despite this fact, and the TNI’s glee at the ‘blessing of September 11’, it’s worth

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1 J. Perlez, Indonesia says it will press attacks on separatists in Sumatra, New York Times, 23 May 2003.

2 US State Department, Country Reports on Terrorism, 2006, p 70.

assessing how much merit the justification has. After all, if cooperation with the TNI is the only way to save lives, it should be carried out. In this context, it is sometimes asserted that Indonesia's special forces (Kopassus) will require training to rescue Australians or other foreigners who may be taken hostage in Indonesia.

However, terrorist attacks that actually occur in Indonesia have so far involved the use of bombs, not hostages. Consequently, the TNI could have played no effective role against the Bali bombing of 2002, the Marriott hotel bombing of 2003, the Australian embassy bombing of 2004, or the Bali bombings of 2005. Such terrorist actions are best countered by police investigations and sound intelligence work in the short term, by international police and intelligence cooperation in the medium term, and by policies that tackle the structural causes of terrorism in the long term. Cooperation between the ADF and the TNI is largely irrelevant to these projects.

As terrorism evolves, there are new trends of particular relevance to the situation in Indonesia. As the US State Department's 2006 Report on Terrorism noted, one trend is the overlap with trans-national crime, where terrorists may increase their mobility and reduce their chances of detection by using the same networks as criminal groups. This trend is best countered by instituting an effective system for the investigation of money-laundering, and by ensuring greater compliance by banks and financial institutions. Better inter-agency coordination and improved human and technical capacity would also be effective. None of these strategies requires the involvement of the Indonesian military – international police and intelligence cooperation is the key to success.

Furthermore, the environment that generates terrorists grows more fertile when developing countries like Indonesia operate under structural adjustment programs imposed by the West's financial institutions. According to Steven Simon of the US Council on Foreign Relations, jihadist terror draws on 'clandestine social structures and social networks because this is how ordinary people in the cities in those regions get things done. The government does not get it done. So networks are developed to get licenses, to get kids into school, to get loans, and so forth. And all of this happens not within the purview of the state, so there are these ready-made structures available for terrorists who can piggyback on these networks'<sup>3</sup>. Under such circumstances, it is important to strengthen Indonesia's ability to provide for its citizens. Indonesia would surely prefer to spend more on health care and less on paying off a foreign debt incurred without public approval during the Suharto period. Indonesia's debt burden is approximately 40% of its GDP. It spends more each year on servicing this debt than on health, education and public services combined. An effective counter-terrorism strategy would, along with police and intelligence work,

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<sup>3</sup> Council on Foreign Relations, Press Briefing: Country Reports on Terrorism, 2006,

[http://www.cfr.org/publication/10651/cfr\\_press\\_briefing.html](http://www.cfr.org/publication/10651/cfr_press_briefing.html)

enhance Indonesia's capacity to provide for its citizens. There is no requirement to involve the Indonesian military, despite its 'eagerness to find new relevance' by hitching its fortunes to the counter-terror bandwagon.

It is sometimes asserted that the ADF should train Kopassus because Indonesian-based terrorists may take Australian hostages someday. Yet there is no reason to suppose that Australia's Special Air Service Regiment would be barred from assisting in such a crisis. That is, after all, what Indonesia's own special forces did in Thailand in 1981 when a Garuda aircraft was hijacked. Its counter-terrorism unit is known as Detasmen 81 for this reason. Furthermore, there is no reason to suggest that cooperation with Kopassus would involve only personnel from Detasmen 81; all members from this unit come from Kopassus' Covert War Detachment (Detasmen Sandhi Yudha), which has been implicated in war crimes and crimes against humanity.

### **Claim 2: Stability**

**Claim:** The TNI is an important force for stability in Indonesia, and ADF-TNI links would enhance such stability.

**Fact:** There is no convincing evidence for this claim, and an enormous body of evidence that refutes it. Indonesia's military and intelligence apparatus has been fomenting instability for decades. For example, the military intelligence agency Opsus (Operasi Khusus, or Special Operations) encouraged the formation of a group known as Komando Jihad, whose aim was the establishment of an Islamic state. Opsus did this in 1976-7 in order to justify its repressive role under Suharto's New Order regime, as well as to discredit radical Islam. It was Komando Jihad, in fact, that carried out the 1981 hijacking referred to earlier in this submission. The terrorist network known today as Jema'ah Islamiyah has its origins in these events<sup>4</sup>.

The Indonesian military also has strong links to the terror group known as Laskar Jihad, which carried out operations in Maluku and West Papua. According to a leading scholar of Eastern Indonesia, 'Laskar Jihad received support from the military' and was 'assisted by parts of the police force as well as by Kopassus'. Their goal was 'to continue the communal wars through stimulating fights between militias'<sup>5</sup>. Laskar Jihad's Afghanistan-trained commander Jafar Umar Thalib established branch offices in several West Papuan towns through the Sunni Communication Forum (*Forum Komunikasi Ahlus Sunna Wal Jamaah*, or FKAWJ), which had

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<sup>4</sup> For more on this, see Fernandes, C. and Kingsbury, D., 2005, *Terrorism in South-East Asia*, in Kingsbury, D., ed. *Violence In Between: Conflict and Security in Archipelagic South-East Asia*, Monash Asia Institute, Melbourne.

<sup>5</sup> Jaap Timmer, *Conflict Dynamics in Eastern Indonesia: Resources, Ethnicity and the Military*  
[http://rspas.anu.edu.au/papers/conflict/timmer\\_conflict\\_dynamics.pdf](http://rspas.anu.edu.au/papers/conflict/timmer_conflict_dynamics.pdf)

been formed in 1998. Unlike other violent Islamic groups, which operated in a clandestine manner, Laskar Jihad revelled in shows of strength, such as rallies, demonstrations, parades, and processions. Its explicitly nationalist agenda was part of the Indonesian military's strategy to terrorise West Papuans. Indeed, Jafar Umar Thalib went out of his way to emphasise his anti-separatist credentials. Thalib was arrested in Ambon on 4 May 2002 on charges of inciting violence, but he was visited in prison by Indonesia's then Vice-President Hamzah Haz – further indication of the high level of official acceptance accorded to Laskar Jihad. Laskar Jihad's disbandment was announced the day after the Bali bombing of 12 October 2002, when its existence was seen as an embarrassment to the TNI. This is further evidence that the TNI was not preserving stability but fomenting instability. It can, and does, turn violence on and off at will.

### **Claim 3: The East Timor pretext**

**Claim:** Low casualties during the InterFET deployment (International Force – East Timor) were somehow due to the Australian Defence Force's close links with the Indonesian military. Upon his return from East Timor, the force commander, then Major-General Cosgrove, even claimed that the mission succeeded for this very reason. That is, despite all the rapes, kidnappings, torture, arson, and murders committed by the Indonesian military, there was still some residual benefit in the end because mutual understanding resulted in low casualty figures.

**Fact:** Cosgrove conceded subsequently in a speech to a military audience in the US that the real benefit – if that is the word – of the military ties was that the Indonesian military 'had a clear view of our competence and determination'. Far from the much-touted image of Indonesian and Australian 'allies' working cooperatively, Cosgrove acknowledged that the Australian-led troops 'were able to starkly demonstrate to all interested parties the penalties and sanctions that would accompany any attempt to deliver on the wealth of violent rhetoric. Our high-end capabilities meant that with battlefield mobility and surveillance systems we were able to seem ubiquitous. I believe the very capable structure and training inherent in the force actually was a major factor in restraining the number of casualties on both sides'<sup>6</sup>.

His concession sits well with post-operations military analysis conducted by the Australian Defence Force – the Indonesian military and their militia proxies (the 'interested parties') were cowed by their own diplomatic isolation and Australia's superior firepower – not because they'd been mesmerised by Australian charm. Whatever that may say about the need for investment in 'high-end capabilities', it certainly says nothing about the need for links with the Indonesian military.

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<sup>6</sup> P. Cosgrove, The ANZAC lecture at Georgetown University, 4 April 2000.

James Goldrick, an Australian maritime-warfare analyst, concluded that it was the presence of the frigates of the Royal Australian Navy and Royal New Zealand Navy and the British destroyer *Glasgow* which sent a very clear message to those 'who might have disputed the arrival of the force'<sup>7</sup>. Good relations with the Indonesian military did not have this kind of effect.

It is not often realised that the Indonesian navy threatened InterFET's troop landings by deploying submarines into the theatre of operations. According to a senior officer at the Maritime Component Headquarters of InterFET, 'the Indonesian T-209 submarines shadowed the InterFET fleet and were operated with greater tactical flare than had been anticipated'<sup>8</sup>. The submarines were hunted and, when detected, their locations were signalled to Indonesia's strategic planners – an unmistakable hint that they could and would be destroyed if the threat were to escalate. With the shadow of power cast across the negotiating table, the Indonesian commanders immediately retired their submarines.

The Indonesian military cooperated during InterFET because it was isolated diplomatically, because the United States had warned it to cooperate, and because the Australian Defence Force possessed the military capability to damage it severely under the strategic circumstances. Indonesia's leaders understood that there would be significant losses militarily and – more to the point – financially if they did not go along. Indeed, the InterFET experience is not an argument for closer links with the Indonesian military; it is an argument for increasing its international isolation.

#### **Claim 4: The new era of democracy**

**Claim:** Even though links with the TNI were counter-productive during Suharto's dictatorial rule, links are appropriate nowadays because Indonesia is democratic.

**Fact:** Unlike the Australian Defence Force, the TNI today is not a neutral instrument of the elected government but a partisan force with its own agenda. Through its territorial command structure, it remains embedded at every level of Indonesian society, including the bureaucracy, legislature, and economy.

Given the territorial structure of the TNI, there is little point in being distracted by debates about the human rights record of Kopassus (special forces) or any other specific unit. The TNI as a whole has been fashioned for more than half a century into a tool for suppressing popular social forces in Indonesia. Kopassus is merely its most versatile and deployable formation and therefore plays a leading role in any crackdown on pro-democracy forces. The key factor in deciding Australia's

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7 J. Goldrick, 'East Timor', *Journal of the Australian Naval Institute*, Vol. 6, No 2, 2000, p. 24

8 Quoted in D. Dickens, *The UN in East Timor*, *Contemporary Southeast Asia*, Vol. 23, 2001.

position on links between the ADF and the TNI is whether one supports the repressive elements in Indonesia, or the Indonesians who are fighting this repression. Until the territorial structure is dismantled, there is a strong case that the ADF should not develop links with the TNI.

Only one Indonesian General has proposed dismantling the TNI's territorial structure. Lieutenant General Agus Wirahadikusumah raised the issue, but his efforts to reform the military resulted in him being sacked from the army's active duty list. In August 2001, he was found dead at the age of 49. The cause of death was unknown and no post-mortem was carried out. His family later confirmed that he had been healthy and fit, with no medical complaints<sup>9</sup>. His fate is a stark reminder that no serious movement to dismantle the territorial structure exists within the TNI.

The TNI also oversees activities such as extortion, gambling, prostitution, protection rackets, strike breaking and private security. It maintains monopolies on essential commodity distribution, and regulates Indonesia's huge informal sector. Its officers engage in commercial activities that increase their personal wealth, and they influence the electoral process by supporting or opposing civilian politicians. As Jaap Timmer has pointed out, 'the security forces have a significant interest in the resource extraction in Papua, through direct involvement in logging, fishing, mining, and protection fees paid by resource companies'<sup>10</sup>.

The TNI has engaged in shoot-outs with the Indonesian Police in order to protect its drugs, smuggling and prostitution interests. Only a few days ago, a battle occurred between police and military in Papua province, leaving one policeman dead<sup>11</sup>.

Indonesian civil society groups have demanded that the TNI withdraw from its businesses, and that military personnel be held accountable for criminal activity. The Jakarta-based Commission for Disappeared and Victims of Violence (KontraS) have bemoaned the 'high price' Indonesia has paid 'for allowing military businesses, with their far-reaching corrosive effects, to develop'<sup>12</sup>. Australia should be aligning itself with the Indonesian people, including civil society groups such as KontraS, rather than with the Indonesian military.

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9 D. Kingsbury, *Power Politics and the Indonesian Military*, Routledge, 2002, pp 179-180.

10 Jaap Timmer, *Conflict Dynamics in Eastern Indonesia*.

11 Police, soldiers fight each other in Indonesia; 1 killed, *International Herald Tribune*, 13 February 2007.

12 KontraS, *Indonesia: Military Business Threatens Human Rights*, SP: 05/Kontras/II/ 2007

One reason the Indonesian military operates as a law unto itself is that it is not entirely dependent on the government for its finances. Its commercial activities bear little relation to the defence of Indonesia, but offer it the financial independence by which it can escape civilian control. In 2004, it was required by law to withdraw from commercial activities and focus only on defence by 2009. The divestment program was touted as an impressive achievement, but it was soon apparent that there were major gaps in the legislation: only a small proportion of military businesses would be banned. Even in these cases, there was little indication of precisely how the ban would be enforced, or what penalties would apply for non-compliance. In some areas, the military have benefited from the law by getting rid of loss-making businesses, or by selling assets that legitimately belong to the state to wealthy private entrepreneurs at discounted prices. The military continues to claim that its commercial activities are required because government-provided funds are inadequate to its legitimate needs. In fact, as a recent study has shown, the official figures considerably understate the official budget, and the military benefits from 'significant additional outlays made available through other budget lines and special allocations'. Claims about budgetary shortfalls 'fail to take into account the pervasive waste acknowledged even by high-ranking officials'. Furthermore, 'senior officers milk military businesses dry', with 'little or no profits ... left for the troops for whose benefit these businesses were purportedly established'<sup>13</sup>.

In the past, when the military has felt compelled to demonstrate its determination to end illegal business activities, the results have been farcical. Towards the end of the Suharto era, for example, a highly publicised anti-corruption initiative resulted in the arrest of approximately three dozen soldiers who were working after hours as security guards in Jakarta nightclubs.

Until the military is brought firmly under civilian control – politically as well as financially – Australia's plans to strengthen military links in the form of joint exercises and training threaten to undermine Indonesia's democratic transition. An alternative would be to openly declare that the Indonesian military is not under civilian authority, and that there will be no military ties until things have changed.

### **Claim 5: The Australian defence budget**

**Claim:** Australia would have to spend a prohibitively high sum of money on defence in the absence of close relations with the TNI.

**Fact:** The absence of close relations with the TNI is very different to open hostility towards it. An assessment of the possible threats to Australia's territorial

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<sup>13</sup> Human Rights Watch, *Too High a Price*, Vol. 18, No. 5c, 2006, pp. 100–110

integrity requires an analysis of capability as well as intent. This is obviously a much larger subject than can be covered in a submission on the Lombok Treaty. Suffice to say that improving the TNI's capability, whether by equipment or by training, defeats the purpose of Claim 5.

### **Claim 6: Human Rights training**

**Claim:** Links with the TNI will make the Indonesian military more professional and more respectful of human rights.

**Fact:** Links with the TNI have had no effect on its human rights performance. Instead, it confers a degree of legitimacy on its current operations, which involve serious human rights abuses.

By way of example, there is a commemorative plaque in the Officers Mess at the Australian Army base in Canungra, dated 29 November 1971. It was presented by a second lieutenant named Abdullah Mahmud Hendropriyono at the conclusion of a training course that he attended in Australia. 28 years later, after a long record of human rights violations, Hendropriyono organised the forced deportation of one third of East Timor's population and the destruction of most of its infrastructure<sup>14</sup>. The legitimacy he enjoyed as a result of international military links enabled him to become a three-star general in command of Indonesia's National Intelligence Agency.

If the goal is to improve human rights, Australia must ensure that there is unhindered access for human rights monitors and foreign journalists to anywhere in Indonesia, and especially in West Papua. This would be in line with Article 3.21 of the Treaty, which calls for 'community understanding and people-to-people cooperation.' While Indonesia, like any other sovereign state, has the right to place restrictions on travel and reporting on the grounds of national security, its restrictions in West Papua are not being imposed for national security. Rather, they are designed to prevent the world finding out about the extent of human rights violations by the Indonesian military. Any reasonable restriction should be in line with Principle 19 of the widely accepted Johannesburg Principles on National Security, Freedom of Expression, and Access to Information:

Any restriction on the free flow of information may not be of such a nature as to thwart the purposes of human rights and humanitarian law. In particular, governments may not prevent journalists or representatives of intergovernmental or nongovernmental organizations, which monitor adherence to human rights or humanitarian standards, from entering areas where there are reasonable grounds to believe that violations of

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14 Hamish McDonald, Silence over a crime against humanity, Sydney Morning Herald, 14 March 2002.

human rights or humanitarian law are being, or have been, committed. Governments may not exclude journalists or representatives of such organizations from areas that are experiencing violence or armed conflict except where their presence would pose a clear risk to the safety of others.

## **Conclusion**

A few years ago, a key figure in Australia's Special Air Service Regiment reminisced about the close relationship he and some of his men enjoyed with members of Kopassus. He said they would visit brothels in Indonesia with their Kopassus counterparts, sleep with the sex workers, and leave without paying<sup>15</sup>. It is a neat metaphor for the bilateral relationship. The weight of evidence is that Australia's 'national interest' – if it involves a democratic and peaceful archipelago north of the border – is served by increasing the Indonesian military's diplomatic isolation, not rehabilitating it by cooperating with the Australian Defence Force.

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<sup>15</sup> Personal communication.