

Submission on the Agreement Between Australia and the Republic of Indonesia on the Framework for Security Cooperation

Introduction

The Women's International League for Peace and Freedom was established in Europe in 1915. We are an international NGO in consultative status with the United Nations' ECOSOC and UNESCO. The Women's International League for Peace and Freedom also has special consultative relations with the FAO, ILO and UNICEF. WILPF works for social and racial justice, human rights and an end to war as a means of dealing with human conflicts. This submission is made on behalf of the Australian Section of our organisation henceforth referred to as WILPF.

Background: Putting this Treaty in Context

WILPF is keenly supportive of a strong bilateral relationship between Australia and Indonesia. We have however observed that, for some years, the relationship has been under considerable stress, and tension has developed especially since the crisis precipitated by the referendum in East Timor. The election of Susilo Bambang Yudhyono and the relative reduction of the power of the Indonesian military (fewer reserved places for the military's representatives in the Indonesian Parliament) have brought opportunities to improve the relationship in very recent years.

However, it must be stated that Indonesia's is still very much a fledgling democracy. The Republic is still in a period of transition towards the expression of full democratic institutions. The relationship of the military to elected officials in the parliament is at the heart of many of Indonesia's present problems. For instance, the military receives only 30% of its funding from government. They must raise the other 70% themselves:

“Most of this is done through illegal means such as illegal logging, mining and offering to provide so-called security to international companies such as the Freeport copper and gold mine.”¹

The Indonesian military is thus open to practices of gross corruption. In addition, it has an extremely poor record of human rights abuses in a number of the provinces. Of late this has been very notable in West Papua.

In West Papua, the TNI has a record of torture, rape and killing of civilians. Although there may have been some mitigation of late in the perpetration of human rights abuses by the military, an insufficient period of time has elapsed to enable us to describe that amelioration as a trend. As recently as 2003 for instance, in Wamena the TNI was involved in summary killing, torture and rape against civilians, and it is only seven years since members of Kopassus strangled and killed the West Papuan leader

¹ Australia West Papua Association Briefing Paper, March 2004, p. 4

Theys Hiyo Eluay, Chairperson of the Papuan Presidium Council. It is only four years since General Ryamizard Rycudu said of this:

“I don’t know, people say they did wrong, they broke the law. What law? Okay, we are a state based on the rule of law, so they have been punished. But for me, they are heroes because the person they killed was a rebel leader.”²

In passing we note that the officers responsible for the death of Theys Eluay received very light sentences for his murder.

According to the International Crisis Group’s *Update Briefing* of September 2006:
“The TNI has over 12,000 troops in Papua, and there are between 2,000 and 2,500 paramilitary police.”³

Added to this, the 2003 Indonesian Defence White Paper planned to “deploy at least 35,000 soldiers along the border between West Papua and Papua New Guinea”⁴. The ICG briefing also acknowledges that “the numbers [of troops in West Papua] have increased over the last two years”. Another recent report by Defence Minister, Juwono Sudarsono⁵ announced that “Indonesia has agreed to buy weaponry worth one billion dollars from Russia over the next five years to beef up its military capability.”

Further, we recognise that the granting by Australia in 2006 of refugee status for forty-two of forty-three West Papuans who fled the province seeking asylum and the vigorous protest against that decision by the Government of Indonesia sets an important part of the backdrop for the development of this Treaty.

In the face of Indonesia’s anger, the Australian Government first sought to put in place measures to remove any future asylum seekers arriving on the Australian mainland without a visa to Manus Island or Nauru and to have military patrols to intercept refugees fleeing West Papua. We understand that it was envisaged that these patrols were to work in collaboration with the Indonesian military. Apparently, when these plans were thwarted by opposition from within the Government’s own backbench, the Government next turned to this Treaty instrument in order to deliver the mollification to Indonesia’s expressed ire at the decision to grant refugee status to the 42 West Papuans. Seen in this light, it may not be overstating the case to regard this Treaty primarily as a piece of political expediency.

² This view was expressed by the former commander of Kostrad, speaking on the occasion of the installation of Lt. General Darsono as deputy chief of staff on 23 April 2003.

³ International Crisis Group’s Update Briefing No 53, Jakarta/Brussels, 5 September 2006, p. 2

⁴ “Alternatives sought to Papua border militarisation” *Jakarta Post online* 23/11/06
Evi Mariani, *The Jakarta Post*, Brussels, Belgium

⁵ “Indonesia’s \$1b weapons deal” from correspondents in Jakarta, November 18, 2006
12.44am – Article from: Argence France-Presse

If however the *raison-d'être* of this Treaty is counter-terrorism and if we are to view this Treaty as a tool genuinely intended for the enhancement of cooperative efforts between the two nations in countering terrorism in the region, it is a very confused instrument. Over the years for various egregious human rights abuses, the Australian Government has been forced from time to time to break off military training with the Indonesian military, particularly with Kopassus. Now in the "age of terror", the claim is frequently made by the Australian Government that Kopassus is a necessary partner in efforts to counter terrorism. Since elements of the Indonesian armed forces have indeed been involved in serious violence against their own citizens, it does not make sense to be adopting the TNI as a partner in countering terrorism. To be working against terrorism with a group that has itself perpetrated acts of terrorism is not only illogical, it is also ultimately unworkable. It is akin to "burning down the village to save the village". If the respective governments are both indeed genuine in their counter-terrorism efforts, then they would do better to be approaching terrorism as criminal rather than a military activity. Military means intended to address terrorism and which promote presumed terrorists to the status of warriors are, in our view, counterproductive. Terrorists are criminals and should be treated as such. Thus, WILPF believes that counter-terrorism activities would be more effective if they were viewed and approached primarily as a civil rather than a military matter. Counter-terrorism needs to be undertaken primarily through the civil security apparatus, and jointly undertaken policing projects such as the Jakarta Centre for Law Enforcement Cooperation deserve to be enhanced.

In summary, the suspect human rights record of the Indonesian military completely undermines this Treaty as an instrument for security cooperation, entrenching as it does "Defence Cooperation" with a military which many analysts view as themselves having committed many acts of terrorism over decades.

Likely Effects of the Treaty

In a period such as this which is at best very fluid and at worst very volatile, it is premature in the extreme for the Australian Government to be embarking upon the formulation of a treaty with the Republic of Indonesia which has at its heart matters relating to "Defence Cooperation" and which calls for "regular consultation on defence and security issues" and on "defence policies" with a government whose military is not clearly under the control of its elected parliamentarians.

There is no indication that the TNI will not at some time in the near or middle-distant future act with the same summary violence, cruelty and scant regard for human rights which has often characterised its actions in the past - in East Timor, in Aceh, in Ambon and West Papua. As such, this Treaty, if ratified, may have the counterproductive effect of undermining the very powers that we would wish to enhance, that is, the power of civil institutions within Indonesia relative to the power of the military.

In these circumstances, Australia would do better to be working more assiduously and systematically in cooperation with those civil organs and institutions in the nascent Indonesian democracy (including the police) to enhance their relative power vis-a-vis the military rather than lending support to enhance and consolidate the prestige and

relative power of the Indonesian military. If Australia and Indonesia are genuine in their intention to build neighbourly relations, there are better ways of fostering regional cooperation rather than with a treaty emphasising matters military and relating primarily to defence.

Lasting political results could better be achieved through increasing student exchanges, increasing the learning of Indonesian language by Australians, supporting the learning of English by Indonesians, promoting tourism, cultural visits and exhibitions. For instance, portion of the aid budget should be earmarked for support of primary and secondary education within Indonesia. Measures such as these encouraging bilateral links between NGO's as well as a substantial increase in the aid budget delivered through NGO agencies would go a long way towards building the sorts of links that would bring about lasting trust, and contribute to a strong bilateral relationship of the sort that we in WILPF would like to see. In the present Treaty document, "Community Understanding and People-to-People Cooperation" receives very scant attention, relegated to the very last substantial point of the Treaty, that is, to Point 21 in Article 3. Nevertheless, these are exactly the kinds of measures that, WILPF believes, should be front and centre of any treaty aimed at building a good bilateral relationship.

Conclusions

In light of these considerations, it certainly becomes apparent that the Treaty is a poor instrument if it is genuinely intended to deliver the sort of relationship that we are seeking with Indonesia, that is one characterised by mutual trust and confidence. Not only will the Lombok Treaty fail to deliver on the hopes that the two governments apparently have for it but, by reinstating in a Treaty such close links with the Indonesian military, it is likely to achieve the very opposite.

We in WILPF are not alone in our view that the Treaty is unlikely to be successful even in its own terms. For instance, according to Hugh White, this new Treaty is "equally doomed" as the Agreement to Maintain Security signed in 1995 between then Prime Minister Paul Keating and then Indonesian President Suharto⁶.

Seen in this context, this Treaty creates unease in the minds of fair-minded Australians who perceive that our Government is prepared to enter into a treaty that effectively reduces the chances of persons persecuted by the TNI within the borders of Indonesia of fleeing successfully. For instance, it is not clear that the Treaty may even prohibit expressions of support within the two countries for West Papuan independence campaigners. If and when West Papuans in West Papua were to speak out against Indonesian exploitation of their natural resources and/or treatment of their own citizens in their own homeland and were the military to violently suppress them, this Treaty would place severe limits on the Australian Government to make an adequate response as the Treaty expressly binds the Australian Government to:

⁶ White, Hugh: "the Lombok Pact's Empty Promise" in Far Eastern Economic Review, 1 December 2006, page 26

“...not in any manner support or participate in activities... encouraging or committing such activities, including separatism...”⁷

This Treaty can, and most likely will be, used to obstruct ongoing independence campaigns in Indonesia, whether they relate to Aceh, West Papua or any other Indonesian provinces. In this way, the rights of indigenous peoples to voice their aspirations and desire for self-determination may be silenced.

Once again, WILPF is not alone in this view: in *The Australian* of November 14, 2006, it was reported that “this treaty has really been generated to stop the same sort of support for West Papua as East Timor enjoyed from the Australian people.”⁸

The terms of this Treaty apparently expect the respective Parties to support government control of their own citizens by denying them any voice for legitimate complaint against human rights abuses and/or resistance to exploitation, corruption, or denial of their aspirations. WILPF understands that currently Indonesian law has seen people in West Papua gaoled for up to twenty years for raising the Morning Star flag in their own country. This is an extremely harsh penalty that Australia should not be supporting by ratifying this Treaty.

Incidentally, if criminal activity such as illegal fishing, money laundering, financing of terrorism, people smuggling and trafficking in persons and so on⁹ occurs, Australia already has the capacity and legal right to deal effectively with these matters and this can be increased through cooperative relationships not reliant upon a legally binding treaty.

Recommendations

WILPF regrets to say that we can only conclude that this Treaty in its present form is both misguided and ill-advised. WILPF therefore, respectfully suggests that it should not proceed to ratification and should be allowed to lapse. A rejection of this Treaty would bring international acclaim from some governments in the Asia/ Pacific region as well as members of the European Parliament¹⁰ and human rights NGOs who have expressed concern in various international forums about Indonesia’s treatment of West Papuans. If Indonesia were to receive *carte blanche* from Australia to act with impunity and without thorough scrutiny, then Australians would be complicit by our non-action in any future punitive and military aggression that the TNI may perpetrate against their own citizens.

Should the Treaty proceed, WILPF recommends that it should include clauses that ensure access to the provinces, particularly West Papua, for foreign journalists.

⁷ Agreement between the Republic of Indonesia and Australia on the Framework for Security Cooperation, article 2.3

⁸ “Downer signs new Jakarta Treaty by Stephen Fitzpatrick, Lombok and Patrick Walters, *The Australian*, November 14, 2006

⁹ These activities are listed under article 3.7 in the Treaty.

¹⁰ “European MPs present paper calling for West Papuan Independence referendum” – RNZ Posted at 4.34pm on 1 Dec 2006

Should the Treaty proceed, it should also be accompanied by efforts undertaken in multilateral forums to ensure adequate scrutiny of Indonesia's administration of its provinces, particularly its administration of West Papua. In particular, we recommend that there should be adequate mechanisms for the monitoring of human rights in West Papua.

We thank the Committee for the opportunity to make this submission.

Ruth Russell and Cathy Picone

Joint National Coordinators

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