

Submission to the Joint Standing Committee on Treaties Regarding “Agreement between Australia and the Republic of Indonesia on the Framework for Security Cooperation” (also known as the Lombok Treaty)

Summary

A good relationship between the people and government of Indonesia and the people and government of Australia characterised by mutual respect, honest communication and cooperation at all levels of society is inherently desirable and worthy of support. But relationships can become dysfunctional when they are preserved at the expense of one or both of the parties core values and at the expense of universal principles like fairness and the protection of human rights. My concern is that the current treaty actually undermines some core Australian values and universal principles. As a result the treaty has conflict built into it that will in the long term I believe, in fact weaken and further fracture the bilateral relationship rather than strengthen it.

In particular there are five issues that I would like to raise with the committee.

1. Separatism and Australian based support for West Papua
2. Defence cooperation between Australia and Indonesia
3. Human Rights
4. Intelligence cooperation
5. Nuclear cooperation

1. Separatism and Australian based support for West Papua

It is something of an “open secret” that the treaty has been developed largely in response to Indonesia’s concerns about growing Australian support for West Papua. While the treaty does not mention West Papua it does specifically affirm the two countries support for one another’s territorial integrity in the preamble and also mentions separatism in Article 3.1.

The problem is that no where in the treaty is separatism defined. However, let’s assume for arguments sake that the Indonesian government is referring to any activities in pursuit of political independence in West Papua. In Indonesia the word “independence” is “*kemerdekaan*” but it is often shortened to “*merdeka*” (freedom). Yet there are multiple discourses associated with the word *merdeka*, not all of which necessary led to independence.¹

West Papuans and politicians and policy makers in Jakarta (and other outsiders for that matter) frame *merdeka* in critically different ways. For Indonesian

¹ This next section is taken from a chapter on West Papua I have written entitled ‘Self-determination and Autonomy: the Meanings of Freedom in West Papua’ for a book (currently in press) entitled *Security and Development in the Pacific Islands: Social Resilience in Emerging States* published by Lynne Rienner

nationalists embroiled in a liberation struggle against colonial Dutch rule in the 1940s, *merdeka* was the “battle cry with which the citizenry was summoned to support the cause, the salute with which revolutionaries would greet each other, the cry of solidarity at every mass rally, and the signature at the end of every republican document.” (Reid 1998, 155) This popular understanding of ‘*merdeka* as independence’ is reinforced through symbols and national rituals like Independence Day celebrations held across the country every 17th of August. For West Papuans, however, *merdeka* “holds a sublime, almost spiritual significance” that in reality simultaneously means both more and less than political independence (Golden 2003). Together with the emergence of an animating ideology of *adat* (tradition), *merdeka* has become a powerful unifying and transformational ideology that overcomes class and tribal affiliations.

Despite the fact that West Papuan nationalists associate *merdeka* with independence, many West Papuan aspirations inherent in the word *merdeka*, such as protection of local community land, resources, traditions and identity, and the desperate need for health and educational services, do not necessarily point to independence as the only possible answer. Issues like corruption, governance, lack of local capacity, and a participatory development policy that simultaneously meets local needs for employment and services, and protects the fragile environment and diverse West Papuan culture, will also not necessarily be resolved by independence. Yet the desire for *merdeka* in West Papua has often been represented – with tragic outcomes as the Indonesian military brutally repress West Papuan aspirations – as the desire for separatism, for independence. West Papuan demands for *merdeka* are far more nuanced than the simple demand for a separate and sovereign state. West Papuan understandings of *merdeka* represent an ongoing individual and collective struggle for liberation that encompasses six overlapping and mutually reinforcing meanings. These meanings have their roots in West Papua’s long history of Melanesian cultural resistance and political millenarianism (Golden 2003).

These multiple meanings include:

- ***Merdeka* as the struggle for an independent and sovereign political state**
- ***Merdeka* as *Hai*** (“the irrepressible hope of an oppressed people for a future that is peaceful, just and prosperous”) (Giay 1995)
- ***Merdeka* as a West Papuan liberation theology**
- ***Merdeka* as an *adat* led restoration and recovery of local traditions, local indigenous forms of governance, and identity**
- ***Merdeka* as *mobu*** (“a sense of material and spiritual satisfaction where no-one need suffer from hunger, poverty, or disease” (van den Broek 2003, 11)
- ***Merdeka* as movement to restore human dignity**

Towards Freedom and Liberation

Although *merdeka* is translated as ‘freedom’ in Bahasa Indonesia, Jakarta equates West Papuan demands for *merdeka* with the narrow meaning of freedom as ‘independence’ and the desire for a sovereign state. In doing so, legitimate West Papuan objectives such as a discussion about the history of West Papua, as well as demands for greater equality, participation in decision making, and an end to the impunity of the Indonesian military are marginalised. For West Papuans, however, the deeper meaning of *merdeka* is more akin to liberation (*pembebasan* in Indonesian). The problem for Jakarta is that given the history of the last forty years and the lack of trust West Papuans have in Jakarta, few West Papuans believe that their aspirations for peace, justice, equality, and democracy can be met within the framework of the Indonesian State. The meaning of *merdeka* is often summed up in the oft heard desire “to be rulers of one’s own land” (*Tuan di atas tanahnya*), expressing a deep understanding of self-determination that has meanings that are at once national and particular, both more and less than the desire for independence. Nonetheless much of the substance of the wider meaning of *merdeka* inherent in West Papuan demands is consistent with the goal of social justice for all, the fifth pillar of *pancasila*, the Indonesia state ideology.

By only understanding “*merdeka* as independence”, security forces and policy makers in Jakarta – as well as outside activists, development practitioners, and policy makers – lump all West Papuan aspirations together as a demand for independence, thereby making it difficult to respond to demands for *merdeka* and justice that can be met within a framework that does not necessarily imply support for a political outcome of independence. The polarisation of all West Papuan demands for *merdeka* as being synonymous with the demand for independence has tragic consequences for West Papuans who suffer persistent and horrible human rights violations at the hands of the security forces who have repeatedly responded violently to any perceived threat to the territorial integrity of the Indonesian state. Jakarta’s fear of ‘*merdeka* as independence’ and consequent security based approach to prevent this, ironically pushes West Papuans further towards identifying the realisation of *merdeka* with the goal of political independence. In the process the wider meaning of freedom as social justice, equality, and democracy is lost.

As long as *merdeka* is understood by Jakarta only as a threat to nationalist symbols or political sovereignty, the government will ignore and even violate the very moral tenets that could form the basis of compromise. If Jakarta continues to ignore the deeper meanings of *merdeka* – the desire for peace, justice and sustainable development – the Indonesian Government will ironically entrench the understanding that *merdeka* can only signify only "political independence" and thus ensure the Indonesian Government’s nightmare of disintegration (Golden 2003)....

Conversation over West Papua quickly becomes polarised once it shifts to questions of territory, but remains open if the discussion focuses on other substantive issues, captured by the wider meaning of *merdeka*. By emphasising the meaning of *merdeka* in the West Papuan context as a fearless and shared commitment by migrants and West Papuans alike to justice, equality and democracy, it might become possible to start to talk about how to resolve conflict, while in the short-term avoiding the more difficult question of sovereignty and political self-determination.

By avoiding addressing the root causes of conflict in West Papua, the government of Indonesia, and by extension the government of Australia is in danger of lumping the multiple and subtly different meanings of *merdeka* together. In doing so the treaty could easily function to further polarise positions between West Papuans and their allies who support independence and those who support Indonesia's territorial integrity at all costs. Further polarisation will make it harder for moderates to find creative solutions to resolve the conflict within the framework of the Indonesian state. Certainly in West Papua amongst academics, community leaders and human rights advocates that I am in touch with there is a feeling (supported by anecdotal evidence) that the treaty has already led to a constriction of political space and tolerance for human rights by the Indonesian security forces.

It is not unrealistic to imagine a situation where an Australian academic for instance is caught in the repressive net of the treaty for supporting indigenous West Papuans who are nonviolently trying to protect local land rights affected by an Australian mining company by strengthening local indigenous governance structures. Ironically as it stands the treaty could act to criminalise the very actions that might help resolve the conflict within the framework of the Indonesian state.

A further problem is that no where is the kind of separatist activities that the two countries are concerned about listed. How will the two countries decide whether an individual or organisation in the other party's country is supporting separatism? Does the treaty refer to violent or nonviolent "separatist" activities? Because in West Papua the overwhelming majority of those who are engaged in pursuit of political action for human rights, justice and self-determination do so using nonviolent methods.

One of the most common forms of protest is to raise the Morning Star flag. Consider for example Filep Karma and Yusak Pakage who are currently in jail serving sentences of 15 and 10 years respectively for nonviolently raising the Morning Star Flag – the West Papuan Flag – in 2004. Does that mean that if West Papuans living in Australia or Australian solidarity activists raise the Morning Star Flag outside (or even within) the Indonesian Embassy in Canberra then that will be considered supporting separatism? Australian activists regularly raised East Timor's flag during that country's long struggle for independence. In 1999 at the height of Indonesian military led violence in East Timor Australian activists even trespassed into the grounds of the Indonesian consulate in Melbourne, lowered the Indonesian flag and raised the Timorese flag. Australian solidarity activists are already using the Morning Star flag as part of a campaign of

community awareness raising. What kind of sanctions would apply to those who carry out nonviolent actions of this type? Who would dictate the punishment? What does it mean for a local playgroup for instance, that sends money to support a Church leader carrying out nonviolence training, but who is accused by the Indonesian military and government of being a separatist? In West Papua the entire indigenous population has been stigmatised by the word “separatist” and wholesale violence by the Indonesian military justified with its casual use.

The problem is further compounded when we realise that in fact that displaying the Morning Star flag is actually allowed under Special Autonomy (as a cultural symbol) and that Special Autonomy is legislation and an Indonesian public policy framework supported by the Australian government.

2. Defence cooperation between Australia and Indonesia

The “Lombok Treaty” enshrines the policy of defence cooperation between Australia and Indonesia (Article 3.2). The last security agreement between Australia and Indonesia broke down in 1999 when the Australian government sent peacekeeping troops into East Timor. It is worth reminding ourselves of two facts. Firstly, it was Indonesia who tore up the treaty because they thought Australia would not intervene in Indonesian lead violence in East Timor. Secondly, Australian soldiers went to protect East Timorese from the very soldiers Australia trained. This treaty could have been an opportunity to put into practice the lessons learnt from East Timor. Those safeguards would include:

- A clear articulation of human rights standards and how they will be enforced
- Independent monitoring and evaluation of all soldiers trained when they return home
- Refusal to sell defence and dual use goods to Indonesia while human rights violations continue in West Papua and other parts of Indonesia and while the culture of impunity remains, particularly in relation to crimes against humanity perpetuated by the Indonesian military in East Timor.

Training and arming (Article 3.3) of the Indonesian military while human rights violations continue not just in West Papua but in other parts of Indonesia and while the Indonesian military remain unaccountable for gross human rights violations and crimes against humanity in East Timor opens the government to sustained and robust public campaigning. The Indonesian military is the problem in West Papua (to say nothing of their links with organised terrorist networks) – both through their stranglehold on the economy (particularly in the extractive resources sector) and ongoing military operations and human rights violations. Uncritical engagement with the Indonesian military will lead to more problems in the future. At the moment there are no checks in balance in Australia’s defence cooperation with Indonesia.

3. Human Rights

A major shortcoming of the treaty is that it does not address human rights, particularly in relation to West Papua. The Australian government can play a positive role in protecting human rights in Indonesia. Indeed when ACFOA published research undertaken by John Rumbiak (a well known West Papuan human rights advocate) and members of the Catholic Church, into human rights violations in and around the Freeport/Rio-Tinto mining concession area, the Australian government sent the then ambassador to Indonesia Mr. Alan Taylor to West Papua along with a parliamentary fact finding. Together with KomNasHAM (The Indonesian National Commission of Human Rights) and U.S. government investigations, Australian intervention led to an improved human rights situation in and around the Freeport/Rio-Tinto mining concession area. I support ongoing human rights monitoring as part of any treaty with Indonesia. To succumb to timidity and refuse to speak out for human rights diminishes us all. It sends a green light to the Indonesian military that they are free to abuse human rights and weakens the position of democratically minded Indonesians who are trying to reign in the military.

Although the treaty specifically mentions border control (Article 3.9) the treaty does not address the rights of refugee claimants living in Indonesia, even though the Australian government is providing significant funding to security and immigration services in Indonesia to prevent refugee claimants from arriving in Australia. This is particularly problematic when those same security services abuse the rights of refugee claimants who then have no avenue for redress and protection because Indonesia is not a signatory to the Refugee Convention.

While not mentioning it specifically, the text of the treaty implies that the two governments will cooperate to prevent potential West Papuan refugees trying to seek protection in Australia. Not only would this deny West Papuans the right to protection – a right that Australia is required to uphold under international law – it will also increase pressure on Papua New Guinea who already provide refugee to some 12,000 West Papuan refugees. A large influx of West Papuan refugees into Papua New Guinea could not only destabilize PNG, but the entire region. Yet no where is there mention of addressing the root cause of the West Papua refugee problem: human rights violations by the Indonesian military.

4. Intelligence cooperation

What will the treaty mean for West Papuans living in Australia actively working to resolve the root causes of the conflict – including addressing historical grievances: grievances that the Australian Government has been complicit in? What will the treaty mean for West Papua solidarity groups? Will West Papuans and their supporters be spied on and information passed on to the Indonesian government and security services as per Article 3.12?

Will the Australian Federal Police (and others) continue their practice of passing information to the Indonesian security forces about Australians in Indonesia when that

could result in Australians being subject to the death penalty or treated in a way that violates Australia's human rights commitments and laws?

5. Nuclear cooperation

Unbelievably the treaty also canvasses the idea of "Strengthening bilateral nuclear cooperation for peaceful purposes". This is an extremely contentious policy. It is extraordinary that the Australian government would even consider pursuing such a policy let alone mention it in a treaty when the Australian public is still debating the merits of nuclear power. It is premature to commit to any support for nuclear power in Indonesia. The idea is even more foolhardy when we consider that Indonesia is the most geologically unstable country in the region.

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