

Australia West Papua Association (Sydney)

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Submission 6

TT 6 December 2006

Mr James Rees
Committee Secretary
Joint Standing Committee on Treaties
Department of House of Representatives
PO Box 6021
Parliament House
Canberra ACT 2600

2 February 2007

Dear Mr Rees,

A submission from the Australia West Papua Association (Sydney) concerning the Agreement between Australia and the Republic of Indonesia on the Framework for Security Cooperation.

Yours sincerely
Joe Collins

Secretary
AWPA (Sydney)

Summary

The Australia West Papua Association (Sydney) is greatly concerned with a number of articles in the treaty and in particular article 3.2, covering defence ties with the Indonesian military. We understand that strategically the whole island of New Guinea and Indonesia will always be important to Australia and it is in our interest to have stability in the regions to our north. However, we believe that it is the Indonesian military that are the main destabilising factor in West Papua. We feel the activities of the military in West Papua, their involvement in human rights abuses and their involvement in resource extraction will lead to the very instability the government is trying to avoid.

In fact, as many reports on West Papua have shown, it is in the interest of the military to provoke and prolong conflict in the territory in order to prove that they are needed to maintain law and order and control so called separatists groups. However, it would appear the main aim of the military in West Papua is revenue raising. Most of this is done through their involvement in various activities such as illegal logging, involvement in prostitution and offering to provide so called security to international companies such as the Freeport copper and gold mine. It must be understood that the Indonesian military receive only 30% of their budget from the government and must raise the other 70% themselves. It is obvious that such an institution is open to corruption.

The West Papuan people face great challenges, ongoing human rights abuses, the exploitation of their natural resources with little or no benefit to themselves, the danger of becoming a minority in their own land as the result of migrants arriving daily and a possible HIV/Aids epidemic.

Good relations with Jakarta should not be at the expense of the West Papuan people who are struggling for their right to self-determination. We note that a majority of the Australian people also believe in the same right. A news poll commissioned by businessman Ian Melrose, showed that 77% of Australians believed that the West Papuan people have a right to self-determination.

To repeat, our main concern is defence ties with the Indonesia military that this treaty would commit us to. We believe that any aid or training given to the Indonesian military will only be used to oppress the West Papuan people. We are not going to go into great detail about the human rights abuses committed in the past by the Indonesian military as these abuses have been well documented. However, we will quote briefly from a number of reports (from a diverse group of organisations) which we believe aptly describes what has been on going in West Papua since Indonesian took over control of the territory. We will also give recent examples of abuses and other events in the past year that show that human rights abuses are not a thing of the past but are ongoing. In fact, two of the myths offered by proponents of supporting ties with the Indonesian military are that although human

rights abuses are a thing of the past, they do not occur at the present time and Indonesian is now a democratic country.

One incident in particular that shows the harsh rule from Jakarta is the sentencing of Filep Karma, a former civil servant, and Yusak Pakage, a student, to 15 and 10 years respectively in May of last year. Their crime? Simply raising the West Papuan National Flag, *The Morning Star*. These harsh sentences for merely raising a flag are hardly the actions of a democratic country.

Also, if there are no human rights concerns in West Papua why are human rights observers banned from visiting the territory?

We note that the UNHCR is concerned about reports of human rights abuses in West Papua, and has been barred from visiting the territory. In an interview with the *Sydney Morning Herald* (1st March 2006), the United Nations' special envoy on the prevention of genocide, Juan Mendez said that "The Indonesian Government is preventing human rights observers from monitoring the situation in Papua amid "worrying" reports of abuses in the troubled province". Asked if he was prepared to act as a mediator between the Government and separatists, Mr Mendez said 'absolutely; although that would require an invitation from both parties. Indonesia has been tightly restricting human rights experts from the UN, academia and non-government organizations from visiting Papua for years.

Another glaring example of how the military can act with impunity in West Papua is the case of the murder of Chief Theys Eluay (a West Papuan national leader) and the sentencing of his killers. Chief Theys Hiyo Eluay, the chairperson of the Papuan Presidium Council, was abducted by Kopassus soldiers on 10 November 2001, shortly after attending an event at the Kopassus base near Jayapura. His body was found the following day showing signs of strangulation. Although at first the military denied its involvement in the killing eventually members of the army's special Kopassus forces were put on trial. A military court on Monday the 21 April 2003, found seven Kopassus special forces soldiers guilty of involvement in the death of Chief Theys Eluay. However, the soldiers received light sentences of imprisonment ranging from two to three-and-a-half years. The light sentences received by Chief Theys killers only sends a message to the West Papuan People that they can receive no justice under Indonesian rule. It indicates that the military can act with impunity in West Papua.

Comments made by the chief of staff of the army, General Ryamizard Ryacudu only confirm this. In relation to the soldiers found guilty of Chief Theys murder he is quoted as saying, '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.' (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).

We would also like to bring the committees attention to the US State Department's 2005 Human Rights report on Indonesia (Released 2006) which states,

“Security forces continued to commit unlawful killings of rebels, suspected rebels, and civilians in areas of separatist activity, where most politically motivated extrajudicial killings also occurred. There was evidence that the Indonesian Armed Forces (TNI) considered anyone killed by its forces in conflict areas to be an armed rebel. The government largely failed to hold soldiers and police accountable for such killings and other serious human rights abuses in Aceh and Papua”.

We note the Australian people are also concerned about this treaty. Another news poll commissioned on the treaty by businessman Ian Melrose showed 64 per cent of Australians supported a clause which guaranteed access to foreign journalists to areas of Indonesia such as West Papua and 72 per cent of respondents supported free access for human rights monitors. It is encouraging that the Australian public understand the situation in West Papua and want to see safeguards put in place before any treaty is approved.

In conclusion,

AWPA believes that any treaty with Indonesia at the present time is unnecessary as there is already a high level of cooperation with the Indonesian government in many areas. A treaty that involves training or aiding the Indonesian military in any way will only lead to an increase in human rights abuses in West Papua and other parts of the archipelago. As our former foreign minister Gareth Evans said after the TNI and its militia ran amok in East Timor after the referendum,

“I am one of those who has to acknowledge, as Australia’s foreign minister at the time, that many of our earlier training efforts helped only to produce more professional human rights abusers”.

Other concerns

Before giving examples of the military’s involvement in human rights abuses we would like to raise our concerns about a number of other issues to which this treaty could commit the Australian people, such as article 2.3 which states,

“The Parties, consistent with their respective domestic laws and international obligations, shall not in any manner support or participate in activities by any person or entity which constitutes a threat to the stability, sovereignty or territorial integrity of the other Party, including by those who seek to use its territory for encouraging or committing such activities, including separatism, in the territory of the other Party;”

We believe this article is a direct reference to West Papua. AWPA’s concern is that if another incident occurred such as the arrival of the 43 West Papuan asylum seekers in January 2006, the government might try and stifle comment by organizations raising

awareness about the issue of West Papua. This would be to avoid another rift with Jakarta. This article is a potential attack not only on freedom of speech in Australia but also on the right of civil society to protest.

Also, in the field of intelligence cooperation (article 3.12) this treaty could commit the various Australian intelligence organizations to pass on information to Indonesian intelligence about the activities of human rights organizations working on the issue of West Papua

In relation to Maritime Security. (Article 3.13, 3.14)

Would joint patrols with the Indonesian navy be used to intercept West Papuan asylum seekers fleeing oppression? Would this treaty oblige our naval forces to hand over West Papuan asylum seekers to the Indonesian military? We must remember under our international obligations Australia is obliged to provide asylum to genuine refugees. Our defence forces are known to be highly professional and such actions would undermine this professionalism in both the minds of the Australian public and the international community.

We believe it is highly unlikely that the professionalism of the Australian Defence Forces can be imparted to the Indonesian military by our forces being involved in training or exercising with them. Our training had no effect on the behavior of the TNI in East Timor and will not in West Papua. The TNI receives only 30% of its salary from the Indonesian government. It plunders and abuses to pay its forces. Change in the behaviour of the TNI can only occur if its structure is reformed. To believe that our forces training with them can alter this behaviour is either delusional or hypocritical.

The Militarys involvement in human rights abuses and resource extraction.

We believe the following brief extracts from a number of reports (from a wide range of organizations) summarises what has been going on in West Papua.

The following extract is from a report prepared for the Indonesia Human Rights Network by the Allard K. Lowenstein International Human Rights Clinic Yale Law School titled "Indonesian Human Rights abuses in West Papua: Application of the Law of Genocide to the History of Indonesian Control" was released in 2004. The following extract from the reports conclusion aptly describes what has been occurring in West Papua since the Indonesian takeover.

"Since the so-called Act of Free Choice, the West Papuan people have suffered persistent and horrible abuses at the hands of the Indonesian government. The

Indonesian military and security forces have engaged in widespread violence and extrajudicial killings in West Papua. They have subjected Papuan men and women to acts of torture, disappearance, rape, and sexual violence, thus causing serious bodily and mental harm. Systematic resource exploitation, the destruction of Papuan resources and crops, compulsory (and often uncompensated) labor, transmigration schemes, and forced relocation have caused pervasive environmental harm to the region, undermined traditional subsistence practices, and led to widespread disease, malnutrition, and death among West Papuans”.

A more recent study

by the University of Sydney’s Centre for Peace and Conflict Studies and Elsham, the Institute for Human Rights Study and Advocacy based in Jayapura, was launched at Parliament House in Canberra on August 18. “Genocide in West Papua? The role of the Indonesian state apparatus and a current needs assessment of the Papuan people” This report also details the ongoing human rights abuses, the systematic violence, including rape, arson and torture, in the Indonesian-occupied territory of West Papua.

The report documents eyewitness accounts of military campaigns which have destroyed whole villages in the remote highlands region, the report details military involvement in acts of arson and destruction of property, rape, torture and arbitrary disappearances. (More than 100,000 Papuans deaths are estimated to have occurred as a result of the Indonesia occupation since 1963).).

The report concludes that Indonesia’s security forces act with total impunity and are the main source of instability in the territory. It claims the survival of the indigenous people of West Papua is under serious threat and calls on Indonesia to cancel the current massive military (TNI) build up in Papua which is aimed at confronting calls for independence from Jakarta.

A report about the activities of the Indonesian military in East Timor, (released in 2006) documents how the TNI used napalm, chemical weapons and starvation as a weapon against the East Timorese people (over 100,000 civilians died under the Indonesian occupation). Some of the same military that operated in East Timor are now in West Papua. We note that no military personal have been brought to justice over the human rights abuses that occurred in East Timor while it was under Indonesian control.

A report by the international crises group in Brussels entitled ‘Indonesia: Resources

and Conflict in Papua' states (Asia Report N°39 3 September 2002)

“Injustices in the management of natural resources under Indonesian rule have contributed significantly to the conflict. The state has often given concessions to resource companies in disregard of the customary rights of indigenous Papuan communities, while troops and police guarding these concessions have frequently committed murders and other human rights abuses against civilians. Provisions in the special autonomy law require resource companies to pay greater heed to adat claims to land ownership, but they do not apply retroactively to the many companies already in Papua.

Indonesian security forces have a financial interest in resource extraction in Papua, through direct involvement in logging and other activities and protection fees paid by resource companies. Numerous serving and retired officers, senior state officials and others close to government are thought to have logging concessions or other business interests. Alongside the substantial tax and royalties accrued by the state, these interests are a powerful reason for the Indonesian state and its agencies to keep control of Papua”.

The London-based Environmental Investigation Agency and Telepak has also released a report entitled “The Last Frontier - Illegal Logging in Papua and China's Massive Timber Theft” which shows the Indonesian military are involved in the illegal smuggling of logs from West Papua to China. It should be noted The Indonesian government has banned the export of raw logs.

To quote from the report

“The military in Papua are involved in every aspect of illegal logging. Several forestry concessions in the province are linked to military foundations, notably the company Hanurata, which controls five concessions in Papua and shares its headquarters in Jayapura with a detachment of troops from the army's special forces. Military personnel are frequently employed as security for logging operations. One timber dealer based in Jakarta told EIA/Telapak investigators that he had 30 soldiers on his payroll to secure his illicit forest concession. The army is also used to intimidate local communities opposed to logging operations on their lands. A report by human rights observers documented widespread logging-related abuse by troops stationed near Jayapura. The abuses involved intimidation, assaults and rape”.

Human rights abuses in the past year

Below are just a few of a number of incidents in the past year that highlight the military involvement in human rights abuses and illegal activities in West Papua.

December 2006 -January 2007

Starting in December 2006 and continuing into January 2007, the military have been conducting an operation in the Puncak Jaya region of West Papua . Reports from human rights groups and church leaders in West Papua have said that the Indonesian military have been conducting operations in the Puncak Jaya region causing thousands of local people to flee to the bush for their safety. These military operations are a response to the killing of two military personal near the town of Mulia in December 2006.

In the past the military have used incidents such as the killing of the two military personal as an excuse to crack down on what they term to be separatists groups. However, these military operations have resulted in the killing of civilians , the burning of villages, the killing of livestock and local people fleeing to the bush for safety. Church leaders have reported that the military have cordoned off the region with no civilian access allowed. As the local people are afraid to go and work in their food gardens many could face starvation.

The Jakarta Post dated the 19 Jan 2007, reported that, "four Papuan refugees who were among thousands fleeing their village have reportedly died of illness. The residents fled to Ilamburawi village in Yamo district, Puncak Jaya regency, on Jan. 16 following a security personnel manhunt for rebels who had earlier hoisted a separatist flag on Mount Kimibaga. Many refugees were in a severe state due to food shortages and suffered from various illnesses such as malaria and hepatitis". (In the Jakarta Post, 30 January 2007, The Evangelical Church of Indonesia (GIDI) reported that up to 5,000 people were now facing hunger after fleeing a crackdown on Papuan separatists by the military and 227 children had fallen ill, with diarrhea, hepatitis and malaria).

Incident in Abepura March 2006.

A major incident occurred in Abepura in March 2006 when a demonstration against the the giant Freeport gold and copper mine resulted in a clash between Indonesian security forces and protesters who had blocked the road to the airport in the town of Abepura , on the outskirts of Jayapura.

(The Freeport copper and gold mine in West Papua is one of the largest in the world. The Freeport mine has become a symbol to the West Papuan people of the exploitation of their natural resources and past reports have implicated Freeport security and the military in human rights abuses around the mine site. There has been ongoing protests against the mining operation in the past year).

The clash between the Indonesian security forces and protesters left four security personnel dead. Another man who had been wounded died six days later. Police launched a major operation for suspects in the killing of the four security personnel, raiding student boarding houses and setting up roadblocks along the route to Abepura. The Jakarta Post of the 18 April reported that "Three people were hurt in the roadblock checks, including a 10-year-old girl who was hit by a stray bullet in the back. The girl was admitted to the Abepura Hospital where two other people -- Ratna and Soleha -- were treated for similar wounds" Reports from a human rights worker from the Papua-based human rights group, ELSHAM, who was at in the crowd when police opened fire told the ABC what he saw. "We evacuated several victims, there were men who got shot in the chest, another in the right leg and another in the right side of the forehead. But they were not then only ones, there were many more. We evacuated one victim who had been left in a swamp. There were more men coming to help those who got shot and to take them to the nearest hospital." Media and eyewitness reports indicate that the security forces are now conducting reprisals against the community at large . A report by another human rights worker from the Indonesian National Commission on Human Rights, said the police had blocked roads and were searching every vehicle and that "The Papuans, the young ones, have been taken and beaten, kicked, hit with guns and threatened," he said.

In June, the Catholic Peace and Justice Secretariat (SKP) released an urgent action concerning 23 people who were arrested after the demonstrations outside the Cendrawasih University alleging cases of physical and mental abuse, and intimidation of prisoners. (The Catholic Peace and Justice Secretariat said up to 73 people were initially arrested following the incident). SKP staff along with representatives from other churches who visited the detainees said that wounds were clearly visible on their faces, as the result of torture sustained while they were in police custody. Two of the men said they had been tortured two hours before they were due to appear at a court hearing, in a bid to get them to admit that they were involved in the deaths of the police and air force officers. 'They were kicked with army boots, struck on the head with rifle butts and rubber truncheons,' according to the SKP report. The men had previously been tortured during the first few weeks of their detention in an attempt to extract information. The detainees also complained that although they had been told that legal counsel had been appointed to assist them, the lawyers had not visited them so they were at a loss as to how to behave in court and deal with the accusations against them.

The SKP report also pointed out that judges before whom the men appeared in court had created an atmosphere of intimidation and fear in court. Departing from the principle of strict neutrality, one of the judges even gave advice to police witnesses who had been summoned to testify on how to deal with demonstrators. 'Another time when there is a demo, you should carry sharp weapons so that, should the situation become chaotic and you find yourself under pressure, you can shoot the demonstrators on the spot, and if anyone dies, that won't be a violation of human rights'

February 2006 Clash at Freeport

The following incident at Freeport is an example of the military involvement in resource extraction.

In February 2006 there was a clash between illegal gold miners and Freeport security personnel which caused the mining company to temporarily suspend operations after hundreds of illegal miners blocked a road to the site. The clash occurred when police and the company's security guards asked a group of gold panners to leave the area. Six persons were injured and two Freeport employees were hit by arrows. Many local people earn a living by selling small amounts of gold and copper sifted from waste rock, or tailings, dumped by the mine. In another action related to this incident up to 500 people staged a rally outside the regional legislative council (DPRD) office calling for closure of US-mining company PT Freeport Indonesia. After they failed to meet the local legislators for negotiation, the protesters proceeded to march to the representative office of PT Freeport in Jayapura, approximately 15 km away. Another protest was held outside the Freeport office in Jakarta which resulted in the office being closed for the day. Thirteen men were arrested in connection with damage to the office during the protest.

Background

A report received by AWWPA raises the following points .

How could hundreds of local miners or what the authorities call illegal miners reach Mile-72 Camp, the area where the clash took place or Mile 68 Tembagapura which is geographically difficult to reach as only company employees with identity cards can be authorized to enter the mining area?

The report alleges that the military who are in charge of security at the mine, transport the illegal miners (by using the company's cars or buses) from Timika to Mile-72 Ridge Camp or Mile -68 Tembagapura and back to Timika and that they are required to pay transportation fees. The report goes on to say that the river from Mile -74 down to Mile 38 has been divided into sections for different military units who charge the illegal miners for permission to pan for gold.

New York Times article on the Freeport copper and gold mine

An article in the New York Times dated 27 December 2005, documents payoffs by the mining company to the Indonesian military and also the massive pollution caused by the mine.

The New York Times article points out that from what originally were several hundred people living in the lowland village of Timika (before the mine started operations), it is now home to more than 100,000 which has developed into a wild west atmosphere of too much alcohol, shootouts between soldiers and the police, AIDS and prostitution, protected by the military.

Extracts from the article

"That frustration stems from an operation that, by Freeport's own estimates, will generate an estimated six billion tons of waste before it is through - more

than twice as much earth as was excavated for the Panama Canal. Much of that waste has already been dumped in the mountains surrounding the mine or down a system of rivers that descends steeply onto the island's low-lying wetlands, close to Lorentz National Park, a pristine rain forest that has been granted special status by the United Nations. A multimillion-dollar 2002 study by an American consulting company, Parametrix, paid for by Freeport and its joint venture partner, Rio Tinto, and not previously made public, noted that the rivers upstream and the wetlands inundated with waste were now "unsuitable for aquatic life." The report was made available to The Times by the Environment Ministry".

"In short order, Freeport spent \$35 million on military infrastructure - barracks, headquarters, mess halls, roads - and it also gave the commanders 70 Land Rovers and Land Cruisers, which were replaced every few years. Everybody got something, even the Navy and Air Force. This year Freeport told the Indonesian government that the waste rock in the highlands, 900 feet deep in places, now covers about three square miles. Down below, nearly 90 square miles of wetlands, once one of the richest freshwater habitats in the world, are virtually buried in mine waste, called tailings, with levels of copper and sediment so high that almost all fish have disappeared, according to environment ministry documents. The waste, the consistency and color of wet cement, belts down the rivers, and inundates and smothers all in its path, said Russell Dodt, an Australian civil engineer who managed the waste on the wetlands for 10 years until 2004 for Freeport. About a third of the waste has moved into the coastal estuary, an essential breeding ground for fish, and much of that "was ripped out to sea by the falling tide that acted like a big vacuum cleaner," he said".

and

"Company records obtained by The Times show that from 1998 through 2004, Freeport gave military and police generals, colonels, majors and captains, and military units, nearly \$20 million. Individual commanders received tens of thousands of dollars, in one case up to \$150,000, according to the documents. They were provided by an individual close to Freeport and confirmed as authentic by current and former employees".

Has the TNI reformed?

As well as the US State Department's 2005 Human Rights report which states "Security forces continued to commit unlawful killings of rebels, suspected rebels, and civilians in areas of separatist activity, where most politically motivated extrajudicial killings also occurred", an article in the Jakarta Post "Military remains above the law, says rights watchdog" dated 27 December 2006, also reports that the military have made no progress in reforming itself.

In the article the Commission for Missing Persons and Victims of Violence (Kontras) reported that "the nation's security forces are still operating above the law". Kontras, in its end of year report for 2006, said although there was some improvement in the government's protection of human rights, its record, however," was clouded by what

Kontras saw as the government's reluctance to reign in security agencies, the Indonesian Military (TNI), the State Intelligence Agency (BIN) and the National Police, which continue to defy the reform process". Kontras reported that in 2006, the military still remained autonomous from legal and political controls.

"In terms of professionalism, the TNI registered no significant progress. The institution gave no accountability for human rights violations committed by its members who were involved in shootings, kidnappings, wrongful arrests and physical abuses," Kontras coordinator Usman Hamid said.

Extract from the Jakarta Post article

This culture of impunity lingered on in the TNI, with many historic cases of human rights abuses involving soldiers remaining unresolved, Usman said.

The military had also successfully opposed efforts to put it under civilian control -- indicated in the Defense Ministry's refusal to have soldiers tried in civilian courts for ordinary crimes, he said. In its report, Kontras also criticized the police for their failure to win the public trust.

"The culture of militarism remains with the police. We have recorded numerous cases of violence, beatings, shootings, the illegal use of arms, wrongful arrests and incarcerations, and the use of torture," he said.

The police were also unable to investigate serious crimes such as the 2004 murder of noted rights campaigner and Kontras founder Munir Said Thalib, he said.

"We have the impression that the police are deliberately dragging their feet in the investigation. They always look for technical reasons to delay the probe," Usman said. Kontras lambasted BIN for its failure to warn the government about a string of terror attacks committed this year in conflict areas like Central Sulawesi.

BIN was instead busy running a propaganda campaign about the resurgence of communist movements in the country, the rights group added.

"We give BIN a score of 4 out of 10, and if President Susilo Bambang Yudhoyono does not improve, this he will probably flunk next year," Usman said.

There are also militia groups operating in West Papua including the Laskar Jihad group. Although it was reported that they disbanded after the Bali bombings members of the group have remained in West Papua. Other groups include the Satgas Merah-Putih (Red and White Task Force) and the Front Pembela Merah Putih (Red and White Defenders Front). None of these groups could operate without the knowledge and consent of the military. The military have also created a false OPM (Free Papua movement) to instigate incidents so the military can use such incidents to crack down on so called separatists groups.

In conclusion

Being aware of the Indonesian military's, appalling human rights abuses and their involvement in illegal resource extraction, the Australia West Papua Association has great difficulty understanding why a democratic country like Australia would train or

be involved with such an institution as the Indonesian military. We believe that a treaty that obliges us to cooperate with the Indonesian military in any way is to join with an oppressive institution and will only lead to an increase in human rights abuses in West Papua and other parts of the archipelago.

We believe a treaty with Indonesia at the present time is unnecessary as there is already a high level of cooperation with the Indonesian Government in many areas. We understand that the Australian Government includes human rights awareness and accountability in any training it gives to the Indonesian military, but this had no effect on the Indonesian military's behavior in East Timor and will not in West Papua.

To quote our former foreign minister Gareth Evans again,
"I am one of those who has to acknowledge, as Australia's foreign minister at the time, that many of our earlier training efforts helped only to produce more professional human rights abusers".