

The Secretary  
Treaties C'tee

Feb 20th 2007

Submission to the Joint Standing Committee on Treaties concerning the Agreement between Australia and the Republic of Indonesia on the Framework for Security Cooperation - the Lombok Treaty, by Rob Wesley-Smith

Dear Members

re "Lombok Treaty"

This Treaty was prepared after the 43 West Papuan refugees arrived on Australian shores and were assessed as being entitled to refugee status. The Indonesian government felt this was a slight to their myth of peaceful legitimate 'ownership' of West Papua and their benign rule. The Howard Government sought to mollify president SBY et al by various measures and this treaty is the major result (expanded Nauru detention camps is another). The main feature I believe of value to SBY is to get the Australian government to assert its unconditional support for Indonesian hegemony over West Papua, and implement measures to dampen or preferably eliminate popular support for West Papua's right to Self-Determination.

**Thus I believe the Treaty is based on shaky grounds** - not a good basis for building anything solid or lasting.

1. Its a response to legitimate events of human rights.
2. It seeks to restrict normal activities in Australia of citizens supporting human rights issues or causes.
3. It seeks to endorse a clearly illegal and outrageous sequence of events that led to the forceful annexation of West Papua by the armed forces of Indonesia in then 1960s, and subsequent military repression that has seen the deaths of anywhere between 100,000 (lowest estimate) to 400,000 (probably the highest reasonable estimate though I have seen higher) of deaths due to military killings and deaths due to military induced conditions of deprivation - which continue to this day.

**Previous Treaty unilaterally torn up:** Indeed the previous Treaty with Indonesia done in secret by the Keating government was unilaterally torn up by the Indonesian government upon the intervention into East Timor in Sep 1999 by Interfet forces led by Australia. I think that showed that that Treaty was not worth the paper it was written on, again because it was not based on firm foundations of mutual respect for each other and for the human rights of the peoples, but on Keating's view of Bapa Suharto as the most important leader who had saved Australia zillions in defence dollars by not being aggressive towards Australia. In fact Suharto was a brutal tyrant arguably responsible for 2-3 millions deaths in Indonesia, East Timor and West Papua. Although this one was developed also in secrecy it is going through this public process before probable ratification, which is a great improvement and for which you should be commended.

**Adequate aid and media:** If this present Australian government really believed in fostering good and safe relations with Indonesia, why does it have one of the most appallingly low foreign aid budgets, and why did it markedly reduce Radio Australia and not support Australian TV International by which Australian news and promotion of 'Australian values' could be promulgated into Indonesia and SEAsia? This was devastating, for example, when Interfet went to East Timor to save it from vicious planned genocidal actions of the TNI, yet Australia was not able to educate the Indonesian people as to the real basis and reasons for the intervention, and it seems even Osama bin Laden got confused. My study (see appendix 3) of various countries' military spending compared to their foreign aid spending was done for a CDU seminar in 2003, and showed that Australia with a ratio of around 8:1 was the most militaristic after the USA (with around 30:1), but way behind European countries at say 4-5:1 or less, and Scandinavian countries at 2-3:1. This shows that instead of going the hard yards building people to people friendships and even government to government and ngo friendships, we sit back and rely on military or some fanciful notion of Treaties - which we have already seen have failed when the acid test was applied.

Frankly, I don't care very much if innocuous Treaties are signed or not between neighbours. But I am greatly concerned if, as seems to be the case with this one, **we sell out our principles and decency and imperil our own freedoms of free speech and organising:**

**1. Recognition of Indonesian sovereignty over West Papua is based on a lie** and the cynical manipulation of events by powerful nations conspiring against the Melanesian West Papuans. The history of this is becoming much better known now, and a huge majority of the Australian people are unhappy about this. A summary of the events is in appendix 2, or can be found in the submission by Andrew Johnson. Even Australia played a despicable role in this by not only acquiescing, under pressure from our 'great and powerful friends', but by stopping 2 Papuan emissaries from going to New York to explain their case actively denied free speech and truth to be made available. It is hard to see this government acting differently now to then, especially given the specific clauses in the Lombok Treaty.

I might add that my early knowledge of West Papua comes from seeing slide presentations etc from my aunt Sheila Draper who along with Norman Draper was a pioneer missionary then language teacher/ amateur anthropologist etc in the Baiyer River Valley in PNG and then especially in the Baliem Valley in West Papua. Her work has recently been completed with a magnificent dictionary of Enga published by ANU, and 3 new display cabinets in the SA Museum where much of her legacy was lodged due to the great support of Tim Flannery. Many of those she first taught in the early 60s were killed by Indonesia in the late 60s, people such as the great Arnold Ap. She survives but is ailing in Batemans Bay.

**2. Restrictive pressures on normal human rights support by individuals and ngos is completely unacceptable.** I refer especially to sections detailed below.

I remind you I'm a veteran of active support for East Timor from 1974 until now, and during 24 of those years the Australian governments of all persuasions actively supported Indonesia's illegal regime, and actively sought to cover up the massive

human rights abuses going on there. I have been chased over attempts to take aid to Timor, radio communications to East Timor, and arrested several times by Australian governments including for legitimate demonstrations activities, and indeed I lost my livelihood and job as an agricultural scientist in the NT government over my private support for East Timor. I think this has been made clear in previous submissions to your c'tee, but this was in the context of our alleged government support for citizens pursuing human rights. How much worse will it become when a Treaty with Indonesia specifically targets such activities? May I remind the C'tee that the Australian and NT governments eventually changed 180 degrees to support my position, (but not me). I was also deported by Indonesia as my name was or maybe still is on their blacklist as a security threat to their nation, placed on by their military. Will this Treaty jeopardise my position further? Will Australians have a right to see and argue re being on the Indonesian blacklist? Its still happening even to Indonesian citizens, see appendix 5 re Aditjondro.

I would like to tell you I lobby for West Papuan human rights however I can, including sending money to support refugees within their own country and outside, and will continue to do this, Treaty or no. So will I be liable to further investigation and arrest?

**An example** - 'Papua Merdeka': An example of restrictions found already even without any Treaty signed follows from NZ this month. My brother Dr Martin Wesley-Smith is an eminent Australian composer who has demonstrated his concerns over 30 years on issues such as East Timor by composing many music pieces or multimedia pieces, and has expanded this to other issues including West Papua with a terrific audiovisual piece called "**Papua Merdeka**". This recently raised the ire of the Indonesian Embassy in NZ which demanded it not be played as part of the concert of the Asia Pacific Festival during February. The festival director felt under such pressure he moved it according to a possible compromise flagged by my brother but not yet agreed. For more detail see at end, appendix 1. Is this the sort of thing we can expect more of if the Lombok Treaty is accepted without modification, and would criminal sanctions possibly follow?

I can play the AV piece to you if you would like, without the supporting live muso, if the c'tee can set up a digital projector linked to a DVD player or my c'ter. Or perhaps my brother could organise such elsewhere.

You may have noted that Indonesia only last November banned several films on East Timor and 'The Black Road' by William Nessen re Aceh, see appendix 6, hardly a ringing endorsement for the flowering of free speech.

### **3. Detail of objectionable clauses:**

(adopted from Andrew Johnson:)

Article 3 parts 2, 4, 6, 9, 10, 11, 12, 13 would require extensive monitoring and clarification to protect the human and civil rights of the citizens of the Republic and Commonwealth. It would be morally and legally the responsibility of the Australian government if this Security Cooperation Agreement caused any information being transmitted or otherwise shared with foreign police or other forces, which resulted in the violation of the human rights of any person.

Article 2 Principle 6 requires "Nothing in this Agreement shall affect in any way the existing rights and obligations of either Party under international law", yet signing this agreement when one or both parties are in violation of United Nations obligations (see above) would and does mean Article 2 Principle 2 requiring "support" of "territorial integrity, national unity" would be in violation of Principle 6.

Article 2 Principle 3 irrespective of its term "consistent with their respective domestic laws and international obligations", would encourage the Parties to attempt to limit the legal and human rights of the citizens of the Republic and/or Commonwealth.

For example any future Australian government could feel obliged by the Agreement to repress Australian free speech using national security provisions.

Also Indonesia could claim future refugees to be 'separatist' and request the Australian government to return refugees for 'illegal entry', a request which any future government may feel unduly obliged to comply with unless such issues are specifically addressed before signing such an Agreement.

Further, one should expect to see positive reinforcement of human rights principles, such as respect for free speech, including access to journalists. You would know that Indonesia bans journalists from West Papua, why is that? The answer is to cover up continuing human rights violations. Indonesia as a nation may be struggling towards democratisation, but the reality is that the dominant political force is still the armed forces the TNI, and until we require and help Indonesian governments to exert superior and civilian control over this Force, the government even if it wishes cannot do much. Look for example, at the complete failure to bring to book the assassins of Munir. No one of significance has been brought to justice over the 24 years of massive human rights violations in East Timor, as detailed by the extensive CAVR Report. There is a complete culture of IMPUNITY for senior figures including the TNI in Indonesia, which has NOT changed even with the presidency of SBY - how can we sign up to a regime like that! Look at the ongoing abuses in the **Puncak Jaya region**, a deadly creation by the TNI, see appendix 4. The help of western nations to change these cultures of impunity in Indonesia is needed to not only assist the activists but the whole population of Indonesia itself. This includes the almost free licence to burn and destroy rain forests that impacts on global warming which of course affects us too as even John Howard is coming to understand, at least we hope so. That's why this Treaty serves no useful purpose.

#### **4. Conclusion**

Thus one can see that the proposed Treaty is a mixed bag, consisting of many platitudes, but containing many dangerous clauses which can be interpreted to use against both Australian human rights supporters and West Papuan nationals. Its has no positives in relation to political and human rights. It is fundamentally wrong to engage in Treaties with an illegal occupying power. (Then again, I have presented that argument several times to your C'tee in the past over East Timor and it was not accepted then). But hopefully the events of East Timor will show that international rights are never LOST, if often buried for many many years. I urge your C'tee to remove the detailed flaws above, and also to recommend that the status of West Papua

be resolved perhaps by the International Court before we once again engage on its future by formal Treaty with its Coloniser.

Thankyou for the process and for accepting my submission. I would be happy to present these views and more in person, and perhaps to clarify any woolly thinking, if the opportunity arises.

Yours sincerely,

Rob Wesley-Smith  
spokesperson for:  
Australians for a Free West Papua  
(and also Australians for a Free East Timor)