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Mary MacKillop East Timor
(formerly Mary MacKillop Institute of East Timorese Studies)

Submission to the Joint Standing Committee on Treaties

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

Signed at Lombok on November 13, 2006

The staff of *Mary MacKillop East Timor* have had over twelve years' involvement in Timor-Leste, gaining a comprehensive understanding of the shortcomings of both Australia and Indonesia regarding the human rights of the Timorese people. We note that the concept of "human rights" is not mentioned anywhere in the proposed security treaty between Indonesia and Australia and so we have no confidence that anyone's human rights in either of the two nations will fare any better than in the past, and that the omission could well signal further deterioration.

The following comments flow from a desire to promote the national interest of Australia, understood from a broader perspective than the merely economic which appears to be the current interpretation of the term.

This very brief document needs more time. It should be discussed by the peoples of both nations and debated by their Parliaments. That it has already been signed by both Ministers of Foreign Affairs with so little debate is an indication that democratic processes were not considered important in its formation. Article 2.2 of the Agreement seeks to safeguard each nation's internal activities from interference from the other, a principle which could be readily upheld by vigorous national debates on this very Agreement.

The greatest deficit in the document is its lack of acknowledgement of human rights. It should include an unequivocal statement to the effect that the protection of the rights of human persons is basic to the maintenance of a secure society.

The preamble to the Agreement reaffirms the Parties' "faith in the purposes and principles of the Charter of the United Nations," and further, that the Parties are "determined to comply in good faith with their obligations under generally recognized principles and rules of international law."

The upholding of civil, political, social and economic human rights would have to be among these obligations. But these human rights have been grossly neglected by Indonesia with the compliance of Australia in relation to the Timorese people in the past with little effort to address present and future consequences, e.g.

- The 2005 CAVR Report commissioned by the Government of Timor-Leste to investigate abuses between 1974 and 1999 concluded that 90% of the 183,000 Timorese deaths by violence or starvation during those years are Indonesia's responsibility. ¹Australia's complicity and long silence during this time is a matter of public record, yet Australia has not responded to the many recommendations in that report in which it is directly named.
- Over 300 high-ranking Indonesian military personnel whose tours of duty occurred during those years have not been brought to account, and many have been promoted in Indonesian military or civil administration, thus being rewarded for their actions. ²Some were appointed to similar or higher positions in West Papua. Australia accepts without question this gross affront to justice in the region.

A NSW Coroner's inquiry into the death of Brian Peters, an English cameraman and a resident of NSW at the time of his death, was undertaken in February 2007. With four companions, some of whom were Australian citizens, he died at Balibó in October 1975 as Indonesia was preparing to invade Portuguese East Timor. ³His inquest necessarily involves questions about the deaths of the other four. This inquiry is the eighth investigation into these men's deaths. Their rights and those of their families have been ignored for thirty-two years and Australia continues to avoid stating where the responsibility for the deaths of these citizens and residents lies. It remains to be seen whether the current Indonesian/Timorese Truth and Friendship investigation into the causes of the 1500+ deaths in 1999 will display a greater concern for truth than the eight inconclusive attempts to determine the fate of five Australian residents all those years ago.

There is nothing in these historical matters which enhances Australia's international credibility or leadership in the region, rather, they give the lie to our claim to fairness as a national characteristic and remain a cause of deep regret to fair-minded citizens. It is not in Australia's interest to pretend that a brief Agreement about the future can paper over the serious divisions of an unaddressed past.

That both Australia and Indonesia have chosen to deny or ignore the neglect of human rights and its consequences in Timor-Leste makes the mention of "obligations" and "good faith" in this Agreement hollow indeed. The Agreement also mentions peace, independence, territorial integrity, good neighbourliness, non-interference in internal affairs, regional and national security, bilateral cooperation, dialogue, progress, prosperity, strong legal frameworks, principles, consultation, areas of mutual interest and concern, intensive dialogue, strong institutional relationships, equality, enduring interests, mutual respect, domestic and international obligations, consultation, development, capacity building, mutually agreed joint projects, relief measures for emergencies, confidentiality, intellectual property, regular meetings and amicable settlement of disputes.

And not a single mention of human rights.

West Papua

Article 2.3 states that the Parties are to refrain from anything 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.”*

Here the major intent of this Agreement is made clear. As attempts by any areas of Australia to secede from the Commonwealth are unlikely, the “separatism” mentioned can only refer to West Papua and perhaps other unhappy parts of Indonesia.

Reports from West Papua detail TNI activities which closely resemble those of the Indonesian military’s 24-year reign in East Timor. ⁴These include widespread intimidation, torture, disappearances, rapes and corruption, activities which are not surprising seeing that the military has managed to evade responsibility for the same behaviour in Timor. In some cases, the same compromised individuals went from Timor to Papua, e.g. Timbul Silaen was moved sideways from Police Chief in Timor in 1999 ⁵ to Police Chief in Papua later. ⁶

These events in West Papua have caused outrage in some nations, including Australia. It is clear from the history of East Timor and from the experiences of other peoples, e.g. the Irish and the Poles, that the justifiable desire of people to live in freedom and peace maintaining their identity and culture is impossible to obliterate.

It is not in Australia’s interest to ignore historical fact such as the questionable method of the incorporation of West Papua into the Republic of Indonesia, nor to whitewash Australia’s part in the process.

It has been said to us by the Timorese people that had the Indonesians come as brothers, things may have been very different. Similarly in West Papua it is the treatment of the people as second-class citizens and the denigration of their culture in their own traditional territory which is such an affront to them. The people resent the wholesale exploitation of the province’s natural resources, with the profits going mainly to other parts of Indonesia while the provision of education and health services in Papua come mainly from the Churches. The Governments of Indonesia and Australia both need to learn that there will be continuing dissatisfaction whilst human rights are neglected no matter how many Agreements are signed and no matter who signs them.

Defence

Article 3 states that there is *“recognition of the long-term mutual benefit of the closest professional cooperation between their Defence Forces.”*

Does this mutual benefit refer to the past, or is it a hope for the future? If it refers to the past, what concrete evidence is there of benefit to either military group? What has the TNI

learned from the Australian military? What have Australian soldiers learned from the TNI? If it is a future hope, upon what experience is it based?

Would it not be better for the Australian military to agitate that their Indonesian counterparts be paid a decent wage, which would go a long way to curbing the economic corruption in which they are engaged? No national military should have to raise 70% of its own operating costs as the Indonesian military has to do.

The role of the TNI in West Papua in its repression and lack of accountability is similar to that experienced in East Timor. It is not in the interests of Australia's good name to undertake more joint "development" and "education" ventures with the TNI when those of the past have been so obviously unsuccessful. For Australia to pick up the same threads of consultation and training with the TNI without regard for their continued inhumanity in West Papua exposes the Australian people to quite justified international accusations of complicity with military corruption.

An agreement which states that respect for human rights is a foundational value for international relationships may not have much success in achieving those rights for people, but at least the signatories would be on the historical record as having recognised their importance and would thus maintain some integrity. Consistent reiteration of the importance of humans' inalienable rights takes courage and contributes to the formation of conscience.

It is not in Australia's national, moral or historical interest to be party to a treaty which ignores these rights, the fundamental bases of security, peace, progress and prosperity.

¹ <http://www.cavr-timorleste.org/>

² *ibid.*, Part 8 Annexe 4: Careers of Selected Indonesian Officers who Served in Timor-Leste

³ Ball, D. & McDonald, H. *Death in Balibo lies in Canberra*. Sydney. Allen & Unwin. 2000.

⁴ Wing, J. *Genocide in West Papua?* Centre for Peace and Conflict Studies, University of Sydney, 2005.

⁵ CAVR Report. Annexe 3 - Indictment Summaries, p.31

⁶ Van den Broek, T. *Seri Social-Political Notes No. 7, Papua Actual 2004 (Jan - Mar)* Jayapura, 2004

Signed:

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