

Submission 23  
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BY: *[Signature]*

UNITING CHURCH IN AUSTRALIA  
SYNOD OF VICTORIA & TASMANIA  
PRESBYTERY OF BOURKE  
20<sup>th</sup> February 2007

**THE SECRETARY  
JOINT STANDING COMMITTEE ON TREATIES  
Agreement between Australia and the Republic of Indonesia  
On the Framework for Security Cooperation  
House of Representatives  
PO Box 6021  
Parliament House  
Canberra  
ACT 2600**

Dear Secretary

I forward the Submission of the Social Justice Network of the Presbytery of Bourke, The Uniting Church in Australia.

In the Submission we acknowledge that there are desirable outcomes proposed in the Treaty tabled on 6<sup>th</sup> December 2006, and we are supportive of these arrangements.

We have expressed our concerns and requested amendments to a number of Article/ Clauses to make this Agreement a better document.

We have also requested close regular monitoring of the impact that the Agreement may have upon West Papuans and would suggest that the current Joint Standing Committee would be an appropriate body to perform this task.

Yours sincerely



Sadie U Stevens  
Convenor  
Presbytery of Bourke  
Social Justice Network  
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**The Secretary  
Joint Standing Committee on Treaties  
Parliament House  
Canberra, ACT, 2600**

**17<sup>th</sup> February 2007**

**Submission to Joint Standing Committee on Treaties  
On  
Agreement between Australia and the Republic of Indonesia on  
The Framework for Security Cooperation  
(Mataram, Lombok, 13 November 2006).**

**The Social Justice Network of the churches in the Presbytery of Bourke, Victoria, Uniting Church in Australia wish to express concerns arising from sections of the proposed Treaty, though we understand the Treaty has already been signed by Indonesia, and the process for Australia to approve and sign the Treaty will not go before the Australian Parliament for debate.**

**We suggest that certain contentious issues in the document should warrant it being debated in Parliament. We respectfully ask the Joint Standing Committee to give due consideration to all concerns presented in submissions; and where appropriate amend, clarify, renegotiate and monitor the Agreement with Indonesia.**

**The Presbytery of Bourke supports and sees desirable a formal treaty between Australia and the Republic of Indonesia on the Framework for Security Cooperation. In particular we are pleased to read the reaffirming commitment to the Principles of the Charter of the United Nations, the stated desire to live in peace with all peoples and all governments, and the undertaking to settle disputes that may arise between the two Parties “by peaceful means in such a manner that international peace, security and justice are not endangered.”**

**The Treaty is written with admirable principles; the contention is with some of the Articles and the method of processing and implementing the Agreement. It is most unfortunate that a proper debate did not take place before the document was signed although not ratified, on 13<sup>th</sup> November last year.**

**In Article 2.3 the wording: The Parties, “shall not in any manner support or participate in activities by any person or entity which constitutes a threat .....to the territorial integrity of the other Party.....including separatism” These phrases are open to different interpretations and expectations in the Republic of Indonesia and Australia, by virtue of the different systems of law, culture and the operational level of democracy.**

**Australians’ rights to exercise the democratic principles of free speech, peaceful demonstration, political commentary and the offer of protection, hospitality and aid to refugees, particularly to West Papuans, should in no way be constrained. The National Analysis assurance that Article 2.3 would not prevent the exercise of the above principles, or humanitarian actions is not convincing.**

**The timing of this Treaty would suggest that the Australian Department of Foreign Affairs was anxious to appease the Republic of Indonesia over their**

objections to Temporary Protection being granted to 42 of the 43 West Papuans who arrived by boat on Cape York in January 2006. This suggestion was confirmed by the report "The signing of a new security treaty should stop Australia being used as a Staging Post by Papuan independence activists, according to Indonesian foreign Minister Hassan Wirayuda" Mark Forbes, The Age 14/11/06.

The Australian Government's immediate response to change migration laws to have anyone who comes to our shores assessed offshore by a United Nations authority, in a third country such as Nauru, was a reversal of all gains negotiated by a group of humanitarian Liberal parliamentarians.

We believe that Australia has a responsibility to respect the human dignity of asylum seekers and should fearlessly process asylum seekers on our main land. Rather than capitulating to the Republic of Indonesia, the Australian Government should be challenging Indonesia for the unacceptable abuse of the human rights of West Papuans.

Nothing in this Treaty should prevent Australia meeting its obligations to people fleeing violence and persecution and legally seeking asylum. Nor should Australian people or organisations be constrained or outlawed for supporting asylum seekers.

Despite the prologue emphasizing that it is "Determined to comply in good faith with their obligations under generally recognized principles and rules of international law", the danger of Article 2.3 rests in the obligation upon Australia to put relationships with Indonesia ahead of its obligations in International Law re human rights and refugees. Indonesia must be made aware of this in the strongest terms.

This Treaty is cleverly drafted to ensure the sovereign integrity of the Republic of Indonesia without singling out Papuan independence as the matter of concern. We agree that it is in Australia's interest to support an arc of stability to its immediate north and to negotiate good relationships with Indonesia, but not by ignoring human right violations in West Papua.

As members of the Social Justice network we are not advocating West Papuan independence from the Republic of Indonesia, instead we strongly support policies of self regulation within the framework of the Republic of Indonesia.

The raising of living standards; the advancement of economic and social development; and a commitment to civil liberties would be a best outcome for the West Papuans. Australia's interest and support for the Papuan people should not be wrongly interpreted by Indonesia, nor should there be any obstruction to Australia's aid being directed to the people of West Papua. The Treaty should encourage cooperative arrangements between Indonesia and Australia to help advance the peoples of West Papua.

We recommend that the Australian Parliament monitor closely the impact of the Treaty upon West Papua.

#### **Article 3-Defence Cooperation**

Cooperation and training between the armed forces should be amended so that it explicitly requires cooperation to enhance the compliance of both States to International Humanitarian Law. It is deeply disturbing that in recent times the

**Indonesian government has allowed, or has been unable to control, military operations that have brutally killed and terrorised its own people.**

**Article 3.7 -Law Enforcement Cooperation places Australia in an untenable position, for the majority of crimes listed carry the death penalty in Indonesia. Australia abolished the Death Penalty in 1973. It would be a betrayal of the Australian conscience to knowingly exchange intelligence or data capable of convicting and sentencing an Australian citizen, or a citizen of any nation, to punishment by death.**

**Dr Mirko Bagaric is acting for five of the so called "Bali Nine" who were arrested in Bali in April 2006 for attempting to smuggle drugs into Australia. They were apprehended only by the information provided by the Australian Federal Police.**

**Dr Bagaric writes "that where an offence is detected as a result of international cooperation between two nations, the matter must be resolved in a manner that gives some weight to the legal standards of both countries."**

**In cases where Indonesia has a mandatory death penalty for an offence, it would not be possible to achieve a satisfactory sentencing outcome.**

**WE feel strongly that Article 3.7 must be re negotiated to permit Australia to withhold information that would be used to seek the death penalty. It would be appropriate for Australia to use its influence to urge Indonesia to remove the death penalty.**

**Article 3.13 Maritime Security and Article 3.9 Counter Terrorism Cooperation when read together raise concern that a deliberate intention of the Treaty is to block the flow of Papuans to Australia. Neither Party can abrogate itself from international obligations to refugees, if a person is fleeing political persecution that person has a legal recognised right to request asylum in another country.**

**To deliberately use maritime force to deny a person protection and to forcibly return that person to intolerable abuse would again violate Australia's commitment to the rules of international law and human solidarity. The shameful memory of Tampa and Siev X are deeply etched and will not be forgotten by the Australian or the International community.**

**We call upon the Australian Parliament to do more to open up the channels of communication and restricted access in Papua; and to regularly monitor and report on the impact of the Treaty, especially upon Papua.**

**Article 3.17 Proliferation of Weapons of Mass Destruction**

**The statement in 3.16 to enhance measures that prevent the proliferation and delivery of weapons of mass destruction is most welcome.**

**Article 3.17 relating to bilateral nuclear cooperation for peaceful purposes should be under a separate heading as it is not related to "Proliferation of Weapons of Mass Destruction".**

**We acknowledge that nuclear cooperation could involve medical and industrial uses, but the geological instability of much of Indonesia with tsunamis and rising sea levels would make nuclear power stations unsafe and nuclear power generation high risk enterprises.**

**In this Submission to the Joint Committee on Treaties we have offered our opinions to ensure that Australia is bound to its commitments to basic human**

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**rights and freedoms as contained in the United Nations Charter, International Covenants and Conventions. We cannot make Indonesia accept our tradition of law and democratic institutions, but we cannot diminish Australia's traditions and values to reach a compromise for the purposes of the Agreement. In the Treaty Australia acknowledges the Republic of Indonesia's sovereign integrity including West Papua and we are not opposed to this. We believe that Australia has a responsibility to defend the human dignity and rights of Papuans at home and of Papuans who flee violence and persecution.**

**Signed**



**Sadie U Stevens OAM**

**Convenor  
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