



## Good Neighbour, Bad Neighbour: What's the difference?

TONY KEVIN  
Australian-Indonesian Relations  
Seminar, Uniya Jesuit Social Justice Centre  
St Ignatius Church, Norwood, Adelaide  
Tuesday 22 August 2006

### MEDIA RELEASE: Former diplomat raises questions about people smuggling from Indonesia

Date: 21 August 2006, Source: Uniya

Former Ambassador to Cambodia, "International Whistleblower of the Year", and author **Tony Kevin** is raising questions over who may have facilitated the latest boat arrival on Australia's Ashmore Reef of Burmese asylum seekers.

Mr Kevin, who will speak alongside security specialist **Dr John Bruni** and Jesuit lawyer **Fr Frank Brennan** in a seminar on Australia-Indonesia relations in Adelaide tomorrow, suggests Australia's relations with Indonesia are "partly confrontational and partly collusive."

His talk analyses the contended history of "people smuggling" from Indonesia to Australia since 1999, and also the impact on Australia-Indonesia relations of the rightful Australian decision to give refugee protection to 43 asylum-seekers from West Papua.

Comparing Prime Minister Howard and Indonesian counterpart Susilo Bambang Yudhoyono to "two puppetmasters, both protagonists and partners, in a wayang shadow play", he argues that the possibility of the migration bill's defeat would have been anticipated by both leaders as early as June, and fallback public strategies agreed.

"When Howard pulled the bill last week before the Senate could reject it, there was a flurry of ritual official denunciations from Indonesia -- as there had to be. The people smuggling bogey was wheeled out again," he said.

The former diplomat and author of *A Certain Maritime Incident*, the award-winning book on the SIEV-X disaster in 2001 in which 353 asylum seekers drowned south of Java, believes the "perfectly timed" arrival last week of a new boatload of eight asylum seekers is unlikely to have been a spontaneous commercial people smuggling operation.

"Who facilitated their journey to Ashmore?", he asks of the latest boat people. "Indonesian security agencies sending a timely warning message to Australia? Just possibly, but I think more likely is a collusive action by Australian and Indonesian security agencies."

He claims that the events of recent weeks are a "win-win outcome" for both governments, despite the popular belief that Mr Howard's U-turn on the migration bill was his first major political defeat.

\*\*\*\*\*

TONY KEVIN: "I was invited to share a platform at St Ignatius' Church, Norwood in Adelaide with Dr John Bruni of University of Adelaide and Fr Frank Brennan S.J., at the last of four public seminars on this topic. The other three

were held in Melbourne, Wollongong and Sydney with speakers Richard Woolcott, Damien Kingsbury, Duncan Campbell, Adrian Vickers, Sidney Jones and Peter King. Frank Brennan took part in all four meetings. The theme was a set of questions about the Australia-Indonesia relationship: "Do we have to choose between pragmatism or principles? What values do we share? Who decides what makes a good neighbour?"

I have chosen to address our topic through four lenses. These are:

1. *Lobbies*: the "Indonesia lobby" in Australia and other lobbies relevant to the Australia/Indonesia relationship churches, aid lobbies, the East Timor lobby, the West Papua self-determination lobby, the human rights and refugee rights lobby, the Australian defence and border protection lobby - and "the view from Washington";
2. The Australia-Indonesia *security treaty* history, under Prime Ministers Keating and Howard;
3. Indonesia's history as *interceptor and as facilitator* of unauthorised movements of *boat people* to Australia;
4. How the *43 West Papuan boatpeople issue* impacted in 2006 on Australia-Indonesia relations as neighbours.

## Lobbies

The centre of the Indonesia lobby in Australia is in the Department of Foreign Affairs. DFAT is, as it should be, in the business of international conflict avoidance and dispute resolution. Ipso facto, DFAT has a legitimate professional interest building good relations with our largest near neighbour. DFAT's task is to nurture good working relations with Indonesia's government of the day, and to learn as much as possible about the country. A positive perspective on Indonesia has naturally spread out from DFAT to those who frequently discuss Indonesia with DFAT - AUSAID, university-based Indonesia specialists, foreign newspaper editors, senior commentators. I do not wish to demonise this lobby: it is pro-Indonesian in the sense I have just described, but not necessarily blind to the realities of Indonesia. In fact, of all the lobbies here discussed, it should ideally have the best-informed and most balanced views on Indonesia.

The Christian churches lobby has two main agendas: a general humanitarian welfare concern for poor and disaster-affected people in Indonesia, and a specific concern for the welfare and safety of substantial Christian minorities, e.g. in former East Timor, and now in West Papua and the eastern islands of the Indonesian archipelago - as well as across the whole archipelago in the case of Chinese-origin Christian Indonesians.

The non-government aid lobbies (Austcare, Caritas etc) are often better informed than DFAT on what is happening at grassroots level in various parts of Indonesia. In their efforts to help build better lives for Indonesian people, staff of these NGOs enjoy good relations at local government and people-to-people levels. They are often highly critical privately of Indonesian government failures, but don't want to jeopardize in-country working relationships.

The East Timor lobby is still in business, though it has against the odds achieved its main aim of the 1999 act of self-determination, which resulted in an independent Timor Leste. This lobby has a particular sympathy for West Papuan self-determination. A broad umbrella coalition, its diversity gives it strength. It generally has little love for the Indonesian state, seeing it as a corrupt and exploitative Javanese hegemonic empire.

The West Papua self-determination lobby has much in common with the East Timor lobby, but its main agenda is far from achievement. Its current importance in Australia is in mobilising public pressure on the Australian government to demand better standards of Indonesian governance in West Papua. It also seeks more humane Australian government treatment of asylum-seekers from West Papua seeking to enter Australia.

The human rights and refugee rights lobbies (in the plural - there are many relevant organisations and individuals here) urge the Australian government to press Indonesia to respect international standards in the way it treats its various peoples. They also demand that the Australian government respect those same standards in its treatment of asylum-seekers entering Australian space.

The Australian defence and border protection lobby is a loose grouping of national security professionals from defence, law enforcement, customs, and immigration backgrounds. These professionals often approach Australian-Indonesian relations from a perspective of potential conflict scenarios, over contended sovereignty or resources issues. While I do not wish to demonise this lobby either - many defence professionals, e.g., in strategic policy areas, work hard to improve Australia-Indonesia security cooperation - it is supported by chauvinistic elements in Australian

society that deeply mistrust Indonesia and believe in deterrence through superior Australian military strength and determination to "stand up to the Indonesians".

Finally there is what I call "the view from Washington", always powerfully influential in Canberra and never more so than today, that Australia and Indonesia and the US should all three stand together against the common enemy of the day, whether this be Soviet expansionism, Chinese Communist expansionism, or jihadist terror.

It is the task of Australian governments to manage the Australia-Indonesia relationship in the national interest - a concept easier to assert as principle, indeed it is almost a tautology, than to implement in practice - taking into account the widely divergent views of these diverse lobbies and interests. DFAT is not above this process; it is part of it.

## **The Australia-Indonesia Security Treaty**

This treaty was signed by national leaders Keating and Soeharto in December 1995, an expression of Bob Hawke's view that "Australia must find its security with and not against Indonesia" - a classic Indonesia lobby view. The treaty focussed on defence cooperation, according to the priorities of the time. Three months later, Labor was defeated. The incoming Howard-led coalition initially supported the Treaty, until the strains of the East Timor crisis led an angry President Habibie to abrogate it in September 1999. Howard was initially quite relaxed about this.

Five years later, Australian government thinking had changed, largely as a result of September 11 and the US-led War on Terror. Australia welcomed the election of a friendly Bambang Yudhoyono as Indonesia's new President in October 2004, and proposed that officials begin work on a new security agreement, but this time with a broader focus, covering anti-terrorism and police operations as well as defence. We were back to Bob Hawke's view - the Indonesia lobby was back in command of policy again.

But these negotiations, now nearly two years old, have gone slowly. Post-Timor secession, there is still great mistrust of Australia in Indonesian government and parliamentary circles, and a real fear that Australia might set out to undermine Indonesian rule in West Papua. Australia is keen for a treaty, but Indonesia has shown no great enthusiasm. Indonesian elites see what they regard as hostility towards their country in the Australian human rights, Timor, West Papua, and defence lobbies, which seem to them to speak with one anti-Indonesian voice - and they wonder at the capacity of an Australian government to rein in such unfriendly elements in any crisis. So, they ask, what is the worth of such a treaty? Would it be as useless as it was in 1999?

In March 2005, the ABC reported ([Graeme Dobell, PM 18 March 2005](#)) that the Australian Foreign Minister hoped a new security agreement would be concluded "within months". Mr Downer hoped the treaty would contain language:

"making it clear to each other we both respect each other's territorial integrity. And Indonesians will be reinforced in their confidence in Australia, knowing that Australia supports Indonesia's territorial integrity and by that I mean we do not support secessionist movements in Indonesia."

But the Treaty did not emerge in 2005, nor had it by the time of Mr Howard's meeting with President Yudhoyono in Indonesia in June 2006. Clearly, there had been sticking points. Three days later, a communiqué from the Indonesia-Australia Ministerial Forum in Bali reaffirmed Ministerial support for the conclusion of a bilateral agreement for security cooperation by the end of 2006, which would provide "a treaty-based expression of strong support for each country's sovereignty and territorial integrity, including Indonesian sovereignty over Papua" (sic). In the Bali media conference, it was made clear that Indonesia's main interest in the treaty was in strengthened Australian border protection, in particular - though they were not mentioned by name - keeping out any more West Papuan asylum-seekers. This meeting was five months after the 43 West Papuans had arrived in Cape York by canoe, and three months after 42 of them had been granted temporary protection in Australia as refugees. On this, the Indonesian meeting spokesman prominently announced in the opening seconds of the media conference:

"The Ministers [Ed: Mr Downer and Mr Wirayuda] welcomed steps taken in Australia to strengthen border protection measures, including the contribution made by offshore processing of unauthorized boat arrivals".

This refers, clearly, to the Australian Migration Amendment Bill, then still before Parliament, which would send all boat people refugee applicants, no matter where they landed in Australia, offshore for processing (i.e., to Nauru).

### **Indonesia: interceptor or facilitator of boat people trying to reach Australia?**

This issue has a long history, mostly officially unacknowledged. Though we are a country of immigration, since the 1970s racially non-discriminatory, Australian officialdom has always feared unauthorised boat arrivals as a sovereignty violation and security threat. Even when Malcolm Fraser as Prime Minister took a strong moral stand to accept large numbers of anti-Communist refugees from Indochina in the year after 1975, Australia undertook strong diplomatic efforts and covert actions to stop Indochinese boat people reaching Australia. A few boat people got through, but many more, under Australian diplomatic pressure, were taken off their boats and interned in detention camps in Malaysia and Indonesia, sometimes for years, before resettlement or return. There is a credible report (endnote - ABC Four Corners interview) of Australian covert agents going underwater to bore holes in such boats in Malaysia, in order to sink them. None of this has ever been officially admitted.

In the years after Indonesia's invasion of East Timor in 1975, large numbers of East Timorese came to Australia, usually not by boat, and were quietly allowed to stay. To avoid offending Indonesia, successive Australian governments never considered them for refugee status until 2005, when it was no longer a bilateral issue. The history is important to this analysis, because these protected de facto refugees became an important part and symbol of the East Timor self-determination lobby here. Indonesia could not fail to have seen this.

From 1999 onwards, as serious bilateral strains developed over the Timor issue, Middle Eastern origin boat people asylum seekers—mostly Afghani or Iraqi—started arriving in large numbers at Ashmore Reef or Christmas Island, having come through Indonesia. DIMA figures for such arrivals (Endnote - DIMA fact sheet 75, date...) are striking:

"More than 9500 people, mainly from Afghanistan and Iraq, arrived in Australia unlawfully by boat between July 1999—December 2001; a further 1544 intercepted en route to Australia from August 2001—December 2001"

That is, 11,000 boat people over 2½ years! The official Australian government public line was that these were movements organised for profit by a criminal commercial "people smuggling" industry that had erupted in Indonesia. Yet it is by now clear that in these years of dramatically expanded numbers of such boat people, Indonesian police and military authorities at high levels were, at best, turning a blind eye to these voyages and, at worst, facilitating them and sharing the profits. Given the sudden upsurge and large scale of these operations, it is entirely reasonable to suspect an element of Indonesian agency payback against Australia for its real or alleged role in the East Timor secession. But Australian officials have never publicly hinted at any such possibility.

We know from Senate Committee evidence, painfully extracted in 2002, that in 1999, the AFP and DIMA embarked on partly covert people smuggling disruption operations in Indonesia, using covert agents and friendly Indonesian police in efforts to penetrate and disrupt people smuggling operations through various means. It was admitted to Senators by AFP Commissioner Mick Keelty that boat sabotage was a possibility in such operations, though he said that AFP would not approve of such acts (Endnote - source CMI document).

Asylum seeker accounts indicate that many boats sprung leaks, or experienced engine failure or fires, or got lost - too many incidents for coincidence. Clearly, somebody was doing a range of things to disrupt these voyages. Asylum-seekers were abused, cheated, terrified, sometimes drowned, in such disruption operations. Though information is scanty due to a determined security cover-up in Australia, a plausible picture begins now to emerge, of a deadly secret war waged in Indonesia in 1999-2001 between people smuggling facilitators and people smuggling disruption agents.

The terrible event of the sinking of SIEV X on 19 October 2001, still unexplained, lanced this boil. It seemed to mark the end of the Timor payback phase in Australia-Indonesia relations. The tap was turned off - over the next few years 2002-2005, only three reported people smuggling boats came, all in dubious circumstances.

A year after SIEV X sank, the Bali bombing moved Australia-Indonesia relations onto a new plane, under the major common agenda of counter-terrorism. Relations continued to strengthen over the next three years until the end of 2005, warmed by generous Australian disaster relief, and despite strains from arrests of Australians in high-profile drug cases (endnote). The two countries' security authorities were now cooperating closely in law enforcement, including against "people smuggling", which simply disappeared off the map as a problem. It was in this favourable context that the security treaty idea was re-launched by Australia.

Throughout these years, Indonesia was warehousing, at Australian expense, thousands of Middle Eastern asylum-seekers who had been wanting to come to Australia since 2001 or earlier, and many of whom had relatives in Australia and had been found by UNHCR to be refugees. The Australian government has not allowed any of these people - even UNHCR-approved refugees with families in Australia - to come to Australia legally. Though free to move around locally and not detained behind wire fences in Indonesia - they are in this sense far better off than if they were on Nauru or Christmas Island - they were and are effectively marooned and without futures. Curiously, in a country with millions of fishermen and almost as many boats, there were no people smugglers any more to ferry them the short distance to Ashmore Reef or to Christmas Island. Or maybe they did not want to go, knowing the dangers to life and that in any case Australia would only send them to Nauru.

### **Impact of West Papuan 43 Asylum Seekers**

The arrival on Cape York in January 2006 of 43 West Papuan asylum seekers, with watertight cases for protection here under the Refugee Convention - i.e., first country of asylum, legitimate fears of persecution, affinities to Australia as Christians and near neighbours - threw a huge spanner in Australia-Indonesia relations. They had evaded existing Australian maritime border surveillance by unexpectedly crossing the open sea, avoiding the well-monitored Torres Strait islands. They had accessed Australian TV news footage before official detection here, making it impossible for authorities to claim that they had not reached the mainland. In due course - there was no other outcome possible under our law - their refugee claims were all accepted - 42 in late March, the last on 31 July.

The Indonesians were furious, all the way to the top. They knew that this could be the beginning of a mass outflow and the genesis of an anti-Indonesian independence movement in West Papua nourished from Australia - just as they had seen happening with East Timor. From the start, they demanded Australia send the 43 back, as the proper act of a good neighbour, regardless of our Refugee Convention obligations. Yudhoyono and Wirayuda were quick to publicly remind Australia that we had recently relied heavily on Indonesian cooperation to have stopped people smuggling flows from Indonesia and that if this problem now resumed, Australia would only have itself to blame. Their words on this are elliptical and can be interpreted either as "our Government would not have the power to stop this happening" or "we have the power to make this happen". The ambiguity was, I think, deliberate.

Howard now faced a huge dilemma. The whole edifice of bilateral relations, so painstakingly rebuilt since 2002, was again at risk. Also, I think he knew the implied threat of renewed boat people movement from Indonesia to Australian territories, covertly facilitated by Indonesian agencies or even imposed by them on unwilling passengers, was real. His response was on two fronts. First, to tighten border surveillance across the whole ocean area now seen to be at risk, so that his Ministers could credibly promise Indonesia (endnote Ellison quote) that no more West Papuan boat people would get through to Australia. [the net.] Second, to attempt through new blanket legislation to make all asylum-seekers arriving by boat, from any source and in any part of Australia, subject to processing in Nauru. We now know the fate of that thoroughly bad and cruel legislation. I will focus here on the impact of these events during 2006 on Australia-Indonesia relations, and what it suggests about their likely future course.

Howard's attempted amendment legislation was aimed at several audiences. To the West Papuans and their many Australian sympathizers, it said "*don't try this again - all our legal bases are now covered, we will never allow a West Papuan independentist émigré population to settle in Australia*". To the Indonesians, it sent the same reassuring message but also implicitly warned, "don't try again to send or facilitate boat people coming through Indonesia to any part of Australia, because we will simply send them to Nauru, and you will not be hurting us". It was, I think, in both

these senses that Howard referred to the legislation as a strengthening of an already strong border security system. Now that the legislation has failed, where do relations stand? As often happens in foreign policy, they are now partly confrontational and partly collusive. Howard and Yudhoyono are now the two puppetmasters, both protagonists and partners, in a wayang shadow play in which we - politician, activists, media commentators - act freely according to our preferences, but the outcomes are really quite constrained.

I am sure Howard and Yudhoyono discussed the scenario of possible bill failure when they met in Jakarta in June. Howard would have told Yudhoyono that he might not be able to get this bill through, as much strong opposition was building up from Right and Left. They would have discussed a Plan B. Howard would have stressed border protection was again working in practice - no more West Papuan boats had come. He might have pointed out that Indonesia should not publicly threaten Australia, as this would only alienate Australians. The status quo could be held without need for this law. The two countries should proceed now to their long-delayed security treaty.

The clue is in this 19 July news story (Canberra Times 20 July page 4, "Indonesia bows to Australian laws"). The Indonesian Ambassador said in Canberra that Indonesia would not pressure the Federal Government to pass controversial changes in Australia's migration laws. He said, "We will see how it develops, but we will not interfere in the ... legislation here", and "It's up to the Australian people and the Australian Parliament". Subsequently, there was official silence from Jakarta on the bill.

When Howard pulled the bill last week before the Senate could reject it, there was a flurry of ritual official denunciations from Indonesia - as there had to be. The people smuggling bogy was wheeled out again, but not nearly as forcefully as earlier in the year.

Interestingly, right on cue, came another boat people incident, perfectly time. Eight men who turned out to be Burmese, had been left by unknown "people smugglers" on Ashmore Reef. These hapless people are now (unless lawyer David Manne can prevent this) bound for Nauru for refugee claim processing, and will no doubt be found eventually to be refugees. Australia will try hard not to take them. Some country, probably European, will be found to accept them after a few years' ritual punishment on Nauru. Their nationality will help, since everyone is sorry for the Burmese. Maybe these asylum-seekers knew all this was in prospect, but probably not - they were probably given false promises, like so many before them. It will help their case for resettlement if they did not know.

Who facilitated their journey to Ashmore? It is "security", we are not allowed to know anything. Was it "people smugglers" resuming business? That fails the laugh test. Was it Indonesian security agencies sending a timely warning message to Australia? Just possibly, but I think more likely is a collusive action by Australian and Indonesian security agencies. Why? Because it suits both governments at this point to remind all the interest groups that renewed "people smuggling" through Indonesia is a real and present danger, and that is why Australia simply has to block any future attempts by West Papuan asylum-seekers to come here by boat.

This is a win-win outcome for both governments. Indonesia can live with a few West Papuan activists fleeing by land to PNG - this has been happening for years. Australia now has the technical means to intercept and send back, or to Nauru, any West Papuans who try again to come here by boat. They will not reach Australia again.

Of course Howard would have preferred his bill to pass. But actually this outcome will suit him just as well. In a few months, this temporary embarrassment will be forgotten. The security treaty should be signed before the end of the year, another diplomatic triumph for Howard.

As for the West Papuans, they will have to go on waging their lonely struggle for self-determination without help from the Australian Government - just as the East Timorese did since 1975, and West Papuans have done ever since 1968.

Finally, I revisit the metaphor of the wayang play. Which puppet-master really won this game, Howard or Yudhoyono? Perhaps Howard's bland acceptance of the robust Australian sovereignty case put by rebel Coalition Senators and Labor Opposition (and the defence lobby) last week was more apparent than real. Perhaps he knows the truth: that Australia depends so much on continued Indonesian goodwill and cooperation in blocking any future flow

of third-country boat people through Indonesia, that we are still in truth dancing to Indonesia's tune. Perhaps Howard knows that from now on, Indonesia will determine "who comes here and the circumstances in which they come".

If, for argument's sake, Indonesia were to expel those thousands of Middle Eastern asylum-seekers it is still warehousing as a favour to us and at our expense, if Indonesia were to facilitate them all being sent off with or without their consent towards Christmas Island in little boats, could Australia do much about it? I think not. Perhaps that is why Australia is so desperate to have this treaty signed by Indonesia, and is prepared to say almost anything that Jakarta wants us to say about West Papua.

I think you will now understand why throughout this talk, I have put the words "people smugglers" in ironical quotation marks. Welcome to the secret and sometimes brutal world of border protection, where national leaders and foreign ministers toast one another in champagne, and innocent people die.

## Conclusions

I will now briefly list some normative conclusions that in my view emerge from the above, I hope objective and fact-based, analysis. These conclusions were not part of my original paper but were prompted by the very good floor discussion with Frank Brennan and members of the Adelaide audience, following my and John Bruni's papers.

I believe Australia should not block the flow of any boat people trying to flee as refugees to any Australian territory from West Papua, i.e., our border security forces should neither send them back to West Papua or to Nauru. I believe it is our obligation as a good neighbour to the people of West Papua, and under our UN Refugee Convention international law obligations, to consider any such claims on Australian soil. I believe these obligations are non-negotiable and do not detract from our respect for Indonesian sovereignty and territorial integrity; in protecting refugees from West Papua we are not supporting any secession claims.

We need to be prepared to face without blinking any possible threats or actions in retaliation from Indonesia, including in the "people smuggling" area, but always with care and respect for the human rights of any people caught up as victims or pawns in such processes. The sinking of SIEV X is an awful warning here.

Continuing down the path of appeasement would only invite further unacceptable pressure later on, possibly from less friendly and scrupulous Indonesian governments than now. I am in philosophical agreement with my former DFAT colleague Duncan Campbell's comments in his Wollongong Uniya paper on this.

I believe Australia should continue to support the sovereignty and territorial integrity of our neighbour Indonesia. At the same time we should urge Indonesia to implement - not just pay lip service to - the autonomy package for West Papua that it committed to in 2002. The Indonesian government should work for equal human rights and a real sharing of wealth and economic opportunity in West Papua, and should not pursue a transmigration program until real gains are made in these areas.

Australian policy needs to recognise the realities in Indonesia: that, while a real pluralist democracy is developing in the central regions, and in central Java especially, TNI continues to exercise authoritarian power, and to fund its operations through local business monopolies and resources exploitation, in the outlying regions of the archipelago. It is not being anti-Indonesian or a bad neighbour for Australia to remind Jakarta of these realities, and to urge the Centre to pursue achievable reforms in these areas.

© Tony Kevin