



The Lombok Treaty: Devil in the detail

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There is a worrying little fault line in our relations with Indonesia, which may in time become a major crack. It was neatly exposed by some deft questioning from Jim Middleton in his new program a couple of weeks ago. First, Jim pressed the Indonesian Ambassador, Mr Thayeb (video [here](#); scroll down to the item marked 'Balancing bi-lateral relations'), about the recently-finalised [Lombok Treaty](#): had Canberra promised to send back any West Papuan refugees that might land in Australia in future? Yes, answered the Ambassador. 'It is already included in the Lombok Treaty and that is a treaty that binds both Governments', he said.

Later that day Middleton put the [same question](#) to Rudd, who rather pointedly evaded a specific answer by saying that Canberra would act in conformity to Australian law, international obligations and our undertakings to Indonesia. His answer begs the question: what if our undertakings to Indonesia require us to do things incompatible with Australian or international law?

Back when the treaty text was first published in 2006, some of us raised concerns that the treaty's clause 2.3 seemed to commit the Australian Government to preventing anybody in Australia from 'encouraging' separatism in Indonesia (see, for example, [my evidence](#) to Parliament's Treaties Committee).

Whatever you think of the broader issue of separatism in places like West Papua, the idea that any Australian Government could commit itself through a formal treaty to prevent people in Australia from 'encouraging' it seems distinctly far-fetched. The risk has always been that by signing the treaty we would raise unrealistic expectations in Jakarta about how Canberra will respond next time there is a problem over West Papuan separatism. Mr Thayeb's comments seem to confirm that this is precisely what has occurred – he seems to believe that we have solemnly promised to do something that may quite simply be against Australian law. He may be wrong, but anyone reading the text of the treaty would understand his mistake. Clause 2.3 is very loosely drafted indeed, and is open to very wide interpretation, and hence misunderstandings.

In diplomacy, such misunderstandings are toxic: crises in the Jakarta-Canberra relationship have often been caused by one side failing to meet unrealistically-raised expectations of the other. This is now the Government's problem. Labor did not negotiate the treaty – it was signed back in 2006 – but on 7 February, at his first meeting with his Indonesian counterpart Dr Wirajuda, Stephen Smith finalised it following ratification by both countries. It would be a good idea if Smith wrote to his counterpart forthwith making clear exactly what Australia can and cannot do to fulfil the obligations we have accepted under clause 2.3. Otherwise, he will find the treaty being ripped up by Jakarta next time we have a problem, just as the last security treaty we had with Indonesia was ripped up in 1999.

<http://www.lowyinterpreter.org/post/2016/10/07/Syria-What-we-could-do-now.aspx>