



centre for **democratic** institutions

Seminar Report:

**Seminar on the Parliamentary Oversight of Treaties
Republic of Indonesia & Australia**

Hotel Mulia Senayan • Jakarta • 15 – 16 July 2005

On 15-16 July 2005, the *Dewan Perwakilan Rakyat* (DPR), and the Centre for Democratic Institutions (CDI) at the Australian National University (ANU) convened a Seminar on the Parliamentary Oversight of Treaties at the Hotel Mulia Senayan, Jakarta, Republik Indonesia.

Designed to deepen ties between the Indonesian and Australian parliaments by facilitating mutual learning and exchange at the highest levels, the seminar brought together elected representatives and secretariat staff from both countries' foreign affairs committees to discuss the central issues of international law and its myriad implications for domestic politics.

Participants

The seminar was hosted by the DPR, with the Indonesian participants being led by Drs Theo Sambuaga, Chair of Commission 1, Indonesia's foreign affairs standing committee. The seminar was opened by his Excellency, Agung Laksono, Speaker of the DPR.

With a view to strengthening relations between the institutions involved in international relations and treaty-making, participants were drawn primarily from the ranks of the DPR's Commission I (Foreign Affairs, Defence and Information), Commission III (Law, Human rights, and Security), and Inter-Parliamentary Cooperation Committee (BKSAP), and Australia's Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT), and Joint Standing Committee on Treaties (JSCOT).

The Australian delegation was led by the Chair of the Australian Joint Standing Committee on Treaties (JSCOT), the Dr Andrew Southcott (Lib.), Member for Boothby, South Australia. >From JSCOT, the Deputy Chair of the Committee, Kim Wilkie (Labor), Member for Swan, and Committee Secretary, Ms. Gillian Gould, also attended. The Joint Standing Committee on Foreign Affairs Defence and Trade was represented by Senator Alan Eggleston (Liberal, WA), Michael Danby MP (Labor), Member for Melbourne Ports, and Maria Vamvakinou MP (Labor), Member for Calwell. Senator Eggleston is also Chair of the Indonesia-Australia Parliamentary Friendship Group.

The resource team also involved a high degree of institutional cooperation between Australia and Indonesia. In collaboration with CDI, the bulk of organising was undertaken by the DPR Secretariat under the leadership by Ibu Gusti Ayu Darsini, Deputy Secretary General, and involving Endah Retnoastuti, Inter-parliamentary Cooperation Officer, and Pak Tatang Sutharsa, Head Unit, International Organisations Cooperation, Inter-Parliamentary Cooperation Committee. Thanks must go also to the Australian Embassy in Jakarta, led by his Excellency Ambassador David Ritchie, for their support and advice during the planning and execution of the event. The Australian Embassy co-hosted a dinner for participants with CDI on Friday 15 July 2005.

The first day of the workshop was chaired by Dr Dewi Fortuna Anwar, Research Professor and Deputy Chair for Social Sciences and Humanities, Indonesian Institute of Sciences (LIPI). Prof Dr Hikmahanto Juwana, Faculty of Law, University of Indonesia provided expert analysis of Indonesian Treaty-making Practices. CDI was represented by Acting Director, Dr Michael Morgan, and its Jakarta based Legislative Specialist, Dr Stephen Sherlock. Dr Morgan chaired sessions during the second day.

Themes

Thematically, the program was based around presentations on the respective legislative processes of Indonesia and Australia. Discussion centred on the political and national implications of signing international treaties and entering international agreements and the legal force of international treaties signed primarily by the executive, with only subsequent involvement by the legislature. A full copy of the program may be found online at (http://www.cdi.anu.edu.au/indonesia/indonesia_downloads/2005%2007%20Indo%20Treaties%20seminar%20program.pdf).

Simultaneously, the seminar offered participants an opportunity to address issues of fundamental importance to democratic functioning – lawmaking and executive power. While high level exchanges between Indonesian and Australian lawmakers are increasingly commonplace, few such meetings have offered comparable depth and intensity of discussion. Over one and a half days, participants interrogated issues ranging from aspects of political culture and style

to the technical aspects of vetting treaties. Of particular interest to the Indonesia participants were issues of institutional design of parliaments and committees and how this affects their activities and performance, the power of international covenants and agreements in domestic law, the actual practices of treaty-making and recent cases of treaty-making. Overarching themes included the evolution of parliamentary systems, appropriate models of institutional design, appropriate powers for committees, their terms of reference, comparative experiences of the functioning of democratic institutions (including debate about whether international agreements are binding in a civil law country such as Indonesia, and where this deviates from Australian practice and structure), the implications of federalism on treaty-making in the Australian case and managing relations with civil society, including the media.

Several issues raised were deemed to be nationally specific. Given that treaty-making is generally considered to be the preserve of the political executive in Australia, Indonesian participants sought to understand the role that the Legislature plays in investigating whether a treaty entered into by the Executive is in Australia's national interest (the direct responsibility of the Australian Joint Standing Committee on Treaties). During the rapid evolution of the DPR since the democratic elections of 1999 and 2004, members of the Commission I have sought to investigate possible ways in which their capacity to carry out their formal role in the drafting and vetting of treaties could be strengthened. The seminar, therefore, provided them with a timely opportunity to discuss possible innovations to the Indonesian system with Australian legislators involved directly in the oversight of treaty making.

Similarly, members noted problems or bottlenecks in their respective treaty making processes. Elements of Australian institutional design suggested that the expectation of responsible government sometimes meant that committees' recommendations were ignored by the Executive. Indonesian delegates noted that problems arose under their system when members of the Executive disagreed about the advisability of signing of international agreements. None of the participants, however, disagreed about how fundamental committee work was to effective democratic functioning. Marzuki Darusman, stated:

Effective parliamentary systems such as committees which oversee the implementation and advisability of entering into international treaties are all part of having parliamentary work taken seriously ... so it does not become a mere rubber stamp to the Executive.

Future initiatives

The mutually positive reception to the workshop from Australian and Indonesian participants has set the stage for a return visit from an Indonesian parliamentary delegation. To this end, seminar participants used the last session of event to map

themes for future dialogue. Of particular interest to participants were future programs on:

- Parliaments, media ownership, media freedom and responsibility;
- Parliament and its role in national security;
- Parliament and its role in promoting regional cooperation (including Australia, Pacific Islands, Indonesia);
- Technical aspects of how committees organise their work; and,
- Possible models for the future development of Indonesia's legislature, including cross-commission, cross committee and inter-parliamentary cooperation.

Networking and exchange

Like all of CDI's activities, the seminar provided the basis for the continued strengthening of links between regional counterpart democratic institutions, and between individual legislators. As is always the case at successful seminars, an important benefit of this get-together of Indonesian and Australian parliamentarians was the informal interchange and fostering of relationships that occurred between and after the formal sessions and at the dinner hosted by the Australian Ambassador and CDI. Seminar participants got to know each and to exchange ideas and experiences as individuals involved in public life. The contacts, and often the firm friendships, that can be established on such occasions are something to be valued highly in the development of connections between the two parliaments and the two countries.