

**ACEH:  
A FRAGILE PEACE**

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## ACEH: A FRAGILE PEACE

### EXECUTIVE SUMMARY AND RECOMMENDATIONS

On 9 December 2002, an agreement on cessation of hostilities in Aceh was concluded in Geneva, bringing hope that an end to the 26-year-old conflict between Indonesian government forces and guerrillas of the pro-independence Free Aceh Movement (Gerakan Aceh Merdeka or GAM) was in sight. Since then there have been many positive developments, most strikingly, a dramatic drop in the level of violence.

The agreement, however, is not a peace settlement. It is rather a framework for negotiating a resolution of the conflict, and it remains extremely fragile. The first two months were supposed to be the confidence-building phase of the accord, but far from generating confidence, they may have actually reinforced each side's wariness of the other's long-term intentions.

On 9 February 2003, the two sides moved into a five-month implementation phase with major differences unresolved. These include how the Indonesian military will relocate as GAM places an increasing percentage of its weapons in designated locations. The leadership of GAM may have accepted the concept of autonomy as a starting point for discussions but not as a political end, and there remains little incentive for the guerrilla group to reinvent itself as a political party working within the Indonesian electoral system.

The Indonesian army is not likely to sit quietly indefinitely if the reduction of violence leads, as appears to be the case, to more organising in support of independence, whether or not that organising constitutes a formal violation of the agreement. The provincial government of Nanggroe Aceh Darussalam (NAD) also constitutes an obstacle to lasting peace because it has such low credibility and is so widely seen as corrupt. As long as it is seen to embody "autonomy", as granted to Aceh under an

August 2001 law, many Acehnese will continue to see independence as a desirable alternative.

The 9 December 2002 agreement, brokered by the Geneva-based non-governmental organisation, the Henri Dunant Centre (HDC), was the outcome of three years of tortuous negotiations and interim efforts to end the violence that worked briefly and then collapsed.

This agreement is different from all those that preceded it. It has international monitors in place. Its structure for investigation and reporting of violations is already far more transparent than those in the previous accords. It is backed at the highest levels of the Indonesian government and by a broad range of international donors. It is the best – and maybe the last – chance that the 4.4 million people of Aceh have for a negotiated peace. It may also be their best chance to get international backing for local government reform and substantial post-conflict reconstruction aid. If the agreement holds, not everyone wins, but if it fails, everyone loses.

The consequences of failure would be grim, and intensified military operations would be all but inevitable. The outpouring of enthusiasm that the agreement has generated across Aceh should be reason enough to for all parties involved to do their utmost to ensure its success.

### RECOMMENDATIONS

The most important recommendation to both sides is to see the current five-month implementation phase of the agreement through to completion while refraining from actions that violate the letter or spirit of the agreement. But in the meantime, some of the harder issues need to be tackled.

There are more recommendations below to the government than to GAM. This should not be read as an indication that the government has greater responsibility but rather as an indication of how important the issue of local governance has become. In many areas of Aceh, the populace has simply lost all faith in government. That faith will not be restored by an autonomy law, and an increase in funds going into provincial and district budgets does not necessarily translate into an improved standard of living for ordinary Acehnese.

**To the government of Indonesia:**

1. Offer GAM more realistic incentives to take part in the political process, including by supporting the necessary legal changes that would allow for local political parties in Aceh.
2. Support fully the process outlined in the 9 December 2002 agreement for investigating reported violations.
3. Improve local governance by:
  - (a) supporting efforts to strengthen the fiscal transparency of the NAD government;
  - (b) having an independent board review the allocation of contracts for publicly-financed projects in Aceh as well as the relationship between expenditure authorised and quality of work;
  - (c) ensuring that allegations of corruption by provincial and district officials are promptly investigated, and where appropriate, prosecuted, by individuals who themselves have no political or economic ties to those being investigated; and
  - (d) supporting the assessment by a credible international accounting firm of accounting practices by provincial and district governments and how these could be improved.
4. Support a carefully designed public opinion survey in sample villages across Aceh of how Acehnese believe their lives could be improved and what their priorities are for themselves and their children, and use the results to design public policies that respond to local aspirations.
5. Develop a plan to restore credibility in the justice system in Aceh, including by:
  - (a) ensuring that the establishment of new religious courts does not further weaken the legal system by creating confusion about overlapping jurisdictions;
  - (b) giving high priority to the administration of justice within the peace zones; and
  - (c) understanding why local or traditional methods of justice are seen as more effective than anything on offer from the state.
6. End illegal levies along roads by:
  - (a) having the national army and police headquarters in Jakarta make this a priority, with spot inspections using the kind of commercial vehicles that are normally the target of demands for money; and
  - (b) enforce strict discipline from headquarters on police and soldiers who extort money.
7. Encourage the local parliament in Aceh to give high priority to the draft regulation (qanun) on direct election of local officials, including district heads and mayors.
8. Channel all central government aid and humanitarian assistance not through the provincial government but through a special body committed to complete transparency and public accountability.
9. Have a senior government official from Jakarta chair a discussion among law faculty, nongovernmental organisations, the local press, military and police on freedom of expression and assembly, so that mutually acceptable definitions are worked out for how those freedoms can be exercised in Aceh, or at least that different interpretations and their consequences are understood by all parties.

**To GAM:**

10. Refrain from pro-independence rallies and other activities that suggest to the government that GAM is using the cessation of hostilities to consolidate political and military support.
11. Give serious attention to how the January 2001 discussions, at the time of the “Provisional Understanding” on the democratic process, could be translated into a concrete program for transforming GAM into a political party in a way that would not involve a referendum but also would not indelibly alter GAM’s identity.
12. End extortion of the local populace by GAM members.

13. Support fully the process outlined in the 9 December 2002 agreement for investigating reported violations.

**To International Donors:**

14. Fund immediate reinforcement of the HDC media and public relations unit to enable a much more direct, widespread, and unbiased dissemination of the contents of the agreement, in the Acehnese language and in a manner likely to draw a wide audience.
15. Produce immediate peace dividends in communities affected by conflict through high-visibility projects that help shore up the agreement.
16. Support local efforts to promote fiscal transparency by:
  - (a) helping journalists find information on the Rp.700 billion (approximately U.S.\$79 million) allocated for education by the provincial government; and
  - (b) reinforcing pressure on Jakarta and the local government to ensure independent

and credible auditing of the latter's expenditures.

17. Look for ways to absorb GAM fighters into the labour force without creating wage distortions.
18. Prepare plans to help with the direct elections of local officials, if and when the provincial regulation on direct elections is adopted.
19. Avoid, as almost all donors already are, channelling assistance through the provincial government.
20. Monitor project implementation by creating a small multi-donor office in Aceh that can also easily provide information on donor assistance to Acehnese organisations.
21. Consider reviewing project implementation on a regular basis, not just to evaluate the success of individual projects but to see how well the donor effort is strengthening the peace, and make adjustments accordingly.

**Jakarta/Brussels, 27 February 2003**



## ACEH: A FRAGILE PEACE

### I. INTRODUCTION

At first glance, the 9 December 2002 agreement on cessation of hostilities in Aceh seems to be working remarkably well. It has generated enthusiasm across the province along with hope that the 26-year-old conflict between Indonesian government forces and guerrillas of the pro-independence Free Aceh Movement (Gerakan Aceh Merdeka or GAM) is nearing an end.<sup>1</sup> The level of violence has dropped dramatically. The structures needed to implement the accord have been put in place quickly. The two-month “confidence-building” phase was completed on 9 February 2003, and as the second, and more difficult, “demilitarisation” phase went into effect, both sides reiterated their commitment to the peace process.

As of mid-February, however, the ceasefire was looking shaky. Progress on demilitarisation – meaning GAM laying down (but keeping control over) its arms, the army “relocating” away from places where confrontation is likely, and the paramilitary police assuming normal police functions – will be assessed monthly from 9 March until 9 July 2003, and every review is likely to be a potential crisis. The technicalities of whether GAM has actually deposited the requisite percentage of arms or the army has “relocated” in line with the agreement are likely to be less important than the mutual perceptions of good or bad faith and assessments of advantage in the proposed political endgame.

The first two months, far from generating confidence, may have actually reinforced each side’s wariness of the other’s long-term intentions. Major differences

remain unresolved. The leadership of GAM may have accepted autonomy as a starting point for discussions but not as a political end, and there remains little incentive for the guerrilla group to reinvent itself as a political party working within the Indonesian electoral system. The army is not likely to sit quietly indefinitely if the reduction of violence leads, as appears to be the case, to more organising in support of independence, whether or not that constitutes a formal violation of the agreement.

The provincial government of Nanggroe Aceh Darussalam (NAD) is so unpopular and so widely perceived as corrupt that it discredits the very notion of autonomy, and there is no evidence of any movement toward reform.<sup>2</sup> The absence of any positive government presence in much of Aceh has left the field wide open for GAM.

The 9 December agreement, brokered by the Geneva-based non-governmental organisation, the Henri Dunant Centre (HDC), is the best – and maybe the last – chance that the 4.4 million people of Aceh have for a negotiated resolution of the conflict.<sup>3</sup> It may also be their best chance to get international backing for local government reform and substantial post-conflict reconstruction aid. If the agreement holds, not everyone wins, but if it fails, everyone loses. It therefore should be in everyone’s interests to remove the short-term irritants and bridge the more fundamental differences that loom as longer-term obstacles to peace.

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<sup>1</sup> For background on the Aceh conflict, see ICG Asia Reports N°17 and 18, *Aceh: Why Military Force Won’t Bring Lasting Peace*, 12 June 2001, and *Aceh: Can Autonomy Stem the Conflict?*, 27 June 2001. See also ICG Indonesia Briefing, *Aceh: A Slim Chance for Peace*, 27 March 2002.

<sup>2</sup> “Nanggroe Aceh Darussalam” was the new name given to Aceh under Law N°18 of August 2001, the law granting the province special autonomy.

<sup>3</sup> The Henri Dunant Centre formally changed its name to the Centre for Humanitarian Dialogue but everyone in Aceh knows it by its original name and abbreviation.

## II. BACKGROUND TO THE 9 DECEMBER AGREEMENT

The 9 December 2002 Cessation of Hostilities Agreement (COHA) was widely hailed as the beginning of peace in Aceh but it was not really a peace agreement. It was designed to halt the violence and establish a framework within which the terms of a lasting peace could be discussed. Its architects and promoters – HDC, individual Indonesian officials, especially Soesilo Bambang Yudhoyono, and interested outside parties, particularly the United States, Japan, the EU, Thailand and the Philippines – built on the lessons learned from other agreements between GAM and the government that HDC had brokered.

HDC came to Aceh shortly after Abdurrahman Wahid became president in October 1999. East Timor, which had just separated from Indonesia after a U.N.-organised referendum, was very much on everyone's mind. Violence in Aceh had been escalating since late 1998, and fears of Indonesia's disintegration had become more pronounced.<sup>4</sup> HDC proposed a strategy to bring a peaceful end to the conflict, starting cautiously with reducing the level of violence enough to allow humanitarian aid deliveries to areas in need. The result, on 12 May 2000, was the "Joint Understanding on a Humanitarian Pause for Aceh" that went into effect in June and was to last three months. It was extended in September until January 2001.

The first agreement ever between GAM and the Indonesian government, it had the support of President Wahid, but it was highly unpopular with the military and many members of the political elite, who saw it as giving undue legitimacy to GAM and internationalising the conflict at a time when the wounds of East Timor were still raw.<sup>5</sup> Some Acehnese privately expressed concern that by

negotiating with GAM's leadership-in-exile in Sweden, the government was boosting an older generation of rebels who were out of touch with reality in both Aceh and Indonesia more broadly and who assumed that if they stalled long enough, Indonesia would collapse under its many problems.<sup>6</sup>

The first months of the humanitarian pause (*jeda kemanusiaan*) saw a decline in violence, but the agreement broke down as each side accused the other of violations. It had some obvious weaknesses from the start. A monitoring team, composed of people chosen by each side and approved by the other, was supposed to investigate violations, but even with training, its skills were low and the fear of reporting the truth high.<sup>7</sup> Reports were sent to Geneva and never made public. The army became convinced, with some justification, that GAM was using the pause to consolidate its hold on the countryside and set up alternative governmental structures. GAM became convinced that the army was using the pretext of protecting vital installations, including the giant Exxon-Mobil plant in North Aceh, to send in more troops.

By late 2000, the violence was at least as high as before the pause, with civilians, as always, bearing the brunt. In January 2001, HDC brought the two sides back to Geneva where they worked out a "provisional understanding" that for the first time addressed the political future, albeit in vague terms. They agreed that resolution of the conflict would have to include discussion of, among other things, a free and fair election for Aceh; an independent election commission acceptable to both sides; monitoring of the election process by an independent and impartial body; regulations that ensured that non-party candidates could take part and that regional parties could be formed; and criteria under

<sup>4</sup> These fears were voiced both overseas and at home. Both the Indonesian military and, after the Maluku conflict broke out in 1999, some conservative Muslim groups like Laskar Jihad, believed that there were deliberate efforts underway to cause the disintegration of the country along the lines of Yugoslavia or the Soviet Union. The military, however, also believed in its duty and ability to prevent that from happening. See, for example, "TNI AD Tak Akan Tolerir Upaya Disintegrasi Bangsa", *Kompas*, 25 November 2000.

<sup>5</sup> S.Wiryono, "The Aceh Conflict: The Long Road to Peace", unpublished paper, January 2003.

<sup>6</sup> ICG personal communication, Banda Aceh, August 2001.

<sup>7</sup> Under the 12 May 2000 agreement, three bodies were set up: the Joint Forum, to formulate and oversee basic policy; the Joint Committee on Humanitarian Action (JCHA); and the Joint Committee on Security Modalities (JCSM). Both of the latter had monitoring teams, but it was the monitors under the JCSM who were responsible for investigating violations of the agreement on "absence of offensive military action" by both sides and reporting their findings to the Joint Forum. The agreement was signed by Hassan Wirajuda, representing the government of Indonesia, and Zaini Abdullah, representing GAM.

which GAM and supporters of independence could take part fully in the political process.<sup>8</sup>

When government negotiators brought the list of discussion topics back to Jakarta, however, it met immediate opposition and was never developed further.<sup>9</sup> The two sides agreed to a one-month “moratorium on violence” but it had little impact on the ground.

Each step in the negotiations process seemed to produce breakthroughs that in fact never materialised. On 18 March 2001, for example, the parties agreed in Geneva to establish two “security zones”, covering the most violence-prone districts in Aceh: North Aceh and Bireun.<sup>10</sup> A moratorium on violence in these areas was to last initially for thirteen days, from 22 March to 3 April 2001 but it quickly became clear that it was impossible to monitor the “zones” effectively, and neither side appeared serious about halting the conflict there.<sup>11</sup> (HDC learned from the experience; the first “peace zone” established under the 9 December agreement was at sub-district, not district level, and was not one of the most highly contested areas.)

In the March 2001 talks, GAM also explicitly agreed to the reopening of Indonesian courts (most in the province had been shut down as a result of physical destruction of buildings or GAM intimidation of judges and prosecutors). It seemed like a breakthrough that a group which rejected the legitimacy of any Indonesian institution and in many ways was responsible for the courts’ destruction was apparently willing to accept that some form of legal system was better than none.

But it was also a legitimate question whether it was ceding too much authority to GAM to suggest that it should be consulted on the restoration of the courts, let alone that it give a thumbs-up or thumbs-down to the process.

As violence escalated, President Abdurrahman Wahid was under increasing pressure from the military to crack down. He resisted declaring a state of emergency, which was what the army wanted.<sup>12</sup> Instead, he issued Presidential Instruction (*Inpres*) N°4 of 11 April 2001 that was supposed to be a six-point plan for ending the conflict, including measures to address political, economic, social, legal, public order, security, and information aspects. It ended up being little more than a green light for a new round of military operations. The instruction flatly stated that there was nothing to show for the dialogue with the “armed separatists”, and it signalled the military’s frustration with, if not contempt for the peace process. This was symbolised most dramatically with the arrest on 20 July of six men involved in the negotiations on behalf of GAM. A weak civilian president had for all practical purposes lost control of Aceh policy to the armed forces.<sup>13</sup>

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<sup>8</sup> “Lampiran terhadap Kesepahaman Sementara, hal-hal yang akan menjadi pembahasan”, attachment to Provisional Understanding between the Government of the Republic of Indonesia and the leadership of the Free Aceh Movement, Switzerland, 9 January 2001.

<sup>9</sup> ICG interview, Jakarta, 25 February 2003.

<sup>10</sup> The 18 March statement was issued at the end of the negotiating session in which the “Humanitarian Pause” was officially replaced with a new phrase, “Peace Through Dialogue”. Unit Informasi Publik, “Tindak Lanjut Pengaturan Keamanan di Aceh”, 18 March 2001.

<sup>11</sup> In the evaluation of the zones, on 4 April 2001, the government accused GAM of attacking army and police posts twelve times, shooting three times, and committing one murder, robbery, and act of arson respectively. GAM did not make any specific accusations against the Indonesian side but urged that the monitoring teams be strengthened. Unit Informasi Publik, *Damai Melalui Dialogue*, “Evaluasi Pelaksanaan Penghentian Tindak Kekerasan”, 4 April 2001.

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<sup>12</sup> ICG Report, *Why Military Force Won't Bring Lasting Peace*, op. cit., p.5.

<sup>13</sup> The fact that under *Inpres* N°4 the security apparatus was under the nominal control of the national commander of the police mobile brigade (Brimob) made little difference in practice. The army remained very much in control of the counterinsurgency effort.



### III. SPECIAL AUTONOMY AND ITS SHORTCOMINGS

Dialogue continued, however, even as security operations geared up, and it was clear that the Indonesian government was determined to pursue a two-track approach. Dialogue without force seemed to produce only gains for GAM. Force by itself was unacceptable to most Acehnese, a significant part of the political elite in Jakarta, and the international community. It brought tactical gains for the military but further misery for the Acehnese people and tended to generate more political support for GAM.

Clearly a missing piece of the puzzle was whether a credible alternative to GAM's pro-independence platform could be produced. The political status quo was unacceptable to most Acehnese, even if not everyone supported independence. No impartial poll of pro-independence sentiment has ever been possible in Aceh, but "guesstimates" from Acehnese academics in informal conversations suggest overwhelming support in the eastern coastal districts that are the most populous and developed, including Aceh Besar, Pidie, Bireun, North Aceh and East Aceh. They say there is also strong support in the districts along the western coast, somewhat less in the city of Banda Aceh, much less in the central and south-eastern districts of the interior, and very little in southern districts that are ethnically not Acehnese.<sup>14</sup>

With a view toward eroding support for independence, Jakarta-based Acehnese politicians drafted what would become the law on special autonomy. It was approved by the Indonesian parliament on 19 July 2001 and signed by Megawati Sukarnoputri, in one of the first acts of her presidency, on 9 August as Law N°18 on Nanggroe

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<sup>14</sup> ICG interview, Banda Aceh, 19 December 2002. In part because of these differences and because both the central and provincial governments saw advantages to be gained from splitting up Aceh administratively, the idea emerged in mid-2001 for the districts which had a majority of residents who were ethnically non-Acehnese to campaign for their own province, to be called Leuser Antara. See "Tiga Kabupaten di Aceh Menuntut Propinsi Baru", *Kompas*, 4 August 2001. At the time, the districts in question were Central Aceh, Southeastern Aceh, and Singkil. After a further administrative division of Aceh in 2002 and the creation of five new districts, officials from two of latter, Gayo Lues and Tamiang, indicated their interest in joining a Leuser Antara province. As of February 2003, the proposal remained on hold in the Ministry of Home Affairs.

Aceh Darussalam (NAD). Even in draft it did not generate much enthusiasm among Acehnese, but in final form it was seriously deficient.

It made no mention of human rights or justice, unlike the special autonomy law for Papua. It made no provision for local political parties, seriously hampering any effort to develop incentives for GAM to participate in the political process.<sup>15</sup> It authorised implementation of Islamic law without clarifying how it would be codified or enforced, how judges, prosecutors and police for a new Islamic court would be recruited and trained, or under what circumstances civil law would continue to be applied.<sup>16</sup> It vested enormous fiscal power in the governor but created enormous confusion by not superseding two laws on decentralisation passed in 1999 that gave some of those same powers to district heads (*bupati*).<sup>17</sup> It did, however, hugely increase funds that would come into provincial coffers.

Implementing Law N°18 became the cornerstone of the Megawati administration's political approach to the Aceh conflict, but in some ways, it made things worse. It convinced many people in Jakarta, and the government certainly convinced itself, that a fair political offer had been made, and now Acehnese had the chance to govern themselves with a far greater share of locally-generated resources than ever before.

But in fact, the law effectively allowed the central government to abdicate all responsibility for the behaviour of a corrupt provincial administration that had been in power before the autonomy agreement came into effect and very much represented the old

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<sup>15</sup> At the moment, the national election law does not allow for local parties, and the issue is not specifically addressed in the autonomy law.

<sup>16</sup> Indonesian parliamentarians seemed to believe that Islamic law was what Acehnese wanted more than anything else, and that granting this would ensure their loyalty to the Indonesian republic. In fact, while there is some support for broader application of Islamic law, the way the provision in the autonomy law was presented offended many Acehnese by presuming that they were not sufficiently respectful of Islamic law already, and that the state would have to enforce their piety. Some intellectuals expressed concern to ICG that if the legal system is in tatters as it stands, adding an entirely new system is not going to help matters. ICG interviews, 25 January 2003.

<sup>17</sup> World Bank, "Promoting Peaceful Development in Aceh", Brief for the Consultative Group on Indonesia, January 2003, p. 22.

Golkar guard.<sup>18</sup> As an ordinary province, Aceh would have been subject to at least nominal oversight by the Ministry of Home Affairs. Under special autonomy, its administrative problems were not so much overseen as overlooked. No mechanism was in place to ensure that local aspirations were addressed, justice done, services delivered, or corruption halted.<sup>19</sup>

The Megawati administration seemed to confuse Law N°18 with the principle of autonomy itself and assume that rejection of the law was rejection of the principle. (This misreading may well affect a key element of the 9 December agreement, the upcoming All-Inclusive Aceh Dialogue, of which more below.) More importantly, it seemed to misjudge the support for independence: it is not a given that this support will evaporate, even if a better autonomy package is forthcoming and a more credible government is in place. It is only a given that without those two, there will be little reason for independence supporters to give autonomy a chance.

#### IV. NEGOTIATIONS UNDER THE MEGAWATI GOVERNMENT

The Megawati government took office on 23 July 2001, with maintenance of national unity its highest priority. It did not appear interested at all in continuing negotiations. Senior officials suggested that if dialogue was to continue, it should be between the provincial government, with its soon-to-be-official autonomous status, and GAM, a suggestion immediately rejected by the latter.

But two new elements had come into the equation. As it became more and more obvious that Abdurrahman Wahid's presidency was doomed, senior U.S. officials concerned about Aceh began talking with Megawati and her advisers about involving a team of international "wise men" with the stature and influence to produce real compromises that might lead to a more lasting outcome. The goal was to find people acceptable to both sides, skilled in negotiation, and senior enough to add weight to HDC, which was, after all, an NGO. The original idea was that there would be five wise men. In the end, there were three, former Thai Foreign Minister Surin Pitsuwan;<sup>20</sup> retired Gen. Anthony Zinni from the U.S.; and Budimir Loncar, the former Yugoslav foreign minister and ambassador to Jakarta, who was once a close friend of Megawati's father, former President Sukarno. Britain's Lord Avebury also participated in several key discussions.

As soon as Megawati took office, discussions on the wise men idea went into high gear, in the context of increasing violence in Aceh and a military that was vehemently opposed to any international involvement. To the surprise of many observers, the government accepted the idea, as long as the wise men were at the talks not as representatives of outside states but advisers to HDC. Soesilo Bambang Yudhoyono, Megawati's Coordinating Minister for Politics and Security, played a key role in bringing the government around.

Throughout late 2001 and early 2002, major military operations continued in Aceh, even as the government pursued new approaches to dialogue; indeed, it was unlikely that the military could have been brought to agreeing to the wise men if it had

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<sup>18</sup> Golkar was the ruling party under Soeharto. Abdullah Puteh, once head of the Golkar youth group KNPI, was elected governor in November 2000 by the provincial parliament in Aceh on a slate with Azwar Abubakar of the National Mandate Party (PAN).

<sup>19</sup> Allegations of corruption on the part of the NAD governor, Abdullah Puteh, which he strenuously denies, are detailed in "Menanti Kejujuran Puteh", *Forum Keadilan* N°39, 2 February 2003; "Uang NAD Diaudit, Siapa Takut?" *Kontras* N°226, 22-28 January 2003, p.8. The governor has said he is willing to have his own finances audited.

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<sup>20</sup> Surin Pitsuwan is a member of the Board of Trustees of the International Crisis Group.

not been simultaneously allowed to continue to try to defeat GAM.<sup>21</sup>

The second new element was the recognition of the need to involve civil society, not just GAM and the government, in any discussion of Aceh's future. Indeed, some who took part in the original discussions with HDC believed civil society representatives should have been involved from the beginning, and that to leave them out gave the impression that GAM was more representative of Acehnese aspirations than was the case. One person told ICG that the structures set up by HDC in the first phases of the negotiations had inadvertently deepened the polarisation within Acehnese civil society by allowing each side to nominate individuals for monitoring and security teams, thereby indelibly branding them as either pro-GAM or pro-government. Others argued that only the parties directly involved in the violence, GAM and the government, could end it.

One person close to the negotiations told ICG that beginning in early 2001, HDC in fact had actively courted civil society representatives to take part in consultations. Many were afraid to become involved, however, until the peace process was more fully endorsed by both sides and their security could be fully guaranteed.<sup>22</sup>

Civil society groups tried to take matters into their own hands and increase their impact on negotiations. In mid-2001, a group of Acehnese representing all political viewpoints, from representatives of the GAM leadership in Sweden to the deputy governor of Aceh but consisting mainly of non-governmental leaders and academics, gathered in Washington to discuss how they could contribute to ending the conflict. They formed a Civil Society Task Force, led by respected Muslim cleric Imam Syuja, with the idea of figuring out a mechanism to make the negotiations more inclusive, but the task force never really became effective.

The reasons were many. The NGO world in Banda Aceh was riven by suspicion and recrimination, the result of political differences, competition for donor

resources, personality disputes, co-option by officials, and the difficulty of operating in a climate where fear of infiltration by intelligence operatives and intimidation by both sides was high. Outside Banda Aceh, any fieldwork automatically put NGOs on a collision course with security forces, and sometimes with GAM as well. Under the circumstances, it was difficult to see how one could fairly determine who represented "ordinary" Acehnese.

HDC itself, however, recognised the need for an "all-inclusive" dialogue, which became a key agenda item for the next round of talks in February 2002.<sup>23</sup>

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<sup>21</sup> The contradictions of the two-pronged approach were on display during a single week, when on 19 January 2002, Governor Abdullah Puteh personally invited GAM commander Abdullah Syafi'ie to engage in dialogue; three days later Syafi'ie was killed by Indonesian troops.

<sup>22</sup> ICG interview, Jakarta, 21 February 2003.

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<sup>23</sup> The formulation itself was telling. In 1995, the Indonesian Foreign Ministry agreed to jointly sponsor with the United Nations an "All-Inclusive Intra-East Timorese Dialogue" involving both pro-independence and pro-autonomy leaders of East Timor. Any topic could be put on the table – except a change in East Timor's future political status. The adoption of the same formulation for Aceh suggested any Acehnese discussion would be similarly restricted.

## V. THE NEXT PHASE: FEBRUARY TO DECEMBER 2002

The wise men injected a powerful new force into the negotiations. The government appointed a new negotiator, Ambassador S. Wiryono, a retired diplomat. One characteristic from this point forward was that acceptance of autonomy became the centrepiece, and most of the creative concessions came from the government side. But they were tactical, and the government was operating from a position of relative strength. The fact remained that GAM had little to gain from a peace without the independence option on which its popular support rested.

Three sets of discussions took place in Geneva, in February, May, and December 2002. At the first the two sides announced that using Law N°18 on autonomy as a starting point, they would work toward a cessation of hostilities, an all-inclusive dialogue, and “free and fair elections” in Aceh in 2004.<sup>24</sup> The idea of GAM’s becoming a regional party came up for discussion but was not pursued. But GAM was a long way from giving up on independence. Its representatives made clear that in agreeing to autonomy as a starting point, a point it reached in part through the efforts of the wise men, it neither “accepted nor rejected” the principle. The gap between the sides remained enormous.

At the end of the second set of meetings, on 10 May, government spokesmen announced with great fanfare that GAM had accepted autonomy and was dropping its claim for independence. Nothing of the sort had occurred: everything hinged on wording and interpretation. GAM was looking for a formulation in which present acceptance of autonomy would leave open the possibility of future independence. The Indonesian side wanted a commitment to autonomy, not as the starting point but as the end point. Everything came down to Law N°18. The Indonesian government proposed that the all-inclusive dialogue be designed, among other things, to “refine” the law, meaning tinker with but not substantially change. GAM insisted on “review” (*meninjau kembali*), meaning the whole law could be subjected to revision, or if necessary, rejection. Its negotiators continued to state privately that the only fair way to review the law was to put it to a referendum, a non-

starter from the government’s perspective. They also complained about being pressured by the wise men and HDC to reach agreement, but this was precisely why the wise men group had been set up in the first place, and its pressure was not just directed to GAM.

In truth there was no real meeting of the minds. In response to government claims of a breakthrough, GAM in Aceh denied that it had ever accepted autonomy, whatever its leaders in Sweden had said.<sup>25</sup> GAM negotiators in Geneva, in fact, had never signed away their commitment to independence; they were only prepared to talk about examining the autonomy law and moving forward from there. The government claimed bad faith, counterinsurgency operations intensified, and the army began to threaten again that a state of emergency would be imposed.

Things looked bleaker for peace than at any time since the negotiations began. Only intensive behind-the-scenes work by HDC, enormous time and effort by Soesilo Bambang Yudhoyono, armed forces commander General Endriartono Sutarto, and national police commander General Dai Bachtiar in particular, and the work of the wise men forestalled a state of emergency. Many in the security services were unhappy at being held back from an all-out military solution. Nevertheless, violence escalated. The government announced on 19 August 2002 that GAM had until the end of the Muslim fasting month, 7 December, to accept autonomy or face intensified operations. GAM rejected a deadline but was eventually brought back to the negotiating table. It had little choice: the military operations were damaging its supply lines and its room to manoeuvre, and if it stopped talking, it would lose its only source of international legitimacy.

But even as the army seemed to be growing more bellicose, HDC, the wise men, and a handful of officials, including Yudhoyono, Foreign Minister Hassan Wirajuda, and Wiryono, persuaded the hawks in the government to accept some far-reaching concessions, among them the idea of international monitors. Just before the last, critical round of talks opened in Geneva, a sweetener was placed on the table. On 3 December, a group of donors met in Tokyo for the Preparatory Conference on Peace and Reconstruction in Aceh, anticipating a positive outcome of the new round. The conference, co-chaired by Japan, the U.S., the European Union,

<sup>24</sup> ICG Briefing, *A Slim Chance for Peace*, op. cit., p.10.

<sup>25</sup> “GAM Bantah Terima Otonomi Khusus Aceh”, *Koran Tempo*, 15 May 2002.

and the World Bank, set priorities for post-conflict reconstruction that included support for the peace process, short-term humanitarian aid, community reconstruction, governance and public planning, and restoration of the social and physical infrastructure.<sup>26</sup>

Even with the Tokyo conference, the gap between the sides was wide enough that it was not certain until the last moment that the negotiations would go ahead, let alone produce an agreement.

## **VI. THE CESSATION OF HOSTILITIES AGREEMENT (COHA)**

The talks in Geneva were not easy. COHA was by far the most complex and detailed of any of the attempts to end the violence in Aceh. As noted above, it was a framework for discussion of peace, not a peace settlement, but the entire agreement rested on the proposition that if the framework could be established and workable structures set in motion, the momentum might carry both parties over the humps. It was a gamble by all involved, but the price of a possible collapse was high: a military offensive from which there would be no going back and no prospect of further negotiations. Because it cost so much in political capital to get this far, the COHA significantly increased the stakes of failure.

The agreement says that acceptance of the NAD law – not the principle of autonomy – will be the starting point for a “democratic all-inclusive dialogue involving all elements of Acehnese society that will be facilitated by HDC in Aceh” and “seek to review elements of the NAD law through the expression of the Acehnese people in a free and safe manner”.<sup>27</sup> To enable the process to work, the parties agreed to a cessation of hostilities “with an adequate mechanism for accountability.”

The agreement was to start with a two-month confidence-building phase from 9 December 2002 to 9 February 2003. During that time, both sides would thoroughly inform their respective forces about the terms. They also agreed that they would not use those months to increase their military strength, either personnel or equipment.<sup>28</sup> While there was no explicit ban on pro-independence rallies, the agreement does state that in light of the “delicate nature” of the confidence-building process, both parties request that “no party undertake any action which is inconsistent with this Agreement and may jeopardise the future security and welfare of the people of Aceh”.<sup>29</sup>

A Joint Security Committee (JSC), originally set up under the humanitarian pause agreement of May 2000, was reactivated with a mandate to monitor the security situation and investigate violations. A team

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<sup>26</sup> World Bank, “Promoting Peaceful Development in Aceh”, Brief for the Consultative Group on Indonesia, January 2003, p.1.

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<sup>27</sup> COHA, Preamble, reiterating the wording of the 10 May 2002 agreement.

<sup>28</sup> COHA, Article 2(d).

<sup>29</sup> *Ibid.*, Preamble.

of 150 monitors, consisting of 50 each from GAM, the military, and an international contingent consisting largely of Thai and Filipino soldiers, was to assist the JSC. A JSC team would be set up in each conflict-affected district to investigate reports, identify which side was responsible, and agree on sanctions. The results of the investigations would be made public, and the JSC would publish weekly reports.

It was also the JSC's task to designate "peace zones" in which the two forces would take up defensive positions, avoid confrontation, and set the stage for reconstruction and humanitarian assistance.<sup>30</sup>

Perhaps the most critical part of the agreement was in Article 3(b), on the role of the JSC:

After peace zones have been identified, the GAM will designate placement sites for its weapons. Two months after the signing of the COHA and as confidence grows, GAM will begin the phased placement of its weapons, arms, and ordnance in the designated sites. The JSC will also decide on a simultaneous phased relocation of TNI [Indonesian military] forces which will reformulate their mandate from a strike force to a defensive force [...] The phased placement of GAM weapons will be completed within a period of five months.

There was no agreement about what either "placement" or "relocation" actually meant. HDC, sensing trouble, outlined its understanding of Article 3(b):

It is our interpretation that under the agreed upon system, GAM will not be able to move the weapons that have been placed in the designated sites without the consent of HDC. GAM has to comply with the request of HDC to conduct no-notice inspections at any time.<sup>31</sup>

But to the Indonesian military, "placement" of weapons was tantamount to disarmament. GAM, on the other hand, had no intention of giving up its guns. It simply agreed to keep them in its own barracks and not use them.

In the interest of reaching an agreement, the government moved a long way on this point. Initially, HDC had proposed a cantonment of GAM

weapons with a "three-lock" system. GAM weapons would be placed in some kind of locked storage facility where the keys would be held jointly by GAM, the military, and HDC. GAM succeeded in bargaining down first to a two-key system, in which the military would have no role, and then to its current position where the weapons would never leave its control, but HDC would be able to undertake spot checks to make sure they were where GAM said they were. It was one of a number of concessions that would have been unthinkable from the army a year earlier, but it was also unimaginable a year earlier that GAM would ever contemplate laying down its arms.

GAM understood the term relocation as meaning that the army would pull its territorial troops back to their headquarters at the sub-district, district, regional, and provincial levels, and that combat troops would return to their respective battalion or company barracks. It would, therefore, mean dismantling all other military posts, including those set up as temporary sites in schools or other non-military buildings.<sup>32</sup> Government negotiators saw "relocation" as implying no reduction in the number of posts or troops, only moving posts in peace zones further away if they were too close to GAM posts. (In an interview with ICG in December 2002, the provincial military commander, Major General Djali Yusuf, implied that "relocation" was simply a question of changing posture from offensive to defensive.) This difference could remain a sticking point.

Another major point of dispute lay in the reference in the agreement's preamble to the Indonesian police retaining responsibility for law and order:

In this context, the mandate and mission of Brimob will be reformulated to strictly conform to regular police activities and as such will no longer initiate offensive actions against members of GAM not in contravention of the Agreement.

Few with any experience in Aceh, and certainly no GAM members, believed that Brimob, widely seen as the most abusive force in Aceh, could be easily transformed into a friendly community law enforcement entity. GAM's objections went deeper, however. They did not want to accept any formulation that gave the Brimob a right to patrol in

<sup>30</sup> Ibid., Article 3(b) and Article 4.

<sup>31</sup> "Explanatory Note for Article 3b", *Framework Agreement between GOI and the Free Aceh Movement*, <http://www.acehetimes.com/pu/news/120902.htm>

<sup>32</sup> "Peletakan Senjata GAM dan Relokasi TNI di Aceh, Akankah Terjadi?" *Kompas*, 8 February 2003.

peace zones, that ruled out a role for GAM's own police force, or that made the Indonesian police responsible for guarding the places in which GAM weapons would be deposited. GAM's concerns on the police issue nearly derailed the agreement, but after the government agreed not to press the issue of who would guard the weapons, GAM reluctantly accepted the final formulation.

Major differences remained in relation to the All-Inclusive Dialogue (referred to in Aceh as AID). In Article 6, the agreement says that the parties support such a process, and agree to ensure the necessary security and freedom of movement. No details were spelled out at the December meeting, in terms of when it would happen, who would take part, how they would be selected, or how the agenda would be determined. The differences apparent in the May discussions remained: GAM believed the entire autonomy process should be open to reconsideration and a referendum; the government maintained that the law should be reviewed with an idea to amending or elaborating on specific provisions but not adding new items for inclusion or rejection and not allowing autonomy itself to be put to a vote.

Another difference was over the 2004 elections. The agreement states, "GOI and GAM agree to a process which leads to an election in 2004 and the subsequent establishment of a democratically elected government in Aceh, Indonesia, in accordance with review of the NAD law." Government officials maintained that elections would be held in Aceh under national laws and if GAM members wanted to participate, they would have to do so as members of recognised parties. The chances of this happening are nil. GAM prefers to interpret "election" as "referendum", also politically impossible.

Under the circumstances, the fact that there was an agreement at all was a minor miracle and spoke to the courage of the negotiators as well as the enormous effort and dedication of the facilitators. The government side appeared to be the more creative, tactically astute, and flexible, but it is important to recognise that the points on which it made concessions did not involve the most critical matter: the unity of the Indonesian republic. GAM was in a much more difficult position because to both leaders and followers, its *raison d'être* was at stake if it gave up its weapons or lowered its sights from independence. The Indonesian side had to overcome the suspicions and concerns of conservative nationalists and the military, but compromise was not the life and death issue it was for GAM.

## VII. IMPLEMENTATION OF THE AGREEMENT

The response of ordinary Acehnese to the agreement was spontaneous and joyful. Overnight, people started behaving as if peace had indeed come. They stayed out later, travelled further afield, reunited with friends and family. GAM fighters came down from the hills and in some areas took part in traditional feasts with the local military. The level of violence dropped dramatically.

The Joint Security Committee was established on 20 December 2002, under the tripartite chairmanship of a senior Thai army officer, Major General Tanongsuk Tuvinnun; Brigadier General Safzen Noerdin of the Indonesian military; and Sofyan Ibrahim Tiba of GAM. Thai and Filipino soldiers began arriving to take up positions in district towns together with their GAM and TNI counterparts. By late January 2003, more than half the monitors were already in place.

The first peace zone in Indrapuri, Aceh Besar district, was established with great fanfare on 25 January, with the local GAM and military commanders both present in full uniform and thousands of people turning out for the ceremony. A month later, not a single violation had been reported in the zone. Six more zones were announced on 9 February as the first phase of the agreement's implementation drew to a close. These were in Kawai XVI sub-district, West Aceh; Peusangan sub-district, Bireuen; Sawang sub-district, South Aceh; Tiro sub-district, Pidie; Simpang Keramat sub-district, North Aceh; and Idi Tunong sub-district, East Aceh. All were areas hard hit by conflict. Both sides agreed not to carry weapons inside the zones and not to move new forces into them. The zones would be monitored by tripartite teams and receive immediate humanitarian assistance.<sup>33</sup>

Between 16 December 2002 and 15 January, four separate donor teams visited Aceh to assess needs and recommend short and medium-term assistance to strengthen the peace process and provide visible peace dividends for the population.

In what for Aceh was an extraordinary development, the JSC, which had been flooded with reports of violations, most of them spurious, since its first day

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<sup>33</sup> "JSC Names Six Peace Zones", JSC News Release, Banda Aceh, 9 February 2003.

of operation, announced on 24 January that it was sanctioning both GAM and the government after investigations into three incidents.<sup>34</sup> In fact, it was assigning responsibility, not handing out penalties, but it was the first time in the conflict's history that both sides, with the help of a third party, had worked out a mechanism for determining blame. Four more determinations were announced on 15 February – three violations by government forces and one by GAM.

It became clear that sanctions for violations would have to be left up to the parties responsible, and were therefore virtually unenforceable. In one example, the JSC announced that GAM was responsible for a “very serious violation”, a 14 January 2003 attack against eight soldiers travelling on motorcycles in Lokop, East Aceh, in which one soldier was killed. GAM claimed that the soldiers were in violation because they were clearly hunting down GAM forces. As the soldiers approached a GAM post, the GAM fighters fired into the air, and when the platoon failed to stop, they shot at it. The military argued strongly that under the agreement, there should have been no armed contact.<sup>35</sup> The GAM area commander refused to punish his men, even after the JSC determination, because, he said, GAM was not at fault.<sup>36</sup>

But the inability to enforce sanctions was minor, all things considered. How “placement” of arms, “relocation” of the army, and “reformulation” of Brimob's role were to be implemented was much more critical to survival of the agreement, and the weeks before the 9 February deadline were tense.

In early February 2003, Indonesian armed forces commander General Endriartono Sutarto warned that the government would pull out of the agreement if the “placement” of arms did not take place as promised.<sup>37</sup> He told members of the Indonesian parliament that while the military would proceed on its commitment to shift from an offensive to a defensive posture after 9 February, it would intensify intelligence operations to ensure that GAM was not exploiting the agreement to strengthen its forces, and

he said that the military had a contingency plan to send more troops to the province if the peace agreement failed.<sup>38</sup> Major General Djali Yusuf weighed in as well, warning that any failure by GAM to demilitarise might result in a state of emergency in Aceh.<sup>39</sup>

Aware of the tension, Coordinating Minister Soesilo Bambang Yudhoyono announced on 5 February that a meeting of the Joint Council – involving top leaders of GAM, the government, and HDC – would take place soon to evaluate the progress of the first two months, and he warned against drawing conclusions from baseless rumours. He acknowledged the “provocative” behaviour of GAM but said the government had no intention of issuing deadlines or ultimatums.<sup>40</sup>

Just before the 9 February deadline, GAM agreed to 32 sites for weapons placement and that it would store 20 per cent of its arms in these locations by 9 March, with another 20 per cent each succeeding month until 9 July 2003 – *if* it was satisfied that the army was living up to its side of the agreement. The army understands this to be permanent disarmament. Sofyan Ibrahim Tiba, GAM's senior spokesman, however, has made clear that it will refrain from using the weapons only as long as “demilitarisation” on the other side takes place as well, and indicated that while GAM was committed to the placement for the five months, he was not prepared to say what would happen thereafter.<sup>41</sup> HDC, in the meantime, agreed to put together a four-person verification team to carry out the spot inspections of the designated sites.<sup>42</sup>

GAM understands demilitarisation by the government to include both relocation of military forces and reformulation of Brimob's role, and its spokesmen have made clear that they have seen no perceptible change in the latter.<sup>43</sup> The national police

<sup>34</sup> “JSC Sanctions GAM, RI, Peace Milestone: Both Parties Accept Responsibility for Violence”, JSC News Release, 24 January 2003.

<sup>35</sup> “Aneka Versi Insiden Lokop”, *Kontras* N°226, 22-28 January 2003.

<sup>36</sup> “Keberatan Kami tak Bisa Diungkapkan”, *Kontras* N°227, 29 January-4 February 2003, p.10.

<sup>37</sup> “Tarto: Kalau GAM Tak Mau Taati Janji Damai, Bagaimana Dong?” *detik.com*, 4 February 2003.

<sup>38</sup> “TNI Reposisi Operasi Militer,” *detik.com*, 4 February 2003; “TNI Siapkan Rencana Cadangan untuk Aceh”, *Kompas*, 4 February 2003.

<sup>39</sup> “Jika GAM Tak Gudangkan Senjata, TNI akan Kerahkan Kekuatan,” *Serambi Indonesia*, 31 January 2003.

<sup>40</sup> “Joint Council akan Evaluasi Aceh”, *Kompas*, 6 February 2003.

<sup>41</sup> “Soal Penempatan Senjata, GAM Ajukan Syarat”, *detik.com*, 14 February 2003.

<sup>42</sup> “JSC Akan Keluarkan Solusi Atas Pemerasan”, *Serambi*, 14 February 2003.

<sup>43</sup> “Soal Pemempatan Senjata, GAM Ajukan Syarat”, *detik.com*, 14 February 2003.



chief, General Da'i Bachtiar, acknowledged the difficulty. He said the majority of the 3,000 Brimob personnel in Aceh had undergone training but it was not easy to transform them from a specialised counterinsurgency force to the kind of police who inspect identity cards and carry out criminal investigations.<sup>44</sup> Given the Brimob record in Aceh, this "reformulation" may be one of the hardest parts of the agreement to pull off.

In the short run, danger to the agreement may come more from grey areas not specifically addressed than from violations of the letter. The army is convinced, and there is some evidence to support this, that GAM is using the lull to consolidate its forces and rally support for independence, although it has denied doing so. The army was particularly incensed by a reorganisation in Pidie, a GAM stronghold, on 25 January. GAM claimed it was nothing unusual and would enable it to enforce discipline better and implement its commitment on placement of weapons.<sup>45</sup>

Army rumblings grew louder through January. Kiki Syahnakri, a former deputy chief of staff, wrote an article claiming documents had been found that revealed a secret GAM meeting between 3 and 5 January 2003 in Nisam, North Aceh in which it decided it would only lay down arms under UN supervision and that it would work to set up civilian government structures across Aceh to replace those of the Indonesian government. Then he expressed the view of many within the military when he wrote:

East Timor was able to gain independence through clandestine methods even under strong pressure from Indonesia, so how could GAM be given the golden opportunity to carry out its actions open and freely right in front of us?<sup>46</sup>

Non-governmental sources, local parliamentarians, and pro-independence activists told ICG in late January 2003 that GAM was holding rallies across Aceh, asserting that the peace agreement was the first step toward independence and getting strongly enthusiastic responses. In two sub-districts of South Aceh, one fieldworker said, GAM had used the

ceasefire to openly re-establish administrative control over villages that military operations had forced them to leave in 2001.<sup>47</sup> At the same time, student activist organisations, moribund for a year, have used the ceasefire to actively mobilise support for either independence or a referendum. Mohamad Nazar, the head of the pro-referendum organisation SIRA, was arrested on 12 February, apparently in connection with his involvement in a rally in Lhokseumawe, North Aceh, on 9 January.

The military will clearly not sit quietly while pro-independence mobilisation occurs, nor will it allow GAM to reassert administrative control without challenge in areas it "cleared" over the last two years. Some balance is going to have to be found that will keep open the limited space now available for exercising basic civil rights but also give enough room to negotiators to continue to expand the peace zones. The military needs to acknowledge both the strength of support for independence and the need to protect fundamental rights, but both GAM and some activists need to understand the importance of restraint at such a critical point in the peace process. The political endgame will be hard enough, but unless all parties are careful, the agreement could collapse long before then.

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<sup>44</sup> "Kapolri: Tahap Reformulasi Brimob di Aceh Sudah Dilakukan", detik.com, 13 February 2003.

<sup>45</sup> "Mengapa GAM Ubah Struktur Lapangan?", *Kontras* N°227, 29 January-4 February 2003, p.5.

<sup>46</sup> Kiki Syahnakri, "After Aceh peace deal: learning from past mistakes", *Jakarta Post*, 31 January 2003.

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<sup>47</sup> ICG interview, 25 January 2003.

## VIII. AUTONOMY AND POLITICAL PARTICIPATION

If peace is to be secured, some issues that the 9 December agreement only papered over will have to be addressed.

The most important is what incentive can be given to GAM to participate in the political process in a fair and democratic manner. The non-starters, at either end of the political spectrum, are a referendum on autonomy and application of national laws on political parties to Aceh. In between, there are several alternatives. One is to go back to the January 2001 suggestion that GAM be allowed to register as a provincial political party.

The principle of local Aceh parties needs to be accepted first, while the question of whether a GAM party could campaign on a pro-independence platform is finessed. A formula will have to be found that would allow an independence platform within the context of acceptance of autonomy for an extended period. The Quebec and Scottish examples might possibly serve as models.

A government official told ICG, however, that a change in the national election law that would allow local parties in Aceh was, “frankly speaking, impossible”. He also noted that the Indonesian parliament would have to enact any changes to the autonomy law and suggested that this would be a brake on any far-reaching changes.<sup>48</sup>

At the same time, there needs to be intensive advocacy undertaken to ensure that a draft regulation (*qanun*) on direct election of local officials, including district heads and mayors, does not languish in the provincial parliament. (Direct elections of the government are provided for in Law N°18 but only five years from the date that the law was passed, meaning after expiration of Abdullah Puteh’s current term as governor.)

Local officials, including the governor, agreed to it in principle but one sponsor told ICG in January that he did not expect to see it come to the floor until May 2003 at the earliest.<sup>49</sup> Abdullah Puteh, who was widely perceived as being opposed to direct elections, agreed to support the bill but has since indicated that

many other issues have higher priority.<sup>50</sup> Direct elections of district heads, however, could provide another vehicle for GAM to field candidates, as well as ensure more accountable local government. Some donor funds earmarked for Aceh could usefully be put into the development of mechanisms that would ensure speedy implementation of local elections if and when the regulation is passed.

A second issue is the role of the police. In Papua, General I Made Pastika initiated a program for local recruitment of police cadres, and this should be a high priority in Aceh as well. A recruitment program should allow for eventual inclusion of former GAM members who have no criminal record. Perhaps the reformulation of Brimob’s role will work, but given its record and the urgent need to restore credibility of the local government, phased withdrawal leading to the eventual removal of all Brimob from Aceh would be a desirable long-term goal.

HDC was deeply involved in crafting options for the All-Inclusive Dialogue as this report went to press, and ICG would only like to underscore the importance of opening up the discussion on autonomy beyond a flawed law and ensuring that the agenda is kept flexible.

Finally, no peace in Aceh will endure without addressing justice and human rights issues that are one root cause of Acehnese resentment against the central government. COHA makes no mention of human rights, and those present at the negotiations say it was GAM that removed the clause in question from a draft after disagreement with the government side over compensation to victims. Any sustained push for accountability for past abuses while the situation is so fragile would probably undermine the peace without advancing human rights but unless the past is addressed at some point, it will come back to haunt Aceh.

<sup>48</sup> ICG interview, Jakarta, 25 February 2003.

<sup>49</sup> ICG interview, Banda Aceh, 26 January 2003.

<sup>50</sup> Qanun Pilsung Sangat Wajar, tapi...”, *Kontras* N°226, 22-28 January 2003, p.13.

## IX. AN URGENT ROLE FOR DONORS

The many donors committed to supporting peace and post-conflict reconstruction in Aceh have made a number of excellent recommendations in a briefing to the Consultative Group on Indonesia, the donor consortium. The focus was on short and medium-term projects; the need now is to identify emergency projects that can shore up the agreement.

As noted above, intensified efforts to disseminate the contents of the agreement and to explain in easily accessible terms what it means and what it does not mean are crucial. The donor briefing recommended funding for mass media campaigns and radio talk shows, but GAM gets its audience through rallies and sermons at local mosques. It uses the Acehnese language, not Indonesian, and HDC will have to do the same. It needs not just a media director but also a dissemination strategist knowledgeable about local traditions and a staff.

The donor briefing recommended examining projects that might help reintegrate ex-combatants into society. This, too, is urgent and could be addressed through the aid going into the designated peace zones. Some GAM fighters could be persuaded to take up peacetime jobs if there were jobs for them to go to, and GAM more generally is reportedly having difficulty paying its troops. One prominent local leader in Banda Aceh has suggested identifying coffee and palm oil plantations, abandoned during the conflict, which might be restarted as a way of providing employment for hundreds of Acehnese. There may be other possibilities but there is no time for a prolonged assessment. If *any* employment schemes for which GAM ex-combatants would be eligible can be devised and implemented quickly, without distorting wages or labour market structures, their perception of the advantages of peace might be influenced.

In the governance and public planning sectors, donors identified short and medium-term projects but there was no suggestion for emergency projects. Showing that the provincial government can and will be open to scrutiny is urgent. Local journalists are trying to find out who has received contracts under the Rp.700 billion (approximately U.S.\$79 million) allocated for education, how much they were for, what projects were involved and where, and how the projects were implemented. Donor pressure to help extract the information and assistance to the

journalists in analysing it would be useful. As an emergency project, it will not help the credibility of local government; the effect will be just the opposite. But it will be a highly public example of how peace can produce pressure for fiscal transparency.

The JSC announced in an early press release that it would investigate reports of illegal levies (*pungli*) along major roads, most imposed by Brimob and local soldiers. In fact, however, it has no capacity to stop the practice. As much as anything else, road extortion is a hated reminder of the security forces' presence. (GAM collects as well, but not as much as the police.) If an emergency project could be devised to clear even one large section of the Medan-Banda Aceh road and keep it free of such levies, it would be another immediate peace dividend.

The courts need urgent attention, and it would be a useful pilot project to get one currently non-active district court functioning again, with assistance on everything from ensuring qualified personnel are available, through prioritising cases, to getting basic equipment in place. The imminent establishment of Aceh's first religious court and the uncertainty of exactly what jurisdiction the old district courts will have are going to make any focus on administration of justice more difficult, however. A parliamentarian told ICG that he thought the religious court would have jurisdiction over all Muslims for all cases, including criminal ones, and that the existing district courts would only deal with cases involving non-Muslims. Then he reflected for a moment and said that maybe it would be better if people were allowed to choose which court they wanted to be tried in.<sup>51</sup> It is clear that much remains to be worked out, and even the best-informed Acehnese are confused as to how the dual legal system will work.

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<sup>51</sup> ICG interview, 8 February 2003.

## X. THE CONSEQUENCES OF FAILURE

The donors can play a very useful role, but this agreement will stand or fall on the behaviour of the parties and the degree to which the government can convince people in Aceh that autonomy merits a try. It is worth reminding ourselves what the failure of COHA might mean.

- ❑ Renewed violence would end the possibility of major donor involvement in reconstruction and rehabilitation, and that involvement looks now like the only hope for forcing some measure of transparency and accountability on the local government.
- ❑ If GAM is seen as the spoiler, accurately or not, international pressure on the government to hold back on an offensive might lessen; such pressure would in any case carry little weight with a government in Jakarta that has made national unity its only real platform. GAM would lose what international legitimacy it has, at least with the states that have supported negotiations over the last three years, and there might be little interest in pressing for reopening negotiations with the same players.
- ❑ The military needs to understand that GAM could still benefit politically from a military offensive. There is no question that the Indonesian army has the capacity to inflict far more damage on GAM than it has to date; in the past, it has served local military economic interests to keep the conflict going at a relatively low level without delivering a crushing blow. But any effort to deliver the *coup de grace* to GAM, which would have questionable chances of success under the best of circumstances, would likely produce heavy civilian casualties. The army, not GAM, would be blamed by a war-weary populace that has seen no justice or accountability for the abuses inflicted during earlier counterinsurgency operations, and if anything, support for independence might deepen.

## XI. CONCLUSION

The most important recommendation to both sides is to see the current five-month implementation phase of the agreement through to completion while refraining from actions that violate the spirit, if not the letter, of the agreement. But some of the harder issues also need to be tackled. In many areas, the populace has lost all faith in government. This will not be restored by the mere passage of an autonomy law in Jakarta, and an increase in funds going into provincial and district budgets does not necessarily translate into an improved standard of living for ordinary Acehnese.

The government of Indonesia needs to give urgent attention to offering GAM more realistic incentives than are currently on the table to take part in the political process. These will have to include the concept of local political parties, even if the government now rejects it, along the lines laid out in the January 2001 discussions between GAM and the government.

There need to be substantial improvements in local governance. As long as the credibility of the NAD government is so low, it will be hard to convince Acehnese of the benefits of autonomy – a long-term proposition under the best of circumstances. Particular attention needs to be paid to increasing the fiscal transparency of the provincial and district governments and investigating how contracts for publicly-financed projects are awarded and implemented. Poor governance may in the long run be as much an obstacle to the peace process as the differences between GAM and the government on the political endgame.

Jakarta needs to avoid confusing rejection of Law N°18 on Special Autonomy, which is deeply flawed, with rejection of the principle of autonomy. It would be worth supporting a public opinion survey in the districts hardest hit by conflict as to what Acehnese believe independence might bring. If personal security, freedom from fear, justice, and a better standard of living are among the responses, one could work up from there to see how these could best and most rapidly be achieved under Indonesian sovereignty, and feed that into policy formulation. There is an urgent need to put Indonesia's best legal minds to work to develop a plan for restoring the credibility of the justice system in Aceh and giving Acehnese a real stake in it. This is not just a question

of sending more judges and prosecutors to district courts. It is one of finding out why local or traditional methods of justice are seen as more effective than anything the state offers.

The local and national governments must work closely with the national police and army headquarters to enforce the ban against collecting illegal levies along the roads more strictly. HDC has rightly identified ending various forms of extortion as a priority, but it cannot do the job by itself. If the national police headquarters in Jakarta in particular were to make this a priority and really end the practice, it would probably do more to transform the image of the police in Aceh than any other single act.<sup>52</sup>

Jakarta should also strongly encourage the local parliament (DPRD) in Aceh to give high priority to the draft regulation (*qanun*) on direct election of local officials, including district heads and mayors. Legislators agreed in January 2003 to adopt the law but every other *qanun* seems to have been given higher priority, and there is a decided lack of enthusiasm for the regulation on the part of both the governor and key DPRD members.

The government should ensure as far as possible that any humanitarian aid or other assistance made available by the central government is not channelled through the provincial government but through a special body set up by Jakarta that is committed to making all its transactions public and to periodic evaluations, also public, of how the funds were spent.

GAM also must take some urgent steps if the peace process is to hold. It must avoid giving the military any rationale to pull out of the peace process. This means not only avoiding the kind of violations monitored by the Joint Security Committee, but also refraining from pro-independence rallies and other activities that suggest to the government GAM is using the cessation of hostilities to consolidate political and military support.

The group also needs to give serious attention to how the January 2001 discussions, at the time of the

“Provisional Understanding” on the democratic process, could be translated into a concrete program for GAM’s transformation into a political party, in a way that would not involve a referendum but also would not indelibly alter its identity.

GAM’s own record on the treatment of the population is not good. It needs to address the issue of extortion of the local populace by its members more seriously and work to end the practice. The distinction that GAM leaders make between *pajak nanggroe* or “state taxes” and extortion is not always clear.

Several steps could be taken by donors including funding the immediate reinforcement of the HDC media and public relations unit so that a much more direct, widespread, and unbiased dissemination of the agreement can take place, in the Acehnese language, and in a style and format likely to attract a wide audience.<sup>53</sup> Donor funds need to produce immediate peace dividends in communities affected by conflict. Several useful initiatives have been identified by the World Bank and various donor teams, but the emphasis in the next few months should be on high visibility projects that help shore up the agreement.

Donors should also work with the local and national governments to absorb GAM fighters into the labour force, in a way that will not create economic distortions but might offer some economic alternative to waging war. Donors should also be prepared to help with implementation of direct elections of local officials, if and when the provincial regulation (*qanun*) on direct elections is adopted.

Most donors, wary of the NAD government, are rightly finding other mechanisms for channelling assistance to Aceh. They might want to consider opening a multi-donor office in Aceh that could at once help monitor project implementation and ensure that they meet the same standards for transparency that they are demanding from local government.

**Jakarta/Brussels, 27 February 2003**

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<sup>52</sup> To understand the difficulties involved in such a clean-up, see ICG Report, *Why Military Force Won't Bring Lasting Peace*, op. cit., p. 18. In 2001 the local police chief urged people to report the names of police responsible for such extortion, but one driver said to even look at the name tag of a policeman involved was to invite a beating.

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<sup>53</sup> This would build on a recommendation already made by donors: “Support for the Peace Process: Elements of an Immediate Response”, in World Bank, “Promoting Peaceful Development in Aceh”, Brief for the Consultative Group on Indonesia, January 2003, p.3.

## APPENDIX A

### MAP OF INDONESIA



## APPENDIX B

### ABOUT THE INTERNATIONAL CRISIS GROUP

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The International Crisis Group (ICG) is an independent, non-profit, multinational organisation, with over 80 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

ICG's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, ICG produces regular analytical reports containing practical recommendations targeted at key international decision-takers.

ICG's reports and briefing papers are distributed widely by email and printed copy to officials in foreign ministries and international organisations and made generally available at the same time via the organisation's Internet site, [www.crisisweb.org](http://www.crisisweb.org). ICG works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The ICG Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring ICG reports and recommendations to the attention of senior policy-makers around the world. ICG is chaired by former Finnish President Martti Ahtisaari; and its President and Chief Executive since January 2000 has been former Australian Foreign Minister Gareth Evans.

ICG's international headquarters are in Brussels, with advocacy offices in Washington DC, New York and Paris and a media liaison office in London. The organisation currently operates eleven field offices

(in Amman, Belgrade, Bogotá, Islamabad, Jakarta, Nairobi, Osh, Pristina, Sarajevo, Sierra Leone and Skopje) with analysts working in over 30 crisis-affected countries and territories across four continents.

In *Africa*, those countries include Burundi, Rwanda, the Democratic Republic of Congo, Sierra Leone-Liberia-Guinea, Somalia, Sudan and Zimbabwe; in *Asia*, Indonesia, Myanmar, Kyrgyzstan, Tajikistan, Uzbekistan, Pakistan, Afghanistan and Kashmir; in *Europe*, Albania, Bosnia, Kosovo, Macedonia, Montenegro and Serbia; in the *Middle East*, the whole region from North Africa to Iran; and in *Latin America*, Colombia.

ICG raises funds from governments, charitable foundations, companies and individual donors. The following governments currently provide funding: Australia, Austria, Canada, Denmark, Finland, France, Germany, Ireland, Luxembourg, The Netherlands, Norway, Sweden, Switzerland, the Republic of China (Taiwan), Turkey, the United Kingdom and the United States.

Foundation and private sector donors include The Atlantic Philanthropies, Carnegie Corporation of New York, Ford Foundation, Bill & Melinda Gates Foundation, William & Flora Hewlett Foundation, The Henry Luce Foundation, Inc., John D. & Catherine T. MacArthur Foundation, The John Merck Fund, Charles Stewart Mott Foundation, Open Society Institute, Ploughshares Fund, The Ruben & Elisabeth Rausing Trust, the Sasakawa Peace Foundation and the United States Institute of Peace.

**February 2003**

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\* The Algeria project was transferred from the Africa Program in January 2002.

## APPENDIX D

### ICG BOARD MEMBERS

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