

## **A Mechanism to End Conflict in Aceh**

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On 15 August 2005, the Government of Indonesia and the Free Aceh Movement (GAM) signed an agreement to end almost 30 years of conflict between them over claims to independence. After a series of failed ceasefires, this was the first comprehensive peace agreement, and contained within it the potential to settle the political and economic claims that fuelled a desire for separation in Aceh. The talks that led to the peace agreement followed the devastating tsunami of 26 December 2004, which killed over 100,000 people in Aceh, and an escalated military campaign by the Indonesian military against GAM forces. The talks were brokered by an international mediation organisation and supported by the European Union (EU). Despite some opposition within Jakarta, the talks were ultimately successful, producing an agreement that addressed many of the fundamental concerns of the Acehnese, especially around economic redistribution and local political representation. The EU agreed to monitor the agreement by sending a 200 strong Aceh Monitoring Mission (AMM), supported by monitors from ASEAN states. The main purpose of the AMM was to oversee the decommissioning of GAM weapons and the withdrawal of most Indonesian troops and police. It was thereafter expected to retain a smaller presence in order to monitor the implementation of other aspects of the agreement. The Aceh peace agreement faced a number of hurdles, including whether or not the Indonesian military would work to undermine the peace agreement, and over the continuing presence in Aceh of the military's proxy militias. There were also concerns that the legislation required to secure aspects of the peace agreement might not be passed by the Indonesian legislature or would be diluted to the point that they would no longer be acceptable to GAM. However, as a politically negotiated agreement to end the conflict, the peace agreement was seen as establishing the model for peace in the region, and was touted by some observers as providing the basis for a model for peace in other parts of Indonesia's sometimes troubled archipelago.

### **Introduction**

The territory of Aceh<sup>1</sup>, which sits at the northern end of the Straits of Malacca, was between December 1976 and August 2005 the site of conflict between the Free Aceh Movement (Gerakan Aceh Merdeka, or GAM) and the Government of Indonesia (GoI) over the former's claim to independence. On 15 August 2005, the two parties signed a peace agreement to end the conflict, largely demilitarize Aceh and to establish what has been called 'self-government' with a view to addressing many if not all of GAM's political claims. The peace agreement thus ended one of Asia's longest running conflicts, and resolved the greatest challenge to the cohesion of South-East Asia's largest and most diverse state, Indonesia. This paper addresses the peace talks process, notes the security measures that were taken to help reach the peace agreement, and considers problems the agreement will face.

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<sup>1</sup> Aceh is called a territory here as its status as a province was disputed by many Acehnese and its formal name was to be decided by a future Acehnese government. The spelling of Aceh is also contested, being spelled Aceh by the Indonesian government (and most of the world), Acheh by the Free Aceh Movement, and historically also Atjeh and Achin.

## Background

The Straits of Malacca are claimed to be the world's busiest waterway, through which travels around a quarter of the world's oil, two-thirds of liquid natural gas and up to a third of all other trade.<sup>2</sup> Further, sitting between the Indian and Pacific Oceans, it is also among the most strategically important. The Straits, which are fringed with secluded river inlets, dotted with islands and constricted by narrows, has the highest rate of pirate attacks in the world. Finally, sited at the northern end of the Straits, Aceh is also economically important to Indonesia. Aceh's economic value lies in its source of oil and gas deposits, primarily just off-shore from North Aceh (Passe). In 1997, Aceh provided 17 per cent of Indonesia's almost USD12 billion in oil and gas export revenue. Aceh also has extensive mining, forestry and plantation agriculture.<sup>3</sup> In terms of domestic issues, the conflict in Aceh and regional conflict generally has also been a means by which Indonesia's military, Tentara Nasional Indonesia (TNI, or Indonesian National Military) has historically justified its high profile in state activities. There has been a belief expressed over a range of incidents over a long period that the TNI engineers or exacerbates existing problems in order to assert itself as being the only state institution capable of preserving the state.<sup>4</sup> This has in turn assisted the TNI in forwarding its claim as not just a protector of the state but also the arbiter of state affairs, at least in areas it deems its particular responsibility (such as regional conflict, unity of the state and the constitution). Beyond its desire to preserve the state, to protect the state's vital economic and strategic interests and to promote its own authority within the state, the TNI also has economic interest in preserving its presence in Aceh. The TNI's limited formal budget (about a third of its expenditure) is inadequate for its needs.<sup>5</sup> To supplement its official income, the TNI engages in legal businesses (transport, manufacturing and so on), 'grey' business activities ('protection' services) and criminal activities (e.g. illegal logging, extortion, smuggling, drug running, gambling and prostitution). The TNI has effectively no legal businesses operating in Aceh, but it had extensive 'grey' and 'black' activities, which it needs to retain a presence in order to protect.<sup>6</sup> As a part of this vested interest in Aceh, senior

<sup>2</sup> G Ong, *Next Stop, Maritime Terrorism*, Institute of Southeast Asian Studies, Singapore, 2003, p. 2.

<sup>3</sup> BKPM. *Regional Potential: Nanggroe Aceh Darussalam* Badan Koordinasi Penanaman Modal (Capital Investment Co-ordinating Board), Jakarta, 2001.

<sup>4</sup> Ethnic conflict in West and Central Kalimantan and Maluku after 1999 were widely believed to be spurred on if not started by members of the TNI as a means of destabilising the political environment in Jakarta, while the TNI's strong presence in Papua exacerbates political tensions there, often leading to conflict.

<sup>5</sup> 'Govt to take over TNI businesses', *Jakarta Post*, 9 December 2004; A. Widjojo, Interview with the author, TNI Headquarters, Jakarta, 23 March 2001; International Crisis Group, *Indonesia: Next Steps in Military Reform*, ICG Asia Report No. 24, International Crisis Group, Jakarta/Brussels, 2001.

<sup>6</sup> D Kingsbury and L McCulloch, 'Military Business in Aceh and East Timor', A Comparative Study Paper to Conference: The Historical Background of the Aceh Problem, National University of Singapore, 28-29 May 2004.

TNI officers in particular take a large proportion of the profits of these various operations, meaning there is also a personal incentive on the part of many officers to retain a presence in Aceh.

From an Acehnese separatist perspective, aspirations by many Acehnese to a high degree of autonomy or independence<sup>7</sup> are driven by clumsy and often brutal responses by Jakarta, manifested by the TNI,<sup>8</sup> to claims for equity and other grievances that have fuelled the contemporary separatist movement. This cycle of claim and repression has rekindled historical memory of assertions of political identity against outsiders,<sup>9</sup> and the gaps in memory have been filled with (often shared) myth, as they are in most societies. As Connor has noted, a sense of national identity does not always have to have existed for it to become legitimate; it can evolve, as all national identities have indeed done.<sup>10</sup> Claims to Acehnese nationalism and hence separatism, therefore, are strengthened by drawing on historical precedent, but are not dependent upon it. In the final analysis, what constitutes a 'nation', and hence the basis for a 'nation-state', is what the people who identify as that nationality voluntarily determine themselves to be.

Since the achievement of independence, Indonesia has attempted to construct itself as a modern state, which explicitly incorporates disparate pre-colonial territories into a sovereign, Westphalian whole. Indonesia was initially constructed as a federalist model, potentially allowing considerable scope for self-determination on the part of constituent states. However, when Indonesia was unilaterally reconstituted as a unitary state 1950, Aceh's quasi-autonomous status was lost, which disenchanting those Acehnese aspiring towards a high level of self-rule. Failing to resolve this loss of autonomy, in 1953, Acehnese leader Teungku (Lord) Daud Beureueh rejected the legitimacy of the existing Indonesian state on behalf of Aceh, joining with the Darul Islam Indonesia (DII) rebellion, declaring the Federated State of Aceh (Negara Bahagian Aceh - NBA).<sup>11</sup> In a bid to conclude Aceh's resolve aspirations, a nominal 'special administrative' status was

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<sup>7</sup> Many Acehnese want absolute independence, although some others have expressed a desire for genuine and thorough autonomy within the Indonesian state.

<sup>8</sup> Amnesty International, 'Indonesia: Human Rights Sacrificed to Security in NAD (Aceh)', Amnesty International, News Service No. 120, 11 May 2004.

<sup>9</sup> A Reid, *The Contest for North Sumatra: Atjeh, the Netherlands and Britain, 1858-1898*, Oxford University Press, Kuala Lumpur, 1969; A Reid, *The Blood of the People: Revolution and the End of Traditional Rule in Northern Sumatra*, Oxford University Press, Kuala Lumpur, 1979; N Samsuddin, *The Republican Revolt: A Study of the Acehnese Rebellion*, Institute of Southeast Asian Studies, Singapore, 1985.

<sup>10</sup> W Connor, *Ethnonationalism: The Quest for Understanding*, Princeton University Press, Princeton, NJ, 1994; A Smith, *Nationalism and Modernism: A Critical Survey of Recent Theories of Nations and Nationalism*, Routledge, London, 1998.

<sup>11</sup> While DII was not a separatist rebellion, many Acehnese, including the ASNLF, claim that Aceh's participation in it was for the purposes of securing either independence or a high degree of local autonomy, which is borne out by the declaration of the NBA in 1955. The main part of this period of rebellion ended in 1957, although with some hold-outs lasting until 1959 and others until 1963 with the ending of Darul Islam.

granted in 1959. Beyond relative autonomy in religious, educational and cultural matters, this turned out to have little meaning in practice. However, the 1950s did reflect a period of re-assertion of Acehese identity, which has been claimed by GAM as constituting the base of the current struggle for independence.<sup>12</sup>

In the period following the rise of the New Order and its emphasis on international partnerships in mineral exploitation, Aceh found itself increasingly subject to economic domination by Jakarta, with a consequent loss of potential wealth. In particular, in 1973 the Indonesian government signed a sales contract for the export of liquid natural gas (LNG) from deposits found primarily off the coast of North Aceh,<sup>13</sup> which almost completely excluded Achenese economic interests, in turn encouraging local resentment. This resentment was manifested in the resurrection of the idea of Acehese independence among a relatively small number of Acehese intellectuals. On 4 December 1976, Teungku Hasan di Tiro proclaimed Aceh as an independent state,<sup>14</sup> to which the Indonesian government responded with the mass arrests of GAM members. From 1986 until 1990, a number of GAM activists went to Libya for military training, forming the core of the movement in the late 1980s and leading to renewed attacks against police and military installations. In response, in 1989 the Indonesian military launched the Military Operations Area (Daerah Operasi Militar – DOM) campaign, in which at least 6,000 ‘non-organic’<sup>15</sup> troops were moved into the province, adding to the 6,000 already there.<sup>16</sup>

This counter-insurgency operation struck at GAM’s military capacity, and a year later, with many field commanders killed or captured, the government claimed that GAM had been ‘crushed’. In the period from 1989 until 1998, it has been variously estimated that between 10,000 and 26,000 people were killed,<sup>17</sup> human rights abuses prevailed and by mid-1999 between 150,000

<sup>12</sup> Reid 2004 *op cit.*

<sup>13</sup> Y Purnomo, *Ministerial Paper*, Washington D.C., 18 December 2003.

<sup>14</sup> Acheh-Sumatra National Liberation Front, *Declaration of Independence of Acheh-Sumatra Aceh*, 4 December 1976.

<sup>15</sup> ‘Non-organic’ troops are those from beyond the province’s ‘home’ division (Territorial Military Command – Komando Daerah Militer, or Kodam). The total number of troops in Aceh at this time has been estimated at between 12,000 and 15,000.

<sup>16</sup> See T Kell, *The Roots of Acehese Rebellion 1989-1992*, Cornell Modern Indonesia Project, No. 74, Cornell University, Ithaca, New York, 1995, for an account of the cause of the Aceh conflict to the early 1990s, see also G Robinson, ‘Rawan is as Rawan Does: The Origins of Disorder in New Order Aceh’, *Indonesia*, vol. 66, 1998, pp. 127-56.

<sup>17</sup> The variation in figures derives from a range of public and private sources. 10,000 is the most usually quoted number, including by some NGOs and most of the media e.g. *Radio Netherlands* 19 November 2002, 9 June 2003, *CNN* 11 April 2003, *Reuters* 1 June 2003, Amnesty International (NZ), ‘Asia-Pacific Initiative’, 2003. GAM claims that 26,000 people were killed during this period. Amnesty International and Human Rights Watch cite much lower numbers, but these appear to be based on reports they were able to verify, which almost by definition would have been significantly reduced from the real number. In all, there do not appear to be any reliable statistics about this matter.

and 200,000 people had been turned into refugees.<sup>18</sup> The DOM strengthened resentment against rule from Jakarta and fuelled separatist sentiments<sup>19</sup> and continued to highlight fundamental distinctions between Aceh's rather more egalitarian and competitive political culture with Indonesia's more hierarchical and monopolistic Javanese dominated political culture.<sup>20</sup>

Indonesia's policy on Aceh ebbed and flowed after 1998, with withdrawals of some troops and ceasefires and renewed military campaigns, some of which were notable for massacres of civilians.<sup>21</sup> It has been widely estimated that in the years following the ending of the DOM, some 1,000 or more people were killed annually in Aceh<sup>22</sup> with double that figure in the year following the renewal of military activities from May 2003.<sup>23</sup> Following the ending of DOM and the successful ballot for separation in East Timor, Aceh's civil society movement began to rapidly develop. Due to a lull in the conflict, in late 1999 and into 2000, Aceh's 'civil society' movement reached the peak of its influence, generally reflecting calls for a referendum. This was reflected in the march of several hundred thousand people in Banda Aceh on 8 November 1999.

As the political environment in Indonesia became less stable in 2001, hopes for resolving, or even adequately considering, the Aceh issue slipped further. By 2001, the TNI had increased troop numbers in Aceh to more than 30,000.<sup>24</sup> On 19 January 2001, a seven-month old ceasefire was extended

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<sup>18</sup> Human Rights Watch, *Indonesia: Civilians Targeted in Aceh*, Press Backgrounder, Human Rights Watch, May 2000; Human Rights Watch, 'Accountability for Human Rights Violations in Aceh', *Human Rights Watch*, vol. 14, no. 1, March 2002; Amnesty International, 'A Cycle of Violence for Aceh's Children', 23 November 2000; S Kamaruzzaman, *Mass Rape in a Situation of Armed Conflict (1989 – 1998) in Naggroe Aceh Darussalam Province, Indonesia*, LLM thesis submitted to Faculty of Law, University of Hong Kong, 29 September 2003.

<sup>19</sup> It is worth noting here that the construction of a 'national' identity is formed from a range of internal 'cultural cohesives'. But often as importantly, national identity is forged in joint opposition to a common external threat (e.g. the creation of a 'Timorese' national identity from disparate linguistic and cultural groups as a consequence of 24 years of Indonesian oppression).

<sup>20</sup> O S Ishak, *The Anatomy of Aceh Conflict*, unpublished research report, Banda Aceh, 2004.

<sup>21</sup> TAPOL, *Bantaqiah Trial: An Examination of the Indictment by TAPOL*, Report, 25 April 2000; TAPOL, *A Reign of Terror: Human Rights Violations in Aceh 1998 – 2000*, TAPOL, March 2000.

<sup>22</sup> Various NGO figures (e.g. HRW *op cit*) suggest that around 800-1,000 people were killed in each year, while GAM claims a significantly higher number of dead, up to and beyond 2,000 a year, particularly in 2001 and 2002, e.g. the various and generally regular *laporan wilayah* (field reports) from each GAM military district. There is also a distinct contrast between TNI claims of GAM casualties and GAM's claims of most of those deaths (around 70 per cent) being of civilians. Of the two, GAM has regularly provided comprehensive reports of times, places and names of casualties of the conflict as well as of other victims, although acknowledging that it can only provide reports from areas where it operates. The TNI has not presented such detailed evidence to support its own claims.

<sup>23</sup> Amnesty International, *op cit* (n. 8).

<sup>24</sup> 'No Military Option in Aceh', *Jakarta Post*, 12 March 2001.

for another month, following all-party talks in Switzerland<sup>25</sup> and Aceh was made a 'special administrative region', which in theory gave it a greater level of local autonomy beyond that granted to sub-provincial regions under the 1999 autonomy legislation.<sup>26</sup> However, in practical terms, that status was widely seen to be much longer on rhetorical purpose and shorter on application. Another short-lived ceasefire was signed in May 2001.

In January 2002, the Indonesian government implemented Aceh's 'special autonomy' status including the implementation of Islamic syariah law and greater revenue-sharing of its natural resources. Five per cent of the income derived from oil in Aceh was required to be returned to the province prior to the introduction of 'special autonomy', after which the territory was to have received 70 per cent of revenues from oil and gas profits (declining to 50 per cent after eight years), in contrast to the 15 per cent of oil and 30 per cent of natural gas profits being returned to other provinces (other than Papua) under Indonesia's regional autonomy laws of 2001. Since there were few profits, after expenses and corruption, little was actually returned to Aceh. As Schulze noted, 'the special autonomy ... has not really been implemented'.<sup>27</sup>

With a broad lack of acceptance of 'special autonomy' and the failure of the parallel military approach, on 9 December 2002, GAM and GoI signed a Cessation of Hostilities Agreement (CoHA),<sup>28</sup> which put in place a ceasefire ahead of proposed disarmament and discussions about a political solution to the Aceh problem. The CoHA was seen by many observers as holding some hope of movement towards peace for Aceh, but the TNI engineered its collapse, which occurred at a meeting between GoI representatives and GAM in Tokyo on 19 May 2003. Martial law was declared from May 2003 until May 2004. A state of emergency was declared thereafter.

### The Peace Talks

On 26 December 2004, a massive tsunami killed more than 100,000 people in Aceh, made homeless hundreds of thousands more and which destroyed much of the low-lying parts of the territory. This was the catalyst for GAM and GoI returning to the negotiating table to discuss the possibility of

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<sup>25</sup> GAM asserts these talks took place.

<sup>26</sup> RI 18/2001 Law No. 18/2001 on Special Autonomy for the Province of Aceh Special region as the Province of Nanggroe Aceh Darussalam. 9 August 2001/Undang-ndang Nanggroe Aceh Daulssalam 2001, UU Nomor 18 Tahun 2001 Tentang Tonomi Khusus Bagi Provinsi Daerah Istimewa Aceh Sebagai Nanggroe Aceh Darussalam, Republik Indonesia . This was as distinct from the sub-provincial Autonomy legislation passed in 1999. The primary difference was that Aceh (and Papua) was allowed to retain the province as the primary site of local administration, whereas elsewhere regional autonomy was devolved to the sub-provincial level. There was also a greater allocation of income from locally generated resources.

<sup>27</sup> K Schulze, *The Free Aceh Movement (GAM): Anatomy of a Separatist Organization*, East-West Center, Washington D.C., p. 55.

<sup>28</sup> Cessation of Hostilities Framework Agreement between the Government of the Republic of Indonesia And the Free Aceh Movement Geneva, 9 December 2002.

reaching a peace agreement to end the conflict. The negotiations, which began on 27 January 2005, were conducted under the auspices of the Helsinki-based Crisis Management Initiative, an international mediation body established by former Finnish President Maarti Ahtisaari. The talks were funded over four of their five rounds by the European Union under its Common Foreign and Security Policy framework. While the tsunami was clearly the catalyst for the peace talks, there had been prior communication about returning to the negotiating table.<sup>29</sup> Following the election as president of Susilo Bambang Yudhoyono in September 2004, further approaches were again made to GAM, in October and November. Contributing to the Gol's desire to reach a settlement in Aceh was that the budget allocation for the Aceh conflict had been vastly overspent. This highlighted the TNI's funding issue, its involvement in illegal business activities and its reluctance to end to civilian authority. But perhaps most importantly, Indonesia has lacked foreign investment, especially in the critical oil and liquid natural gas industries, which meant it became an oil importer at a time of world record high prices. This damaged the economy, and forced the government to look to creating a more conducive investment climate, especially in energy rich areas such as Aceh. Yudhoyono thus appointed Vice-President Jusuf Kalla as responsible for overseeing a negotiated settlement to the Aceh conflict. A formal invitation for GAM and Gol to meet was issued by CMI to both GAM and Gol on 24 December 2004, two days before the tsunami struck Aceh. Following the tsunami, this invitation was accepted by both parties.

The negotiations began with CMI head Marri Ahtisaari stating to GAM that the condition for the talks was GAM's acceptance of the Gol's 2001 imposition of 'special autonomy' for Aceh, and that any settlement must be complete and final,<sup>30</sup> which precluded any chance of a ceasefire while the talks were underway. GAM refused to accept the preconditions, although there was privately a developing view that it could accept the broad outline of special autonomy and construct functional independence within that while still preserving Indonesia's territorial integrity. Ahtisaari modified the requirement for advance acceptance of the 'special autonomy',<sup>31</sup> allowing the second round of the talks to proceed.

A key moment in the talks occurred in Round Two when, on 21 February, GAM responded to the Indonesian position by proposing 'self government'. The previous evening Ahtisaari had, in Finnish, changed his use of language from the translation of 'special autonomy' - *erityisautonomia* - to 'self government' - *erityisitsehallinto*, and this had been printed in the morning's

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<sup>29</sup> International Crisis Group, *Aceh: A New Chance for Peace Asia*, Briefing No 40, International Crisis Group, Jakarta, 2005, p. 2.

<sup>30</sup> M Ahtisaari, Letter to Mr Malik Mahmoud, Crisis Management Initiative, Helsinki, 7 February 2005.

<sup>31</sup> Ahtisaari, *Ibid*; Crisis Management Initiative (CMI), 'Agenda for the Second Meeting Between the Government of Indonesia and the Free Aceh Movement, 21-23 February 2005', Helsinki.

newspapers. As 'special autonomy' was understood in Finnish, these terms were actually interchangeable, both meaning self-determination – *itsemissoikeus*. However, translated in to English, or Indonesian, the terms took on a somewhat different meaning, with 'special autonomy' referring to the status quo, and 'self government' to something corresponding to self-determination or genuine autonomy. Ahtisaari agreed that the term 'self-government' was acceptable and further agreed to consider variations on its content.

When the two parties and Ahtisaari met again the following morning, Ahtisaari outlined what he saw as a practical outcome for both parties, including provincial elections with local political parties, in contrast to the existing law on political parties having a national presence based on having representative offices in half of the districts in half of the provinces, the introduction of unarmed external monitors from the militaries of sympathetic countries, most probably the EU and ASEAN, and consideration of limiting the TNI in Aceh. The Indonesian delegation otherwise accepted in principle Ahtisaari's outline. Ahtisaari also called on both parties to exercise 'the utmost restraint' in the field, primarily directed at the TNI. This appeal was comprehensively ignored by the TNI, and eventually by GAM military (Angkatan GAM, lit. GAM Force).

Following Round Two, GAM prepared proposals in response to Ahtisaari's outline covering issue such as politics, the economy, human rights and law. These proposals subsequently became the basis, with little change, of the policy documents that GAM tabled during Round Four of the negotiations, and thus became the points over which the negotiations were conducted.

For Round Three of the talks, the TNI's representative to the Gol delegation, Major-General Syafuddin Tippe, did not return. It appeared that TNI headquarters had ordered him not to attend as a means of expressing its lack of recognition for the process. More importantly, however, as an indication of opposition to the peace talks process within Jakarta, Coordinating Politics and Security Minister (and former TNI chief) Widodo also refused to return to the talks, saying he did not support the 'unofficial' process.<sup>32</sup>

In this round, GAM 'prime minister' Malik Mahmud put the idea of genuine democracy and political participation with local parties for Aceh. The Gol delegation responded that local political parties were not possible. However, out of this discussion came an agreement in principle to accept a democratic framework for an outcome, which indicated to GAM that 'self government' had moved one small but important step closer to becoming a reality. On 13 April, the Gol delegation agreed to the auditing revenues from Aceh's natural

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<sup>32</sup> 'Indonesia Shrugs off Rebels Call', *AFP*, 14 July 2005.

resources as a means of guaranteeing a properly shared income. Ahtisaari also raised the issue of compensation for GAM fighters. The Gol and GAM teams also received separate military briefings on a possible external monitoring mission by Finnish Brigadier-General Jaako Oksanen.

Round Four of the talks began on 26 May, with Gol rejecting the call for local political parties, saying such a development 'will trigger other provinces to also establish their own parties based on ethnicity and at worst on religious extremisms'.<sup>33</sup> It was clear from the outset that while it would be difficult to reach a political solution to the conflict, the real test would be around security arrangements. There were two components to this, the first being the decommissioning of Angkatan GAM's weapons, and the second securing the non-combatant status of the TNI and Polri (Kepolisian Republik Indonesia - Indonesian national police).

At a meeting on 29 May, the GAM negotiators recognized there was little choice in accepting some TNI presence in Aceh, if solely for the purpose of external defence. To this end, GAM would accept just four strategic locations and that military personnel not be allowed to carry weapons beyond barracks except on sanctioned deployments. This was in keeping with the conventional practice of militaries in non-conflict zones. GAM also accepted a limited naval and air force presence. Most importantly, however, GAM stipulated that any incident that occurred between soldiers and civilians be investigated by civilian police and any matter requiring legal proceedings should occur under the jurisdiction of civilian courts. While some of these conditions found their way into the final agreement, the issue of the number of TNI to remain was not pursued by the leading GAM negotiators. As a result, there was no commitment from either Gol or Ahtisaari on the numbers of TNI to remain.

The Fifth and final round of the Aceh peace talks commenced on 12 July 2005. At the beginning of this round, the EU's Deputy-Director General for Political/Military Affairs, Pieter Feith, outlined his assessment of how many TNI would remain after the withdrawal, which was in broad accordance with the GAM proposal. From the time the EU delegation met both Gol and GAM during Round Four, it was clear it was committed to the monitoring process. The key elements of talks on this day were the further outlining of the security arrangements by Pieter Feith, who said that the TNI and Polri would draw down 31,000 members at the conclusion of the monitoring of the withdrawal period. It was noted by GAM that this would still leave 20,000 or more TNI and Polri. Feith replied that the TNI and Polri would be drawn down to a figure of 4,800, which was inconsistent with other assessments of its numbers.

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<sup>33</sup> Gol, 'Response on Political Parties', internal negotiating document, Government of the Republic of Indonesia, 26 May 2005; 'Indonesia, Aceh Rebels to Hold Next Talks under Cloud', *Reuters*, 25 May 2005.

On the following day, Gol's chief negotiator Hamid Awaluddin again rejected the call by GAM for local political parties because, he claimed, their establishment would not comply with the constitution. However, it was quickly shown that Law 31/2002 on political parties was in fact legislation and could thus be changed if there was sufficient political will. Awaluddin then progressed from proposing in the talks that GAM join existing political parties to that of establishing GAM as a political party. To achieve this, he said that the major political parties in Jakarta had agreed to support GAM by donating members to help it establish branches in half of the provinces and half of the districts of those provinces as stipulated under Law 31/2002.

GAM rejected the Gol proposal on GAM being set up as a political party with assistance from Jakarta-based parties as it would not allow for the participation of other political parties. GAM negotiator Nur Djuli also noted that even if this basic principle was ignored and such a back door deal could be arranged, it had no prospect of lasting and did not secure the political future of Aceh. Gol was left in the position that it either rejected the GAM position and hence compromised its own claims to democracy, or it asserted its own claims to accepting full democratic principles and hence acceded to GAM's demands. The following afternoon session addressed some practical security issues to come out of any proposed agreement. GAM was told that the number of organic forces to remain in Aceh would be given after GAM provided its own numbers. Both sides agreed that organic police forces would remain responsible for law and order in Aceh, while organic military forces would be responsible for external defence only.

The negotiations had developed into a contest of ideas, with each side taking turns in asserting its agenda. It was, in this sense, a conventional debate, largely conducted in public. But the problem would always be that winning the contest of ideas did not necessarily translate into 'winning' the negotiations. Indeed, 'winning' in the negotiations could have inspired a more negative reaction in Jakarta. The rhetoric was therefore about establishing the parameters of the debate and finding a middle ground within that. But the further the parameters moved in GAM's direction, the further the center would be towards GAM's basic position. The debate on the wording of a draft agreement went back and forth. The changes were relatively minor at one level, but at another were important markers of the limitations of Gol and self government authority.

The main concern of the CMI by this time, however, was more about a monitoring process for any possible agreement, and ensuring an appropriate mechanism to allow the EU to intervene. To this end, it drafted an initial document that was to become the basis for the EU's position papers on its intervention in Aceh and for its final and formal agreement. For the AMM 'to carry out its mandate in an efficient manner, secure, safe and stable working

conditions are imperative. In this respect the AMM is relying on the parties 'goodwill and their willingness to cooperate'.<sup>34</sup> 'The mandate of the AMM is to establish permanent presence in Aceh, monitor the implementation of the Memorandum of Understanding.<sup>35</sup> The main tasks of the AMM were to:

- Monitor and report the pullout of national military and police troops.
- Monitor the decommissioning of GAM armaments & confiscation of illegal weapons.
- Monitor the human rights situation.
- Monitor the process of legislation change.
- Monitor and report the general security, economical (sic) and political situation.
- Conduct inspections and investigations, car and foot patrols.
- Inquire into complaints and alleged violations of the MOU.
- Establish and maintain liaison and good cooperation with the parties.
- Promote peaceful settlement of disputes.
- Provide good services to the parties.<sup>36</sup>

The 'minimum strength of the AMM is approximately 270 persons, including 200 foreign monitors and 70 locally employed persons'.<sup>37</sup> Due, however, to poor budgetary planning, as the AMM was being implemented after 15 August, it became clear that the proposed 200 EU staff would be substantially cut, and that the total number of 200 would be comprised of EU staff and ASEAN personnel. In terms of the conduct of the AMM personnel, it was clear that they were part of a mission that was not under the control or authority of the GoI.<sup>38</sup>

As earlier agreed between the parties, 'The Government of Indonesia is responsible for the security of all AMM personnel residing in Aceh. The mission personnel do not carry arms.'<sup>39</sup> This was the primary condition placed on the AMM by GoI, and in this respect replicated the 'security' arrangements that had applied during the UN period in East Timor prior to and just after the ballot in 1999. It was clearly a problematic model, but it was again the only one available. The difference this time was that should the process fail there was no prospect of external military intervention.

Prior to the start of Round Five of the negotiations, on 11 July the EU Assessment Mission offered each of the parties a briefing on its visit to Aceh. As Head of the Mission, Pieter Feith spoke to the GAM delegation. Feith reported that Yudhoyono also expressed 'great support' for EU and ASEAN in monitoring mission, and similar support was also expressed by Jusuf Kalla. Questions remained, however, about how the monitoring

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<sup>34</sup> CMI 13 May 2005. "Working paper on Aceh Monitoring Mission (AMM)", Crisis Management Initiative, Helsinki, preface.

<sup>35</sup> CMI, *Ibid*, Mandate.

<sup>36</sup> *Ibid*, Terms of Reference.

<sup>37</sup> *Ibid*, Deployment.

<sup>38</sup> *Ibid*, Command and Control/Personnel.

<sup>39</sup> *Ibid*, Security; European Union, *Essential Elements of a Potential CONOPS*, Working Document, Civil-Military cell, version 2, 12 July 2005, p. 2.

mission would function, and whether ASEAN would definitely be involved. One important point that Feith noted was that it would be Gol's responsibility to provide weapons collection points.

On the question of dispute resolution, it was resolved that the Head of Mission in dialogue with the party or parties 'will make a ruling that will be binding on the parties immediately'. In exceptional cases where disputes cannot be resolved ... the Head of Mission will report directly to the coordinating Minister for Political, Law and Security Affairs, the political leadership of the GAM and the Chairman of the Board of Governors of the CMI, with the EU Political and Security Committee informed. The Chairman of the Board of Governors of the CMI will make a ruling, which will be binding on the parties'.<sup>40</sup>

Feith had told the GAM delegation that he wanted a detailed report required on numbers and types of weapons by the following day. Decommissioning of weapons would occur at 10 district offices, and as well there would be mobile decommissioning teams. He noted that members of the mission had spoken with TNI officers about number of GAM weapons, which they had estimated at 1,300 weapons, with around 4,000 active GAM members. The timeline for the decommissioning of weapons was intended to be completed by the end of 2005, and that decommissioned weapons would be immediately destroyed<sup>41</sup> as symbol of ending conflict and to ensure weapons are not re-used. The process of decommissioning of GAM weapons would be in parallel with the withdrawal of Gol forces, on the basis of 25 per cent per month for four months, to occur on a district by district basis. In a statement that was reminiscent of the UN's promises in East Timor in 1999, Feith also said that the EU committed itself to remaining in Aceh beyond the period of the decommissioning to ensure that both parties respected the agreement, do not engage in retribution, and that the peace process was self-sustaining.

The EU Initial Monitoring Presence in Aceh outlined the EU's timeline for the implementation of the agreement:

- 26 July - EU Initial Monitoring Presence outline concept paper distributed to delegations. Oral briefing to PSC on EUIMP by Pieter Feith.
- 29 July - PSC discusses and notes updated EUIMP outline concept paper Member States indicate contributions to EUIMP.
- 28 to 31 July - Council Secretariat meetings with the GOI and GAM.
- 1 August - Council Secretariat meetings with ASEAN planners.
- 3 to 10 August - Technical Assessment Mission to Aceh. Establishment of Operations Room for EUIMP.
- 5 August - PSC welcomes intended deployment of EUIMP.

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<sup>40</sup> EU Aceh Monitoring Mission (AMM) – Selected Key Principles For Initial Agreement And For Inclusion In Concept Of Operation, Working Paper, 12 July 2005.

<sup>41</sup> *Ibid.*

- 10 August ff. - EUIMP monitors deploy to Aceh.
- 15 August - MoU signed in Helsinki. EUIMP begins.
- 2 September - AMM Council Joint Action.
- 15 September - Start of AMM.<sup>42</sup>

On the final day of the fifth and final round of the talks, all parts of the MOU had been agreed except the thorny issue of the creation of political parties. GAM submitted its proposal in response to the Indonesian version that had been incorporated into the draft agreement of the previous evening. The morning session produced no results and the afternoon session was cancelled while the Gol delegation discussed the draft agreement with Jakarta, coming back with yet another version of its existing proposal at just before 6 pm. The view within the GAM delegation was, given that day was formally over, having ended at 6 pm, and Indonesia had not come back with a meaningful offer, that the process had ended. The GAM delegation therefore drafted a media statement entitled 'Aceh Peace Talks End without Agreement for Peace'.

In reading and re-reading the Indonesian proposal, however, while it was almost certainly not salvageable, the prospect of walking away from the talks process with even the faintest inkling of a possibility that it could have been a different was overwhelming. Nur Djuli thus went to the Indonesian meeting room and asked if Gol negotiator and Communications Minister Sofyan Djalil<sup>43</sup> would be prepared to come and talk about the Indonesian proposal, which he did. The author informed Djalil that there were two main problems with the proposal from the GAM perspective, one being clarity and hence intentions and commitments, and the other being the timelines, which did not exist. Djalil said he accepted these as legitimate issues and accordingly agreed to modify the Gol proposal.

In particular, the Gol negotiator agreed to change 'be willing to' to 'will' but needed to consult with Gol chief negotiator (Justice Minister) Hamid Awaluddin regarding timelines. Awaluddin and Djalil returned to the GAM meeting room and sat down, and with GAM went back through the proposal. Awaluddin agreed to the inclusion of the word 'will'. The timeline was discussed in relation to the legislative process, producing an outcome that was regarded as both practical and agreeable (if inelegant) to both parties. The redrafting began, and it became clear that both parties were now working towards a mutually acceptable form of words that would include the creation of local political parties, thereby removing the last hurdle to an agreement.

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<sup>42</sup> EU Initial Monitoring Presence In Aceh (EUIMP), *Updated Outline Concept*, undated 2005.

<sup>43</sup> Djalil is an ethnic Acehnese, from East Aceh, and has relatives who have been involved with GAM.

Three drafts later, each of which was slightly different to the previous, three and a half hours after the talks had formally ended, there was an agreement in principle on the issue of local political parties. The key element in place was that the Gol would facilitate the creation of local political parties for Aceh within 12 months and no later than 18 months. It was not perfect, but it was enough. Awaluddin faxed the proposal to Jakarta for approval. The CMI then produced a draft agreement which incorporated the final wording on local political parties. The agreement was confirmed the following morning when President Yudhoyono approved the text.

On 17 July, the agreement was to be initialed. Before the initialing, GAM's chief negotiator Malik Mahmud was to hand over the figures of GAM troop numbers, and numbers and types of weapons. These details would then be included in the peace agreement along with the numbers of TNI and Polri to remain in Aceh. At 10 minutes to 12, the GAM team was shown the total figure for TNI personnel penned into the agreement was 13,000, while Polri was 9,800, for a total of almost 23,000 potentially offensive personnel. Discussion over this saw the initialing of the agreement delayed by over an hour and nearly cancelled. It had become clear that the GAM team had made an error in being slow in handing over its own numbers of troops and weapons, and hence had not had access to the TNI numbers and could therefore not dispute or negotiate them. GAM noted that while the 13,000 was supposed to be 'organic' troops, the TNI had been artificially inflating that number.<sup>44</sup> Ahtisaari responded by saying what was important was not the actual number but that the TNI be focused solely on external defence and be under civilian authority.<sup>45</sup> He added that the police would be under local command. Finally, Nur Djuli, Malik and GAM negotiator Zaini Abdullah agreed that they had not followed through adequately on this aspect of the process and that they had been trapped. Djuli told the author immediately after the meeting that them being trapped as a consequence of not adequately following through on this matter was their own fault, that the agreement now existed, even if it contained troop and police numbers that did not add up, and therefore had to be either rejected in its entirety or it had to be accepted.<sup>46</sup> GAM's public statement that day on the initiating was that it was a 'leap of faith'. In the final version of the agreement, the TNI number went up to 14,700, while the police number was reduced slightly, producing a slightly higher overall figure. Similarly, a sentence that referred to

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<sup>44</sup> TNI, Daftar Nominatif Personel Batalyon Kavaleri 11/Serbu, Tentara Nasional Indonesia, Angkatan Darat, Komando Daerah Militer Iskanar Muda, Banda Aceh, 2005; TNI, Nomor Nama Pangkat NRP Jabatan/Kesatuan T M T KET URT/BAG/Corps/Lamabaru, Tentara Nasional Indonesia, Lamiran Surat Pangdam IM, Komando Daerah Militer Iskanar Muda, Nomor R//VIII/2005.

<sup>45</sup> This was said in discussion in the presence of the author.

<sup>46</sup> See also E Nakashima, 'Aceh Peace Deal Nearly Came Undone', *Washington Post*, 19 July 2005.

disarming TNI-supported militias<sup>47</sup> was removed without consultation and replaced by a reference to 'illegal parties'. On 15 August, GAM and GoI returned to Helsinki to sign the agreement, referred to as the Memorandum of Understanding.<sup>48</sup> That day, AMM personnel began to deploy in Aceh to start demilitarization on 15 September.

In Jakarta, despite earlier reluctance, there was increasing support for the agreement, with some commentary even suggesting it be used as a model for resolving other similar disputes.<sup>49</sup> While there were clearly differences between the situation in Aceh and, for example, Papua, there were also parallels and a similar type of negotiated approach could produce a settlement to the security concerns in Indonesia's eastern-most province, and perhaps elsewhere. At the time of writing, there had already been tentative discussions about the possibility of initiating talks intended to settle political and security problems in Papua, probably to commence once the Aceh peace process had shown itself to be durable.<sup>50</sup>

However, while the Aceh peace process was continuing successfully at the time of writing, there also remained uncertainties, especially following reports of harassment of returning GAM fighters by intelligence officers and TNI members, and the continuing presence of TNI-proxy militias. There were private expressions of concern by GAM negotiators over these two issues, and some doubt about the long-term viability of the peace agreement if these elements were not ultimately controlled. It had, they noted, been the undermining of the CoHA in 2003 by the TNI and militias that led directly to its collapse. But equally importantly, it was correct that the CoHA was a ceasefire but not a peace agreement. It was intended to allow scope for talks aimed at producing a mechanism designed to secure the peace, but such a mechanism had not been included in it. As a consequence, during the CoHA there were differing visions about what the outcome should or would be, and it was these competing visions that in part led to it being undermined. In part, however, there was also the simple desire on the part of a military largely beyond civilian political control to see the CoHA fail. Previous ceasefires had been even less stable than the CoHA, and also had less prospect of producing a politically agreed outcome.

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<sup>47</sup> GAM, *DATA ORANG SIPIL (CUWAK, MILISI) YANG DIPERSENJATAI OLEH TNI/POLRI DI ACHEH* Free Aceh Movement intelligence assessment, RMLA 2004. *The Formation of People Resistance Action Front in the Territory of NAD Province*, Regional Martial Law Authority, The Province of Aceh, Intelligence Taskforce Unit, March 2004.

<sup>48</sup> Memorandum of Understanding between the Government of the Republic of Indonesia and the Free Aceh Movement Helsinki, 17 July 2005.

<sup>49</sup> 'Suasana perang', *Republika*, 29 September 2005; 'Devolving Power to Regions as Peace Building Initiative', *Jakarta Post*, 11 August 2005.

<sup>50</sup> These unofficial discussions, with the author, had come from both Indonesian government representatives and members of Papua's Traditional Council (Dewan Adat).

The Indonesian government also faced numerous political hurdles in passing the required legislation, especially on local democratization, to make the peace process work, and these had not yet been totally overcome. In particular, facing political problems in other areas, such as cutting subsidies to oil-based products which acted as a sort of unofficial welfare policy for poor Indonesians, has the capacity to destabilize the government. There was concern that this issue could split legislative support for the government, and that the Aceh peace agreement could be a casualty of that split. There were also other factors working against the agreement, including a noisy 'nationalist' element within Jakarta's political elite that preferred a military rather than political solution to the Aceh conflict, and the potential for outside elements, such as Indonesia's Islamist militant organizations (e.g. Laskar Jihad, Laskar Mujahidin) to be introduced into Aceh to further complicate the political environment there.

In the final analysis, the agreement was very much a compromise, as were the political circumstances it allowed. It contained many fundamental flaws, such as the continued existence of militias and a number of TNI and police that could not be explained according to an external defence focus, and a lack of certainty of the passing of requisite legislation. Some of these flaws were a consequence of errors on the part of the GAM team, and some were a simple product of a negotiated process in which compromise was both its strength and its weakness. But the agreement also contained a number of important positive points, while the Indonesian government appeared to be increasingly bringing the TNI under civilian control and hence limiting its capacity or intent to wreck the agreement. Even if the peace process collapsed under the strain of its various pressures, as a result of international support and because it was a politically negotiated resolution that addressed fundamental economic, legal and political concerns, the peace agreement reached in Helsinki was likely to remain a blueprint for a future resolution. It was possible that it would take more than one attempt to secure peace in Aceh, but the plan for that peace had been established.

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