

Indonesia

Briefing on Nanggroe Aceh Darussalam

1. Introduction

The military emergency in Nanggroe Aceh Darussalam (NAD) has been in place for just over two months since it was declared on 19 May 2003. According to military figures by the end of the first week of July 2003 they had killed 400 people who it is claimed were all members of the armed opposition group, the Free Aceh Movement (*Gerakan Aceh Merdeka*, GAM). This claim is contested by other sources, including the police, who claim that civilian deaths outnumber GAM deaths.¹ Several hundred people are believed to have been arrested by the military or the police. All detainees, most of whom have no access to the outside world, are at serious risk of torture and other grave violations of human rights. The population of internally displaced persons (IDPs), forced from their homes because of the conflict numbers tens of thousands. There are verified reports of shortages of basic assistance to the IDP population, including water, food and medicine.

The military emergency is also threatening local human rights defenders who have been harassed, intimidated, arrested and in one case killed. International human rights organizations are not permitted access to the province and access by international humanitarian organizations is severely restricted. Journalists are also facing increasing restrictions and dangers.

The combined effect of the threats and restrictions is that the civilian population is denied much needed protection and assistance. In the absence of credible, independent monitoring, the risk of human rights violations is dramatically increased, while the government's insistence that it should take sole responsibility for delivering humanitarian assistance is resulting in unnecessary hardships for the civilian population.

2. Background: The events leading up to the declaration of the military emergency

A military emergency was declared after last minute talks to rescue the five-month-old cease-fire between the Government of Indonesia and GAM broke down in May 2003. In the previous weeks thousands of troops were deployed to the province in preparation for renewed operations against GAM.

¹ The weekly news magazine, *Tempo*, reported that information from the regional police command indicated that after 30 days of the military emergency, 108 civilians and 92 members of GAM had been killed. See "Charges and Denials", *Tempo*, 30 June 2003.

The Cessation of Hostilities Agreement (CoHA) was signed between representatives of the Government of Indonesia and GAM in Geneva, Switzerland on 9 December 2002. Mediated by the Swiss-based Center for Humanitarian Dialogue (HDC), the agreement was intended as the first step towards negotiating a political resolution to the 26-year-old conflict. Although always fragile, the CoHA did initially bring about a significant reduction of violence in the province and for a period of a few months the numbers of reported human rights violations dropped.

The international community lent considerable political support to the process and a group of donors, led by Japan, the United States, the European Union and the World Bank, pledged funds for post-conflict reconstruction. An international contingent of monitors from Thailand and the Philippines joined with Indonesian military and GAM monitors to oversee the implementation of the CoHA. Despite the efforts, unresolved differences between the two sides meant that the disarmament of GAM and simultaneous relocation of Indonesian military forces, due to begin in February 2003, never took place and the number of violent incidents began to escalate soon afterwards. Several attacks against the international monitors took place which, some observers claimed, were orchestrated by the Indonesian military.

The international monitors were withdrawn in early May 2003. Despite efforts by the HDC and donors to bring both sides together in Japan during the weekend of 17 May 2003, no agreement on the continuation of the CoHA was reached.

3. Summary of concerns

3.1 The current humanitarian situation

The United Nations Children's Fund (UNICEF) has warned that a humanitarian crisis is exploding in NAD. In a media statement on 30 May 2003, it noted that the lives of 60,000 children had already been affected by internal displacement and by the burning of schools and health posts. UNICEF has also raised its concern about the affect on children of witnessing horrific violence and highlighted the need for specialized care for these children.

Children are among the growing number of IDPs in NAD. As of mid-June 2003, over 41,000 IDPs were reported to be living in temporary, tented accommodation in the province. By the end of the first week of July, according to the Minister of Social Affairs, the figure had increased by seven thousand people to 48,000. The real figure is believed to be higher since it does not account for people who have sought refuge with relatives or others, including some 120,000 mainly Javanese settlers who are now in North Sumatra Province, who were displaced prior to the latest renewal of the conflict.

Details on provisions being made for the protection and assistance of IDPs are scarce because the government is tightly controlling access to the population, including by forbidding the provision of direct aid by international humanitarian agencies and non-governmental organizations. However, Amnesty International has received information that all but two of the 16 camps prepared by the government are in use and that dozens of other temporary camps have been set up. Despite government efforts to provide assistance, there are verified reports of limited food rations and a lack of water and sanitation facilities in the government camps, as well as a lack of government provided assistance to those in temporary camps.

There are also unconfirmed reports of human rights violations taking place in the camps, including abduction of suspected GAM members and sexual violence against women. Amnesty International is unable to verify these reports, but is concerned that the government and military control of the IDP camps and lack of access by independent monitors increases the risk of human rights violations taking place.

Under provisions in Law 23/1959, the Military Emergency Authority can prohibit individuals considered "dangerous" from living in the region. There is a high risk that this could result in forced displacement, which is a crime under international law. There are already indications that some IDPs have been forced to leave their homes. The use of force is consistent with past practices in NAD where force, including threats and burning of houses, has been employed to make people leave their villages.

3.2 Protection of civilians, including IDPs, affected by the conflict

In a letter addressed to heads of international organizations in NAD, dated 26 May 2003, the Coordinating Minister for People's Welfare, Drs. Yusuf Kalla, stated that humanitarian assistance should be channeled through various government departments and the Indonesian Red Cross. The reasons given for prohibiting direct distribution of assistance by international organizations was to avoid any "negative impact" or the "development of perceptions by the public". In relation to avoiding any "negative impact" a reference was made to the Atambua case in September 2000 in which three members of the UN High Commission for Refugees (UNHCR) were murdered by militia in West Timor. Although not explicit, this reference to Atambua implies a risk to the security of international humanitarian workers and could be interpreted as a threat. Concerns, both about access by and the security of, humanitarian workers in NAD has been reinforced by the overnight detention on 8 July 2003 of an international aid worker from the European Commission.

Since the 26 May 2003 letter, two decrees have been issued which further clarify the restrictions on access to NAD by foreigners. The decrees, issued on 26 June 2003, require representatives of non-governmental organizations, journalists and others to seek permission from the Minister of Justice and Human Rights to enter the province and places limits on their movement and other activities. The decrees require all humanitarian assistance to be coordinated by the Minister of Social Affairs within the framework of humanitarian assistance undertaken by the Military Emergency Authority. No direct contact with the civilian population is permitted without the permission of the Military Emergency Authority.

Representatives of the UN Office for the Coordination of Humanitarian Affairs (OCHA), UNICEF and a number of international humanitarian agencies are among those who provided direct assistance in NAD, including to the population of IDPs. This work has now ceased and aid is provided through the government.

Notwithstanding important security issues which must be resolved, the role of international humanitarian agencies is currently more important than ever. While the government acknowledges its responsibility for IDPS and has shown a commitment to assisting them, there are doubts about its capacity to do so. In 2001, long before this latest emergency in NAD, the Special Representative of the United Nations Secretary-General on Internally Displaced Persons noted that the causes of displacement in Indonesia were largely unaddressed and there were no effective structures to deal with this problem.²

At the time, the Special Representative emphasized that in areas of armed conflict in Indonesia there is a need for collaboration among many actors, including both national and international non-governmental organizations. He called for a comprehensive strategy to be developed and implemented to enhance the role of the international community in the protection of the internally displaced civilian population in conflict areas. As IDP numbers in NAD grow, the need for such a strategy is increasingly urgent.

² Report of the Representative of the Secretary-General on internally displaced persons submitted in accordance with Commission resolution 2001/54, Addendum: Profiles in displacement: Indonesia, E/CN.4/2002/95/Add.2, 15 February 2002.

Amnesty International is concerned that the government's insistence that all aid should be channeled through the authorities risks creating additional and unnecessary suffering for the civilian population. To avoid this, the Indonesian government should be urged to grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid, unimpeded and secure access to the internally displaced.

Amnesty International also urges that the causes of displacement are addressed and efforts made to minimize displacement. This should include placing an absolute prohibition on acts by its security forces or other officials that cause forcible displacement.

3.3 Protection of women and children

Women and children are disproportionately the victims of conflict, internal or otherwise. In the context of armed independence struggles in NAD and elsewhere in Indonesia, torture, including rape and other forms of sexual abuse of women and girls, have been committed by members of the security forces as a form of intimidation and as punishment for their, or their relatives', alleged involvement with or support of armed opposition groups. Thousands of women have been widowed or children orphaned because husbands and fathers have been unlawfully killed during the course of operations by the security forces in these regions. Women and children have also been among the many thousands of people that have been displaced by the actions of security forces.

According to reports, children are among those who have been extrajudicially executed by the military during this latest military campaign against GAM. According to a report by the BBC on 22 May 2003, three boys aged 11, 13 and 14 were among a group of at least eight people who were extrajudicially executed in Mapa Mamplam village near Lhokseumawe in North Aceh District by members of the Special Forces Command (Kopassus). The National Commission on Human Rights (Komnas HAM) subsequently investigated the reports and confirmed that children were among those killed in the incident.

There are also a growing number of reports of sexual violence, including rape, by members of the security forces against women and girls. During its June 2003 investigations, Komnas HAM claimed to have found cases of rape and sexual harassment by the security forces. Three low ranking members of the Army Strategic Reserve Command (Kostrad) are currently on trial in a military court on charges of raping four women in North Aceh in June 2003.

Amnesty International believes that strategies are urgently needed in NAD to ensure that such crimes are not committed and that all feasible measures are taken to minimize the harm suffered to women and children as a result of the conflict.

3.4 Protection of suspects in military or police detention and the right to a fair trial

At the beginning of July 2003, Amnesty International received information that 176 people had been arrested by the police and around 300 by the military since the beginning of the military emergency. Figures reported in the media are however much higher – in one account the military is reported to have claimed that 800 people have been arrested or surrendered to the Military Emergency Authorities.

GAM combatants who have either been captured or have surrendered are among the detainees. However, there are also non-combatants among them who have been accused of supporting or sympathizing with GAM. The definition of support or sympathy is broad and appears to include the wives and mothers of GAM members and individuals who are opposed

to Indonesian government policy in NAD, including human rights defenders. Amnesty International considers such people to be arbitrarily detained.

The absence of precise information on the number, identity and whereabouts of detainees, combined with a lack of access to them by lawyers, places them at grave risk of torture which is already a well established practice in both military and police detention in NAD. According to one source, detainees in the Banda Aceh Police Resort (Polres) have been beaten, kicked, burnt with cigarettes and lighters, and deprived of sleep. One 16-year-old boy is reported to have lost the sight in one eye as a result of beatings. As of the beginning of July 2003 he had not received medical treatment.

The safety of the detainees in military detention is of even greater concern. Under Law 23/1959 on States of Emergency the military has authority to arrest and detain suspects for 20 days, extendable by 50 days. This provision contains no safeguards for the protection of detainees, such as rights of access by lawyers, doctors, and families of detained persons.

It has recently been announced that the police have prepared and passed to the prosecutor's office cases against 71 suspected members of GAM. Amnesty International is seriously concerned that they will not receive a fair trial. Already concerns have been raised that some have been tortured into making confessions and most of the suspects are believed to have been interrogated without the presence of legal counsel.

Amnesty International urges that individuals who have been detained solely on account of their peacefully held beliefs or activities, or merely because they are related to members of GAM, including by marriage, should be immediately and unconditionally released. The organization also considers that practical steps must be immediately taken to reduce the risk of torture or ill-treatment of all detainees – whether in police or military detention, including by allowing them access to lawyers, members of their families and medical assistance.

3.5 Protection of human rights defenders

A vibrant human rights community has developed in NAD in the past few years. However, their activities, including investigating and publicizing human rights violations has often made them unpopular with both the Indonesian authorities and GAM. Since 2000, at least 15 human rights defenders are believed to have been extrajudicially executed. Others have been arbitrarily detained, tortured and "disappeared". In not one case have the perpetrators been brought to justice.

Human rights organizations are among those publicly accused by the security forces of being linked to GAM and are therefore considered legitimate targets for arrest and detention under the current military emergency. A statement by a spokesperson for the latest military operations is indicative of the attitude to human rights activists. He said: "*We will investigate them one by one. They shouldn't just be yapping about human rights. We all support human rights, but what kind of human rights*".³

Since the declaration of the military emergency, the essential work of human rights defenders, including investigating allegations of human rights violations, locating detainees and providing them with legal representation, has all but ceased. Fearing for their own lives, human rights workers are unable to leave urban centers. They are prevented from communicating freely because of fears that public internet and phone facilities are being monitored by the security forces. There is now serious concern for the safety of all human

³ Detik.com, 25 May 2003.

rights defenders in NAD, some of whom have already been subjected to human rights violations.

Amnesty International believes that urgent measures must be taken to protect the security of human rights defenders in NAD and ensure that they can carry out their legitimate and important work free from fear of human rights violations. Both national and international human rights monitors should be given full, unimpeded access to NAD and United Nations experts, including the Special Representatives of the Secretary-General on Human Rights Defenders and on Internally Displaced Persons and the Special Rapporteurs on extrajudicial, summary or arbitrary executions and on torture should be invited to visit the province without delay.

3.5.1 Cases of human rights violations against human rights defenders

Detention of activist and harassment of non-governmental organizations - Nuraini, a volunteer with the human rights group, the Commission for Disappearances and Victims of Violence (*Komisi untuk Orang Hilang dan Korban Tindak Kekerasan*, KontraS), was arrested by the military, together with her father and neighbour on 19 June 2003. There are credible reports that both Nuraini and her 65-year-old father, Zakaria Ismail, were tortured on arrest. Nuraini was first held in police custody in Pidie District, but was transferred to the Police Headquarters in Banda Aceh (Polda) after eight days and then subsequently released. Following the arrest of Nuraini, inquiries were made at KontraS' headquarters in Banda Aceh, about a staff member who was responsible for collecting and analyzing data on human rights violations collected by volunteers in the field such as Nuraini. The staff member left the province after a group of men in plain clothes, thought to be from the police, visited the offices of another local human rights organization, the Legal Aid Foundation (*Lembaga Bantuan Hukum*, LBH), looking for her. The LBH office was later searched by the same group of men and property damaged.

Detention of four human rights activists - One male and three female activists with the East Aceh branch of the Legal Aid and Human Rights Post (*Pos Bantuan Hukum dan Hak Asasi Manusia*, PB-HAM) and Empowerment for Acehnese Women (*Pemberdayaan Hareukat Inong Aceh*, PHIA) were detained by police in Langsa Police Resort (Polres), East Aceh District in June 2003. The reason for their detention is unclear, but is believed to be related to their human rights activities. Nursyamsiah and Nazariah were both detained on 7 June 2003. They were both released without charge after four days. Fitriani, who was detained on 8 June 2003, was released after three days, but was taken from her home again six days later and questioned for several hours. Yusuf Puteh, the Coordinator of PB-HAM East Aceh, who was also arrested on 7 June 2003, was detained for seven days. The offices of both organizations were searched and equipment confiscated.

Detention of four activists - Four human rights activists from the Coalition of Non-governmental Organizations for Human Rights (Koalisi NGO HAM) were detained for around 12 hours on 27 and 28 May 2003. The police visited Koalisi NGO HAM's office three times on 27 May 2003. On each occasion they searched the office and questioned staff members. On the third visit, which took place at 11 pm, Abdul Halim, Jumiran, Surip Widodo and Zainal Adidin were arrested and taken to the Banda Aceh Police Resort (Polres). The four men were questioned until around 4 am on 28 May 2003. The questioning did not relate to any alleged criminal activity, but rather focused on structure and work of Koalisi NGO HAM. The men were released without charge at around 11 am on 28 May 2003.

Attacks on offices of human rights organizations - The offices of two leading Jakarta-based human rights organizations, KontraS and the Indonesian Legal Aid and Human Rights Association (*Perhimpunan Bantuan Hukum dan Hak Asasi Manusia Indonesia*, PBHI), were

attacked on 26 and 27 May 2003 by members of a nationalist youth organization, *Pemuda Panca Marga*, whose members are relatives of serving or retired soldiers. Members of Kontras's and PBHI's staff were verbally and physically assaulted and Kontras's office vandalized. The police did not intervene, despite requests to do so. Both Kontras and PBHI have been publicly critical of the actions of the security forces in NAD and are opposed to the military emergency. Members of both organizations have been subjected to threats, intimidation and acts of violence in the past which are believed to be related to their activities on NAD and other human rights issues.

3.6 The Media

Both the national and international media have been closely following events in NAD. Several dozen Indonesian journalists are "embedded" with the Indonesian military, although others are reporting independently. Media reports have included detailed accounts of human rights violations, including extrajudicial executions, allegedly committed by the Indonesian security forces. There have also been some reports, although less numerous, about alleged abuses committed by GAM.

Under a military emergency, the military is empowered under Indonesian law to assume extensive powers, including on restricting the flow of information by means such as taking over control of telephone and telegraph, radio transmitters and other equipment used for radio broadcasts, as well as restricting the printing, publication and distribution of writings and images.

The level of media access to NAD during the first week of the military emergency was encouraging. However, detailed reports by both national and international journalists, which are frequently critical of the actions of the security forces, have resulted in a backlash. Restrictions on foreign journalists have now been imposed – and only a few gained access to NAD during June 2003. A number of foreign journalists have recently received approval to travel to the area, but they are restricted to urban centers, are not permitted to seek interviews with GAM members and must be accompanied by military or police personnel. As restrictions on reporting tighten the possibility of obtaining accurate, balanced information diminishes.

Journalists, both national and international have been subjected to human rights abuses, both by the security forces and by GAM. A journalist, cameraman and driver with the private television company RCTI are currently being held by GAM in East Aceh. The body of Muhammad Jamal, an employee with the production department of the state television company, TVRI, was discovered on 17 June 2003 near Banda Aceh. He had "disappeared" on 20 May 2003, after being taken from the TVRI offices by a group of men who some sources claim were from the military. According to a media report, Muhammad Jamal was found in a river, his eyes and mouth covered by tape, arms bound and a noose with a boulder attached was fastened around his neck.

In a series of other incidents, local journalists have reported being beaten by the military and clearly marked vehicles carrying journalist have been ambushed by unidentified gunmen. In the meantime, several foreign journalists have been detained and questioned.

4. Use of civilians by the security forces and protection against forced labor

During all past counter-insurgency operations, in NAD, Timor-Leste (formerly known as East Timor) and elsewhere, the Indonesian security forces have made extensive use of civilians, including as militia, civilian defense groups and military auxiliary units. Members of such groups typically undergo minimal training and are armed with lethal weapons, including firearms. Their command and control structures are unclear and there are no effective mechanisms by which they can be held accountable if they commit human rights violations. Militia groups, supported by the military, are already reported to be operating in some areas of NAD. Statements to this effect made by a member of Komnas HAM following its investigations in NAD in June 2003, were greeted with denials and threats by the military.

Not all those recruited by the military to participate in such groups do so voluntarily. During 1999 in Timor-Leste, for example, many people claim that they were forced to join militia which took part in committing crimes against humanity and other serious human rights violations. Refusal resulted in being labeled as the enemy with the corresponding dangers that this brought. Children under the age of 18 were among those conscripted into militia groups.

The status of military emergency in NAD heightens the risk that civilians could be recruited against their will into civilian defense units or militia and be forced to commit human rights violations. Article 30 of Law 23/1959 allows the Military Emergency Authority to instruct inhabitants of a region under military emergency to perform compulsory labor in the interests of security and defense.

Unpaid forced labor is in contravention of International Labor Organization (ILO) Convention No 29 on forced labor, to which Indonesia became a party in 1950. Children are specifically protected from forced or compulsory labor, including forced or compulsory recruitment for use in armed conflict under ILO Convention No. 182 on the worst forms of child labor, to which Indonesia became a party in 2000.

5. Accountability

Senior military or police officials in Indonesia are rarely held accountable for human rights violations committed by their subordinates, even when they are known to give orders which directly caused such violations. It is of particular concern that one senior officer who is currently on trial on charges of crimes against humanity allegedly committed in Timor-Leste in 1999, continues to be on active duty in a position which gives him a direct role in the military operations in NAD - he has been unable to attend several trial sessions because of his commitments in relation to the campaign in NAD.

Despite the thousands of cases of human rights violations that have been reported in NAD over the years, in only three cases known to Amnesty International have investigations been completed and members of the security forces have been brought to trial. The lack of justice continues to cause anger and resentment in NAD and has contributed to the ongoing conflict.

Some steps have been taken to investigate a number of human rights violations alleged to have been committed during the current military emergency, but these represent a minute proportion of the allegations that have been made. The most important initiative is that by Komnas HAM, which sent a fact-finding team to NAD in early June 2003 and, in a press release of 13 June 2003, verified that it had found cases of torture, sexual harassment and extrajudicial execution. Komnas HAM's public statements about human rights violations and

expressions of concern about restrictions on the activities of non-governmental organizations, aid agencies and journalists have drawn strong criticism from military officials.

The military has also undertaken its own investigations into several incidents. Six low-ranking soldiers have been sentenced to prison sentences of a few months for beating inhabitants of a village in Bireun District in May 2003. Another three soldiers have been sentenced to between two-and-a-half and three-and-a-half years' imprisonment by a military tribunal after being found guilty of rape. While Amnesty International welcomes the fact that the Emergency Military Authority in NAD is responding to some allegations of human rights violations, it is concerned that investigations carried out by the military into allegations of violations committed by its own members cannot be regarded as independent or impartial.

Amnesty International urges that immediate, independent, impartial and effective investigations are carried out into all allegations of human rights violations which take place in NAD during the military emergency. Anyone found responsible for committing such violations, whether directly or by virtue of their command responsibility, should be brought to justice.

6. Concerns about the armed opposition group: GAM

Amnesty International has also documented human rights abuses by GAM in the past. Information on GAM abuses is often difficult to verify, but there have been credible reports of unlawful killings, abductions and torture being carried out by GAM members both against members of the security forces and civilians. Children under the age of 18 have been recruited by GAM. Among those recruited are children whose parents have been unlawfully killed, "disappeared" or subjected to other human rights violations as a result of Indonesian security force operations. Amnesty International has documented some cases where those who refuse to join have been accused of being collaborators or informers and threatened with death.

Local government officials and other members of the Indonesian authorities have been subjected to threats, intimidation and other abuses and government facilities destroyed. A wave of arson attacks on schools, which is reported to have resulted in some 500 schools being destroyed, has been attributed by the Indonesian authorities to GAM.

Amnesty International promotes minimum standards of humane behavior, such as the fundamental provisions contained in humanitarian law, by which an armed group should abide. It continues to urge GAM to uphold these standards. Non-international armed conflicts, such as that in NAD, are governed by Common Article 3 of all four Geneva Conventions, which applies to all parties to a non-international conflict.

7. Conclusion

Amnesty International believes that the restrictions being placed on, and the dangers being encountered by, human rights defenders, humanitarian workers and journalists are indicative of a deteriorating human rights situation in NAD. It is worth remembering that the forced removal by threats, intimidation and other means of those who can independently monitor and report on the human rights situation and provide information and support to the civilian population has been seen elsewhere in Indonesia in the past, most notably in Timor-Leste in September 1999, when human rights workers, journalists and eventually the UN was forced to evacuate the province after repeated attacks by militia and members of the security forces. Some 1,300 people are estimated to have been unlawfully killed in Timor-Leste during 1999, most of them after the evacuation of the UN and other national and international monitors.

The fact that the authorities are unwilling to protect those whose work is to protect and support civilians during times of conflict signifies that, despite its stated intention to minimize the hardships suffered by the population, their well being is not being prioritized. Rather than attempting to drive out professionals whose skills and training could assist the government in its efforts to prevent human rights violations and deliver humanitarian assistance, the authorities should be making every effort to work with them, protect them and support them.

Amnesty International urges Congress to use its influence to ensure that human rights defenders and humanitarian workers are provided with access to NAD and are able to carry out their valuable work there. This important concession would be a first step towards providing the civilian population with some protection from the human rights abuses from both parties to the conflict which are reported to be occurring on a daily basis.