

# **Indonesia**

## **The Role of Human Rights in the Wake of the Earthquake and Tsunami:**

### **A Briefing for Members of the Consultative Group on Indonesia**

#### **19 – 20 January 2005**

In response to the earthquake and tsunami which devastated large parts of the province of Nanggroe Aceh Darussalam (NAD) and surrounding areas, the international donor community has pledged unprecedented levels of support and commitment to both immediate relief efforts and longer term reconstruction of affected communities. Amnesty International welcomes this recognition of global responsibility to those in need. In addition to urging donors to honour their pledges, Amnesty International also calls on the donor community to ensure that relief and reconstruction efforts are conducted within a framework that protects and promotes human rights. This requires meaningful support for, and insistence upon, mechanisms which ensure the implementation of relevant human rights principles.

Human rights must be at the centre of relief and reconstruction efforts at all phases of disaster-response. In the immediate aftermath of the disaster longstanding international human rights norms should inform all efforts to ensure that survivors are safe, treated for their injuries, clothed, fed and sheltered. They provide practical guidance regarding the protection, assistance and reintegration of those displaced. They point to the particular safeguards needed to ensure the security of people at particular risk. And they can help lay a firm foundation for reconstruction efforts and the restoration of the rule of law. Full respect for human rights is therefore essential at all stages of the crisis and should not be seen as a luxury that can only be afforded once order has been restored.

Amnesty International's recommendations draw on the body of human rights standards and principles which the international community has agreed should form the basis for effective responses in situations of disaster and emergency. These principles take into account the magnitude of the challenge facing governments in the wake of natural disasters, while at the same time ensuring that the legitimate goals of public health, order and security are not achieved at the expense of the human dignity of individuals and groups.

This briefing also reflects Amnesty International's longstanding human rights concerns in NAD and the implications of these concerns for the protection of human rights in the aftermath of the earthquake and tsunami.

In that respect, Amnesty International urges the donor community to work with the Government of Indonesia to ensure:

- full, unimpeded and unhindered access to NAD is guaranteed for humanitarian workers and human rights defenders;

- treatment of those displaced by the disaster is in full compliance with the UN Guiding Principles on Internal Displacement (The Guiding Principles on Internal Displacement);
- protection and empowerment of women and vulnerable groups such as children, the elderly and persons with disabilities;
- close cooperation and coordination with local non-governmental organizations and other members of civil society in the development, implementation and evaluation of protection and assistance programs;
- adherence to the rule of law; and
- no impunity for human rights abuses.

## **1. Access**

In May 2003 a military emergency was declared in NAD. Civilian government was suspended and a massive counter-insurgency operation was initiated against the armed pro-independence group, the Free Aceh Movement (Gerakan Aceh Merdeka, GAM). The following year marked one of the bloodiest in the 28 year conflict in NAD. In May 2004, the status of NAD was downgraded from military to civil emergency. However, the conflict, and the associated pattern of grave abuses of civil, political, economic, social and cultural rights, continued.

Since shortly after a military emergency was declared, the civilian population has been almost entirely cut off from the assistance and protection afforded by the presence of independent human rights monitors and humanitarian workers. International staff of humanitarian agencies have been required to obtain permits to travel to the provincial capital, Banda Aceh, and to obtain further permission to travel beyond the capital. Permits have only been issued infrequently and, even then, often with strict time and place restrictions. Although there were some improvement in access in 2004 compared to the early days of the military emergency, it remained far from the full, unimpeded access normally required for humanitarian organizations to implement their programs. Access to areas regarded as GAM strongholds had reportedly been particularly poor. Prior to the current disaster, it was believed that there had been no access to some such areas since May 2003.

In the immediate aftermath of the disaster, international humanitarian agencies were permitted to enter NAD on request. However, there has been no indication that the regulations which govern access to the province by foreigners have been repealed. Indonesian officials have announced that international staff will again be required to seek permission before moving outside of the city centres of Banda Aceh and Meulaboh and that international agencies may require military escorts outside of those cities.<sup>1</sup> The imposition of these restrictions is said to be based on security concerns and the need to coordinate the relief effort.

---

<sup>1</sup>On 9 January 2005, Vice President Yusuf Kalla reportedly stated, during a televised meeting of government officials, that foreigners would be restricted to the Banda Aceh and Meulaboh. Budi

Amnesty International acknowledges the obligation of the Indonesian authorities to safeguard the security of humanitarian workers. To date, Amnesty International has not received any reports indicating that the delivery of aid has been hampered by government imposed restrictions. However, Amnesty International is concerned that these broad restrictions may at any stage once again be administered in a manner which unnecessarily restricts freedom of communication and movement, isolates communities from much needed outside assistance and prevents independent human rights monitoring of the ongoing conflict and its impact on the civilian population.

The UN General Assembly, in Resolution 45/100, has declared the abandonment of victims of natural disasters without humanitarian assistance to constitute “a threat to human life and an offence to human dignity”. While reaffirming the sovereignty of affected States, this Resolution invites all States whose populations are in need of humanitarian assistance to “facilitate the work of...organisations in implementing humanitarian assistance, in particular the supply of food, medicines and health care, for which access to victims is essential”.<sup>2</sup> In doing that, the Resolution recalls States Members of the United Nations’ duty to “achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and for fundamental freedoms for all...”<sup>3</sup>

The Guiding Principles on Internal Displacement recognize the legitimate role of humanitarian actors and the duty of the State not to arbitrarily withhold its consent to their activities, particularly when the authorities are unable or unwilling to provide the required assistance. Under the Guiding Principles on Internal Displacement, international humanitarian organizations and other appropriate actors have the right to offer their service in support of the internally displaced. Such an offer should not be regarded as an unfriendly act or as interference in the State’s internal affairs.

Amnesty International believes that previous restrictions on access, which were bureaucratically cumbersome, administered without transparency and utilised to limit independent monitoring of the ongoing conflict, were inconsistent with the Guiding Principles on Internal Displacement.

At this time, full access to the NAD is required not only to ensure that humanitarian assistance is delivered to all those who require it, but also to ensure that it is delivered

---

Atmadi Adiputo, Head of the Operational Team for National Disaster Relief in Aceh was also extensively quoted as stating that foreign aid groups and military personnel had been informed that they must register and obtain special permission to travel anywhere outside Banda Aceh and Meulaboh. In a press conference on 11 January 2005, the Commander of the Armed Forces General Endriartono Sutarto announced that because of security concerns, “for the time being I would like the foreign presence only in Banda Aceh and Meulaboh. Outside those areas they must be accompanied by the Indonesian military.” (New York Times 12 Jan 2005).

<sup>2</sup> United Nations, General Assembly Resolution “Humanitarian assistance to victims of natural disasters and similar emergency situations”, A/RES/45/100, 68<sup>th</sup> Plenary Meeting, 14 December 1990.

<sup>3</sup> Article 1 (3), Charter of the United Nations

equitably and without discrimination. Transparency is a necessary safeguard against corruption.

*Donors should exert pressure on the Government of Indonesia to permit full, unimpeded and unhindered access to the civilian population, including to internally displaced persons, by national and international humanitarian agencies and human rights monitors.*

*Donors should ensure that they remain in a position to independently verify that relief and reconstruction aid are distributed and used in a transparent and accountable manner without discrimination.*

## 2. Internally displaced people

Prior to the current disaster, tens of thousands of people had been displaced within NAD by the ongoing conflict.<sup>4</sup> In that context, Amnesty International expressed concern that the Indonesian authorities were not fulfilling their duties under the Guiding Principles on Internal Displacement in all cases. In some cases civilians were displaced under threat of force, given only 24 hours to leave their homes, and allowed only to take a small bag of clothes. Others returned to their homes to find them looted or destroyed with their livestock stolen or killed. Although funds were promised to assist their return, recipients did not necessarily receive their full entitlements, as is frequently the case with government funding in NAD.

Although, the circumstances which have led to the current displacement of an estimated 603,518 people<sup>5</sup> within NAD are different, nonetheless, the record of the Indonesian authorities in dealing with internally displaced persons (IDPs) within the province remains cause for concern. It is imperative that the Guiding Principles on Internal Displacement govern the response of the Indonesian authorities to the current population of IDPs.

Amnesty International emphasises the following obligations which must be met by the Indonesian authorities.

- **Protection** - While protection of IDPs must be of concern to all humanitarian actors involved in the crisis, the Indonesian government has the primary duty and responsibility to provide protection to IDPs within its jurisdiction.

---

<sup>4</sup> The government projected at the beginning of the military emergency that 200,000 people would be displaced. Although that figure was never reached, tens of thousands of people were displaced particularly during the first months of the military emergency. During 2004, IDP numbers had decreased. As of June 2004, the official figure for IDPs in NAD was 6,946. As at 20 December 2004, the International Organization for Migration's figures stated that there were 1, 874 IDPs in camps in Aceh Selatan, Aceh Singkil and Aceh Jaya Districts.

<sup>5</sup> Official figures as of 17 January 2005 from the website of the Ministry of Social Affairs of the Republic of Indonesia

This duty requires the Indonesian authorities to be pro-active in creating an environment conducive to full respect of the rights of individuals, adopting effective measures to prevent abuses, ensuring mechanisms are in place to report abuses, investigating abuses when they take place, providing protection where required to victims and witnesses, prosecuting the alleged perpetrators and ensuring that they are brought to justice and given a fair trial, as well as ensuring that appropriate reparations are made to the victim.

***Donors should seek clarification of what mechanisms are in place to provide IDPs protection from, and remedies for, human rights abuses and work with the Government of Indonesia to support the successful operation of those mechanisms. Given the poor record of the police in NAD of investigating human rights abuses, particularly those allegedly committed by the security forces, a credible and impartial mechanism that is independent of the military and police is required to ensure the exercise of the right to an effective remedy.***

- **Women** - Women have been among the thousands who have been unlawfully killed, tortured or arbitrarily detained by the security forces during the conflict in NAD. There is a long established pattern of rape and other crimes of sexual violence against women by the security forces in the villages of NAD. Women relatives of GAM members have been detained, effectively as hostages, in place of men who have avoided arrest. Women have reportedly been forced to strip so that members of the security forces can look for tattoos on their breasts said to indicate membership of GAM. Like most allegations of human right violations in NAD, allegations involving violence against women have rarely been investigated. Since the declaration of the military emergency, a few allegations of crimes of sexual violence by the military have been investigated. However, these have resulted in prosecutions before military tribunals and the longest sentence handed down so far has been three-and-a-half years' imprisonment for rape.

Unfortunately, experiences from across the world demonstrate that the risk of gender based violence is greatly increased by the displacement of large sections of the population. The Guiding Principles on Internal Displacement provide for the protection of IDPs against rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment and other outrages upon personal dignity including gender specific violence, forced prostitution and any form of indecent assault.

For that reason, it is important that, in addition to the general protection measures discussed above, specific measures are in place to protect women from sexual violence within IDP camps and to facilitate reporting of incidence of gender based violence. The Indonesian authorities must ensure that essential medical care as well as appropriate counselling is available to victims of gender-based violence. Mechanisms must be in place within the investigation and judicial processes to ensure the full protection of victims and witnesses from reprisals.

***Donors should seek clarification of what mechanisms are in place to provide specific protection to women from sexual violence and to provide support, medical assistance and***

*counselling and redress to victims. Donors should work with the Government of Indonesia to support the successful operation of those mechanisms.*

- **Provision of essential requirements** - IDPs have the right to an adequate standard of living. This must include access to essential food and potable water, basic shelter and housing, appropriate clothing and essential medical services and sanitation. In the context of the military emergency, Amnesty International has previously expressed concern that, irrespective of its stated commitment to assisting IDPs, there are serious doubts about the capacity of the Indonesian government to deliver these essential services.

The limited information available about the condition of IDPs in NAD shortly after the declaration of the military emergency suggested that conditions in official camps were poor, with concerns about inadequate sanitation, water and food supplies and healthcare. The scale of the current disaster and the size of the IDP population is significantly greater. In the circumstances, Amnesty International has grave concerns about the ability of the government to meet its obligations to provide an adequate standard of living without the direct assistance of the international community.

*Donors should demand that both domestic and international humanitarian agencies are given full, unimpeded and unhindered access to IDPs. Prior to any agreement to channel aid through the Indonesian authorities, donors should seek assurances that those authorities are capable of meeting their obligations under the Guiding Principles on Internal Displacement, with regard to ensuring that humanitarian assistance is not diverted for political or military reasons and that the essential requirements for an adequate standard of living are provided without discrimination.*

- **Freedom from discrimination** - Humanitarian assistance must be provided in accordance with the principles of humanity and impartiality and without discrimination.

Since the earthquake/tsunami, there have been reports from NAD that in some cases in order to access humanitarian assistance, Acehnese have been required to present identity cards (known as Red and White cards) and have been first subject to interrogation, on suspicion of being GAM members or supporters.

Red and White identity cards were introduced in the first few weeks of the military emergency with the aim of separating GAM members from the broader community. In order to obtain a card, Acehnese were required to register at four different local government, military and police offices, undergo questioning and proclaim loyalty to the unitary state of Indonesia. Some Acehnese, particularly those who had been detained previously, did not register for a card because they feared that they would be arrested on suspicion of being GAM members or supporters. To require people to present the cards in order to access aid is unnecessary and discriminatory.

While the Indonesian authorities may investigate and, where there is sufficient evidence and the proper procedures adhered to, arrest people on suspicion of involvement in

violent crimes in the context of the armed insurgency, access to aid must not be denied on the basis of such suspicions, nor made conditional on assisting any investigation.

***Donors should seek clarification of administrative procedures for IDPs to register for and receive humanitarian assistance in all areas of NAD and seek assurances that humanitarian assistance will be provided on the basis of independent needs assessment and without discrimination.***

- **Freedom of movement** – According to the Guiding Principles on Internal Displacement and other international standards, IDPs have the right to liberty of movement and freedom to choose their residence. In particular, IDPs have the right to move freely in and out of camps or other settlements and be protected from arbitrary or forcible displacement.

***Donors should demand that any restrictions on the freedom of movement of IDPs are in full compliance with the Indonesian government's obligations under international human rights and humanitarian law and that there is an absolute prohibition on acts by the security forces or other officials which result in forcible displacement, resettlement or relocation. The free and informed consent of IDPs should be sought at all times.***

***Access to humanitarian assistance should not be made conditional upon residence in specifically designated IDP camps but should be made available on the basis of need.***

***IDPs should have the right to an effective remedy, including the review by independent judicial authorities, of any government decisions regarding relocation/resettlement or eligibility for humanitarian assistance.***

- **Return, Resettlement and Reintegration** – The Indonesian government has the primary duty and responsibility to establish conditions and provide the means that allow IDPs to return voluntarily in safety and with dignity to their homes or resettle in another part of the country. Policies and decisions regarding the resettlement, relocation and return of IDPs must not be imposed without consultation. Rather IDPs should be integrally involved in planning and managing their return or resettlement and reintegration.

In order to be effective, such involvement must be both structured and transparent and should involve non-government organisations representing the full spectrum of the community. Any consultation should include input from particularly vulnerable groups, such as women, female-headed households, unaccompanied children, elderly person and persons with disabilities. Resettlement, return and relocation programs should take account of the particular needs of these vulnerable groups and be directed towards their protection and longer-term empowerment.

Genuine consultation can not occur in an environment where unnecessary restrictions exist on freedom of expression and assembly. IDPs must be able to access and disseminate information concerning their living conditions and arrangements for their

return, resettlement or relocation. IDPs must be able to be actively involved in this consultation without fear of discrimination, intimidation or harassment.

Returned or resettled persons should be assisted in recovering the property or possessions they left behind upon their displacement or receiving appropriate compensation.

***Donors should urge the Government of Indonesia to establish and implement mechanisms for participation by IDPs in the planning and management of their resettlement, relocation or return. Donors should ensure that all programs contain such mechanisms and are in accordance with the principle of voluntariness and return or relocation in conditions of safety and dignity.***

***Donors should ensure that consultation processes allow and encourage the full participation of women, as well as respecting the rights of unaccompanied children to be consulted in decisions affecting them.***

***Donors should support any efforts by the Government of Indonesia to restore land and to the extent possible, property to rightful owners or provide appropriate compensation or other forms of reparation.***

#### **4. Civil Society and Human Rights Defenders**

Even prior to the devastating consequences of the current earthquake/tsunami, the strength of civil society within NAD had been severely undermined by restrictions on freedom of expression and assembly. Both civilian pro-independence activists and members of non-government organizations whose work involved collecting and disseminating data on, and campaigning against, human rights abuses or providing assistance to the civilian population were the targets of human rights abuses. They were often accused of being GAM members and at risk of intimidation, harassment, arbitrary arrest and detention, torture and extra-judicial execution.<sup>6</sup> Many were forced into hiding or to flee the province and in some instances the country. Those who remained, particularly human rights defenders, were unable to carry out their work effectively due to fear of being subjected to human rights violations themselves.

Freedom of expression and public debate was also stifled by restriction on media. Although access by the media to NAD during the first weeks of the military emergency was relatively open, a succession of reports on human rights violations committed by the military quickly resulted in the introduction of tight restrictions.

---

<sup>6</sup> See Amnesty International, “Indonesia: New military operations, old patterns of human rights abuses in Aceh (NAD)”, (AI Index: ASA 21/033/2004) Eighteen human rights defenders were unlawfully killed or “disappeared” in NAD between January 2000 and May 2003. From May 2003 until the current earthquake/tsunami, at least 24 human rights activists, environmental activists and humanitarian workers have been detained in NAD. Most have been released. However, six have been accused of membership or other links with GAM and have faced trial. At least four are known to have been convicted and sentenced to term of imprisonment. See also Amnesty International, “Indonesia: Protecting the protectors: human rights defenders and humanitarian workers in Nanggroe Aceh Darussalam”, (AI Index ASA 21/024/2003), 3 June 2003.



Foreigners who were successful in obtaining permission to enter NAD were prohibited from both holding a public gathering for any purpose or providing a statement or information to the public or press without prior permission from the Regional Civil Emergency Authority.<sup>7</sup>

The earthquake/tsunami has further damaged the capacity of civil society. Many non-governmental organizations have had their offices, files and equipment destroyed and have lost leaders and staff members. Nonetheless, demonstrating remarkable resilience, many organizations have regrouped and re-organized to play a crucial role in emergency relief efforts, by raising funding, distributing relief, assessing community needs and disseminating information about the humanitarian situation, and progress of relief efforts, to the wider national and international community.

Assistance is required to rebuild and provide support for local non-governmental organizations. Their input and involvement in the reconstruction and long-term recovery of NAD is a necessary pre-requisite to accountability, social cohesion and stability. While central coordination of relief efforts may be required, particularly in the emergency stages of the operation, it is important that local organizations are utilized rather than marginalized.

In view of the large numbers of displaced and vulnerable persons left in the wake of the earthquake/tsunami, weaknesses in institutions such as the police and judiciary which have been exacerbated by the current disaster and the history of human rights abuses in NAD, the work of human rights defenders is of particular importance at this time. Recognizing the legitimacy of their work and providing support for human rights defenders to perform their role in monitoring, documenting and campaigning against human rights abuses must be regarded as integral, rather than secondary, to the relief and reconstruction effort.

***Donors should ensure close cooperation with local non-governmental organizations and other members of civil society in the development and implementation of assistance programs.***

***Donors should publicly affirm their commitment to the principles contained in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms and urge the Government of Indonesia to do the same.***

***Donors should ensure that both domestic and international human rights defenders have full, unimpeded and unhindered access to all areas of NAD and that they can carry out their work free from intimidation, threats and human rights violations.***

## **5. Rule of Law**

A number of donor governments and institutions have played an important role in supporting initiatives to promote judicial and legal reform throughout Indonesia. Although important

---

<sup>7</sup> Directive from the Regional Civil Emergency Authority No 04/PDSD-NAD/2004

progress has been made, key institutions remain weak. Within the criminal justice system, for example, internationally-agreed fair trial standards are not guaranteed. This was particularly evident in NAD in the context of the military and civil emergency, where more than 2,000 alleged GAM members were arrested. From the dozens of cases in NAD on which Amnesty International has data, it is apparent that arrests, detentions and trials manifestly contravened international norms relating to the right to fair trial.

Amnesty International is concerned that in an environment where judicial and legal reform remain incomplete, the urgency and overwhelming scale of relief and reconstruction efforts may result in further undermining of the rule of law. Already confusion has been expressed about the status of NAD and about the extent to which the civil emergency remains in force, in addition to other decrees issued in the context of the emergency.<sup>8</sup> There has been general concern that despite positive initiatives from the Government of Indonesia to introduce mechanisms for effective oversight of spending, relief and reconstruction efforts may nevertheless be compromised by corruption. Fears have been expressed, for example, that ordinary government tender processes may be circumvented in the reconstruction process.

In relation to the criminal justice system, the Head of the Supreme Court has stated that judges will be sent to NAD to try offences committed after the disaster and to ensure the continued operations of the courts.<sup>9</sup> According to media reports, by 5 January 2005, only 19 of the 88 judges in NAD had been accounted for after the earthquake/tsunami and approximately half of the court buildings in the province had suffered severe damage. In the circumstances, courts will reportedly operate with one judge replacing the usual panel of three. Amnesty International, welcomes the steps taken to guarantee the continued functioning of the judiciary in NAD. It is important, however, that clear directives are issued to police, prosecutors and judges emphasizing that the rights of suspects and accused persons have not been suspended and must continue to be upheld.

Amnesty International believes that guarantees of fair trial are vital to the protection of human rights, particularly at times of emergency, and therefore should never be suspended. Rights such as the right to life and freedom from torture and other cruel, inhuman or degrading treatment or punishment, may never be suspended in any circumstances. Nor should the existence of a state of emergency be used as an excuse for any form of discrimination. The Human Rights Committee has expressed the view that the right to habeus corpus should also be considered non-derogable.<sup>10</sup> This is a view supported by resolution of

---

<sup>8</sup> As far as Amnesty International is aware, there has been no Presidential Decree revoking the State of Civil Emergency. However, the Vice-President Jusuf Kalla has reportedly stated that “for the time being, practically speaking, the ‘civil emergency’ is no longer effective in Aceh because the province no longer has its local government. The provincial government has been taken over by the central government.” *Laksamana Net*, 29 December 2004

<sup>9</sup> “Polri desak MA Segera Sidangkan Kejahatan Pasca Bencana Aceh” *Tempo Interaktif*, 5 January 2005; “MA akan terapkan hakim tunggal, kasus yang berkasnya hilang ditunda dulu” *Aceh Kita*, 6 January 2005.

<sup>10</sup> Human Rights Committee, General comment no. 29: States of emergency (article 4), UN Doc. CCPR/C/21/Rev.1/Add.11, 31 August 2001, para. 16.

the UN Commission on Human Rights.<sup>11</sup> There must similarly be no derogation from the principle that only a court of law may try and convict a person for a criminal offence, and the presumption of innocence must be respected. If conditions preclude holding proper trials, this cannot be a pretext for holding summary or arbitrary proceedings. Where delays are unavoidable suspects should, as a rule, be released pending trial.

Irrespective of the current circumstances, the protection, transparency and accountability provided by adherence to the rule of law should not be undermined in NAD by recourse to the arbitrary exercise of authority. Indeed, the size and scope of the reconstruction process and the subsequent risk of corruption, demand, more than ever, that decision-making authority be exercised within a transparent legal framework with appropriate review mechanisms.

***Donors should continue to provide support for legal and judicial reform within Indonesia and urge the Government of Indonesia not to undermine progress towards the rule of law by circumventing or suspending established legal procedures in the context of relief and reconstruction efforts in NAD.***

***Donors should express concern at any proposed suspension of fair trial guarantees.***

***Donors should urge the authorities to conduct a prompt and independent review of all cases where political prisoners have been convicted in trials which did not meet international standards of fair trial, and failing that, call for their immediate release.***

## **6. Ongoing human rights abuses and impunity**

Amnesty International has previously expressed grave concerns about the human rights situation in NAD, particularly since the declaration of the military emergency in May 2003.

Although limitations on access have largely prevented independent human rights monitoring, the human rights violations committed by the Indonesian military and the police in NAD, and reported to Amnesty International, include extra-judicial executions; rape and other crimes of sexual violence against women; torture and ill-treatment; and arbitrary detention. Other human rights concerns include the forced participation of the civilian population in military operations or other activities in support of the ongoing military campaign against GAM and the disproportionate restrictions on freedom of expression and association.<sup>12</sup>

Amnesty International has also previously expressed concerns about human rights abuses reported to have been carried out by GAM, including the taking of hostages and the use of child soldiers. The authorities have also accused GAM of carrying out unlawful killings.

---

<sup>11</sup> Commission Resolution 1994/32, 4 March 1994, para. 16.

<sup>12</sup> See Amnesty International, "Indonesia: New military operations, old patterns of human rights abuses in Aceh (NAD)", (AI Index: ASA 21/033/2004)

Optimism has been expressed that the current disaster which has caused widespread devastation and suffering may provide the impetus for an end to hostilities in NAD and for renewed efforts to resolve the situation in NAD through dialogue rather than force. However, in order for any agreed resolution to the conflict to be durable, it is important that human rights are not sacrificed in the search for peace and security.

In the interim, reports from NAD indicate that both the conflict and the pattern of human rights abuses continue.

- A local non-governmental organization reported that just hours after the tsunami, members of the Combined Intelligence Task Force (Satuan Gabungan Intelijen) based in Gandapura stopped a local man by the side of the road and beat him until he bled. He was then reportedly taken away and arbitrarily detained, even after it was realised it was a case of mistaken identity.
- A journalist near LhokNga village witnessed members of the military fire shots in the air to prevent a man suspected of being a GAM member from fleeing. The journalists witnessed members of the military hit the man across the face and threaten him with a rifle butt, before detaining him.<sup>13</sup>
- News agencies reported that the at least seven alleged members of GAM were shot dead near Lampuuk village, 25 kilometers from Banda Aceh. Several local villagers told journalists that the men were not members of GAM but villagers who had gone to the beach to collect motorbikes from among the wreckage. The men's bodies were allegedly found face up in a rice field, naked except for their underpants.<sup>14</sup>
- According to a UK newspaper, police beat and shot dead an unarmed member of GAM who had returned to Banda Aceh after the earthquake/tsunami to see whether his family was still alive.<sup>15</sup>
- The Indonesian authorities allege that since the earthquake/tsunami, members of GAM have carried out kidnapping and looting and have interfered with the delivery of aid. To Amnesty International's knowledge, these allegations have not been independently confirmed.

The current situation in NAD provides no justification for human rights abuses. Likewise, it provides no justification for a failure to investigate and bring to justice those responsible for human rights violations. Indeed, in circumstances where the Indonesian military have assumed a central role in the coordination and direct delivery of humanitarian aid, it is particularly important that the civilian population be able to access that aid without threat of violation.

---

<sup>13</sup> "Journalists Told to Keep Quiet on Aceh Skirmish" *The Australian*, 7 January 2005

<sup>14</sup> "Military-Rebel tensions complicate relief in Aceh" *New York Times*, 8 January 2005; "In shadow of tragedy a bitter conflict is rekindled" *The Guardian* 10 January 2005;

<sup>15</sup> "Rebel is shot by police after coming home to check his family" *The Times*, 13 January 2005

*Donors should express serious concern about reports of grave violations of international humanitarian and human rights law by members of the Indonesian security forces in NAD.*

*Donors should seek clarification of what measures are being taken to ensure that international humanitarian law and human rights law and standards are being implemented and action taken where there are allegations of breaches.*

*Donors should ensure that any talks aimed at a resolution to hostilities in NAD prioritise human rights protection.*

*Donors should ban the transfer of arms to Indonesia while the Indonesian military and police continue to commit gross violations of human rights. In view of the extensive and persistent violations of fundamental rights by these forces, any international training or technical support given to the Indonesian security forces should exclude operational training until the serious lack of adequate systems of accountability is addressed..*