
amnesty international

Indonesia

A briefing for EU and ASEAN countries concerning the deployment of the Aceh Monitoring Mission to Nanggroe Aceh Darussalam Province

Amnesty International welcomes the deployment of EU and ASEAN monitors to Nanggroe Aceh Darussalam (NAD) province, Indonesia to oversee the implementation of the peace agreement which was signed by the Indonesian Government and the armed pro-independence group, GAM (The Free Aceh Movement, *Gerakan Aceh Merdeka*) on 15 August 2005.

The peace agreement, referred to as the Memorandum of Understanding (MoU), marks a new attempt to put an end to the 29-year-old Acehese conflict which has already cost the lives of thousands of civilians and generated human rights abuses on both sides.¹

The commitment made by the EU and ASEAN countries to send international monitors to NAD is an historic opportunity to ensure that violations of human rights and humanitarian law in the province are brought to an end. EU and ASEAN countries now have a role to play in guaranteeing that human rights in NAD are fully respected and protected.

Human rights monitoring and combating impunity are important factors in ensuring the success of the peace process. The lack of justice for victims of human rights violations is one of the elements which has fuelled the Acehese conflict. Through the implementation of their mandate international monitors can counter this trend.

Amnesty International is convinced that in order to guarantee that the protection of civilians remains a central priority, human rights principles should be incorporated at all

¹ See: *Indonesia: New military operations, old patterns of human rights abuses in Nanggroe Aceh Darussalam*, (AI Index: ASA 21/033/2004).

stages of the peace process. This includes ensuring that human rights violations and abuses cease, but also that the long-term reconstruction of legislative systems and legal mechanisms is carried out so as to ensure that they respect human rights and that the national and local administration of justice protects and promotes human rights and prevents impunity.

The MoU covers a number of topics, including governance issues, human rights, amnesties, and disarmament, demobilization and reintegration (DDR) programs. It also establishes the Aceh Monitoring Mission (AMM) comprised of international monitors from the EU and five ASEAN states (Malaysia, Singapore, Thailand, Brunei and the Philippines) to monitor the parties' compliance with their commitments. An advanced AMM team comprised of approximately 50 people has already been deployed to NAD, and should be followed by the dispatch of over 200 monitors by 15 September 2005.

1. Human rights monitoring and reporting

As set out in Section 5.2(d) of the MoU, one of the tasks of the mission is to “*monitor the human rights situation and provide assistance in this field*”. Amnesty International welcomes the inclusion of a human rights monitoring element in the mandate of the AMM.

Given that independent and impartial human rights monitoring and assistance has been hampered in NAD province, Amnesty International believes that this aspect of the mandate offers a key opportunity to ensure that human rights violations and abuses are reported and monitored. There should be no international ‘silent witnesses’ in the face of human rights abuses, and the EU as well as ASEAN countries should ensure that all field monitors are aware of this responsibility. We encourage the Head of the Aceh Monitoring Mission, to publicly commit himself to denouncing human rights violations he or the monitoring force may witness or may become aware of in the months to come.

The occurrence of human rights violations on the ground has frequently involved claims and counter-claims concerning the specific incidents. The AMM should carefully collect evidence and testimonies to verify whether Indonesian security forces and GAM handle relevant situations in accordance with international standards. Although the presence of militia, civilian defence groups and military auxiliary units is not explicitly mentioned in the MoU, the AMM should pay particular attention to these groups. They have reportedly been set up in several areas of NAD province, and are responsible for some of the human rights violations which have occurred in the past.

Documenting violations and breaches of international human rights and humanitarian law is the first step towards justice. It acknowledges the victims' sufferings and can potentially be of use in legal processes. Amnesty International encourages AMM to record and report their findings at regular intervals, and not less frequently than every month, to their respective countries and to the appropriate Indonesian human rights oversight mechanism. The reports should be made public so that the international community and the Indonesian public can be fully aware of the human rights situation in NAD province. Throughout this

process, the AMM should ensure that steps are taken to guarantee the protection of victims and witnesses.

Although no formal national human rights oversight mechanism is defined in the MoU, EU and ASEAN countries should seek assurances by the two parties that such a system will be set up. The mechanism should be able to receive complaints from the public, initiate and carry out investigations, and make recommendations for action to be taken against individuals. It should also have enforcement mechanisms to ensure its ability to act upon its findings. The national human rights oversight mechanism should not replace the existing national criminal justice system but act as a complementary mechanism for the benefit of the victims.

Where violations of international human rights or humanitarian law are alleged, the AMM should monitor whether such allegations are promptly and thoroughly investigated, and whether perpetrators are prosecuted in proceedings that meet international standards of fairness. Monitors should similarly observe and report on whether surviving victims and relatives are ensured full reparation, including restitution, compensation, guarantees of non-repetition and rehabilitation. Monitors should also examine whether victims are able to report violations without fear of intimidation, discrimination, or recrimination.

Amnesty International's recommendations to the AMM are as follows:

- *AMM should monitor and document any human rights violations and breaches of international humanitarian law, they encounter.*
- *AMM should provide regular and public reports of their findings.*
- *AMM should report their findings to the appropriate Indonesian human rights oversight mechanism.*
- *AMM should monitor the official responses on such allegations, and report publicly on them.*

2. Reform of the Law

Further to recording and overseeing the human rights situation, one of the tasks of the AMM is to “*monitor the process of legislative change*” (section 5.2(e)). This ‘legislative change’ comprises the review of the legal code for NAD and the setting up of an independent court system, including a court of appeals. The organization welcomes this review and the opportunity it allows for international observers to provide input into the process of legal reform in NAD province.

Amnesty International recommends:

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- *The AMM should ensure that the new legal code for NAD complies with international human rights standards, with reference to the International Covenant on Civil and Political Rights, and other international treaties and standards, including the Rome Statute of the International Criminal Court. Local traditions should not be used as an excuse to contravene those legal standards.*
 - *The AMM should ensure that steps are taken to guarantee that the new legal institutions are impartial and independent with the necessary powers and resources to be effective and competent.*

3. Combat Impunity

The AMM will have the duty “to rule on disputed amnesty cases” (section 5.2(f)). The ‘amnesty cases’ refer to the release of all persons who have participated in GAM activities, and of political prisoners and detainees held due to the conflict.

Amnesty International welcomes the release of those who may have been imprisoned solely due to their peaceful activities in NAD province, however it urges the AMM to pay particular attention to those who may have perpetrated serious human rights violations and abuses in the past. The same holds true for members of government forces who have committed serious violations. The signing of the MoU should not be seen as a license for the Indonesian authorities to evade their obligation to investigate all cases of past violations and bring perpetrators to justice.

- *When ruling on disputed amnesty cases, AMM should ensure that those responsible for serious human rights abuses are not granted amnesties and are duly prosecuted.*

4. Disarmament, Demobilization and Reintegration

AMM will take part in monitoring the demobilisation of GAM and the decommissioning of its armaments; monitoring the relocation of non-organic military forces and non-organic police troops; and monitoring the reintegration into society of active GAM members (section 5.2 (a),(b),(c)).

Of particular concern to Amnesty International is the use of children as combatants or in support of fighting forces.

- *Amnesty International urges AMM to give priority to the demobilization of former child combatants, including addressing their particular social, psychological and material needs, in order to ensure early and effective reintegration into their families and communities.*

The organization also fears that the reintegration process may lead to serious tensions, including land disputes, which may fuel conflict. Amnesty International recommends that:

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- *AMM should ensure that demobilization and reintegration includes militia and other civilian defence groups to facilitate their return to normal living conditions within society.*
 - *AMM should monitor the redistribution of suitable land to all former combatants, pardoned political prisoners and civilians, and in particular provide public reports should there be allegations about discrimination as regards reallocation of suitable land, employment or adequate social security.*

5. Composition of AMM

The recruitment of international monitors is currently underway. In this context, Amnesty International's recommendations are as follows:

- *EU and ASEAN countries should ensure that the monitors are independent, and that there is a balance between members with civilian and military expertise to reflect the variety of AMM tasks.*
- *The AMM should be gender balanced, and guarantee consideration of and respect for the needs of women in post-armed conflict situations.*
- *Monitors who carry out civilian duties should have international human rights and humanitarian law expertise, including in the area of violence against women. They should also receive training in the Indonesian national criminal justice system.*
- *The AMM should include experts in legislative reform, and in DDR programs.*
- *All international monitors should have appropriate experience and training in human rights monitoring, and a good understanding of the specific social, political, historical and cultural context in NAD.*

6. AMM's rights and duties

A Status of Mission Agreement (SoMA) between the Government of Indonesia and the sending countries setting out the "status, privileges, and immunities" of AMM has yet to be signed. Amnesty International hopes that it will include human rights provisions to ensure that the mission makes the respect, protection and promotion of human rights one of its principal tasks.

- *Appropriate security procedures should be set out to ensure the monitors' protection. There should be assurances that the monitors will not be subject to any forms of pressure by either of the two parties – or other groups - when monitoring or reporting human rights violations.*

- *All monitors should be provided full, unimpeded and unhindered access to all sections of the Acehnese population, including internally displaced persons, those in detention and local human rights defenders.*
- *International monitors should comply with human rights guarantees contained in national and international law. Failure to do so should result, where appropriate, in prosecution.*

7. Conclusion

The success of the peace process largely depends on the extent to which the AMM will be able to conduct its varied and numerous tasks. The EU and ASEAN countries should fully support the work of the Aceh Monitoring Mission by allocating sufficient resources - financial, material and human - to ensure that their tasks are undertaken fully and effectively.

The organization also reminds EU and ASEAN countries that they should publicly condemn human rights violations during and after the peace process and ensure that the processes of strengthening the rule of law and ending impunity are fully and promptly implemented. Effective international human rights monitoring and assistance should be continued for as long as necessary, until it is clear that both parties to the MoU, and other groups, are implementing international human rights standards effectively.

Amnesty International sincerely hopes that the above recommendations will be useful during the recruitment, deployment and evaluation of the Aceh Monitoring Mission. It is our hope that the mission will be a success and will contribute to a peaceful end to the Acehnese conflict.