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on International Humanitarian Law**

**"Aceh Peace Process (1999-2005):  
Keys to Final Solution"**

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## I. INTRODUCTION

The conflict in Aceh between the Government of Indonesia and the Free Aceh Movement (*Gerakan Aceh Merdeka, GAM*) began in 1976. By 1999, the 23 years of protracted armed conflict had resulted in an estimated 5,000 to 10,000 casualties. No one could be sure what the precise number actually was, as like any other internal armed conflict, no authoritative third party could provide actual and verified reports. The Geneva Protocol Relative to the Protection of Civilian Persons in Time of War (1949) was not applicable. Indonesia does not ratify the protocol. In a province with a population around 5 million, this estimated casualty figure was still a substantial one.

During this period, dialogue was not a vocabulary of both sides. But the force to dialogue came after *Reformasi*, a major political change that occurred in Indonesia in 1998, following the East Asian monetary crisis which turned into a multi-dimensional crisis. *Reformasi* is to change and reorient past policies and practices and develop new policies on many aspects of state's life, including on how the government dealt with the question of Aceh.

## II. ROOT CAUSES OF THE ACEH CONFLICT

Like in many cases of conflict of this nature, economic injustice has always been an important factor that triggers regional resentment or rebellion against central government. In the mid-1970s, substantial natural gas was found in Aceh, which in turn suggested that Aceh is a rich region. But under the centralized system, the government then adopted a policy of limited autonomy called “wide and responsible autonomy” for local governments. In practice, it stressed more on responsible rather than wide-ranging. As a consequence, most revenues from gas resources went up to the central government and very little trickled down to the local government.

Indonesia is a very diverse country in terms of ethnicity, culture, language, customs or tradition and religion. In comparison with many other ethnic groups of the Indonesian archipelago, Aceh has a distinctive and strong local identity. Aceh was claimed as a *veranda* of Mecca, signifying strong Islamic religiosity of the people of Aceh. In the applause of history, Acehnese are proud of their history as fierce fighters against the Dutch colonial power. Aceh was subjugated only at the year 1904, the latest among other regions of Indonesia. On this basis, following the defeat of the Japanese to the Allied Forces in 1945, GAM claimed that the transfer of sovereignty over the Aceh region must be given to the people of Aceh. Additionally, as a resource rich region, Aceh had a history of resisting colonial governments.

Under the military dominated government, led by President Soeharto who ruled Indonesia for 32 years, the only approach in dealing with armed rebellion was to crush it. *Reformasi* also meant that the military had to withdraw from its dual functions, relinquish its political role and promote professional military. But it took a humanist and pro human rights president, President Abdurrahman Wahid, to initiate dialogue with GAM, a break with a past policy. Although in the history of peaceful conflict resolutions in Indonesia, dialogue or negotiation with the local rebellions was not at all new.

## **ATTITUDE TO DIALOGUE AND THIRD PARTY MEDIATION / FACILITATION**

Since its birth, Indonesia was traditionally open to a third-party mediation or facilitation in solving its own conflicts, both inter-state and internal conflicts. In fact, following the Proclamation of Independence of Indonesia on the 17<sup>th</sup> of August 1945, during the War of Independence (1945 – 1950), the efforts towards recognition of Indonesia's independence were facilitated by the United Nations. The UN Commission on Indonesia, which was established following the Second Military Aggression by the Netherlands in 1948, and its Tri-Partite Commission, were the genesis of what was later on called UN Peacekeeping Missions. This episode was closed by the Hague Agreement between Indonesia and the Netherlands in 1949, facilitated by the United States. The ensuing conflict between Indonesia and the Netherlands over West Irian (now called Papua) in the early 60's was resolved through negotiations, under the UN flag, but

actually was facilitated by the United States, leading to the Williamsburg Agreement of 1962.

Another case was the East Timor conflict. East Timor was one of the 19 “non-self governing territories”. Therefore, following the draft withdrawal of Portugal as the colonial power, East Timor was always on the agenda of the UN Committee on Decolonization since 1975. Unfortunately, the Tri-Partite Dialogues involving Indonesia, Portugal and the UN from 1983 – 1999 failed to attain a final solution. In my view, the process of mediation was handled unprofessionally by the UN. The Tri-Partite Dialogue met only twice a year, comprising of a Senior Officials and Foreign Ministers Meeting, each for a total of merely 1,5 days. The disappointment on the way the UN handled the mediation process on the question of East Timor might have contributed to the Government of Indonesia’s decision to opt for international NGOs to facilitate the dialogue on Aceh with GAM.

From the aforementioned examples, along its modern history, Indonesia was open to dialogue and third party mediation if it is meant to solve its problems. Not only on international but also purely domestic issues, generally with favourable results. In the case of earlier conflicts in Aceh, namely the armed conflict with Daarul Islam (Islamic State), led by Daud Beureh in the late 1950’s, it was resolved through dialogue.

Based on those experiences, unlike some countries, Indonesia does not put non-interference principle at the forefront. And in the case of Aceh, Indonesia respectively invited two international

NGOs, the Henry Dunant Centre of Dialogue, now called Humanitarian Dialogue (HD) from 1999 – 2004 and Centre for Management Initiatives (CMI) from January – August 2005 to facilitate the peace talks from February 1999 until August 2005. The failure of the first facilitation by HD opened the way to the facilitation of CMI.

It took five years to resolve the conflict, interrupted by a natural disaster of global scale, the earthquake and tsunami that struck Aceh on December 26, 2004. The questions often raised were whether the Aceh tsunami was a key factor to the final solution of Aceh conflict? Or is it *reformasi* which was the key factor to final solutions?

### III. **STALEMATE AND REFORMASI OPENED THE WAY TO PEACE TALKS**

#### **1. Failure of Military Solution by Both**

Indonesia was and still is a unitary state. Under the military dominated government and a very centralized system of governance, as well as military culture, unitary was equal to uniformity, which in the end, was at the expense of Indonesia's great diversity. Any notion of dissent or rebellion must be crushed by the military. Furthermore, the military and intelligence approach to contain dissent failed to win the hearts and minds of the Aceh people, and on the contrary, made GAM bigger. Likewise, for 27 years, GAM failed to materialize its promise to establish an independent Aceh. This was attributed to a lack of clear ideology, effective leadership and weak military force.

## **2. *Reformasi* and New Approach to Conflict: Open and Democratic Indonesia**

*Reformasi* provided an opportunity to evaluate past policy mistakes, make the necessary corrections and adopt new policies. In the wake of reform, the power of the military was significantly reduced. The military was the most powerful institution in the country and it had dual functions – military as well as political. *Reformasi* effectively stripped the military of its political function and allowed the military to focus more on building its military professionalism. Therefore, the internal military reform process “returned the military to their barracks” and accepted the authority of a democratically elected civilian government. During the early stages of military reform, the notion to annihilate GAM by force of arms was still very strong.

## **3. Dialogue as an Option**

The combination of this stalemate and *reformasi* opened the way for dialogue as an option. But it took a humanist President in the form of President Wahid (1999—2001) to initiate the dialogue with GAM. President Wahid deployed his Cabinet Secretary, Bondan Gunawan, to establish contact with GAM by meeting with its Commander, Abdullah Syafei in the Aceh jungle and meeting with the GAM leadership who based themselves in Stockholm, Sweden. It was only recently disclosed that during these meetings, GAM positively responded to the call for dialogue. In fact, it was explored with GAM, who they expected to be the chief negotiator for the Government.

Except for a few exchanges of statements at the UN Human Rights Commission, I did not personally know the GAM leader, Hasan Tiro and therefore, was surprised to learn that the GAM leaders preferred to have me to be the Chief Negotiator for the Government. I kept guessing why and what was the reason behind this. But my best estimation was our mutual connection – myself and GAM – with the Moro National Liberation Front. Both GAM and Moro forces were trained militarily in Libya. While in my capacity as former Chairman of the Joint Committee of the Moro National Liberation Front (MNLF) and the Government of the Philippines Peace Talks (1993-1996), the MNLF leadership shared their kind words about me to GAM.

#### **4. Humanitarian Perspective Both at Entry and Exit Points**

It is very difficult for a long-standing protracted conflict to find reasons for dialogue. Ideally, a ceasefire is a prerequisite to begin any dialogue or negotiation. However, to set up a ceasefire agreement is quite a lengthy and difficult process by itself.

*“There is a moral imperative for peace mediation to be about more than a means of getting a document signed at the political level; it should also be an opportunity to get the parties to engage in the responsibility they have for the suffering of their people. The humanitarian approach to mediation is particular: it sees mediation as a way of saving lives and not just a path to a peace agreement (Griffiths). Therefore, a humanitarian pause is a method that is more easily accepted by both sides.*

The following were my first salvo during the first Exploratory Session with GAM which was attended for the first and last time by GAM Leader Hasan Tiro:

*“Between GAM and the Indonesian Government, we have a serious conflict. The conflict in Aceh was very political and deadly. You dreamt of establishing an independent Aceh and on the opposite side, the Government, as any government, would reject a demand for part of its territory to be a separate and independent entity. You have tried to settle those differences by the use of arms, which was equally responded by the Indonesian military. Your dream to establish an independent Aceh remains a dream but also, I must say, that the Indonesian military has failed to crush GAM. Moreover, if you think that you are truly the leader of the Acehnese, would a true leader choose the force of arms to settle the conflict and as a result, thousands of Acehnese including civilians, women and children suffered, either killed or wounded? Let’s try for us to think of alternative options, namely to settle our differences no longer by the force of arms but instead by dialogue.”*

GAM Leader Hasan Tiro immediately responded by saying *“Yes, I fully agree”*.

I was often asked whether or not the tsunami, which occurred in Aceh on 26 December 2004, was a key factor in the achievement of the final peace agreement between the Government and GAM in Helsinki in August 2005? My answer is no.

However, the tsunami certainly inspired leaders on both sides of the equation to go back to the negotiation table which was disrupted by a major combined operation (involving some 30.000 troops of the Indonesian Military and National Police) which certainly resulted in more casualties. The tsunami itself resulted in the deaths of 200.000 people.

From the humanitarian perspective, there was an urgency to save more lives. Moreover, the distribution of humanitarian relief assistance required relative peace to allow the humanitarian personnel to distribute medicine, clean water and assistance to the affected areas outside of the province's capital. Even though an informal ceasefire was agreed upon, the urgency to attain peace had become a priority, not only in response to the emergency phase (26 – 30 March 2004), but permanent peace was urgently needed at the ensuing rehabilitation and reconstruction phase (1 April 2005 – 30 March 2010).

#### **IV. THREE PHASES OF PEACE TALKS**

##### **1. Humanitarian Pause (January 2000 - August 2001)**

There were three phases of Humanitarian Pause, namely Humanitarian Pause 1, Humanitarian Pause 2 and Political Talks.

Keep in mind that the negotiations started only one year after *Reformasi* when Indonesia was still in the beginning of policy reform, in the midst of the instability of policies due to frequent changes of presidents. Despite the credit attributed to President

Wahid to change the course of action in dealing with the Aceh conflict from a military to dialogue approach, he was known as erratic and his term was very limited to do more in creating stability in the Aceh peace process.

Having lost its power in the wake of *Reformasi*, the military still strongly opposed an Aceh dialogue. In the field, the military was a disruptive force on the implementation of the understandings reached at the dialogue table, in particular on the security arrangements to facilitate the delivery of humanitarian relief assistance.

The humanitarian pause effectively minimized the humanitarian consequences. Efforts worked towards the return of thousands of Internally Displaced Persons (IDPs). It was able to deliver humanitarian relief assistance to camps and villages where the IDP returned and reduce the number of IDPs from 50,000 to 6,000. This in turn facilitated the political talks.

Another achievement of the Humanitarian Pause, especially as it moved up to the political discussions, was a Memorandum of Understanding on the future elements of the governance of Aceh, which in essence, contained elements of the future autonomy of the provincial government of Aceh. I had difficulties to sell this idea to the central government in 2000, only two years after *Reformasi*, during which the old concept of local governance (wide and responsible autonomy) under a very centralized system that still prevailed. Despite the fact that under *Reformasi*, wide-ranging autonomy was one of the key

pillars of *Reformasi*. In reality, old concepts die hard, as we had many spoilers and detractors who were clinging to the old concepts.

Under the dynamic process of reform, in 2002, Indonesia formally adopted the Law on Autonomy in which the central government delegated more powers and authorities to all local governments under regular autonomy and special autonomy. This decentralization is accompanied by a very generous revenue sharing (50% for regular autonomy and 70% for special autonomy) and Aceh was designated as one of the two provinces with special autonomy. Therefore, the special autonomy status of Aceh province, which was agreed in the MoU on Aceh, was not a product of negotiation but rather a unilateral policy.

## 2. Cessation of Hostilities Agreement (COHA, August 2001 – 9 December 2002 and one Tokyo Round of May 2003)

This second phase of dialogue took place when Indonesia was under the presidency of President Megawati Soekarnoputri (August 2001 – October 2004). Unlike President Wahid, President Megawati, being nationalist, was lukewarm towards the dialogue. Coordinating Minister Susilo Bambang Yudhoyono (SBY), was reappointed and continued to coordinate the dialogue process despite limited room to maneuver. This situation allowed the detractors, such as the Army Chief of Staff, General Ryamizard Ryacudu to voice their opposition to the dialogue.

In the course of two years, the COHA process was focused on attaining the cessation of hostilities agreement, or more precisely on the ceasefire arrangement, that in turn, was expected to provide a conducive atmosphere for political talks. COHA was attained and signed on 9 December 2002, covering the demilitarization of Aceh and decommissioning of weapons, supervised by a monitoring team comprised of troops contributed by Thailand and the Philippines.

On matters of substance, the Indonesian side began to introduce the new concept of autonomy based on the Special Autonomy Law No. 18 Year 2001 as the ultimate form of solution. Both sides agreed to a process leading to an autonomous government in Aceh and put aside, for the moment, the issue of independence.

These developments show the connection and the dynamic relationship between *Reformasi* and process of accommodation at the negotiating table. It was quite a leap forward from the provisional understanding on the future elements of the governance of Aceh (2000). This guided the discussion process to focus further on the ultimate form of solution, namely special autonomy or independence. The elaborate Cessation of Hostilities Agreement including a wide-detailed demilitarization and the commission of weapons came to a halt primarily because of its detailed provisions. Compared to the same “ceasefire agreement” under COHA, which was subordinated to humanitarian pretext. Moreover, primarily for the sake of supporting the monitoring activities, the constituents of the dialogue were enlarged from a

Tri-Partite meeting including Indonesia, GAM and HD to a much bigger forum including far more powerful players namely United States, Japan, European Union and the World Bank – each with their own political interests. With the backing of this group of powerful actors, HD was more confident to toy with the new idea of a confederation, a middle ground between special autonomy demanded by Indonesia and independence demanded by GAM. Strong on the notion of unitary state of Indonesia and sensitive to the notion of the concept of federation since the beginning of the republic, the introduction of a strange concept of confederation fed the detractors fuel to disrupt the dialogue. The Tokyo Meeting which was held to salvage the COHA process reached a deadlock when several members of the GAM delegation for the Tokyo Conference were arrested by security forces in Aceh on the eve of their departure.

As a response to the failure of the implementation of COHA, the Government of Indonesia launched a combined operation deploying around 30,000 troops from the Military and National Police. On 26<sup>th</sup> December 2004, Aceh was badly affected by the earthquake and tsunami of a global scale and therefore needed a global response. So by the end of 2004, as a result of the combined operation, GAM was practically on the run. As troops moved in small groups, GAM guerilla forces had to move from their static base which had cut off their supply lines of logistical support.

The tsunami on 26<sup>th</sup> December 2004 was a humanitarian disaster of a global scale. Some 200,000 people were reportedly killed and

wounded. The disaster forced an enormous amount of people to be displaced as their houses and shelters were destroyed. This humanitarian disaster was exacerbated by a lack of supply of food, shelter, clean water and medicine, which was dealt with in the three-month emergency phase until 30<sup>th</sup> March 2005. Aceh was still in a conflict situation. While there was an informal ceasefire agreement reached between the military and the GAM forces, the delivery and distribution of humanitarian relief to the affected remote areas, especially during the three-month emergency phase was insufficient to cope with the large operational needs. In a way, the tsunami also “saved” GAM because they were able to come out of the jungle to go back to their towns and villages, protected under informal ceasefire arrangements.

The emergency phase was followed by the rehabilitation and reconstruction of Aceh, which was originally planned to take place for five years. So the need for the delivery of humanitarian relief assistance and the need for security for post-tsunami rehabilitation and reconstruction forced the leaders of both sides to end bloodshed and head back to the negotiation table.

3. Helsinki Dialogue (Helsinki Final Agreement) January – 15 August 2005 leading to the signing of the MoU on Aceh.

The direct presidential elections in the first half of 2004 brought SBY as President and Jusuf Kalla as Vice President. As the previous coordinator of the dialogue process and now as President, the vacuum was filled by Vice President Jusuf Kalla.

Formally he was a businessman, a no nonsense leader, successful mediator of local communal conflicts in Poso and Ambon and a confident peacemaker.

The first thing that Vice President Kalla did was to explore the possibility of a new mediator to replace the HD which lost their credibility at the second phase. The choice was another international NGO called the CMI which was chaired by former President of Finland, Martti Ahtisaari. In the field of conflict resolution, he was known for his success on Kosovo. Finland, a small country, was not only neutral but also had no political agenda. This process was called the Helsinki Process.

Figures matter. A combination of the no nonsense Jusuf Kalla and the statesmanship of Martti Ahtisaari was a key factor to the success of the Helsinki Process. On the format for solution, from the very beginning, Martti Ahtisaari made it clear that the acceptable format for solution is special autonomy for the Aceh province. He made it clear from the very beginning that the independence was not an option. He told the GAM delegation at the first session of the Helsinki Process: *"If you want to talk of the independence of Aceh, get out from this room"*. As a statesman, he knew the psychology of states, and that no nation-state would allow part of its territory to disintegrate from the mother country and separate as an independent entity. This somewhat differentiated the Helsinki Process with the facilitation by Henry Dunant Center which was willing to entertain the middle ground between special autonomy and the independence of Aceh, namely the confederation concept.

So the focus of the discussion was therefore on the special autonomy for Aceh and for that matter, Law No. 18 Year 2001. In effect, there was a continuation of the earlier discussions under humanitarian pause and COHA. Unlike COHA, the 7-month Helsinki Talks did not address, at least not in detail, the ceasefire arrangement. The tsunami disaster helped encourage the goodwill of both parties in the equation to create security conditions that allowed efforts to cope with the aftermath of the tsunami. As the special autonomy was agreeable to be the basis of dialogue, for the sake of a final solution, Indonesia was more accommodating to certain demands of GAM. Accompanying the main agreements, the Aceh Monitoring Mission (AMM) which comprised European Union and ASEAN personnel was set up to monitor the disengagement process including movement of troops, decommission weapons and ammunition, and dispute settlements. Unlike the COHA process, during which ceasefire was meant to facilitate political talks, in the Helsinki Process, the monitoring team was established after the political talks were concluded with the function to monitor the implementation of the agreement.

## **V. MAKE IT OR BREAK IT**

### **On the Proposal of GAM for Aceh to Have Local Political Parties**

While the discussion on the MoU was concluded and ready to be signed, at the last minute GAM came up with a proposal on local political parties. GAM claimed that in a democratic process, they

are entitled to voice their views in the election process and therefore cannot rely on the existing party system which was nationally-based multiple parties. This is a sensitive political issue because it can be easily seen as violating the Indonesian constitution or certainly in violation of the existing law on political parties. So at the last minute, the negotiations in Helsinki reached a stage of “make it or break it”. At this crucial moment, directives from Vice President Jusuf Kalla was to advise GAM to conclude and sign the MoU and refer their proposal to the Indonesian Constitutional Court, with a promise to be fully backed by the Government.

At this crucial time, President Yudhoyono took over the subject matter for his decision. He convened a meeting attended by some 12 cabinet members on political and security cluster including the Commander of the Armed Forces, Chief of National Police and the Head of Intelligence Agency. And interestingly, a majority of them rejected the GAM proposal, arguing that the establishment of local parties was unconstitutional. I was the one who argued that it was not unconstitutional, since the 1945 Constitution doesn't mention a word on local parties and not even a law on local parties. To enlighten the discussion, I played the role of “devil's advocate” including enlightening the discussion on the need to learn from the experience of China, a great country with thousands of years of civilization, in solving the problem of Hong Kong by negotiations with Britain. A single party and authoritarian China went to the extent of accepting the principle of “One State, Two Systems” and allowing local parties to be established in Hong Kong.

What's important here is that by agreement, Hong Kong became an integral part of China and consequently, the Chinese flag is hoisted in Hong Kong. In other words, in a pluralistic society, why don't we tolerate a part of a country to have their own distinct system?

As reflected in the discussion, consensus doesn't mean unanimity. But it does not also mean the majority view. It depends on the reason, that even a tiny minority view can prevail. The fact that I was allowed to play a role as "devil's advocate" reflected the democratic process of decision-making at the highest level. You can imagine, at the time of the military dominated government of President Soeharto, I have been truly labelled as a "devil". I had my last word in that crucial policy discussion and President Yudhoyono concluded that the Government accepted the GAM proposal for Aceh to have their own local parties in addition to the existing national based parties.

With the acceptance of the GAM proposal of local parties by the Government of Indonesia, which completed the 7-month process of negotiations, the MoU on Aceh was signed in Helsinki on the 15<sup>th</sup> of August 2005.

The next challenge was to internalize the peace agreement in order to gain wide support, including from the military. The military initially opposed the dialogue, joining as a reluctant party or occasionally as spoilers. But we should not discount the important position of the military, which is a direct party in the conflict, I must

give due credit to the military because as a result of their internal reform, by August 2005, the Commander of the Indonesia Armed Forces, General Edi Hartono accepted the MoU on Aceh. He said in a cabinet meeting: *“The military fully respects and are loyal to the decision made by a democratically elected President.”*

## **VI. SUCCESSFUL IMPLEMENTATION**

The whole process of implementation went well and peace was restored. The contribution of troops from ASEAN members, namely Thailand, Malaysia, Brunei and the Philippines, working closely with the EU monitoring elements, contributed to the success of the implementation of the MoU on Aceh. But from the Indonesian side, the implication for ASEAN members' participation in the AMM was an opportunity to share our success stories with our fellow ASEAN neighbors. This actually explained my idea that under the Political and Security Community (2002), ASEAN needs to have an ASEAN peacekeeping force to support its internal peacemaking and under ASEAN's pledge to send ASEAN peacekeepers to other areas of conflict. At the same time, we can imagine for solutions of armed conflict between ASEAN soils, that we depend ourselves to the other region's peacekeeping missions.

Meanwhile, the local parties of Aceh actively participated in the local elections. Local parties gained majority seats in the local parliament (63% in 2009, sliding down to 42% in 2014 and further decreasing 23% in this year's elections). It successfully sponsored former GAM leaders to be elected as Governor, district heads or mayors. But the decline of the role of local parties was primarily attributed by their failure to transform themselves from "liberators" to "administrators".

## VII. CONCLUSION

1. There is a close relationship between *Reformasi* and the peaceful resolution of the Aceh conflict. The dynamics of the democratic process was reflected in the positions of the Indonesian delegation at every step of the dialogue process.
2. When people ask me whether the tsunami was the key factor on the successful outcome of the Aceh peace process, my response was no. The Aceh tsunami provided an impetus for both parties in the equation to resume the dialogue that was halted in the year 2004 in order to save more lives, distribute emergency medical assistance, and also to provide security and political stability in the ensuing phase of rehabilitation and construction.
3. An important key to the success of the dialogue on Aceh was that in a more open and democratic Indonesia, we were more

receptive to new ideas for solutions. Some things were even considered as taboo to discuss. I'm referring to the concept of special autonomy, as well as the concept of local parties.

4. For successful negotiations and implementation of peace agreement, we need the support of the military. The case of Aceh clearly shows that the support of the military was crucial and an important key to the successful implementation.
5. In a pluralistic society like ours, we should be more open and tolerant to differences because uniformity could induce disintegration. Be magnanimous towards your opponents. After all, they are our fellow countrymen even though they may happen to have differences or grievances.
6. In Indonesia we believe of the wisdom of former President Soeharto: *"Don't inherit our problems to the future generation."* Keep in mind, a dormant conflict, especially conflicts which have religious connotations, may invite group with strange ideologies who will voluntarily join in and therefore complicate its resolution.

Thank you for your time and attention.